

Bloomsbury Publishing Inc. – US Institutional Subscription Licence Agreement

This institutional subscription licence agreement ("Agreement") is made on July 1, 2016 ("Effective Date") between:

- I. **Bloomsbury Publishing Inc.** of registered address 1385 Broadway, 5th Floor New York, New York 10018 together with its assigns and successors in title (herein after referred to as "**Publisher**"); and
- II. **The Regents of the University of California**, a non-profit academic institution, with its principal offices at The California Digital Library, University of California Office of the President, 415 20th Street, 4th floor, Oakland, CA 94612, USA (hereinafter referred to as "**Licensee**").

Background

- A. The Publisher has created internet based materials entitled '**BERG FASHION LIBRARY**' and all intellectual property rights therein are owned by or duly licensed to the Publisher;
- B. The Licensee wishes to license certain rights in the Materials (as hereinafter defined) as further provided herein for the benefit of Licensee.

IT IS AGREED AS FOLLOWS

1. Definitions and Interpretation

1.1 In this Licence, the following terms shall have the following meanings:

"Activation Date" means the first date when the Licensee will first be permitted to access the Licensed Works in accordance with the terms and conditions of this Agreement and as stated in Schedule 1.

"Authentication" means the process of verifying a user's identity and authorization to access a network or its resources (for example via IP authentication, secure passwords or secure proxy server).

"Authorized Users" means full and part time employees (including faculty, staff, visiting scholars and independent contractors) and students of Licensee, regardless of the physical location of such persons and patrons not affiliated with Licensee who are physically present at Licensee's site(s) ("walk-ins") who are authorized by the Licensee to access the Licensee's information services available through the Licensee's Secure Network whether from a computer or terminal on such Secure Network or offsite to a valid IP address on the Secure Network; for Higher Education, college and school libraries, Authorised Users do not include corporate affiliates, or alumni, except as walk-ins.

"Commercial Purpose" means use for the purpose of monetary reward (whether by or for the Licensee, an Authorised User, or any other person or entity) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Work. For the avoidance of doubt, neither recovery of direct costs by the Licensee from Authorised Users, nor use by the Licensee or Authorised Users of the Licensed Work in the course of research that incidentally uses the Licensed Works and that funded by a commercial organisation are deemed to constitute Commercial Use.

"Fair Use" means use by the Licensee or an Authorized User conforming to Section 107 of the U.S. Copyright Law as amended from time to time.

"Fee" means the fee as set out in Schedule 1. Such Fee shall fall due and payable by the Licensee within 60 days on receipt by the Licensee of the Publisher's invoice, but no earlier than thirty (30) days before renewal. The Fee is shown exclusive of VAT which will be payable in addition by the Licensee where applicable.

"Intellectual Property Rights" means any and all patents, trademarks, trade names, domain names, design rights, copyright, and other intellectual property rights, in each case whether registered or unregistered and including

applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which exist under the U.S. Law and any international treaties of which the U.S. is a signatory.

"Licensed Material" means the material listed in Schedule 1.

"Secure Network" means a network which is only accessible to Authorised Users by Authentication.

"Server" means either Bloomsbury's server or a third party server designated by Bloomsbury on which the Licensed Works are mounted and through which the Licensee and its Authorized Users may gain access to the Licensed Works by means of the World Wide Web.

"Term" will mean the period of time set forth in Paragraph 9.

1.2 Headings contained in this Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.

1.3 Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

2. Licence Grant

2.1 The Publisher hereby grants to the Licensee, subject to and in accordance with the terms of this Licence, a non-exclusive, and non-transferable licence in perpetuity to access and use the Licensed Material and to permit the Licensee to grant access to its Authorised Users to use the Licensed Material via the Secure Network following Authentication, subject to the U.S. Copyright Law, including but not limited to Fair Use (17 U.S. Code § 107) and Limitations on Exclusive Rights: Reproduction by Libraries and Archives (17 U.S. Code § 108) provisions, and the terms and conditions of this Agreement.

2.2 In consideration for the licensing of the Licensed Material pursuant to Clause 2.1, the Licensee undertakes to pay and/or ensure the Licensee's governing body pays to the Publisher the Fee.

