

Annual Copyright License

Repertory License Agreement



COPYRIGHT CLEARANCE CENTER

222 Rosewood Drive, Danvers, MA 01923 ▪ 978-750-8400 ▪ Fax 978-646-8600 ▪ copyright.com

**ANNUAL COPYRIGHT LICENSE
AGREEMENT
FOR ACADEMIC INSTITUTIONS**

This ANNUAL COPYRIGHT LICENSE AGREEMENT FOR ACADEMIC INSTITUTIONS is effective as of May 8, 2009 and is made between Copyright Clearance Center, Inc., a New York not-for-profit corporation ("CCC"), and The University of Texas System, an agency and institution of higher education established under the laws of the State of Texas ("Academic Institution").

Capitalized terms not defined elsewhere in this Agreement are defined in Section H.

A. GRANT OF LICENSE.

1. CCC, as agent for the Rightsholders, grants to the component institutions within the Academic Institution identified in Exhibit A the non-exclusive right to make the following uses of articles and other portions (and only portions) of Works by Employees, Contractors and Students:
 - (a) to store Authorized Reproductions within Academic Institution's electronic network solely for the purposes set forth in this Agreement;
 - (b) to distribute, by means of an electronic network under the control of the Academic Institution and reserved for internal use (for example, by posting on an Academic Institution intranet or course management or e-reserve system or by sending by internal e-mail), Authorized Reproductions to any Employee, Contractor or Student with authorized access to such network, for reading and electronic "marking up" by such person and for other uses within the scope of this Agreement;
 - (c) to distribute, by means of e-mail, postal mail or other person-to-identified-person communication, Authorized Reproductions of portions of Works to Outside Persons with whom the individual Employee, Contractor or Student making the distribution is currently working on research recognized by the Academic Institution (it being understood that any such distribution conveys no right to any such Outside Person to make any use of the Authorized Reproduction beyond reading it), provided that such distribution (i) is without charge (including without a cost recovery charge), (ii) does not involve the systematic distribution of copies to any such Outside Person, and (iii) does not involve the bulk distribution of copies to any such Outside Person;
 - (d) to print out physical copies of digital Authorized Reproductions on paper or paper equivalents (for example, film or acetate);

- (e) to photocopy portions of Works;
 - (f) to distribute such printed-out or photocopied Authorized Reproductions to Employees, Contractors and Students (or under the conditions identified in Section A.1(c) above);
 - (g) to combine paper or electronic Authorized Reproductions into coursepacks, e-coursepacks or their equivalent, for distribution to Students of Academic Institution (with electronic distributions including appropriate access controls, such as passwords), even if such “packs” might otherwise be deemed to be derivative works [see also Section A.2 below]; and
 - (h) to transmit paper or electronic Authorized Reproductions, each of them a faithful representation of the applicable Work portion, to an agency of the United States government or of the government of a state (or political subdivision thereof) or of the government of another country (or political subdivision thereof), or to a nationally recognized accrediting agency (responsible for accreditation or professional licensing of Academic Institution or of an Employee, Contractor or Student of Academic Institution), if required by such government or agency for regulatory (such as for patent applications), accreditation or licensing purposes, provided that such electronic copy or photocopy carries the copyright notice attached to the Work and is marked to the effect of “This Copy of Copyrighted Material Was Made and Delivered to the Agency Under License from Copyright Clearance Center, Inc. – No Further Reproduction is Permitted”.
2. Subject to the limitations set forth in Section A.3 below, CCC, as agent for the Rightsholder, grants to Academic Institution the non-exclusive right to make Authorized Reproductions and/or combine articles and other portions of Works in the form of paper coursepacks or electronic course content (including electronic coursepacks or e-reserves) through arrangement with third-party entities (for whose activities hereunder Academic Institution accepts responsibility) on the following conditions: each such third-party entity
- (i) shall be identified to CCC in advance of the applicable academic term by Academic Institution,
 - (ii) shall enter into such agreement with Academic Institution as Academic Institution shall require, which agreement shall, in addition to any other requirements imposed by Academic Institution, include obligations to produce and deliver such usage data as may be required to fulfill Academic Institution’s obligation to provide usage data to CCC relating to such use, and
 - (iii) shall produce paper coursepacks or electronic course content solely at the request of, and for distribution to, Employees, Contractors and/or Students and, in connection therewith, each item covered by this Agreement shall be marked to the

effect of “the fee for this item does not include any copyright fee because any copyright fee has been prepaid by [Academic Institution] on the recipient’s behalf.”

3. The authorizations provided by Section A.1 and Section A.2 above:

(a) do not include any right to manipulate or change an individual Work portion in anyway,

(b) do not include any right to create a library, collection or database (i) intended to substantially replace Academic Institution’s need for a particular Work, or (ii) intended other than for the use of the individual person reproducing the materials or for use in an individual Academic Institution course,

(c) do not include any right to reproduce or otherwise use within the scope of this Agreement all or substantially all of a Work (except as provided in Section H.10),

(d) except as provided in Section A.1(c) and Section A.1(h), do not include any right for Academic Institution to distribute an electronic copy or photocopy of a Work portion to any person other than an Employee, Contractor or Student for his or her own use within the context of Academic Institution, and

(e) except as provided in Section A.2, do not authorize any Outside Person to create or deliver an Authorized Reproduction to Academic Institution or any Employee, Student or Contractor.

4. The rights granted to Academic Institution hereunder are expressly limited to those described above; nevertheless, the Parties acknowledge that nothing herein shall prevent Academic Institution from using Works or Authorized Reproductions in accordance with other sources of legal authority, such as but not limited to fair use.

B. WAIVER.

Each Rightsholder hereby automatically waives any and all unasserted prior claims for copyright infringement falling within the scope of the rights granted by Section A of this Agreement upon Academic Institution’s (i) adherence to the terms and conditions of this Agreement during the first Term after the beginning of participation in this Agreement of such Rightsholder’s Works and (ii) renewal of the Agreement for the first Renewal Term thereafter.

CCC agrees that it shall not refer to this Agreement in any subsequent litigation between the parties other than an action to enforce the terms of the Agreement.

C. TERM AND TERMINATION; DEFAULT.

1. This Agreement shall be in effect during the Initial Term and shall continue thereafter for

successive Renewal Terms, unless terminated earlier as provided below; provided, however, that it shall be a condition to the commencement of any Renewal Term that Academic Institution shall have paid to CCC the amount determined by CCC to be the License Fee due for such Renewal Term no later than August 30th of such Renewal Term. Notwithstanding the foregoing, the total duration of the Initial Term plus all Renewal Terms shall not exceed ten (10) years unless extended by written amendment upon mutual agreement of the parties.

2. Academic Institution may terminate this Agreement at any time upon written notice to CCC, effective as of the end of the existing Term.
3. Academic Institution may terminate this Agreement at any time, effective immediately, upon written notice to CCC in the event that CCC breaches its obligations under this Agreement and such breach is not cured within thirty (30) days after CCC is notified in writing of the nature of the breach.
4. Academic Institution may terminate this Agreement immediately in the event of the filing by or against CCC of a petition for relief in bankruptcy or for receivership, or in the event that CCC becomes insolvent.
5. CCC may terminate this Agreement at any time upon written notice to Academic Institution in the event that Academic Institution breaches its obligations under this Agreement and such breach is not cured within thirty (30) days after Academic Institution is notified in writing of the nature of the breach, but no such termination shall entitle Academic Institution to a refund of any License Fees previously paid.
6. CCC may terminate this Agreement without cause, effective as of the end of a Term upon no less than one (1) year's prior Written notice to Academic Institution; provided, however, that, in light of the new nature of this program for both CCC and Academic Institution, as to any notice issued by CCC prior to June 30, 2009, such notice period shall be reduced to six (6) months.

