

JSTOR FORUM INSTITUTIONAL PARTICIPATION AGREEMENT*Please type or print clearly:***Licensee (Institution) Name:** The Regents of the University of California, a non-profit academic institution**Licensee Address:** The California Digital Library, University of California Office of the President, 415 20th Street, 4th floor, Oakland, CA 94612, USA**Agreement Date:** January 1, 2019**LICENSEE CONTACT INFORMATION** *Please fill out the information below and ensure this information remains current by providing regular updates.***Licensee Primary Contact:***(responsible for overseeing participation)***Attn:** [REDACTED] Assistant Director for Systemwide Licensing**Address:** California Digital Library
University of California, Office of the President
415 20th Street, 4th Floor
Oakland, CA 94612**Telephone:** [REDACTED]**E-Mail:** [REDACTED]**Licensee Technical Contact:***(responsible for providing authentication information)***Attn:** CDL Support**Address:** California Digital Library
University of California, Office of the President
415 20th Street, 4th Floor
Oakland, CA 94612**Telephone:** (510) 987-0555**E-Mail:** cdl-support-1@ucop.edu**Licensee Billing/Invoicing Contact:***(if different from Primary Contact)***Attn:** [REDACTED] CDL Acquisitions Coordinator**Address:** University of California, Geisel Library
9500 Gilman Drive 0175K
La Jolla, CA 92093-0175**Telephone:** [REDACTED]**E-Mail:** cdl-acquisitions@ucop.edu**Authentication, Authorization, Proxy Server,
and Authorized Sites Information:**

See Attached Form

**Licensee VAT Registration Number or sales tax exemption
number (please provide tax exempt authorization
document), if applicable:** _____

The entire Agreement entered into between Licensee, Artstor and JSTOR (Artstor and JSTOR together, "Licensor"), is made up of the documents listed here:

1. Institutional Participation Agreement (IPA);
2. Authentication, Authorization, Proxy Server, and Campus/Site Information, attached here as Schedule 1;
3. JSTOR Forum Terms and Conditions of Use, attached here as Schedule 2;
4. Product Riders, attached here as Schedules 3 and 4; and
5. JSTOR Forum Fees, attached here as Schedule 5.

In the event of any conflict between any of the referenced documents, the highest listed document shall control. Capitalized terms are defined in the JSTOR Forum Terms and Conditions of Use.

In the event that Licensor requires Authorized Users to agree to additional terms relating to the use of the Licensed Services (commonly referred to as "click-through" or "clickwrap" licenses), or otherwise attempts to impose terms on Authorized Users through online terms and conditions invoked by the mere use of the Licensed Services, such terms shall not materially differ from the provisions of this Agreement. In the event of any conflict between the click-through terms or online terms and conditions and this Agreement, the terms of this Agreement shall prevail. For the avoidance of doubt, Authorized Users are not a party to this Agreement.

Licensee acknowledges Licensor may suspend or terminate its access if it, or its Authorized Users, violate this Agreement. In the event that either party believes that the other materially has breached any obligations under this Agreement, such party shall so notify the breaching party in writing. The breaching party shall have sixty (60) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that the cure has been effected. If the breach is not cured within the sixty (60) day period, the non-breaching party shall have the right to terminate the Agreement without further notice.

Where applicable, this Agreement supersedes any and all prior agreements between the parties regarding the subject matter hereof. Each party represents that it is authorized to execute and accept the terms of this document via electronic signature and that such signature shall be binding. Each party further represents and warrants that it is organized and operated for charitable, scientific, literary or educational purposes, or that it is a governmental entity, and no part of its net earnings inures to the benefit of any private shareholder or individual. Licensee may contact Licensors at participation@jstor.org.

This Agreement shall continue in effect for one (1) year from the first day of the calendar year that follows the Agreement Date, and assuming the availability of funding, this Agreement shall renew for successive one (1) year terms unless earlier terminated by either party by written notice not less than thirty (30) days prior to the end of the then-current term.

Licensee shall receive an annual invoice for the JSTOR Forum service plan. All payments will be made in United States dollars, in an amount such that, after deduction for any taxes, assessments or charges levied, assessed or imposed that you, Licensors or any other party may be required to pay or withhold in connection with such amount, the remainder actually received by Licensors is the amount invoiced by Licensors. All payments will be made by credit card or check or by mutually acceptable form of wire transfer.

JSTOR Forum fees will be comprised of: (1) the base fee for the JSTOR Forum service plan ordered, and (2) fees for the applicable storage level. Licensors will (a) endeavor to monitor the total storage space allotted to Hosted Content in JSTOR Forum on approximately a monthly basis; (b) notify Licensee if it is approaching the next storage level tier, which will result in an increase in fees absent Licensee's written notice that it wishes to cap storage at its current level; and (c) invoice Licensee for any *pro rata* increase in fees for the remaining portion of the year no earlier than the month following the storage level tier elevation. Fees for JSTOR Forum may be subject to tiering pursuant to classification tiers based on the size of your institution. All fees are subject to reasonable change by JSTOR Forum, and are subject to reasonable annual increases.

Fees for professional services will be invoiced when ordered, or pursuant to the terms of the signed Quote.

