

SOCIALEXPLORER, INC.

MEMBER ORGANIZATION AGREEMENT

This member organization agreement (the “Agreement”) is made and entered into as of the date set forth below (the “Effective Date”) by and between SocialExplorer, Inc. (“SE”) and the organization set forth below (“Member Organization”), acting as an agent on its own behalf and on behalf of its member institutions (the “Members”). Each reference to Members shall be construed as a reference to each and every institution individually. This Agreement sets forth the terms and conditions whereby the Member Organization may, during the term hereof, grant Members and each Member’s respective Authorized Users (as defined below) the ability to access and make use of certain online products that are owned or controlled by SE. This Agreement will not be effective, and neither the Member Organization, nor any of its Members will be permitted to access the Licensed Works (as defined below) until an original counterpart of this Agreement is signed by an authorized officer of the Member Organization and SE receives such signed counterpart together with any payment that may be due upon signing.

Effective Date: July 1, 2019

Member Organization: The Regents of the University of California

Member Organization Address: California Digital Library

415 20th Street, 4th Floor
Oakland, CA 94612-2901

1. DEFINITIONS

In this Agreement, the following terms have the following meanings:

- “Authentication” means the process whereby an individual establishes to a Member that he or she is an Authorized User.
- “Authorized Users” means individuals who are (i) full and part time employees (including faculty, staff, and independent contractors) and students of any Member, regardless of the physical location of such persons or (ii) patrons not affiliated with any Member, who are physically present on a Member’s premises.
- “Licensed Works” means all data, maps, charts, text, pictures, sound, graphics, video, links and other data and information that SE owns or has obtained from its content licensors or publicly available sources, and all authoring, mapping and graphing tools and software that SE owns, licenses, and/or develops, made available by SE through its website at www.socialexplorer.com.
- “Commercial Use” means use of the Licensed Works for the purposes of monetary reward (whether by or for the Member Organization, Member, an Authorized User, or any other person or entity) by means of sale, resale, loan, transfer, hire, or other form of

exploitation; provided, however, use by the Member Organization, Member or by an Authorized User in the course of research that incidentally uses Licensed Works in the furtherance of professional, for-profit, and/or commercial goals will not be deemed a Commercial Use. For the avoidance of doubt, research conducted by Members and Authorized Users that is supported by a commercial entity shall not be considered Commercial Use.

- “Secure Network” means the Member Organization’s or the Members’ secure network (whether a stand-alone network or a virtual network within the Internet) that is accessible only by Authorized Users whose identities are authenticated by the Member Organization or Member, as relevant, at the time of login the security of which is consistent with current best practices. A cache server or other server or network that can be accessed by unauthorized users is not a Secure Network for these purposes.
- “Subscription Period” means those periods of time during which a Member and its Authorized Users are authorized to access and use the Licensed Works pursuant to this Agreement; provided however, that no Subscription Period shall continue beyond the end of the Term.
- “Term” means the Term of this Agreement, which shall begin upon SE’s receipt of the original, signed copy of this Agreement with the required payment and will remain in full force and effect for one (1) year thereafter. This Agreement shall be renewed for successive one (1) year periods at the end of the initial terms or any renewal term thereafter in accordance with this Agreement unless and until either party notifies the other party in writing at least thirty (30) days prior to the expiration of the applicable term of its intention not to renew this Agreement, and subject to the payment of all renewal subscription fees and any other fees required hereby.

2. LICENSE

2.1. SE hereby grants the Member Organization, a non-exclusive, non-transferable right during the Term, to grant its Members, respectively, a non-exclusive, non-transferable license, solely on the relevant terms and conditions provided herein, whereby the Members may allow their Authorized Users (up to the maximum number of permitted concurrent Authorized Users as may be specified in this Agreement) to access and use the Licensed Works for personal, educational, and research purposes only.