3. Permitted Uses

3.1 The Licensee may allow Authorised Users to:

3.1.1 Authentication access the Licensed Material on the Server by means of the Licensee's Secure Network in order to search, retrieve, display and view the Licensed Material;

3.1.2 (users may) print out or electronically save single chapters of any publication forming part of the Licensed Material for personal research and private study purposes only, provided that they do not:

- a) remove or alter the copyright notices or other means of identification that appear with the Licensed Material;
- b) systematically make printed or electronic copies of multiple chapters of any publication forming part of the Licensed Material;
- c) sell, display, distribute, license, rent or otherwise exploit the Licensed Material, or any element of it, for any commercial purpose;
- d) alter, amend, modify, translate, or change the Licensed Material or any element of it;
- e) make the Licensed Material, or any element of it, available by any means to persons other than Authorised Users except as permitted under Fair Use (17 U.S. Code § 107) and Limitations on Exclusive Rights: Reproduction by Libraries and Archives (17 U.S. Code § 108) provisions.
- f) use the Licensed Material, or any element of it, to create any derivative work, product or service, or merge Licensed Material, or any element of it, with any other product, database, or service.
- h) otherwise use the Licensed Material in a manner that would infringe the copyright or other proprietary rights contained within it.

- g) make the Licensed Material, or any element of it, available on, or by, electronic bulletin boards, news groups, websites, FTP or any other means of posting or transmitting material on the Internet, an on-line service or wide area network.

3.1.3 supply to a user authorised by another library (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing) a single copy of an electronic original of an individual document, provided that such supply is not done in a manner or magnitude that would replace the receiving library's own purchase of the Licensed Materials;

3.1.4 transmit to a third party colleague in hard copy or electronically, minimal, insubstantial amounts (in qualitative and/or quantitative terms) of the Licensed Materials for personal research, educational, Fair Use (17 U.S. Code § 107) or Limitations on Exclusive Rights: Reproduction by Libraries and Archives (17 U.S. Code § 108) purposes but in no case for re-sale, provided that such supply is not done in a manner or magnitude that would replace the receiving library's own purchase of the Licensed Materials. In addition, Authorized Users have the right to use, with appropriate credit, figures, tables and brief excerpts from the Licensed Materials in the Authorized User's own scientific, scholarly and educational works;

3.1.5 display, download and print parts of the Licensed Material for the purpose of promotion of the Licensed Material, testing of the Licensed Material or for training Authorised Users;

3.1.6 publicly display or publicly perform parts of the Licensed Material as part of a presentation at a seminar, conference, workshop or other such similar activity;

3.1.7 make such copies of training material and network such training material as may be required for the purpose of using the Licensed Material in accordance with this Agreement;

3.1.8 store any MARC Records provided by the Publisher, and load these into the Licensee's public access catalogue, or a shared catalogue.

3.1.9 use reasonable portions of Licensed Materials for classroom use, including course packs and reserves.

3.1.10 use the Licensed Materials to perform and engage in text and/or data mining activities for academic research, scholarship, and other educational purposes and utilize and share the results of text and/or data mining in their scholarly work and make the results available for use by others, so long as the purpose is not to create a product for use by third parties that would substitute for the Licensed Materials. Licensors will, upon receipt of written request, cooperate with Licensee and Authorized Users as reasonably necessary in making the Licensed Materials available in a manner and form most useful to the Authorized User. If Licensee or Authorized Users request the Licensors to deliver or otherwise prepare copies of the Licensed Materials for text and data mining purposes, any fees charged by Licensors shall be solely for preparing and delivering such copies on a time and materials basis; and

3.1.11 provide hyperlinks from the Licensee's and Authorized Users' web page(s) or web site(s) to individual units of content within the Licensed Materials.

3.2 This Licence shall be deemed to complement and extend the rights of the Licensee and Authorised Users under the U.S. Copyright Law as amended from time to time or like legislation outside the USA and nothing in this Licence shall constitute a waiver of any statutory rights held by the Licensee and Authorised Users from time to time under these Acts or any amending legislation.

4. Restrictions

4.1 Save as provided herein, the Licensee and Authorised Users may not:

- 4.1.1 sell or resell the Licensed Material unless the Licensee or an Authorised User has been granted prior written consent by the Publisher to do so;
- 4.1.2 remove, obscure or modify copyright notices, text acknowledging or other means of identification or disclaimers as they appear;
- 4.1.3 alter, adapt or modify the Licensed Material, except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted in this Agreement. For the avoidance of doubt, no alteration of the words or their order is permitted;
- 4.1.4 display or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, and any other distribution medium now in existence or hereinafter created, other than by a Secure Network unless permitted in this Agreement; or
- 4.1.5 use all or any part of the Licensed Material for any Commercial Purpose or for any purpose other than Fair Use (17 U.S. Code § 107) and Limitations on Exclusive Rights: Reproduction by Libraries and Archives (17 U.S. Code § 108) provisions.
- 4.1.6 perform automated searches or scripts on the Publisher's platform that interfere with the performance or effective operation of the Publisher's servers
- 4.1.7 systematically make printed or electronic copies of multiple extracts of the material for any purpose except as permitted by law or as authorized by the Publisher.