LICENSEE

SIGNED BY:

NAME:

TITLE: Associate Executive Director

DATE: 4/22/2019

ARTSTOR and JSTOR

BY:

NAME:

TITLE: VP, General Counsel, and Sec'y

DATE: 4/25/2019

SCHEDULE 1: AUTHENTICATION, AUTHORIZATION, PROXY SERVER, AND CAMPUS/SITE INFORMATION

Licensee: The Regents of the University of California

Please fill out the information below and ensure this information remains current by providing regular updates.

Multiple Campuses or Sites

If this license is to cover multiple campuses or sites, please list them below. Please be aware that the Licensee is generally understood to be a single institution, which may consist of multiple campuses or sites (such medical or other professional schools). Licensor reserves the right at its discretion to assess additional fees or require separate Institutional Participation Agreements for certain campuses or sites or for distance education programs. In the case of a statewide university system consisting of multiple universities, each university typically would be considered a separate licensing institution.

____ **See Attached Authorized Sites** ____

IP Information (addresses or domain ranges for computers on your campus(es)):

This Agreement is intended to cover all departments and professional schools of Licensee identified above as of the date of this Agreement. Therefore, please include IP information covering the entire Licensee. IP address included should pertain only to Licensee. If IP information is not available upon completing this Agreement, Licensor's User Services staff will contact the Licensee Technical Contact listed on page 1 to obtain the information and initiate access. Licensor reserves the right to delay access or cancel this Agreement if adequate IP information is not provided. Please attach a separate sheet if you need more space.

____ **See Attached IP Addresses by Authorized Site** ____

Shibboleth Authentication Information, if applicable. *Please provide us with regular updates to this information*

Are you planning to access Artstor through your institutional Shibboleth account?	Yes <u>x</u> No ____
If yes, which Federation (or Federations) is your institution a member of?	
Please list the campuses (if more than one) currently covered by your Identity Provider	

Licensor User Services will contact the Licensee Technical Contact for additional Shibboleth configuration details.

Proxy Server Information (Optional). *Please provide us with regular updates to this information.*

Are you currently using a proxy server to provide access to restricted resources?	Yes ____ No ____
If yes, please provide the IP Information of the proxy server:	
If yes, please also provide the URL of the webpage that offers information about how to use the proxy:	
Do you have plans to use a proxy server or add additional proxy servers in the future?	Yes ____ No ____
Do you provide to users any other means of access to restricted resources from machines outside of your campus IP domain?	Yes ____ No ____

Authorized Sites

University of California, Berkeley (including Lawrence Berkeley National Laboratory)

University of California, Davis

University of California, Irvine

University of California, Los Angeles

University of California, Merced

University of California, Riverside

University of California, San Diego

University of California, Santa Barbara

University of California, Santa Cruz

University of California Office of the President

* Office of the President, including California Digital Library (CDL) provides administrative support and needs access.

IP Addresses by Authorized Site

[illegible]

[illegible]

[illegible]

SCHEDULE 2: JSTOR FORUM TERMS AND CONDITIONS OF USE

1 Welcome to JSTOR Forum

JSTOR Forum (previously known as Shared Shelf) is an enterprise-wide digital collection management solution that enables institutions to upload, catalog, store, and share their digital content.

By using JSTOR Forum you agree to abide by the following Terms and Conditions of Use. These Terms and Conditions of Use may be subject to an agreement entered into between Artstor and an Authorized User's affiliated institution, such as a user's university ("Agreement"). If you have questions about your affiliated institution's Agreement with JSTOR Forum, please contact your JSTOR Forum administrator.

2 Definitions

- 2.1 "Artstor Platforms" means the Artstor owned and operated websites that are available as publishing targets from the JSTOR Forum Platform, currently the restricted Artstor website (library.artstor.org).
- 2.2 "Authorized Users" means individuals who (a) are affiliated with an Institutional Licensee as students, faculty, employees, or independent contractors in their performance of services for and on behalf of the Institutional Licensee only, regardless of the physical location of such persons (b) individuals or categories of individuals designated by Institutional Licensees to access Hosted Content or (c) other users of JSTOR Forum agreed upon in writing by, or on behalf of, Artstor.
- 2.3 "Hosted Content" means documents, graphics, images, videos, audio files, cataloging and other texts, and other materials that are uploaded or accessed by Institutional Licensee or Authorized Users through the JSTOR Forum Platform.
- 2.4 "Institutional Licensee" mean an institution (such as a college, university, K-12 school, public library, museum, foundation, or government agency) that maintains a valid JSTOR Forum Agreement with Artstor.
- 2.5 "JSTOR Forum Platform" means the content management software platform that enables Institutional Licensees and Authorized Users to manage, store, use, and/or publish their digital collections within their institution or publicly, in accordance with the service plan elected. JSTOR Forum Platform refers to software platform only, not to any Hosted Content or Shared Content made available through the platform.
- 2.6 "Shared Content" means any Hosted Content that is shared, made available, or published via the JSTOR Forum Platform, at the request of an Institutional Licensee or Authorized User.