D. LICENSE FEES.

1. Upon execution of this Agreement, Academic Institution shall pay to CCC a License Fee for the Initial Term equal to the amount identified in Exhibit A, which License Fee constitutes a royalty for Academic Institution's access to, and use of, the Works, plus a General and Administrative charge of \$0.00. Academic Institution represents and warrants that the total number of Students (as defined in Section H) on which the License Fee is based is that identified in Exhibit A for participating component institutions.
2. CCC shall notify Academic Institution of the amount of the License Fee for a Renewal Term at least sixty (60) days prior to the beginning of such Renewal Term, provided that CCC has received from Academic Institution, at least fifteen (15) days prior thereto, the Academic Institution-specific information required to complete such calculations. The License Fee for each Renewal Term shall be due by August 1st of each Renewal Term

and payable within thirty (30) days thereafter.

3. Because they are based on access to the CCC repertory for its Annual Copyright License for Academic Institutions, the License Fees set forth herein are net of all factors that might otherwise be considered deductions therefrom, including fair use and the use of Academic Institution's own Works that may be included in such repertory.
4. Academic Institution shall notify CCC promptly of any change in numbers of Employees, Contractors or Students that might reasonably be expected significantly to affect Academic Institution's copying activities.
5. Any UT component institutions not participating in this Agreement may hereafter elect to join this Agreement under the same terms and conditions extended to the original participants. Academic Institution will notify CCC of any new participants as soon as it wishes such coverage to begin but in any case no later than the time Academic Institution provides renewal information to CCC pursuant to Section D.2 above.

E. USAGE DATA AND CONFIDENTIALITY.

1. Academic Institution agrees to cooperate with CCC in conducting surveys of Academic Institution's usage activities within the scope of this Agreement, depending upon the reasonable data needs of CCC as described below. Generally, CCC will accept as data representing Academic Institution's usage activities, detailed tables of coursepack contents, actual copies of coursepacks or other similar records of use, together with enrollment numbers of the applicable courses, representing approximately 20% of the coursepacks produced by or for Academic Institution during a survey period, such coursepacks to be drawn from a range of academic disciplines reasonably representing most disciplines taught at Academic Institution. CCC will reasonably consider accepting substitute information of similar breadth and depth in the event that coursepacks are not produced by or for Academic Institution or that Academic Institution should choose to design and offer such a substitute. Timely completion of such surveys is a material term of this Agreement. Survey frequency shall be determined by CCC in its reasonable discretion but shall be no more often than one "major period" (for example, one semester or two quarters) in each academic year. Notwithstanding the foregoing, the parties agree that a particular survey may have to be redone if CCC determines that the survey conducted did not comply with CCC's standard procedures then in effect.
2. In order to comply with the requirements of Section E.1 above, Academic Institution will provide annually, and CCC will accept, survey data from no more than fifty (50) mutually agreeable courses from the University of Texas at Austin institution, and no more than twenty-five (25) mutually agreeable courses from other University of Texas component institutions participating in the Agreement. CCC and Academic Institution will cooperate to identify the courses that will be the subject of any survey information.
3. Each of the Rightsholders whose Works are licensed hereunder has agreed with CCC to rely upon the results of surveys for computing the distribution among them of the License

Fees collected from Academic Institution and other academic institutions. Academic Institution represents to CCC and to such Rightsholders that it shall conduct any surveys in compliance with CCC's then-standard procedures. Academic Institution also agrees to permit CCC, subject to reasonable confidentiality agreements if requested by Academic Institution, to participate on its premises during survey periods to the extent CCC feels it necessary to verify the accuracy of Academic Institution's surveys.

4. CCC shall keep confidential and shall not disclose to Rightsholders or to anyone else, except pursuant to court process or order, any of the information Academic Institution supplies to it concerning specific Academic Institution reproduction transactions or electronic uses. Further, the specific dollar figures contained in Section D of this Agreement shall also be treated by both parties as confidential; provided, however, that Academic Institution states that Academic Institution strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General, with respect to disclosure of public information under the *Texas Public Information Act*, Chapter 552, *Texas Government Code*. Notwithstanding the foregoing, CCC may provide to Rightsholders the identities of academic institutions licensed under CCC's Annual Copyright License for Academic Institutions, as well as aggregated information that does not specifically identify the extent of any individual Academic Institution's use of any individual Work, and CCC may retain information relating to Academic Institution's copying and other uses as part of the databases of survey results required to administer both the collection and distribution of royalties under the Annual Copyright License for Academic Institutions. In the event of court process or order requiring production of information, CCC shall provide timely notification to Academic Institution but shall not be required to actively oppose providing the information sought.

F. REPRESENTATIONS AND WARRANTIES OF CCC AND RIGHTSHOLDERS.

1. CCC represents and warrants that it is authorized to act as agent of the Rightsholders in granting this license on the terms set forth herein.
2. CCC represents and warrants that Rightsholders have warranted to CCC that they are authorized to license the rights to the Works which are granted to Academic Institution hereunder.
3. Except as provided in Sections B and F, Rightsholders and CCC make no representations or warranties hereunder.

G. MISCELLANEOUS.

1. **Entire Agreement; Modifications.** This agreement supersedes all prior agreements, written or oral, between, CCC and Academic Institution, with respect to the subject matter hereof, and will constitute the entire Agreement and understanding between the parties, both with respect to the subject matter hereof. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by authorized representatives of Academic Institution

and CCC. Contemporaneous with the execution of this Agreement, the parties agree to immediately terminate the UT Austin – CCC Annual License Agreement attached here as Exhibit B.

2. **Assignment.** Neither party to this Agreement shall have the right to assign or sublicense any of its rights or obligations hereunder without the prior written consent of the other party, and any unauthorized assignment or sublicense shall be void and of no force or effect.
3. **Representations and Warranties by CCC.** CCC is a corporation, CCC warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of CCC has been duly authorized to act for and bind CCC.
4. **Tax Certification.** If CCC is a taxable entity as defined by Chapter 171, *Texas Tax Code* (“Chapter 171”), then CCC certifies that it is exempt from the payment of those taxes.
5. **Eligibility Certifications.** Pursuant to Sections 2155.004 and 2155.006, *Texas Government Code*, CCC certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.
6. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, CCC agrees that any payments owing to CCC under this Agreement may be applied directly toward any debt or delinquency that CCC owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
7. **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, CCC certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
8. **Products and Materials Produced in Texas.** If CCC will provide services under this Agreement, CCC covenants and agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Agreement, CCC will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
9. **Access by Individuals with Disabilities.** CCC represents and warrants (the “EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it provides to Academic Institution under

this Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title I, Chapter 213 of the *Texas Administrative Code* and Title I, Chapter 206, Rule §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*.) To the extent CCC becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then CCC represents and warrants that it will, at no cost to Academic Institution, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that CCC fails or is unable to do so, then Academic Institution may terminate this Agreement and CCC will refund to Academic Institution all amounts Academic Institution has paid under this Agreement within thirty (30) days after the termination date.

10. **Notices.** Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Academic Institution:

Barry D. Burgdorf
Vice Chancellor and General Counsel
Office of General Counsel
The University of Texas System
201 West 7th Street
Austin, Texas 78701
e-mail: bburdorf@utsystem.edu

with copy to:

Dr. David B. Prior
Executive Vice Chancellor for Academic Affairs
601 Colorado Street
Austin, TX 78701
e-mail: dprior@utsystem.edu

If to CCC: 222 Rosewood Drive
Danvers, Massachusetts 01923
Attention: Annie Ortega

or such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

Notwithstanding any other requirements for notices given by a party under this Agreement, if CCC intends to deliver written notice to Academic Institution pursuant to Section 2251.054, *Texas Government Code*, then CCC will send that notice to Academic Institution as follows:

Barry D. Burgdorf
Vice Chancellor and General Counsel
Office of General Counsel
The University of Texas System
201 West 7th Street
Austin, Texas 78701

with copy to:

Dr. David B. Prior
Executive Vice Chancellor for Academic Affairs
601 Colorado Street
Austin, TX 78701
e-mail: dprior@utsystem.edu

or such other person or address as may be given in writing by Academic Institution to CCC in accordance with this Section.