4.2 This Clause shall survive termination of this Agreement for any reason.

5. Mutual performance obligations.

Licensor and Licensee agree to maintain the confidentiality of Authorized Users relating to the usage of the Licensed Materials. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form. Raw usage data relating to the identity of specific users and / or uses shall not be provided to any third part.

6. Responsibilities of the Publisher

6.1 The Publisher agrees:

- 6.1.1 to make the Licensed Material available to the Licensee and Authorised Users from the Effective Date;
- 6.1.2 to use all reasonable endeavours to make the Licensed Material available to the Licensee and Authorised Users at all times and on a twenty four hour basis, save for routine maintenance, and to restore access to the Licensed Material as soon as possible in the event of an interruption or suspension of the service;
- 6.1.3 to endeavour to provide for customer support services to Authorised Users via email or phone, including answering email inquiries relating to the use, functionality and content of the Licensed Material;
- 6.1.4 to use all reasonable endeavours to ensure that the relevant server or servers have adequate capacity and bandwidth to support the usage of the Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the Term of this Agreement; and
- 6.1.5 to make statistics regarding the Licensee's usage of the Licensed Materials by Authorized Users.

itemized for participating UC campuses, available for download, in conformance with the Codes of Practice for Project COUNTER.

- 6.2 The Publisher reserves the right at any time to withdraw from the Licensed Material any item or part of an item for which it no longer retains the right to publish or any item or part of an item for which the Publisher has reasonable grounds to believe it infringes an intellectual property right or is defamatory, obscene, unlawful or otherwise objectionable. The Publisher endeavours to give a ninety (90) day written notice to the Licensee of such withdrawal.
- 6.3 In the event that Licensor requires Authorized Users to agree to terms relating to the use of the Licensed Materials before permitting Authorized Users to gain access to the Licensed Materials (commonly referred to as "click-through" licenses) or otherwise publishes online terms of use on its web site. In no event shall the terms of such "click-through" licenses or posted terms materially differ from the provisions of this Agreement. In the event of any conflict between the terms of such "click-through" licenses and this Agreement, the terms of this Agreement shall prevail.
- 6.4 Licensor shall make reasonable efforts to comply with the Americans with Disabilities Act (ADA) requirements, Section 508 of the Rehabilitation Act Amendments, and provide Licensee current completed Voluntary Product Accessibility Template (VPAT).
- 6.5 Licensor will make reasonable efforts to comply with the most current version of the OpenURL standard (ANSI/NISA Z39.88), and will provide a mechanism for persistent links to content.

7. Responsibilities of Licensee

- 7.1 The Licensee agrees to:
 - 7.1.1 issue passwords or other access information only to Authorised Users and use reasonable efforts to ensure that Authorised Users do not divulge their passwords or other access information to any third party;
 - 7.1.2 use reasonable efforts, including without limitation by use of Authentication, to ensure that only Authorised Users are permitted access to the Licensed Material;
 - 7.1.3 use reasonable efforts to ensure that all Authorised Users are made aware of their obligation to abide by the terms of this Agreement; and
 - 7.1.4 notify the Publisher promptly and provide full particulars on becoming aware of any of the following (a) any unauthorised access to or use of the Licensed Material or unauthorised use of any of Licensee's password(s); or (b) any breach by an Authorised User of the terms of this Agreement. Upon becoming aware of any breach of the terms of this Agreement, the Licensee further agrees promptly to fully investigate and initiate disciplinary procedures in accordance with the Licensee's standard practice and use all reasonable effort to ensure that such activity ceases and to prevent any recurrence.
- 7.2 The Licensee will provide the Publisher with all identifying information, including IP address ranges, relating to the Licensee and its Authorised Users necessary to enable the Licensor to set up and activate the Licensee's subscription to the Licensed Materials. The Licensee acknowledges that access to the Licensed Materials under this Agreement is conditional upon the Licensee providing the Publisher with this information. The Licensee will notify the Licensor promptly following any additions, deletions or other alterations to the information supplied.
- 7.3 This Clause shall survive termination of this Agreement for any reason.

8. Fee

The Publisher will invoice Licensee for the Fee payable directly.