3 Grant of License and Access

- 3.1 Artstor License Grant. Artstor hereby grants Institutional Licensees and their Authorized Users a non-exclusive, non-transferable, limited license ("License") to use the JSTOR Forum Platform to manage, store, use, make available and publish Hosted Content and Shared Content in the manner set forth in these Terms and Conditions and the Institutional Licensee's Agreement. There shall be no sublicensing, assignment, or any transfer of this license, and any attempt at such sublicensing, assignment or transfer is void.
- 3.2 Institutional Licensee and Authorized User License Grant.
 - a. Institutional Licensees and Authorized Users grant Artstor a worldwide non-exclusive, royalty-free and transferable license to use, incorporate, reproduce, distribute, prepare derivative works of, display, perform, publish, and make available the Hosted Content in connection with providing the JSTOR Forum services. Institutional Licensees and Authorized Users grant Artstor a worldwide non-exclusive, royalty-free and transferable license to use, incorporate, reproduce, distribute, prepare derivative works of, display, perform, publish, and make available the Shared Content on the Artstor Platforms as directed by Institutional Licensees and Authorized Users, and to allow web indexing services and discovery services to use Shared Content as a mechanism for educational and scholarly users to learn about the existence of Shared Content.
 - b. Institutional Licensees and Authorized Users grant all individuals and institutions with whom Institutional Licensees and Authorized Users share access to Shared Content on an Artstor Platform a non-exclusive license to access, use, reproduce, distribute, display and perform such Shared Content in

accordance with these Terms and Conditions and Sections 3-5 of the Artstor Terms and Conditions (available at

4 Shared Content

4.1 Permissions and Responsibilities. Institutional Licensees and Authorized Users grant Artstor permission to publish or make available Shared Content to the targets selected by the Institutional Licensee or Authorized User. Institutional Licensees and Authorized Users are solely responsible for all Shared Content and the consequences of submitting and publishing any Shared Content via JSTOR Forum. Institutional Licensees and Authorized Users affirm, represent and warrant that they own or have the necessary licenses, rights, consents, and permissions, or defenses to include Hosted Content within JSTOR Forum or to publish such Shared Content via JSTOR Forum. Artstor is not responsible for determining whether Shared Content is appropriate for viewing by audiences of different age groups or for complying with any applicable law, including but not limited to (a) any law regulating the provision of Shared Content to audiences of different age groups; and (b) any law regulating children's use of the internet. Institutional Licensees and Authorized Users will make reasonable efforts to ensure Shared Content published or made available on Artstor Platforms is compliant with Section 508 of the Rehabilitation Act and W3C WAI WCAG 2.0 Level AA.

4.2 Shared Content – Prohibited Use. Institutional Licensees and Authorized Users further agree that when making available or publishing Shared Content they will not, and will not authorize others, to:

- a. violate or infringe upon any third party rights, or violate any applicable law or regulation;
- b. upload, reproduce, transmit or distribute any software viruses or other computer code, files or programs designed to interrupt, destroy, degrade or limit the functionality of any computer software, hardware, data, system or telecommunications equipment; or
- c. intentionally disrupt the JSTOR Forum Platform or any other Artstor platforms, servers or networks connected thereto.

Additionally, for Shared Content made available or published on the Artstor Platforms, Institutional Licensees and Authorized Users will not, and will not authorize others, to:

- d. upload content intended to harass, threaten, abuse, libel, or slander others, or otherwise commit tortious conduct; or
- e. publish or make available obscene, abusive, derogatory, pornographic or otherwise offensive material by using the JSTOR Forum platform, unless there are serious literary, artistic, political, or scientific reasons for doing so, and Artstor reserves right to remove such material at own discretion (and will notify in advance to the extent practicable).

4.3 Shared Content Terms. Institutional Licensees and Authorized Users may post rules, licenses or terms governing the use of their Shared Content in the metadata associated with such content ("Shared Content Terms"). Should Institutional Licensees or Authorized Users post any Shared Content Terms, it is understood and agreed that they will not impose any obligations, liability, or restrictions of any kind on Artstor, and such Shared Content Terms will not apply within the confines of the JSTOR Forum Platform. To learn more about how Shared Content Terms may apply on the site of a third-party publishing target, please consult the terms of the third party. To learn more about how Shared Content Terms apply on the Artstor Digital Library Platform, please go to:

<http://www.artstor.org/artstor-terms>.

4.4 Third Party Terms. Institutional Licensees and Authorized Users recognize that Shared Content published to a third-party target may be subject to other terms and conditions, as exist on a third-party website. Artstor shall bear no responsibility, liability, or obligations in connection with an Institutional Licensee or Authorized User's failure to comply with such third-party website's terms and conditions.

4.5 Institutional Licensees and Authorized Users agree that portions of Shared Content downloaded or printed out by an Authorized User from the Artstor Platforms may continue to be used in compliance with these Terms and Conditions, even if an institution or user's JSTOR Forum Agreement shall later terminate or expire.

5 JSTOR Forum - Prohibited Uses

5.1 In their use of JSTOR Forum, Institutional Licensees and users may not:

- a. distribute in any medium any part of the JSTOR Forum Platform without Artstor's prior written authorization;

- b. alter or modify any part of the JSTOR Forum Platform;
- c. access Hosted Content through any technology or means other than the pages of the JSTOR Forum Platform, or other explicitly authorized means Artstor may designate;
- d. use JSTOR Forum for any commercial purpose or gains, including the sale of access to the JSTOR Forum Platform;
- e. modify, build upon, or block any portion or functionality of the JSTOR Forum Platform;
- f. use the JSTOR Forum Platform to collect or store any personally identifiable information; or
- g. violate any applicable law or regulation.