11. **Breach of Contract Claims.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by Academic Institution and CCC to attempt to resolve any claim for breach of contract made by CCC that cannot be resolved in the ordinary course of business. The chief business officer of Academic Institution will examine CCC's claim and any counterclaim and negotiate with CCC in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of this Agreement by Academic Institution nor any other conduct, action or inaction of any representative of Academic Institution relating to this Agreement constitutes or is intended to constitute a waiver of Academic Institution's or the state's sovereign immunity to suit; and (ii) Academic Institution has not waived its right to seek redress in the courts.
12. **Loss of Funding.** Performance by Academic Institution under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The Academic Institution of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Academic Institution will issue written notice to CCC and Academic Institution may terminate this Agreement without further duty or obligation hereunder. CCC acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Academic Institution.

13. **State Auditor's Office.** CCC understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. CCC agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested, as long as the audit or investigation is subject to CCC confidentiality obligations to other entities. CCC will include this provision in all contracts with permitted subcontractors.
14. **Limitations.** THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF ACADEMIC INSTITUTION (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING; BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON ACADEMIC INSTITUTION'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON ACADEMIC INSTITUTION EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.
15. **Ethics Matters; No Financial Interest.** CCC and its employees, agents, representatives and subcontractors have read and understand Academic Institution's Conflicts of Interest Policy available at www.utexas.edu/vp/iria/Documents/HOP%20Conflicts%20f%20Interest%20Policy%204%20A%204.pdf, Academic Institution's Standards of Conduct Guide available at www.utexas.edu/policies/hoppm/tochop2.html, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither CCC nor its employees, agents, representatives or subcontractors will assist or cause Academic Institution employees to violate Academic Institution's Conflicts of Interest Policy, provisions described by Academic Institution's Standards of Conduct Guide, or applicable state ethics laws or rules. CCC represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement
16. **Choice of Law; Venue.** The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- H. **DEFINITIONS** – The following words shall have the following meanings when used in

this Agreement:

1. Academic Institution shall mean the entity named at the top of this Agreement and any component institutions participating in this Agreement as identified in Exhibit A, including their constituent schools, faculties, institutes and the like to the extent that they are part of the educational or research functions of Academic Institution (but not to the extent that the primary function of such constituent entity is to generate revenues by selling goods or services to any Outside Person).
2. Authorized Reproduction shall mean, as the context requires, either (a) a copy of a digital form of a Work portion either (1) selected from Works received from a Rightsholder (or an authorized representative of a Rightsholder) already in digital form or (2), where portions of Works are not readily available in digital format in accordance with clause (a)(I), converted to digital form (in PDF format or other image-capture format that produces a faithful and accurate representation of such Work portion) from a lawfully obtained paper copy of the Work or Work portion, or (b) a photocopy of a lawfully obtained portion of a Work.
3. Contractor shall mean a natural person other than an Employee or Student whom Academic Institution can effectively control and compel to comply with the terms of this Agreement. (Examples of Contractors are adjunct faculty, outsourced-service workers, and “temporary employees” who are not in fact employees of Academic Institution but are supplied by a “temp agency”).
4. Employee shall mean a natural person (i) employed by Academic Institution as a full-or part-time member of its teaching, research or administrative staff, or (ii) serving as a trustee or member of any other governing board of Academic Institution while performing his/her responsibilities for Academic Institution, but shall not include employees of affiliated institutions which are not primarily part of the educational function of the Academic Institution.
5. Initial Term shall mean the period beginning on the date set forth at the top of this Agreement and ending on June 29, 2010.
6. Outside Person shall mean, in connection with the scope and limitations of the rights granted in this Agreement, any person other than Academic Institution itself or an Employee, Student or Contractor of Academic Institution.
7. Renewal Term shall mean each successive one-year period of this Agreement beginning on June 30, 2010 and each anniversary thereafter.
8. Rightsholder shall mean an entity or individual who has granted CCC authority to license any of the rights described in Section A.1 of this Agreement.
9. Student shall mean a natural person enrolled in any academic program of an Academic Institution to the extent that he or she is acting as a student (and not, for example, as an

employee of any commercial enterprise).

10. Work shall mean any publication listed in CCC's repertory for its Annual Copyright License for Academic Institutions. Such repertory shall be available in publicly-accessible electronic form (at www.copyright.com); provided, however, that until such time as the Annual Copyright License for Academic Institutions program has passed its start-up period (to be determined by CCC), such repertory may be made available to Academic Institution in an alternate fashion. Each Work in such repertory has been placed there with the authorization of one or more Rightsholders. The included rights to all Work listed on the first day of a Term of this Agreement, together with the included rights to any Work added during such Term, shall be licensed hereunder from the day such rights are first listed until the end of such Term (even if such rights are removed during such Term). Photographs, illustrations, graphs and similar materials which are identified as included in a Work by permission may not be used under Section A except in the context of the Work. For purposes of this Agreement, the prohibition under Section A.3(c) against reproducing or otherwise using all or substantially all of a Work shall not extend to any Work that is a portion of a larger work (meaning that, for example, a chapter in a book containing many chapters, or an article in a journal issue containing many articles, may be reproduced in its entirety hereunder provided that all other provisions of this Agreement apply). Finally, whenever CCC identifies a Work in the repertory as carrying special license terms, all such special license terms (which shall be available to Academic Institution as part of the repertory listing) shall supersede any general term imposed by CCC and addressing the same issue.

The University of Texas System
201 West 7th Street
Austin, Texas 78701

By: _____

Dr. Scott C. Kelley
Executive Vice Chancellor
for Business Affairs

Dated: _____

5/12/09

Copyright Clearance Center, Inc.
222 Rosewood Drive
Danvers, Massachusetts, 01923
CCC Fed Tax ID# 13-2922432

By: _____

Bruce Funkhouser
Vice President, Business Operations

Name (please print)

Title (please print)