9. Term and Termination

- 9.1 This Agreement shall commence from the Effective Date and, unless terminated earlier as provided for in this Clause 9, will continue in full force and effect in perpetuity.
- 9.2 In the event that the Licensee wishes to terminate this Agreement, the Licensee should notify the Publisher in writing and the termination will become effective thirty days after receipt of the written notice.
- 9.3 In the case of termination of this Licence (except for a material breach by the Licensee of its obligations under this Licence), the Publisher will provide the Licensee and its Authorised Users with access to and use of the Licensed Material, provided that the Licensee agrees to continue to restrict access to Authorised Users via secure means, and that all such access is subject to the restrictions specified in Clause 7; access will be provided either by one or more of the following options, without charge:
- i) supplying archival copies of the same Licensed Material to the Licensee in an electronic medium mutually agreed between the parties; and
 - ii) supplying archival copies of the same Licensed Material to a central archiving facility such as Portico operated on behalf of the US institutional academic community or other archival facility.
- 9.4 Any party may terminate this Agreement at any time on the material breach or repeated other breaches by the other of any obligation on its part under this Agreement by serving a written notice on the other identifying the nature of the breach. The termination will become effective sixty days after receipt of the written notice unless during the relevant period of sixty (60) days the defaulting party remedies the breach forthwith by written notice to the other party.
- 9.5 Upon termination of this Agreement by the Publisher due to a material breach or repeated other breaches by the Licensee, the Publisher shall cease to authorise on-line access to the Licensed Material by the Licensee and Authorised Users. Licensee shall use reasonable efforts to destroy all files, data & software derived from the terminated service that are stored on Licensee's servers.
- 9.6 Publisher reserves the right to withdraw access to the Licensed Material for specific IP addresses, in the event of the detection of abuse of the Licensed Material. The Publisher shall restore access once the issue has been resolved to its satisfaction.
- 9.7 If rights in all or any part of the Licensed Materials are assigned to another publisher, the Publisher shall use its reasonable endeavours to ensure that the terms and conditions of this Licence are maintained.
- 9.8 In the event of early termination permitted by this Agreement, Licensee shall be entitled to a refund of any fees or pro-rata portion thereof paid by Licensee for any remaining period of the Agreement from the date of termination, unless such termination is due to a breach of this Agreement by the Licensee.

10. Acknowledgement and Protection of Intellectual Property Rights

The Licensee acknowledges that, other than the licence granted pursuant to clause 2.1 hereof, all Intellectual Property Rights in the Licensed Material are the property of the Publisher or duly licensed to the Publisher and that this Agreement does not assign or transfer to the Licensee any right, title or interest therein except for the right to access and use the Licensed Material in accordance with the terms and conditions of this Agreement.

11. Representation, Warranties and Indemnification

- 11.1 The Publisher warrants to the Licensee that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to the Publisher and that the Licensed Material used as contemplated in this

Agreement does not infringe any Intellectual Property Rights of any natural or legal person. Subject to clause 11.5, the Publisher agrees that the Licensee shall have no liability and the Publisher will indemnify, defend and hold the Licensee harmless against any and all claims, damages, awards, penalties, or injuries incurred, legal fees and costs incurred by the Licensee in defending against any third party claim of Intellectual Property Rights infringements with respect of the Licensee's or Authorised Users' use of the Licensed Material, provided that: (1) the use of the Licensed Material has been in full compliance with the terms and conditions of this Agreement; (2) the Licensee provides the Publisher with prompt notice of any such claim or threat of claim on becoming aware of such claim(s); (3) the Licensee co-operates fully with the Publisher in the defence or settlement of such claim; and (4) the Publisher has sole and complete control over the defence or settlement of such claim.

- 11.2 The Publisher reserves at their sole discretion the right to change the presentation, user facilities and/or availability of the whole or parts of the Licensed Material and to make changes in any software used to make the Licensed Material available; the Publisher shall promptly notify representatives of the Licensee who have signed up to receive updates of any substantial changes in presentation of the Licensed Materials.
- 11.3 While the Publisher has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, the Publisher makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Licensed Material including (without limitation) the fitness of such information or part for any purposes whatsoever and the Publisher accepts no liability for loss suffered or incurred by the Licensee or Authorised Users as a result of their reliance on the Licensed Material.
- 11.4 Nothing in this Agreement shall make the Licensee liable for breach of the terms of this Agreement by any Authorised User provided that the Licensee did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.
- 11.5 Save as provided for in Clause 11.1, neither the Licensee nor the Publisher will be liable to the other in contract or negligence or otherwise for (i) any special, indirect, incidental, punitive or consequential damages (ii) loss of direct or indirect profits, business, goodwill, data, contracts, revenue or anticipated savings or for any increased costs or expenses.
- 11.6 No party limits its liability for (i) death or personal injury to the extent it results from its negligence, or of its employees or agents in the course of their engagement; and (ii) its own fraud or that of its employees or agents in the course of their engagement.