6 Responsibilities of Licensee

- 6.1 Access. Institutional Licensees shall make reasonable efforts to ensure that access to the JSTOR Forum Platform is limited to Authorized Users. Such efforts shall include, but not be limited to, issuing and terminating passwords within its control, verifying the status of Authorized Users, providing lists of valid passwords to Artstor if applicable, updating such lists on a regular basis and providing any information or assistance necessary for Artstor to implement whatever user authentication processes Artstor may establish in its sole discretion. Authorized Users shall be responsible for maintaining the confidentiality and security of their usernames and/or passwords (if such are provided), and may not provide access to the JSTOR Forum Platform to anyone else. Authorized Users shall be responsible for all usage or activity by them of the JSTOR Forum Platform.
- 6.2 Unauthorized Use. It is understood that Artstor shall ask Authorized Users to promptly notify Artstor and the institution with which they are affiliated of any known or suspected unauthorized use(s) of their account or any known or suspected breach of security, including loss, theft, or unauthorized disclosure or use of their username or password. Likewise, Institutional Licensee will promptly notify Artstor upon learning or being notified of any violation or suspected violation of these Terms and Conditions of Use, investigate and cooperate fully and promptly with Artstor in investigating such known or suspected violations, and take other measures that Artstor reasonably deems appropriate in any case involving knowing and willful violations. Any use of JSTOR Forum beyond the scope or in violation of these Terms and Conditions of Use, knowing use of any password or username of another, or any fraudulent, abusive, or otherwise illegal activity, may be grounds for suspension or termination of an Authorized User's account (at Artstor's sole discretion). Artstor shall make reasonable efforts to contact Institutional Licensee and provide with an opportunity to remedy such unauthorized use or infringement to Artstor's satisfaction before suspending or terminating access to an Authorized User's account.
- 6.3 Breach of these Terms and Conditions. Institutional Licensees and Authorized Users agree that Artstor shall in no way be liable for any loss, injury, claim, liability, damages, costs, or attorneys' fees arising out of or in connection with the violation by the Institutional Licensee or Authorized User of these Terms and Conditions of Use.
- 6.4 Hardware and Internet Access. Institutional Licensee and Authorized Users are solely responsible for establishing and maintaining hardware and internet connections to provide access to, use, transmit, display, and publish the Hosted Content and the JSTOR Forum Platform.
- 6.5 Approvals. Institutional Licensee agrees that, should it use the JSTOR Forum Platform and associated software outside of the United States, it will effect or obtain any necessary governmental or regulatory filings and approvals and will pay any costs associated therewith, including but not limited to filings, approvals and costs associated with the importation, exportation or use of JSTOR Forum and software. Artstor may revoke access to JSTOR Forum in any country outside the United States if in Artstor's sole opinion it is warranted by applicable law.

7 Intellectual Property Rights

- 7.1 General Intellectual Property Rights. The JSTOR Forum Platform and any trademarks, issued patents and patent applications, copyrights and copyright registrations and applications, rights in ideas, designs, works of authorship, derivative works, and all other intellectual property rights relating to the JSTOR Forum are proprietary to Artstor, subject to the rights of third parties and the limited license granted in these Terms and Conditions. Institutional Licensee and its Authorized Users will not, attach, dispute, or contest, indirectly or directly, Artstor's or third parties' rights in and title to the JSTOR Forum Platform, nor assist others to do so. Copyright is not claimed by Artstor as to any work that is in the public domain.
- 7.2 Trademarks. Neither Artstor nor Institutional Licensee may use the other's name or trademark and Institutional Licensees and Authorized Users may not use the name or trademarks of the above-noted entities without approval

except: (i) Artstor may use Institutional Licensees' names and/or the names of their libraries in brochures or other materials to identify Institutional Licensees as subscribers to JSTOR Forum along with other subscribers, and (ii) Institutional Licensees are encouraged to use Artstor's name and logo to announce participation to Authorized Users and to train Authorized Users on the use of JSTOR Forum.

8 Responsibilities of Artstor

- 8.1 Usage Reports. Authorized Users with administrator privileges may run usage reports on the projects they are managing in JSTOR Forum, using the administrator tools.
- 8.2 Third-Party Content and Links. Artstor does not control and takes no responsibility for, makes no representations or warranties about, and does not endorse Hosted Content, Shared Content, or any third-party sites accessible through links in metadata input by Institutional Licensees or Authorized Users.
- 8.3 Data and Limiting Network Congestion. JSTOR Forum permits Institutional Licensees and Authorized Users to access and export metadata from their own institution's projects. To protect the system from receiving or transmitting more data than it can handle, and to preserve system availability for all users, Artstor reserves the right to throttle or limit requests to JSTOR Forum at times of high usage.