2.2. Permitted Uses. Specifically, the Member Organization, Members and Authorized Users may access (via Secure Network), use, display, reproduce and distribute the Licensed Works for:

2.2.1 Classroom instruction and related classroom activities;

2.2.2 Student assignments;

- 2.2.3 Public display as part of a scholarly or educational presentation, such as in an educational, cultural, or scholarly seminar, class, lecture, conference, exhibit, or workshop, or a similar professional activity, if such use conforms to the customary and usual practice in the field and in no case for resale or other Commercial Use; and
 - 2.2.4 Use in research or a dissertation, including reproductions of the dissertation, provided such reproductions are only for personal and academic use, library deposit, and/or use solely within Member's institutional control. In all these cases, data, graphics, or other content accessed or generated by Licensed Works must be cited or sourced in a way that conforms to the customary and usual practice in the field.
- 2.3. For the Purposes of clarity, the grant and benefit of the Members and Authorized Users is dependent upon the continued license between the Member Organization and SE.
- 2.4. Members and Authorized Users may carry out Non-Commercial Text And Data Mining in relation to the Licensed Work or portions thereof, including making and storing copies provided that:
- 2.4.1 such copies are made and stored only to the extent necessary for the purposes of such computational analysis;
 - 2.4.2 such copies are not transferred to any third party or used for any commercial purpose without SE's consent;
 - 2.4.3 such copies are destroyed once they are no longer necessary;
 - 2.4.4 acknowledgement that use of Licensed Works is included in any resulting publications; and
 - 2.4.5 the Member will use reasonable efforts to inform Authorized Users that they must comply with all SE's usage policies;
- and, except as permitted by law, in all cases other than an academic institution carrying out Non-Commercial Text and Data Mining, the Member shall not carry out any Text and Data Mining without SE's prior consent in writing.
- 2.5. Accessibility. SE shall provide Licensed Works in compliance with Section 508 of the United States Workforce Rehabilitation Act as well as level AA criteria of the Web Content Accessibilities Guidelines (WCAG) 2.0 as published by the World Wide Web Consortium's Web Accessibility Initiative, which may be found at: <http://www.w3.org/WAI/WCAG20/quickref/>
- 2.6. Members and Authorized Users may incorporate links to the Licensed Works in electronic course packs and course management systems for use in connection

with courses offered by the Members for academic credit provided that no person other than an Authorized User may use such links.

- 2.7. The number of permitted concurrent Authorized Users is unlimited for all Members.
- 2.8. Members and Authorized Users shall be granted access to the Licensed Works pursuant to the following:

IP Addresses. Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by Member Organization to SE. The use of proxy servers is authorized as long as any proxy server IP addresses provided limit remote or off-campus access to Authorized Users. Authorized IP Addresses are listed in **Exhibit C**. An updated list will be sent to SE on an annual or as needed basis.

SE-Administered Authentication. Where SE provides alternative methods of access and authentication beyond the Member Organization-administered methods described herein, e.g. by allowing users to establish a personal login from an on-campus IP address (thereby enabling access via username and password when logging in to a vendor website) or device authentication, which affiliates the device or application by use of a token, cookie, or vendor-managed proxy prefix, Member Organization will not be responsible nor liable for claims of breach or validity of such use.

3. LIMITATIONS OF USE

- 3.1. Except as permitted by law and elsewhere in this agreement, the Member Organization, the Members and their Authorized Users may not:
 - 3.1.1 Make electronic copies of the Licensed Works except to the limited extent permitted by 2.2.1, 2.2.2 and 2.2.4 above;
 - 3.1.2 Remove or alter the author's names or SE's copyright notices or other means of identification or disclaimers as they appear in the Licensed Works, or in any other manner display or reproduce the Licensed Works without attribution to SE;
 - 3.1.3 Systematically make printed or electronic copies of multiple extracts of the Licensed Works for any purpose, except to the limited extent expressly permitted herein;
 - 3.1.4 Permit anyone other than Members and Authorized Users to access or use the Licensed Works;
 - 3.1.5 Use all or any part of the Licensed Works for any Commercial Use without written approval from SE's;