12. Force Majeure

- 12.1 Either party's failure to perform any term or condition of this Agreement as result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, technical, telecommunications or Internet failures or damages to or destruction of any network facilities, failure of electronic or mechanical equipment or communication lines, unauthorised access, theft, fire or operator errors ("Force Majeure")) shall not be deemed to be, or to give rise to, a breach of this Agreement.
- 12.2 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.
- 12.3 If the Force Majeure Event prevails for a continuous period of more than two months, the party not affected by the Force Majeure Event may terminate this Agreement by giving 14 days' written notice to the other party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without

prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

13. Assignment

Licensee may not assign this Agreement nor any of the rights and obligations under it without first obtaining the prior written consent of the Publisher. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Agreement and agrees to be bound to all the terms of this Agreement.

14. Governing Law and Dispute Resolution

Except to the extent, if any, that agreement to the following is prohibited by the laws or regulations governing contracts with an entity such as the Licensee (including but not limited to any law or regulation governing contracts with public libraries or state or local government-supported educational institutions): the performance of the Licensee under this Agreement shall be governed by and construed in accordance with the laws of the state California and the performance of the Licensor under this Agreement shall be governed by and construed in accordance with the Law of New York.

In the event of any dispute or controversy arising out of or relating to this Agreement, the parties agree to exercise their best efforts to resolve the dispute in good faith as soon as possible. The parties shall, without delay, continue to perform their respective obligations under this Agreement which are not affected by the dispute.

Mediation. In the event that the parties cannot by exercise of their good faith efforts resolve the dispute, they shall submit the dispute to Mediation. The parties shall, without delay, continue to perform their respective obligations under this Agreement which are not affected by the dispute. The invoking party shall give to the other party written notice of its decision to do so, including 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 after such meeting, the dispute shall be submitted to binding arbitration in accordance with the Arbitration provision of this Agreement.

Arbitration. Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. The parties shall endeavor to select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the arbitrators in turn shall select a third arbitrator. The arbitration shall take place at a location that is reasonably centrally located between the parties, or otherwise mutually agreed upon by the parties.

All documents, materials, and information in the possession of each party that are in any way relevant to the claim(s) or dispute(s) shall be made available to the other party for review and copying no later than sixty (60) days after the notice of arbitration is served.

The arbitrator(s) shall not have the authority, power, or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement or to award punitive damages. The arbitrator shall have the power to issue mandatory orders and restraining orders in connection with the arbitration. The award rendered by the arbitrator shall be final and binding on the parties, and judgment may be entered thereon in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Agreement.

15. Notices

All notices required to be given under this Agreement shall be given in writing in English and sent by courier, or special delivery to the relevant addressee at its address set out below, or to such other address as may be notified by either party to the other from time to time under this Agreement, and all such notices shall be deemed to have been received five (5) days after the date of posting in the case of special delivery or despatch in the case of courier:

if to the Licensee:

Licensing contact:

[REDACTED]
Assistant Director for Systemwide Licensing
California Digital Library
University of California, Office of the President
415 20th Street, 4th Floor
Oakland, California 94612 USA
Phone: [REDACTED]
Email: [REDACTED]

Invoicing contact:

[REDACTED]
CDL Acquisitions Coordinator
University of California
Geisel Library
9500 Gilman drive 0175K
La Jolla, California 92093-0175 USA
Phone: [REDACTED]
Email: cdl-acquisitions@ucop.edu

Technical contact:

CDL Support
California Digital Library
University of California, Office of the President
415 20th Street, 4th Floor
Oakland, California 94612 USA
Phone: 510.987.0555
Email: cdlsupport-l@ucop.edu

if to the Publisher: Academic Sales Department, Bloomsbury Publishing Inc., 1385 Broadway, 5th Floor, New York, New York 10018 and copy to Legal Department, Bloomsbury Publishing Plc, 50 Bedford Square, London WC1B 3EF.