Dated: _____

MAY 15 2009

RECEIVED

MAY 13 2009

Exhibit A

**2009-2010 CCC Annual Copyright License - UT System Participating Institutions and
Royalty Calculations**

UTS Pricing for CCC Annual Copyright License
2009-10

(Final 2008 Enrollment)									
				Pricing Analysis					
				Price		15%		Total With	
				Per FTE	Student	Discount	System	Discount	
Campus	Class	FT	Stud.	Total					
Acad Inst									
Austin	MU	44456		\$ 166,710.00	\$ 3.75	\$ 25,006.50	\$ 141,703.50		
Sub-Total		44456		\$ 166,710.00	\$ 3.75	\$ 25,006.50	\$ 141,703.50		
Arlington	HU	18470		\$ 69,262.50	\$ 3.75	\$ 10,389.38	\$ 58,873.13		
Brownsville	VHU	9137		\$ 34,263.75	\$ 3.75	\$ 5,139.56	\$ 29,124.19		
Dallas	MU	11291		\$ 42,341.25	\$ 3.75	\$ 6,351.19	\$ 35,990.06		
El Paso	HU	14632		\$ 54,870.00	\$ 3.75	\$ 8,230.50	\$ 46,639.50		
Pan Am	VHU	13513		\$ 50,673.75	\$ 3.75	\$ 7,601.06	\$ 43,072.69		
Perm Basin	HU	2467		\$ 9,251.25	\$ 3.75	\$ 1,387.69	\$ 7,863.56		
San Antonio	VHU	22054		\$ 82,702.50	\$ 3.75	\$ 12,405.38	\$ 70,297.13		
Tyler	HU	4649		\$ 17,433.75	\$ 3.75	\$ 2,615.06	\$ 14,818.69		
Sub-Total	MU	96213		\$ 360,798.75	\$ 3.75	\$ 54,119.81	\$ 306,678.94		
Acad-Total		140669		\$ 527,508.75	\$ 3.75	\$ 79,126.31	\$ 448,382.44		
Health Inst									
MDA	ExU4	500		\$ 3,875.00	\$ 7.75	\$ 581.25	\$ 3,293.75		
Tyler	HGP	93		\$ 837.00	\$ 9.00	\$ 125.55	\$ 711.45		
San Antonio	HGP	2876		\$ 25,165.00	\$ 8.75	\$ 3,774.75	\$ 21,390.25		
Houston	HGP	3205		\$ 28,043.75	\$ 8.75	\$ 4,206.56	\$ 23,837.19		
So western	HGP	2045		\$ 18,405.00	\$ 9.00	\$ 2,760.75	\$ 15,644.25		
Med Branch	HGP	2149		\$ 19,341.00	\$ 9.00	\$ 2,901.15	\$ 16,439.85		
Sub-Total		10868		\$ 95,666.75	\$ 8.80	\$ 14,350.01	\$ 81,316.74		
GRAND TOTAL		151537		\$ 623,175.50	\$ 4.11	\$ 93,476.33	\$ 529,699.18		

Exhibit B

CCC – UT Austin Annual Copyright License Agreement

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FOR ACADEMIC INSTITUTIONS**

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 - (a) to store Authorized Reproductions within Academic Institution's electronic network solely for the purposes set forth in this Agreement;
 - (b) to distribute, by means of an electronic network under the control of the Academic Institution and reserved for internal use (for example, by posting on an Academic Institution intranet or course management or e-reserve system or by sending by internal e-mail), Authorized Reproductions to any Employee, Contractor or Student with authorized access to such network, for reading and electronic "marking up" by such person and for other uses within the scope of this Agreement;
 - (c) to distribute, by means of e-mail, postal mail or other person-to-identified-person communication, Authorized Reproductions of portions of Works to Outside Persons with whom the individual Employee, Contractor or Student making the distribution is currently working on research recognized by the Academic Institution (it being understood that any such distribution conveys no right to any such Outside Person to make any use of the Authorized Reproduction beyond reading it), provided that such distribution (i) is without charge (including without a cost recovery charge), (ii) does not involve the systematic distribution of copies to any such Outside Person, and (iii) does not involve the bulk distribution of copies to any such Outside Person;
 - (d) to print out physical copies of digital Authorized Reproductions on paper or paper equivalents (for example, film or acetate);
 - (e) to photocopy portions of Works;

- (f) to distribute such printed-out or photocopied Authorized Reproductions to Employees, Contractors and Students (or under the conditions identified in Section A.1(c) above);
 - (g) to combine paper or electronic Authorized Reproductions into coursepacks, e-coursepacks or their equivalent, for distribution to Students of Academic Institution (with electronic distributions including appropriate access controls, such as passwords), even if such "packs" might otherwise be deemed to be derivative works [see also Section A.2 below]; and
 - (h) to transmit paper or electronic Authorized Reproductions, each of them a faithful representation of the applicable Work portion, to an agency of the United States government or of the government of a state (or political subdivision thereof) or of the government of another country (or political subdivision thereof), or to a nationally recognized accrediting agency (responsible for accreditation or professional licensing of Academic Institution or of an Employee, Contractor or Student of Academic Institution), if required by such government or agency for regulatory (such as for patent applications), accreditation or licensing purposes, provided that such electronic copy or photocopy carries the copyright notice attached to the Work and is marked to the effect of "This Copy of Copyrighted Material Was Made and Delivered to the Agency Under License from Copyright Clearance Center, Inc. – No Further Reproduction is Permitted".
2. Subject to the limitations set forth in Section A.3 below, CCC, as agent for the Rightsholder, grants to Academic Institution the non-exclusive right to make Authorized Reproductions and/or combine articles and other portions of Works in the form of paper coursepacks or electronic course content (including electronic coursepacks or e-reserves) through arrangement with third-party entities (for whose activities hereunder Academic Institution accepts responsibility) on the following conditions: each such third-party entity
- (i) shall be identified to CCC in advance of the applicable academic term by Academic Institution,
 - (ii) shall enter into such agreement with Academic Institution as Academic Institution shall require, which agreement shall, in addition to any other requirements imposed by Academic Institution, include obligations to produce and deliver such usage data as may be required to fulfill Academic Institution's obligation to provide usage data to CCC relating to such use, and
 - (iii) shall produce paper coursepacks or electronic course content solely at the request of, and for distribution to, Employees, Contractors and/or Students and, in connection therewith, each item covered by this Agreement shall be marked to the effect of "the fee for this item does not include any copyright fee because any copyright fee has been prepaid by [Academic Institution] on the recipient's behalf."

3. The authorizations provided by Section A.1 and Section A.2 above:
- (a) do not include any right to manipulate or change an individual Work portion in any way,
 - (b) do not include any right to create a library, collection or database (i) intended to substantially replace Academic Institution's need for a particular Work, or (ii) intended other than for the use of the individual person reproducing the materials or for use in an individual Academic Institution course,
 - (c) do not include any right to reproduce or otherwise use within the scope of this Agreement all or substantially all of a Work (except as provided in Section H.10),
 - (d) except as provided in Section A.1(c) and Section A.1(h), do not include any right for Academic Institution to distribute an electronic copy or photocopy of a Work portion to any person other than an Employee, Contractor or Student for his or her own use within the context of Academic Institution, and
 - (e) except as provided in Section A.2, do not authorize any Outside Person to create or deliver an Authorized Reproduction to Academic Institution or any Employee, Student or Contractor.
4. The rights granted to Academic Institution hereunder are expressly limited to those described above.

B. WAIVER.

Each Rightsholder hereby automatically waives any and all unasserted prior claims for copyright infringement falling within the scope of the rights granted by Section A of this Agreement upon Academic Institution's (i) adherence to the terms and conditions of this Agreement during the first Term after the beginning of participation in this Agreement of such Rightsholder's Works and (ii) payment of the License Fee for the first Renewal Term thereafter.

C. TERM AND TERMINATION; DEFAULT.

1. This Agreement shall be in effect during the Initial Term and shall continue thereafter for successive Renewal Terms, unless terminated earlier as provided below; provided, however, that it shall be a condition to the commencement of any Renewal Term that Academic Institution shall have paid to CCC the amount determined by CCC to be the License Fee due for such Renewal Term no later than the first day of such Renewal Term. Notwithstanding the foregoing, the total duration of the Initial Term plus all Renewal Terms shall not exceed ten (10) years unless extended by written amendment upon mutual agreement of the parties.

2. Academic Institution may terminate this Agreement at any time upon written notice to CCC, effective as of the end of the existing Term.
3. Academic Institution may terminate this Agreement at any time upon written notice to CCC in the event that CCC breaches its obligations under this Agreement and such breach is not cured within thirty (30) days after CCC is notified in writing of the nature of the breach.
4. Academic Institution may terminate this Agreement immediately in the event of the filing by or against CCC of a petition for relief in bankruptcy or for receivership, or in the event that CCC becomes insolvent.
5. CCC may terminate this Agreement at any time upon written notice to Academic Institution in the event that Academic Institution breaches its obligations under this Agreement and such breach is not cured within thirty (30) days after Academic Institution is notified in writing of the nature of the breach, but no such termination shall entitle Academic Institution to a refund of any License Fees previously paid.
6. CCC may terminate this Agreement without cause, effective as of the end of a Term upon no less than one (1) year's prior written notice to Academic Institution; provided, however, that, in light of the new nature of this program for both CCC and Academic Institution, as to any notice issued by CCC prior to June 30, 2008, such notice period shall be reduced to six (6) months.