9 DMCA/Claims

- 9.1 Artstor does not screen, select, edit or review Hosted Content and under no circumstances will Artstor be liable in any way for Hosted Content, including, but not limited to, any error or omission in any Hosted Content or any loss, injury, claim, liability, damages, costs, or attorney fees of any kind should any Hosted Content violate or infringe any third party right or any law.
- 9.2 In providing the JSTOR Forum Platform for Authorized Users, Artstor is acting as an online service provider within the definition of the Digital Millennium Copyright Act at 17 U.S.C. § 512 (the "DMCA"). Artstor is required under the DMCA to expeditiously remove from its servers or disable access to Hosted Content if Artstor learns or becomes aware that such content infringes the copyright of a third party. Artstor reserves the right to terminate an Institutional Licensee's or Authorized User's access to JSTOR Forum when that Institutional Licensee or Authorized User repeatedly infringes another's copyright, although Artstor would make reasonable efforts to collaborate with an Institutional Licensee to resolve such infringements before terminating access, and would endeavor, to the extent practicable, to notify Institutional Licensee in advance before disabling access to Hosted Content. Artstor shall in no way be held liable for acting pursuant to its DMCA obligations. Artstor reserves the right to remove Shared Content at any time for legal or others reasons.
- 9.3 Should you believe that any Hosted Content violates your copyright, please send a written notice to Artstor, directed to the Office of the General Counsel, at the address posted on the Artstor website, www.artstor.org. Such notices must comply with the DMCA. For more information about what should be included in such notices, please see the copyright statement on Artstor's website at www.artstor.org/our-organization/o-html/copyright.shtml.
- 9.4 Institutional Licensees agree to notify Artstor of any infringement, libel, or other claim pertaining to any Hosted Content of which Institutional Licensee becomes aware.

10 Warranty; Disclaimers

- 10.1 Artstor represents and warrants under the laws of the United States that to its knowledge use of the JSTOR Forum Platform by Authorized Users in accordance with these Terms and Conditions of Use will not infringe the copyright of any third party. The foregoing will not apply to the Hosted Content loaded by Institutional Licensees and Authorized Users to the JSTOR Forum Platform, or to usage of the JSTOR Forum Platform by Institutional Licensees or Authorized Users in violation of these Terms and Conditions of Use. Artstor makes no representation or warranty, and expressly disclaims any liability with respect to the Hosted Content, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.
- 10.2 Artstor will not be liable for the actions of any third party websites that receive Shared Content as a publishing target from JSTOR Forum.
- 10.3 Artstor will not be liable, and Institutional Licensees and Authorized Users agree that they will not hold Artstor liable for any loss, injury, claim, liability, damages, costs, and/or attorneys' fees of any kind that result from the unavailability of the JSTOR Forum Platform or Hosted Content, delays or interruption of the services provided hereunder, or arising out of or in connection with Institutional Licensee's or Authorized Users' use of the JSTOR Forum Platform or Hosted Content in violation of these Terms and Conditions of Use. If the JSTOR Forum

Platform fails to operate in conformance with the Terms and Conditions of Use, Institutional Licensee will immediately notify Artstor and, subject to the downtime provisions in your Agreement, Artstor's sole obligation will be to repair the nonconformity. In no event will Artstor's liability to an Institutional Licensee exceed the fees paid to Artstor by that Institutional Licensee for the term of the Agreement then in effect, nor will Artstor be liable for any incidental, indirect, special, punitive or consequential damages, notwithstanding the failure of essential purpose of any limited remedy.

- 10.4 JSTOR FORUM IS PROVIDED ON AN "AS IS" BASIS, AND ARTSTOR DISCLAIMS TO THE FULLEST EXTENT OF THE LAW ANY LIABILITY, WARRANTIES, CONDITIONS, GUARANTEES AND REPRESENTATIONS OF ANY KIND (EXPRESS, IMPLIED, ORAL, OR WRITTEN) RELATING TO JSTOR FORUM, PROFESSIONAL SERVICES, HOSTED CONTENT AND ALL ARTSTOR SITES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF QUALITY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY, ACCURACY, SECURITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. ARTSTOR MAKES NO WARRANTIES WITH RESPECT TO HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, TIME BOMB, LOGIC BOMB, OR OTHER SUCH COMPUTER PROGRAM IN HOSTED CONTENT. ARTSTOR DISCLAIMS ANY LIABILITY, AND MAKE NO WARRANTIES WITH RESPECT TO: ANY ERRORS OR OMISSIONS IN THE HOSTED CONTENT; LIABILITY UNDER LIBEL LAWS; INFRINGEMENT OF RIGHTS OF PUBLICITY OR PRIVACY, MORAL RIGHTS, RELATED OR NEIGHBORING RIGHTS; THE DISCLOSURE OF CONFIDENTIAL INFORMATION; AND WHETHER HOSTED CONTENT IS FREE OF OBSCENE, OFFENSIVE, DEFAMATORY, OR INFLAMMATORY MATERIALS, AND ANY CLAIMS OF ANY KIND RELATED TO THIRD-PARTY LINKS AND SITES THAT MAY BE INCLUDED IN HOSTED CONTENT.**

11 Discontinuing Access to JSTOR Forum

- 11.1 Upon termination of a JSTOR Forum Agreement, all online access to the JSTOR Forum Platform for Institutional Licensee and its Authorized Users will be terminated.
- 11.2 Effect of termination on Hosted Content. The license in Section 3.2(a) will terminate within a commercially reasonable time after Hosted Content is removed or deleted from the JSTOR Forum Platform. Institutional Licensees understand and agree, however, that Artstor may retain, but not display, distribute, or perform, server copies of the Hosted Content that have been removed or deleted.
- 11.3 Effect of termination on Shared Content. Upon termination of a JSTOR Forum Agreement, Shared Content published or made available to a public collection on the Artstor Platform shall remain part of the public collection, and made available pursuant to these Terms and Conditions, unless Institutional Licensees or Authorized Users request its removal within 6 months of termination. Artstor may remove some or all of the Shared Content published to a public collection by institutions or users who no longer subscribe to JSTOR Forum at any time, in the interest of managing the JSTOR Forum service.