16. General

- 16.1 This Agreement and its Schedules constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.
- 16.2 Schedule 1 shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Schedule.
- 16.3 The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement.
- 16.4 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such

rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

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

Agreed:

For and on [REDACTED] NG INC.:

Signed by: [REDACTED]

PRINT NAME: [REDACTED]

Position: US Academic Publishing Director

for and on behalf [REDACTED] lifornia

Signed by: [REDACTED]

PRINT NAME: [REDACTED]

Position: Associate Vice Provost and Executive Director, California Digital Library, Office of the President,
University of California

Schedule 1: LICENSED MATERIALS, FEE AND PAYMENT TERMS

Licensed Materials: Berg Fashion Library

Activation / Effective Date: July 1, 2016

Authentication / Access Method: IP authentication (See IP ranges on Appendix A.)

Access Conditions: Perpetual Access. Unlimited Simultaneous Users

Fee for Berg Fashion Library (7/1/2016-6/30/2017):

UC Berkeley
UC Davis
UC Irvine
UC Los Angeles
UC Santa Barbara
UC Santa Cruz



Total

Notes:

- [Redacted]
- [Redacted]
- UC Berkeley includes Lawrence Berkeley National Laboratory.
- UC Office of the President receives complimentary access for licensing administrative purposes.

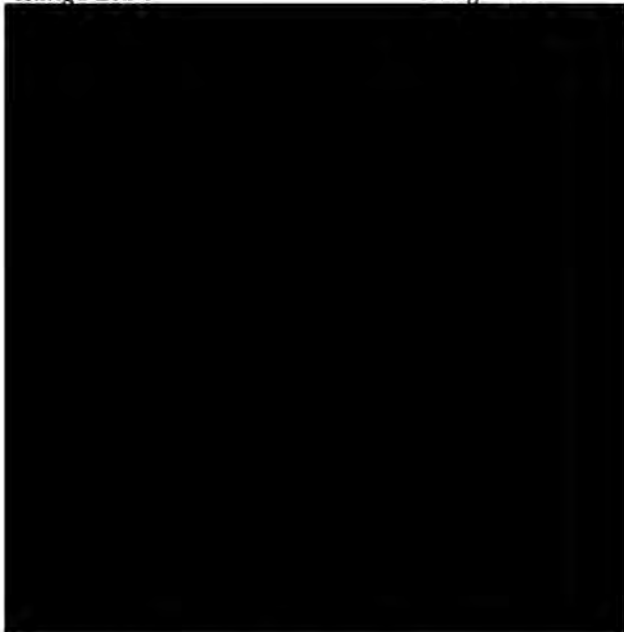
Payment Terms: The Licensee will pay a single invoice for the annual fee.

Appendix A. IP Ranges

Berkeley (UCB)

Range Start

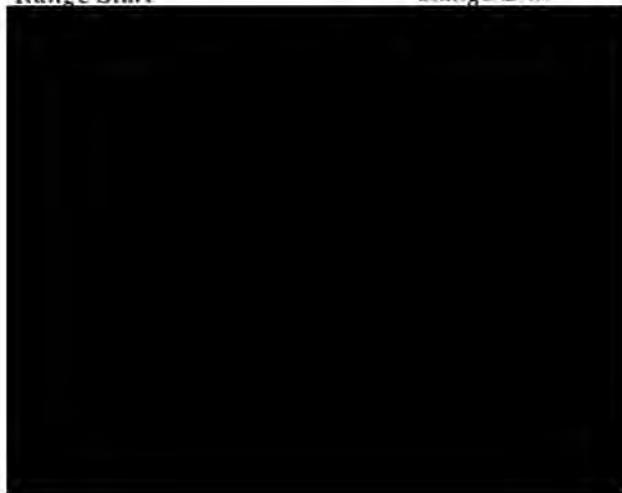
Range End

A large black rectangular box redacting the table content for Berkeley (UCB) IP ranges.

Lawrence Berkeley National Laboratory (LBL) -- integrated with UCB

Range Start

Range End

A large black rectangular box redacting the table content for Lawrence Berkeley National Laboratory (LBL) IP ranges.

Davis (UCD)

Range Start

Range End

A black rectangular box redacting the table content for Davis (UCD) IP ranges.

[REDACTED]

Irvine (UCI)

Range Start

Range End

[REDACTED]

Los Angeles (UCLA)

Range Start

Range End

[REDACTED]

Office of the President (UCOP) – access needed for
licensing administrative purposes

Range Start

Range End

[REDACTED]

Santa Barbara (UCSB)

Range Start

Range End

[REDACTED]

Santa Cruz (UCSC)

Range Start

Range End

[REDACTED]