D. LICENSE FEES.

1. Upon execution of this Agreement, Academic Institution shall pay to CCC a License Fee for the Initial Term equal to \$65,838.00, which License Fee constitutes a royalty of \$65,838.00 for Academic Institution's access to, and use of, the Works, plus a General and Administrative charge of \$0.00. Academic Institution represents and warrants that the total number of Students (as defined in Section H) on which the License Fee is based is 43,892.
2. CCC shall notify Academic Institution of the amount of the License Fee for a Renewal Term at least sixty (60) days prior to the beginning of such Renewal Term, provided that CCC has received from Academic Institution, at least fifteen (15) days prior thereto, the Academic Institution-specific information required to complete such calculations. The License Fee for each Renewal Term shall be due and payable no later than the first day of such Renewal Term.
3. Because they are based on access to the CCC repertory for its Annual Copyright License for Academic Institutions, the License Fees set forth herein are net of all factors that might otherwise be considered deductions therefrom, including fair use and the use of Academic Institution's own Works that may be included in such repertory.

4. Academic Institution shall notify CCC promptly of any change in numbers of Employees, Contractors or Students that might reasonably be expected significantly to affect Academic Institution's copying activities.

E. USAGE DATA AND CONFIDENTIALITY.

1. Academic Institution agrees to cooperate with CCC in conducting surveys of Academic Institution's usage activities within the scope of this Agreement, depending upon the reasonable data needs of CCC as described below. Generally, CCC will accept as data representing Academic Institution's usage activities, detailed tables of coursepack contents, actual copies of coursepacks or other similar records of use, together with enrollment numbers of the applicable courses, representing approximately 20% of the coursepacks produced by or for Academic Institution during a survey period, such coursepacks to be drawn from a range of academic disciplines reasonably representing most disciplines taught at Academic Institution. CCC will reasonably consider accepting substitute information of similar breadth and depth in the event that coursepacks are not produced by or for Academic Institution or that Academic Institution should choose to design and offer such a substitute. Timely completion of such surveys is a material term of this Agreement. Survey frequency shall be determined by CCC in its reasonable discretion but shall be no more often than one "major period" (for example, one semester or two quarters) in each academic year. Notwithstanding the foregoing, the parties agree that a particular survey may have to be redone if CCC determines that the survey conducted did not comply with CCC's standard procedures then in effect.
2. Each of the Rightsholders whose Works are licensed hereunder has agreed with CCC to rely upon the results of surveys for computing the distribution among them of the License Fees collected from Academic Institution and other academic institutions. Academic Institution represents to CCC and to such Rightsholders that it shall conduct any surveys in compliance with CCC's then-standard procedures. Academic Institution also agrees to permit CCC, subject to reasonable confidentiality agreements if requested by Academic Institution, to participate on its premises during survey periods to the extent CCC feels it necessary to verify the accuracy of Academic Institution's surveys.
3. CCC shall keep confidential and shall not disclose to Rightsholders or to anyone else, except pursuant to court process or order, any of the information Academic Institution supplies to it concerning specific Academic Institution reproduction transactions or electronic uses. Further, the specific dollar figures contained in Section D of this Agreement shall also be treated by both parties as confidential; provided, however, that Academic Institution states that Academic Institution strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General, with respect to disclosure of public information under the *Texas Public Information Act*, Chapter 552, *Texas Government Code*. Notwithstanding the foregoing, CCC may provide to Rightsholders the identities of academic institutions licensed under CCC's Annual Copyright License for Academic Institutions, as well as aggregated information that does not specifically identify the extent of any individual Academic Institution's use of any individual Work, and CCC may retain information relating to Academic Institution's copying and other

uses as part of the databases of survey results required to administer both the collection and distribution of royalties under the Annual Copyright License for Academic Institutions. In the event of court process or order requiring production of information, CCC shall provide timely notification to Academic Institution but shall not be required to actively oppose providing the information sought.

F. REPRESENTATIONS AND WARRANTIES OF CCC AND RIGHTSHOLDERS.

1. CCC represents and warrants that it is authorized to act as agent of the Rightsholders in granting this license on the terms set forth herein.
2. CCC represents and warrants that Rightsholders have warranted to CCC that they are authorized to license the rights to the Works which are granted to Academic Institution hereunder.
3. Except as provided in Sections B and F, Rightsholders and CCC make no representations or warranties hereunder.

G. MISCELLANEOUS.

1. **Entire Agreement; Modifications.** This agreement supersedes all prior agreements, written or oral, between CCC and Academic Institution, with respect to the subject matter hereof, and will constitute the entire Agreement and understanding between the parties, both with respect to the subject matter hereof. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by authorized representatives of Academic Institution and CCC.
2. **Assignment.** Neither party to this Agreement shall have the right to assign or sublicense any of its rights or obligations hereunder without the prior written consent of the other party, and any unauthorized assignment or sublicense shall be void and of no force or effect.
3. **Representations and Warranties by CCC.** CCC is a corporation, CCC warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of CCC has been duly authorized to act for and bind CCC.
4. **Tax Certification.** If CCC is a taxable entity as defined by Chapter 171, *Texas Tax Code* ("Chapter 171"), then CCC certifies that it is exempt from the payment of those taxes.
5. **Eligibility Certifications.** Pursuant to Sections 2155.004 and 2155.006, *Texas Government Code*, CCC certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.

6. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, CCC agrees that any payments owing to CCC under this Agreement may be applied directly toward any debt or delinquency that CCC owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
7. **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, CCC certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
8. **Products and Materials Produced in Texas.** If CCC will provide services under this Agreement, CCC covenants and agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Agreement, CCC will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
9. **Access by Individuals with Disabilities.** CCC represents and warrants (the "EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it provides to Academic Institution under this Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206, Rule §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*.) To the extent CCC becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then CCC represents and warrants that it will, at no cost to Academic Institution, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that CCC fails or is unable to do so, then Academic Institution may terminate this Agreement and CCC will refund to Academic Institution all amounts Academic Institution has paid under this Agreement within thirty (30) days after the termination date.
10. **Notices.** Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Academic Institution: University of Texas Libraries
101 East 21st Street
Austin, Texas 78705
Attention: James Dougherty, Fiscal Officer

with copy to: The University of Texas at Austin
Mr. Kevin P. Hegarty
Vice President and Chief Financial Officer
PO Box 8179
Austin, TX 78713-8179

If to CCC: 222 Rosewood Drive
Danvers, Massachusetts 01923
Attention: Annie Ortega

or such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

Notwithstanding any other requirements for notices given by a party under this Agreement, if CCC intends to deliver written notice to Academic Institution pursuant to Section 2251.054, *Texas Government Code*, then CCC will send that notice to Academic Institution as follows:

Kevin P. Hegarty
The University of Texas at Austin
2400 Inner Campus Drive, MAI 102
Austin, TX 78705
Fax: 512 471-7742
Email: cfo@www.utexas.edu

with copy to: University of Texas Libraries
101 East 21st Street
Austin, Texas 78705
Attention: James Dougherty, Fiscal Officer
Email: jdougherty@austin.utexas.edu

or such other person or address as may be given in writing by Academic Institution to CCC in accordance with this Section.