Artstor has no authority to remove or delete Shared Content published to a third party website outside of Artstor's control. If Institutional Licensees or Authorized Users would like Shared Content to be removed from such third-party sites, Institutional Licensees and Authorized Users must approach such third party sites directly.

12 Privacy

- 12.1 Use of JSTOR Forum indicates acceptance of Artstor's Privacy Policy, available <http://www.artstor.org/privacy-policy>, as may be amended from time to time. Artstor will use reasonable efforts to maintain sufficient security with respect to all IP addresses, usernames, passwords, and user e-mail addresses provided by Institutional Licensees and Authorized Users in accordance with such Privacy Policy.
- 12.2 Artstor does not guarantee confidentiality with respect to any Hosted Content saved within the JSTOR Forum Platform by Institutional Licensees and Authorized Users.

13 Force Majeure

- 13.1 Neither Artstor nor Institutional Licensees or Authorized Users will be liable for failures or delays in performing their obligations pursuant to this contract arising from any cause beyond their control, including but not limited to, act of God, acts of civil or military authority, terrorism, fires, strikes, lockouts or labor disputes, epidemics, wars, riots, earthquakes, storms, typhoons and floods. In the event of any such delay, the time for either party's performance will be extended for a period equal to the time lost by reason of the delay. If the conditions giving

rise to the delay continue beyond thirty (30) consecutive days, either party may terminate its JSTOR Forum Agreement by giving written notice to the other party.

14 General

14.1 These Terms and Conditions of Use are, where applicable, subject to and incorporated by reference into Institutional Licensees' JSTOR Forum Agreement. In the event of any conflict between these Terms and Conditions of Use and the JSTOR Forum Agreement applicable to an Institutional Licensee and/or Authorized User, the JSTOR Forum Agreement will prevail.

14.2 These Terms and Conditions of Use will be governed by and construed in accordance with the laws of California and the United States of America California, excluding any such laws that might direct the application of the laws of another jurisdiction, and resolution and venue shall be as follows:

In the event of any dispute or controversy arising out of or relating to this Agreement, the parties agree to exercise good faith efforts to resolve the dispute as soon as possible. In the event that the parties cannot, by exercise of their good faith efforts, resolve the dispute, they shall submit the dispute to informal mediation, as further described below in this paragraph. The parties shall continue to perform their respective obligations under this Agreement that are not affected by the dispute. The party invoking mediation shall give to the other party written notice of its decision to seek informal mediation, and the notice must include a description of the issues subject to the dispute and a proposed resolution thereof. Designated representatives of both parties shall attempt to resolve the dispute within five (5) working days after such notice. If those designated representatives cannot resolve the dispute, the parties shall meet at a mutually agreeable location and describe the dispute and their respective proposals for resolution to responsible executives of the disputing parties, who shall act in good faith to resolve the dispute.

If the dispute is not resolved within thirty (30) calendar days of the meeting among the parties' executives, either party may pursue a legal action in court. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in Alameda County, California (or, if applicable, the federal court located in the Northern District of California). Licensor agrees to submit to the personal jurisdiction of the state courts in the State of California (or, if applicable, the federal courts in California) with respect to any legal proceedings that may arise in connection with this Agreement or from a dispute as to the interpretation or breach of this Agreement. During such court action, the parties shall continue to perform their respective obligations under this Agreement that are not affected by the dispute.

14.3 If you are a United States public education or government institution, those portions of these Terms and Conditions which are invalid or unenforceable against you due to applicable state or federal law, shall be construed in a manner most consistent with applicable governing law.

14.4 If any provision of these Terms and Conditions of Use is held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be in any way affected or impaired thereby. A waiver of any breach of these Terms and Conditions of Use shall not be deemed a waiver of other breaches of the Terms and Conditions of Use or the JSTOR Forum Agreement.

14.5 The English language version of Agreements with Artstor will be controlling over any other version.

14.6 Artstor has entered into a strategic alliance with ITHAKA, a non-profit organization that serves the scholarly community through JSTOR and other services. It is understood and agreed that at any time Artstor may, in its sole discretion, transfer or assign, including by operation of law, to ITHAKA any and all rights and obligations of Artstor set forth in these Terms and Conditions of Use.

14.7 Artstor will notify Institutional Licensees via email of material modifications of these Terms and Conditions affecting the terms of this Agreement. A modification will become effective for an Institutional Licensee if it does not object in writing to Artstor within 60 (sixty) days from the time Artstor emails notice of the modification. In the event of such an objection, the Institutional Licensee will have the right to terminate the JSTOR Forum Agreement on 30 (thirty) days written notice. Your use of JSTOR Forum constitutes your agreement to the modified Terms and Conditions of Use and all changes thereto.

SCHEDULE 3: JSTOR FORUM PRODUCT RIDER - ENTERPRISE PLAN

This product rider (“Product Rider”) amends the IPA entered into between Licensee and Licensor for the Services specified in Schedule 5. Unless otherwise defined herein, capitalized or defined terms herein have the same meaning as those in the JSTOR Forum Terms and Conditions, in Schedule 2.