11. **Breach of Contract Claims.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by Academic Institution and CCC to attempt to resolve any claim for breach of contract made by CCC that cannot be resolved in the ordinary course of

business. The chief business officer of Academic Institution will examine CCC's claim and any counterclaim and negotiate with CCC in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of this Agreement by Academic Institution nor any other conduct, action or inaction of any representative of Academic Institution relating to this Agreement constitutes or is intended to constitute a waiver of Academic Institution's or the state's sovereign immunity to suit; and (ii) Academic Institution has not waived its right to seek redress in the courts.

12. **Loss of Funding.** Performance by Academic Institution under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The Academic Institution of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Academic Institution will issue written notice to CCC and Academic Institution may terminate this Agreement without further duty or obligation hereunder. CCC acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Academic Institution.

13. **State Auditor's Office.** CCC understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. CCC agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested, as long as the audit or investigation is subject to CCC confidentiality obligations to other entities. CCC will include this provision in all contracts with permitted subcontractors.

14. **Limitations.** THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF ACADEMIC INSTITUTION (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON ACADEMIC INSTITUTION'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON ACADEMIC INSTITUTION EXCEPT TO THE EXTENT AUTHORIZED BY THE LA WS AND CONSTITUTION OF THE STATE OF TEXAS.

15. **Ethics Matters; No Financial Interest.** CCC and its employees, agents, representatives and subcontractors have read and understand Academic Institution's Conflicts of Interest Policy available at www.utexas.edu/vp/irla/Documents/HOP%20Conflicts%20of%20Interest%20Policy%204%20A%204.pdf, Academic Institution's Standards of Conduct Guide available at www.utexas.edu/policies/hoppm/tochop2.html, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither CCC nor its employees, agents, representatives or subcontractors will assist or cause Academic Institution employees to violate

Academic Institution's Conflicts of Interest Policy, provisions described by Academic Institution's Standards of Conduct Guide, or applicable state ethics laws or rules. CCC represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

H. DEFINITIONS -- The following words shall have the following meanings when used in this Agreement:

1. Academic Institution shall mean the entity named at the top of this Agreement, including its constituent schools, faculties, institutes and the like to the extent that they are part of the educational or research functions of Academic Institution (but not to the extent that the primary function of such constituent entity is to generate revenues by selling goods or services to any Outside Person).
2. Authorized Reproduction shall mean, as the context requires, either (a) a copy of a digital form of a Work portion either (1) selected from Works received from a Rightsholder (or an authorized representative of a Rightsholder) already in digital form or (2), where portions of Works are not readily available in digital form in accordance with clause (a)(1), converted to digital form (in PDF format or other image-capture format that produces a faithful and accurate representation of such Work portion) from a lawfully obtained paper copy of the Work or Work portion, or (b) a photocopy of a lawfully obtained portion of a Work.
3. Contractor shall mean a natural person other than an Employee or Student whom Academic Institution can effectively control and compel to comply with the terms of this Agreement. (Examples of Contractors are adjunct faculty, outsourced-service workers, and "temporary employees" who are not in fact employees of Academic Institution but are supplied by a "temp agency".)
4. Employee shall mean a natural person (i) employed by Academic Institution as a full- or part-time member of its teaching, research or administrative staff, or (ii) serving as a trustee or member of any other governing board of Academic Institution while performing his/her responsibilities for Academic Institution, but shall not include employees of affiliated institutions which are not primarily part of the educational function of the Academic Institution.
5. Initial Term shall mean the period beginning on the date set forth at the top of this Agreement and ending on the first anniversary thereof.
6. Outside Person shall mean, in connection with the scope and limitations of the rights granted in this Agreement, any person other than Academic Institution itself or an Employee, Student or Contractor of Academic Institution.
7. Renewal Term shall mean each successive one-year period of this Agreement beginning on the first anniversary hereof.

8. Rightsholder shall mean an entity or individual who has granted CCC authority to license any of the rights described in Section A.1 of this Agreement.
9. Student shall mean a natural person enrolled in any academic program of an Academic Institution to the extent that he or she is acting as a student (and not, for example, as an employee of any commercial enterprise).
10. Work shall mean any publication listed in CCC's repertory for its Annual Copyright License for Academic Institutions. Such repertory shall be available in publicly-accessible electronic form (at www.copyright.com); provided, however, that until such time as the Annual Copyright License for Academic Institutions program has passed its start-up period (to be determined by CCC), such repertory may be made available to Academic Institution in an alternate fashion. Each Work in such repertory has been placed there with the authorization of one or more Rightsholders. The included rights to any Work listed on the first day of a Term of this Agreement, together with the included rights to any Work added during such Term, shall be licensed hereunder from the day such rights are first listed until the end of such Term (even if such rights are removed during such Term). Photographs, illustrations, graphs and similar materials which are identified as included in a Work by permission may not be used under Section A except in the context of the Work. For purposes of this Agreement, the prohibition under Section A.3(c) against reproducing or otherwise using all or substantially all of a Work shall not extend to any Work that is a portion of a larger work (meaning that, for example, a chapter in a book containing many chapters, or an article in a journal issue containing many articles, may be reproduced in its entirety hereunder provided that all other provisions of this Agreement apply). Finally, whenever CCC identifies a Work in the repertory as carrying special license terms, any such special license terms (which shall be available to Academic Institution as part of the repertory listing) shall supersede any general term imposed by CCC and addressing the same issue.

The University of Texas at Austin
101 East 21st Street
Austin, Texas 78705

Copyright Clearance Center, Inc.
222 Rosewood Drive
Danvers, Massachusetts 01923
CCC Fed Tax ID # 13-2922432

By: Debra Y. Stevens
Authorized Signature

DEBRA Y. STEVENS
Name (please print)

Business Contracts Admin.
Title (please print)

Dated: 6-19-08

By: Bruce Funkhouser
Officer's Signature

Bruce Funkhouser
Name (please print)

Vice President, Business Operations
Title (please print)

Dated: 06/16/2008



COPYRIGHT CLEARANCE CENTER, INC.

January 12, 2009

The University of Texas at Austin
101 East 21st Street
Austin, TX 78705

Dear Sir or Madam,

This letter amends the Annual Academic Copyright License Agreement (the "Agreement") dated June 30, 2008 between The University of Texas at Austin and Copyright Clearance Center, Inc. The Agreement is hereby amended by replacing the existing language in Section A.4 thereof with the following:

"A.4. The rights granted to Academic Institution hereunder are expressly limited to those described above; nevertheless, the Parties acknowledge that nothing herein shall prevent Academic Institution from using Works or Authorized Reproductions in accordance with other sources of legal authority, such as but not limited to fair use."

Except as expressly amended hereby, the Agreement shall remain in full force and effect without any modification. If this comports with your understanding of our agreement with respect to the matters described above, please countersign this letter in the space provided below and return a signed copy to me by email or by fax at 978-750-4250.

Please do not hesitate to contact me with any questions.

Best regards,

Robert S. Weiner
Senior Vice President

ACKNOWLEDGED AND AGREED

The University of Texas at Austin

Authorized Signature

Date

Name (please print)

Title (please print)

7000313837
3000139380



COPYRIGHT CLEARANCE CENTER, INC.

July 19, 2010

University of Texas System
201 West 7th Street
Austin, TX 78701

Dear Sir or Madam:

This letter constitutes an offer of renewal of the Annual Copyright License Agreement for Academic Institutions between University of Texas System ("Academic Institution") and Copyright Clearance Center, Inc. ("CCC"), effective June 30, 2008 (the "Agreement"). Unless specifically altered herein, capitalized terms in this letter have the definitions given to them in the Agreement.

In accordance with the provisions of Paragraph D.2. of the Agreement, CCC hereby offers University of Texas System a renewal of the Agreement for a Renewal Term effective from June 30, 2010 to June 30, 2011. The License Fee for such Renewal Term is \$547,281.64 (see attached pricing schedule). Academic Institution represents and warrants that the total number of Students upon which the License Fee is based is 156,876.

Provided that User adheres to the terms and conditions of this renewal, CCC agrees that the cost per student for the Renewal Term thereof, effective July 1, 2011, will not exceed the cost per student set forth in the Agreement for the current Term.

The pricing terms of this letter are subject to User's execution of the Agreement.

By authorized signature below and timely payment of the License Fee for this Renewal Term, University of Texas System indicates its acceptance of CCC's offer of renewal of the Agreement.

Very truly yours,

Bruce Funkhouser
Vice President, License Administration

AGREED: University of Texas System

Authorized Signature

7/21/10
Date

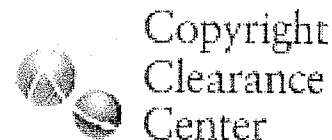
Scott C. Kelley
Name (please print)

Executive Vice Chancellor
Title (please print) for Business Affairs

3000179509
7000313840

University of Texas System

			Pricing Analysis			
	Carn.	FT		Price		Total With
Campus	Class	Stud.	Total	Per FTE	15%	System
				Student	Discount	Discount
Acad Inst						
Austin	MU	45279	\$169,796.25	\$3.75	\$25,469.44	\$144,326.81
Sub-Total		45279	\$169,796.25	\$3.75	\$25,469.44	\$144,326.81
Arlington	HU	20242	\$75,907.50	\$3.75	\$11,386.13	\$64,521.38
Brownsville	VHU	9512	\$35,670.00	\$3.75	\$5,350.50	\$30,319.50
Dallas	MU	12089	\$45,333.75	\$3.75	\$6,800.06	\$38,533.69
El Paso	HU	15058	\$56,467.50	\$3.75	\$8,470.13	\$47,997.38
Pan Am	VHU	14103	\$52,886.25	\$3.75	\$7,932.94	\$44,953.31
Perm Basin	HU	2527	\$9,476.25	\$3.75	\$1,421.44	\$8,054.81
San Antonio	VHU	22494	\$84,352.50	\$3.75	\$12,652.88	\$71,699.63
Tyler	HU	4632	\$17,370.00	\$3.75	\$2,605.50	14,764.50
Sub-Total		MU 100657	\$377,463.75	\$3.75	\$56,619.56	\$320,844.19
Acad-Total		145936	\$547,260.00	\$3.75	\$82,089.00	\$465,171.00
Health Inst						
MDA	ExU4	210	\$1,627.50	\$7.75	\$244.13	\$1,383.38
Tyler	HGP	93	\$837.00	\$9.00	\$125.55	\$711.45
San Antonio	HGP	3109	\$27,203.75	\$8.75	\$4,080.56	\$23,123.19
Houston	HGP	3278	\$28,682.50	\$8.75	\$4,302.38	\$4,380.13
So western	HGP	2014	\$18,126.00	\$9.00	\$2,718.90	\$15,407.10
Med Branch	HGP	2236	\$20,124.00	\$9.00	\$3,018.60	\$17,105.40
Sub-Total		10940	\$96,600.75	\$8.83	\$14,490.11	\$82,110.64
GRAND TOTAL		156876	\$643,860.75	\$4.10	\$96,579.11	\$547,281.64



June 15, 2011

University of Texas System
201 West 7th Street
Austin, TX 78701

Dear Sir or Madam:

This letter constitutes an offer of renewal of the Annual Copyright License Agreement for Academic Institutions between University of Texas System ("Academic Institution") and Copyright Clearance Center, Inc. ("CCC"), effective June 30, 2008 (the "Agreement"). Unless specifically altered herein, capitalized terms in this letter have the definitions given to them in the Agreement.

In accordance with the provisions of Paragraph D.2. of the Agreement, CCC hereby offers University of Texas System a renewal of the Agreement for a Renewal Term effective from July 1, 2011 to June 30, 2012. The License Fee for such Renewal Term is \$534,923.28 (see attached pricing schedule). Academic Institution represents and warrants that the total number of Students upon which the License Fee is based is 163,552.

By authorized signature below and timely payment of the License Fee for this Renewal Term, University of Texas System indicates its acceptance of CCC's offer of renewal of the Agreement.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Bruce Funkhouser".

Bruce Funkhouser
Vice President, License Administration

AGREED: University of Texas System

A handwritten signature in cursive script, appearing to read "Scott C. Kelley".

Authorized Signature

8/31/11

Date

Scott C. Kelley
Executive Vice Chancellor for Business Affairs

Name (please print)

Title (please print)

C47325
7000313840

			Pricing Analysis			
	Carn.	FT		Price		Total With
Campus	Class	Stud.	Total	Per FTE	15%	System
				Student	Discount	Discount
<u>Acad Inst</u>						
Austin	HU	45419	\$ 158,966.50	\$ 3.50	\$ 23,844.98	\$ 135,121.53
Sub-Total		45419	\$ 158,966.50	\$ 3.50	\$ 23,844.98	\$ 135,121.53
Arlington	HU	22406	\$ 78,421.00	\$ 3.50	\$ 11,763.15	\$ 66,657.85
Brownsville	VHU	9492	\$ 33,222.00	\$ 3.50	\$ 4,983.30	\$ 28,238.70
Dallas	MU	13311	\$ 46,588.50	\$ 3.50	\$ 6,988.28	\$ 39,600.23
El Paso	HU	15804	\$ 55,314.00	\$ 3.50	\$ 8,297.10	\$ 47,016.90
Pan Am	VHU	14420	\$ 50,470.00	\$ 3.50	\$ 7,570.50	\$ 42,899.50
Perm Basin	HU	2809	\$ 9,831.50	\$ 3.50	\$ 1,474.73	\$ 8,356.78
San Antonio	VHU	23559	\$ 82,456.50	\$ 3.50	\$ 12,368.48	\$ 70,088.03
Tyler	HU	4791	\$ 16,768.50	\$ 3.50	\$ 2,515.28	\$ 14,253.23
Sub-Total		HU 106592	\$ 373,072.00	\$ 3.50	\$ 55,960.80	\$ 317,111.20
Acad-Total		152011	\$ 532,038.50	\$ 3.50	\$ 79,805.78	\$ 452,232.73
<u>Health Inst</u>						
MDA	ExU4	244	\$ 1,891.00	\$ 7.75	\$ 283.65	\$ 1,607.35
Tyler	HGP	0	\$ -	\$ 9.00	\$ -	\$ -
San Antonio	VHU	3055	\$ 22,148.75	\$ 7.25	\$ 3,322.31	\$ 18,826.44
Houston	HGP	3739	\$ 32,716.25	\$ 8.75	\$ 4,907.44	\$ 27,808.81
So western	HGP	2066	\$ 18,594.00	\$ 9.00	\$ 2,789.10	\$ 15,804.90
Med Branch	HGP	2437	\$ 21,933.00	\$ 9.00	\$ 3,289.95	\$ 18,643.05
Sub-Total		11541	\$ 97,283.00	\$ 8.43	\$ 14,592.45	\$ 82,690.55
GRAND TOTAL		163552	\$ 629,321.50	\$ 3.85	\$ 94,398.23	\$ 534,923.28



May 4, 2012

University of Texas System
201 West 7th Street
Austin, TX 78701

Dear Sir or Madam:

This letter constitutes an offer of renewal of the Annual Copyright License Agreement for Academic Institutions between University of Texas System ("Academic Institution") and Copyright Clearance Center, Inc. ("CCC"), effective June 30, 2008 (the "Agreement"). Unless specifically altered herein, capitalized terms in this letter have the definitions given to them in the Agreement.