It is understood by the parties that Licensee seeks to license the JSTOR Forum Enterprise Plan in addition to the other services provided by Licensor under the IPA. The Parties hereby agree that the features of the Enterprise Plan are those listed below:

Service/Feature Included	Enterprise Plan
Administrative User Seats	Unlimited
Cataloguer User Seats	Unlimited
User Support	Licensor will make available a dedicated support manager to address user questions and technical issues. Further information available at http://www.artstor.org/jstor-forum-user-support .
Training	Online public training monthly.
Storage	1TB included. Additional TBs available (for additional fees).
Backup Copies/Preservation	Licensor will save Hosted Content on a daily basis to a backup site, to provide secure storage for the Hosted Content source files for disaster recovery purposes. Artstor will also provide archival preservation for Hosted Content consistent with Level 1 of the National Digital Stewardship Alliance’s suggested guidelines. Notwithstanding the foregoing, Licensor makes no representations or guarantees about archiving Hosted Content or providing secure storage of derivative files corresponding to Licensee’s source files.
File Types Supported	Images, Audio, Video, Compound Objects, ¹ Documents (further information available at http://support_forum.jstor.org/article/supported-file-types-and-sizes)
Number of projects	Unlimited (subject to storage)
Number of records	Unlimited (subject to storage)
Flat cataloging	Included
Relational cataloging for work records	Included
Data schemas	Dublin Core, VRA Core 4, Darwin Core, Custom Schema
Integrated Getty Vocabularies (ULAN, TGN, AAT)	Included
Publishing Options	Public Collections, Institutional Collections, and Personal Collections (on the Artstor Image Workspace), as well as Omeka, OAI, DPLA, and other sites that may be added from time to time. Please note that not every publishing option may accept every file type. Third-party publishing options may place restrictions on the types of content that may be published on their sites.
Inter-institutional Collection sharing within Artstor Image Workspace	Ability to share Hosted Content with up to 50 Institutional Licensees. Institutions with which you share content must have an active Artstor Digital Library subscription.
JSTOR Forum API	Available
Downtime	Licensor will use reasonable efforts to provide continuous availability of JSTOR Forum subject to periodic unavailability due to maintenance and/or updates of the server(s) and platform and downtime related to equipment or services outside the control of Licensor. If Licensor fails to provide online availability to JSTOR Forum for more than 72 hours during any period of 30 consecutive calendar days Licensee may, upon written request, (a) be granted its

¹ Compound Objects maybe uploaded to, and managed by, JSTOR Forum, though there are no available publishing targets at this time.

	choice of a refund or a credit of a prorated portion of its fee for each 30-day period so affected or (b) terminate its agreement by providing written notice to Licensor.
Effect of Termination	<p>Upon termination of Licensee's Enterprise Plan subscription:</p> <ol style="list-style-type: none"> Licensee will pay any fees or costs accrued prior to such termination, and will not be eligible for any refund of fees previously paid hereunder. Licensor will download and make available to Licensee, on a hard drive or FTP site (size permitting), the source files and cataloging data input by Institutional Licensee for Hosted Content, in machine-readable format, and destroy all copies of Hosted Content on Licensor's servers. Licensor will not provide Licensee with any content other than Licensee's source files for Hosted Content; for example, Licensor will not provide saved image groups, annotations or additional metadata.
Indemnification by Licensor	<p>Licensor will indemnify, defend, and hold harmless Licensee, its Authorized Users, employees, officers, directors, trustees and agents (the "Licensee Indemnified Parties") with respect to all costs, damages, reasonable attorneys' fees, and other reasonable expenses arising out of claims against the Licensee Indemnified Parties asserting that the JSTOR Forum software infringes a third party's patents, trademarks or copyrights, <i>provided that</i> Licensor will not be liable or indemnify with respect to claims related to: (a) links to non-Licensor sites; (b) Hosted Content or any other content; (c) breaches by Licensee Indemnified Parties of the Terms and Conditions; (d) any uses of JSTOR Forum not authorized in the Terms and Conditions; or (e) software made available on an open source basis. Licensor will control the defense of such claims and will have the right to designate counsel and control all negotiations, litigation, arbitration, settlements, compromises and appeals of such claims, and Licensee will: (i) immediately notify Licensor upon learning of any such claim; (ii) provide to Licensor such information regarding such claim as Licensor will reasonably require; (iii) reasonably cooperate in its defense and (iv) not make any admission or seek to compromise any claim without the consent of Licensor. Licensee may participate in (but not control) the defense of such claims with counsel of its selection at its sole expense.</p>
Indemnification by Licensee	<p>To the extent allowed under California state law, Licensee will indemnify, defend and hold harmless Licensor, its affiliates, employees, officers, directors, trustees, agents, collaborators, licensors, and licensees (the "Licensor Indemnified Parties") with respect to all costs, damages, reasonable attorneys' fees, and other reasonable expenses arising out of claims against the Licensor Indemnified Parties, <i>but only</i> if such claims relate to Hosted Content or its removal; Licensee's or Authorized Users' violation of this Agreement, the Terms and Conditions, or applicable Law; failure of Licensee to obtain Approvals (defined below); or if Licensor acts pursuant to its DMCA obligations, including without limitation terminating Licensee's or any Authorized User's access to Hosted Content or JSTOR Forum.</p>
Modification	<p>It is Licensor's intention that any modifications to this Rider shall not materially detract from the scope of services outlined herein. Licensor will notify Licensee via email of material modifications, and such modifications will become effective for an Institutional Licensee if it does not object in writing to Licensor within 60 (sixty) days from the time Licensor emails notice of the modification. In the event of such an objection, Licensor shall make reasonable efforts to address</p>

	any concerns or the Licensee will have the right to terminate this service plan on 30 (thirty) days written notice.
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SCHEDULE 4: JSTOR FORUM PRODUCT RIDER: PROFESSIONAL SERVICES