In accordance with the provisions of Paragraph D.2. of the Agreement, CCC hereby offers University of Texas System a renewal of the Agreement for a Renewal Term effective from July 1, 2012 to June 30, 2013. The License Fee for such Renewal Term is \$531,893.03 (see attached pricing schedule). Academic Institution represents and warrants that the total number of Students upon which the License Fee is based is 156,772.

By authorized signature below and timely payment of the License Fee for this Renewal Term, University of Texas System indicates its acceptance of CCC's offer of renewal of the Agreement.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Bruce Funkhouser".

Bruce Funkhouser
Vice President, License Administration

AGREED: University of Texas System

A handwritten signature in blue ink, appearing to read "Scott C. Kelley".

Authorized Signature

JUN 26 2012

Date

Scott C. Kelley
Executive Vice Chancellor

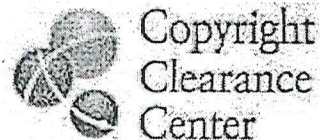
Name (please print)
for Business Affairs

Title (please print)

C47325
7000313840

			Pricing Analysis			
	Carn.	FT		Price		Total With
Campus	Class	Stud.	Total	Per FTE	15%	System
				Student	Discount	Discount
<u>Acad Inst</u>						
Austin	HU	46408	\$ 162,428.00	\$ 3.50	\$ 24,364.20	\$ 138,063.80
Sub-Total		46408	\$ 162,428.00	\$ 3.50	\$ 24,364.20	\$ 138,063.80
Arlington	HU	19344	\$ 67,704.00	\$ 3.50	\$ 10,155.60	\$ 57,548.40
Brownsville	VHU	6905	\$ 24,167.50	\$ 3.50	\$ 3,625.13	\$ 20,542.38
Dallas	MU	13360	\$ 46,760.00	\$ 3.50	\$ 7,014.00	\$ 39,746.00
El Paso	HU	14279	\$ 49,976.50	\$ 3.50	\$ 7,496.48	\$ 42,480.03
Pan Am	VHU	12988	\$ 45,458.00	\$ 3.50	\$ 6,818.70	\$ 38,639.30
Perm Basin	HU	2189	\$ 7,661.50	\$ 3.50	\$ 1,149.23	\$ 6,512.28
San Antonio	VHU	23361	\$ 81,763.50	\$ 3.50	\$ 12,264.53	\$ 69,498.98
Tyler	HU	4447	\$ 15,564.50	\$ 3.50	\$ 2,334.6	\$ 13,229.83
Sub-Total		HU 106592	\$ 373,072.00	\$ 3.50	\$ 55,960.80	\$ 317,111.20
Acad-Total		143281	\$ 501,483.50	\$ 3.50	\$ 75,222.53	\$ 426,260.98
<u>Health Inst</u>						
MDA	ExU4	316	\$ 2,449.00	\$ 7.75	\$ 367.35	\$ 2,081.65
Tyler	HGP	0	\$ -	\$ 9.45	\$ -	\$ -
San Antonio	HGP	3294	\$ 30,304.80	\$ 9.20	\$ 4,545.72	\$ 25,759.08
Houston	HGP	4600	\$ 42,320.00	\$ 9.20	\$ 6,348.00	\$ 35,972.00
So western	HGP	2456	\$ 23,209.20	\$ 9.45	\$ 3,481.38	\$ 19,727.82
Med Branch	HGP	2825	\$ 25,990.00	\$ 9.20	\$ 3,898.50	\$ 22,091.50
Sub-Total		13491	\$ 124,273.00	\$ 9.21	\$ 18,640.95	\$105,632.05
GRAND TOTAL		156772	\$ 625,756.50	\$ 3.99	\$ 93,863.48	\$ 531,893.03

emailed to CCC
6-4-13



May 14, 2013

University of Texas System
201 West 7th Street
Austin, TX 78701

Dear Sir or Madam:

This letter constitutes an offer of renewal of the Annual Copyright License Agreement for Academic Institutions between University of Texas System ("Academic Institution") and Copyright Clearance Center, Inc. ("CCC"), effective June 30, 2008 (the "Agreement"). Unless specifically altered herein, capitalized terms in this letter have the definitions given to them in the Agreement.

In accordance with the provisions of Paragraph D.2. of the Agreement, CCC hereby offers University of Texas System a renewal of the Agreement for a Renewal Term effective from July 1, 2013 to June 30, 2014. The License Fee for such Renewal Term is \$562,866.72 (see attached pricing schedule). Academic Institution represents and warrants that the total number of Students upon which the License Fee is based is 169,733.

By authorized signature below and timely payment of the License Fee for this Renewal Term, University of Texas System indicates its acceptance of CCC's offer of renewal of the Agreement.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard A. Ruf".

Richard A. Ruf
Vice President, Chief Financial Officer

AGREED: University of Texas System

A handwritten signature in dark ink, appearing to read "Scott C. Kelley".
Authorized Signature Scott C. Kelley Date 5-28-13
Executive Vice Chancellor
for Business Affairs

Name (please print) _____ Title (please print) _____

C47325
7000313840

2013-14

(proposed pricing based on Fall 2012 Enrollment)									
		Pricing Analysis							
		Price	Total With						
Campus	Carn. FT	Per FTE	15%	System					
Class	Stud.	Total	Student	Discount	Discount				
Acad Inst									
Austin	HU	46925	\$ 164,237.50	\$ 3.50	\$ 24,635.63	\$ 139,601.88			
Sub-Total		46925	\$ 164,237.50	\$ 3.50	\$ 24,635.63	\$ 139,601.88			
Arlington	HU	22973	\$ 80,405.50	\$ 3.50	\$ 12,060.83	\$ 68,344.68			
Brownsville	VHU	8834	\$ 30,919.00	\$ 3.50	\$ 4,637.85	\$ 26,281.15			
Dallas	MU	15695	\$ 54,932.50	\$ 3.50	\$ 8,239.88	\$ 46,692.63			
El Paso	HU	16393	\$ 57,375.50	\$ 3.50	\$ 8,606.33	\$ 48,769.18			
Pan Am	VHU	14892	\$ 52,122.00	\$ 3.50	\$ 7,818.30	\$ 44,303.70			
Perm Basin	HU	2710	\$ 9,485.00	\$ 3.50	\$ 1,422.75	\$ 8,062.25			
San Antonio	VHU	24189	\$ 84,661.50	\$ 3.50	\$ 12,699.23	\$ 71,962.28			
Tyler	HU	5184	\$ 18,144.00	\$ 3.50	\$ 2,721.60	\$ 15,422.40			
Sub-Total	MU	110870	\$ 388,045.00	\$ 3.50	\$ 58,206.75	\$ 329,838.25			
Acad-Total		157795	\$ 552,282.50	\$ 3.50	\$ 82,842.38	\$ 469,440.13			
Health Inst									
MDA	EXU4	290	\$ 2,247.50	\$ 7.75	\$ 337.13	\$ 1,910.38			
Tyler	HGP	4	\$ 37.80	\$ 9.45	\$ 5.67	\$ 32.13			
San Antonio	HGP	3237	\$ 29,780.40	\$ 9.20	\$ 4,467.06	\$ 25,313.34			
Houston	HGP	3738	\$ 34,389.60	\$ 9.20	\$ 5,158.44	\$ 29,231.16			
So western	HGP	2014	\$ 19,032.30	\$ 9.45	\$ 2,854.85	\$ 16,177.46			
Med Branch	HGP	2655	\$ 24,426.00	\$ 9.20	\$ 3,663.90	\$ 20,762.10			
Sub-Total		11938	\$ 109,913.60	\$ 9.21	\$ 16,487.04	\$ 93,426.56			
GRAND TOTAL		169733	\$ 662,196.10	\$ 3.90	\$ 99,329.42	\$ 562,866.69			