This product rider ("Product Rider") amends the IPA entered into between Licensee and Licensor for the services specified therein. Unless otherwise defined herein, capitalized or defined terms herein have the same meaning as those in the JSTOR Forum Terms and Conditions, attached here as Schedule 2.

It is understood by the parties that Licensee seeks professional services in addition to the other services provided by Licensor under the IPA, and subject to applicable fees. The Parties hereby agree as follows:

- A. Scope of Professional Services. Licensor is happy to provide JSTOR Forum Licensees with a range of services to help them maximize the performance and value from their implementation of JSTOR Forum. Implementation Managers (defined below) will help Institution's optimize their use of JSTOR Forum by surveying Licensee's specific needs and strategy for using JSTOR Forum, engaging in calls and emails to develop an implementation plan, assisting in training and support, walking Licensee through the administrative tools, and assisting in strategies for migrating content and metadata ("Professional Services").
- B. Retention. Licensee may retain Licensor to provide Professional Services, as set forth in a signed quote ("Quote"). Such Quote will be attached hereto and incorporated herein by reference.
 - a. *Pre-Ordered Blocks:* Licensee may purchase Professional Services in advance in bundles, to be used towards Professional Services at a later date.
 - b. *Specific Projects:*
 - i. *Defining Scope of Project:* Licensee may retain Licensor to provide Professional Services on a particular project. Licensee and Licensor will analyzed Licensee's needs and mutually determine the scope of the Professional Services to be provided ("Project").
 - ii. Within a reasonable period of time following the parties' determination of the Project's scope, Licensor will create a quote, which will detail the deliverables ("Deliverables"), project timeline and estimated costs for the project ("Quote"). Such Quote will be attached hereto and incorporated herein by reference.
 - iii. *Change Requests:* Should Licensee seek to change the scope of the Project, Licensee will notify Licensor and Licensor will create a revised Quote, which may include additional charges. Any changes to the scope of the Project must be approved in advance by both Licensor and the Project Sponsor (defined below).
 - iv. *User Acceptance Review.*
 1. *Acceptance.* Within three weeks of Licensor's completion of the Project, Licensee will review the Deliverables and communicate to Licensor whether such Deliverables reasonably meet the specifications in the Quote. If the Deliverables reasonably meet the Quote's specifications, the Project is deemed accepted ("Acceptance" or "Accepted").
 2. *Revision.* In the event the Project is not Accepted, Licensor will promptly make reasonable changes to the Deliverables to conform with the Quote's specifications.
 3. *Failure to Review Deliverables.* In the event that Licensee fails to review the Deliverables within the three-week period described above, Licensor reserves the right to reschedule any follow-up work required, as well as reassign the Implementation Manager. In the event that Licensee fails to review the Deliverables with three months of Licensor's completion of the Project, Licensor reserves the right to cancel any further obligations. Notwithstanding the foregoing, Licensee will be responsible for paying Licensor for all work already performed.
 - c. Professional Services may be retained via other methods, which can be discussed with your dedicated Implementation Manager.
- C. Duties to Cooperate. Licensee, or its representative, and Licensor shall cooperate throughout a Project. Licensee's failure to cooperate may result in additional hourly charges for Professional Services and shall release Licensor from its obligations pertaining to a Project's timeline and costs. Licensor's failure to cooperate may result in a refund for Professional Services.
- D. Project Sponsor and Dedicated Implementation Manager. Promptly upon execution of this Annex, Licensee will appoint a single Project Sponsor, who will have binding authority to make decisions on behalf of Licensee in

connection with any Professional Services or Projects. Licensor will also promptly assign a dedicated Implementation Manager, who will be the principal point of contact for Licensee regarding any Professional Services or a Project.

- E. Availability. Implementation Managers shall be available by telephone and e-mail from 9 a.m. to 6 p.m. Eastern Time.

SCHEDULE 5: JSTOR FORUM FEES**Licensed Services: JSTOR Forum – Enterprise Plan****Total Fee (2019):** [REDACTED]

No additional fees. Professional Services and all other fees are included in the Total Fee.

Sites	2019 Base Fee	2019 Additional 1TB Storage	2019 Total
UC Berkeley, including LBNL	[REDACTED]	[REDACTED]	[REDACTED]
UC Davis			
UC Irvine			
UC Los Angeles			
UC Merced			
UC Riverside			
UC San Diego		[REDACTED]	
UC San Francisco		[REDACTED]	\$ -
UC Santa Barbara		[REDACTED]	[REDACTED]
UC Santa Cruz			
California Digital Library (CDL)			
TOTAL		[REDACTED]	