- 3.1.6 Publish, distribute, or make available works based upon the Licensed Works, or works which combine the Licensed Works with any other material, except to the limited extent expressed by Paragraph 2.2 or 2.4 above;
 - 3.1.7 Use the Licensed Works for fee-for-service or fee-for-content uses, or make any use, display, performance, reproduction, or distribution that exceeds or violates this Agreement;
 - 3.1.8 Distribute and/or make available Licensed Works to persons other than as expressly permitted herein;
 - 3.1.9 Provide and/or authorize access to the Licensed Works such as through the sharing of passwords, to persons or entities other than Authorized Users; or
 - 3.1.10 Attempt to override, circumvent, or disable any encryption features or software protections employed by SE in connection with the Licensed Works.
- 3.2. Member Organization, Member and Authorized Users may not distribute, make available, and/or attempt to make available, any of the Licensed Works (whether alone or incorporated into other materials) to persons and/or entities other than:
 - 3.2.1 other Authorized Users;
 - 3.2.2 the audience members at a scholarly or educational presentation, lecture, seminar, or similar activity conducted by Member (via displays and print hand-outs only), or
 - 3.2.3 limited numbers of scholars or researchers, when Member is making available a work that incorporates Licensed Works for purposes of collaboration, comment, or similar educational or scholarly use, if such use conforms to the customary and usual practice in the field. Licensed Works may not be incorporated into an unrestricted database or website, or made available to others (electronically or otherwise) except as permitted herein, whether that Licensed Work is alone or incorporated into other materials;
- 3.3. SE reserves the right to suspend any offending individual Authorized User's access (e.g. by blocking an individual user's IP address), to the Licensed Works in the event of the detection of a page download rate in excess of the automatic abuse detection system, in effect for the relevant Licensed Works. In such event, upon receipt and preliminary review of details from the automated system including, as relevant, the actual download rate detected, SE's customer service will contact the Member to investigate. Access will be restored only when the matter has been satisfactorily resolved.

- 3.4. Nothing in this Agreement should be construed or interpreted to limit those uses of Licensed Works printed or exported from SE that are permitted under the fair use, educational exceptions, or other provisions to the copyright laws or other intellectual property right laws in the United States or in other countries, but each of Member Organization, Members and any Authorized Users makes such uses at its own risk.
- 3.5. Should Member's access to the Licensed Works terminate or expire, Member may keep only those print or electronic copies of Licensed Works appearing in lesson plans or in other pedagogical, educational, or scholarly materials for uses that are consistent with fair use and other exceptions to intellectual property rights laws, provided that such uses comply with the permitted uses and restrictions set forth in Article 2 and 3 of this Agreement, which shall survive the termination of access to the Licensed Works.
- 3.6. None of Member Organization, Member or any Authorized User has any rights to the Licensed Works other than the limited license granted herein. None of Member Organization, Member or any Authorized User may copy, distribute, modify, decompile, reverse engineer, circumvent, override or disable encryptions or other protections in, or create derivative works from, the software and tools included in or otherwise used, employed, or offered by SE in connection with the Licensed Works, or access any of the Licensed Works except through the SE website.

4. FEES AND PAYMENT

- 4.1. In full consideration of the rights granted by SE under this Agreement and for SE's performance of its obligations under this Agreement, the Member Organization will pay to SE the fees due and owing for the purchase and hosting of the Licensed Works and any applicable sales, use, excise or similar taxes.
- 4.2. For Licensed Works, Subscription Periods shall be for one year's duration, beginning on the activation date.
- 4.3. During the Term, SE will invoice the Member Organization annually before the end of the Term. Such invoices will be issued in accordance with the price list and discount schedule set forth in **Exhibit B** to this Agreement. The Member Organization will remit payment within sixty (60) days of the invoice date.
- 4.4. The Member Organization shall be free to establish the price it charges Members for access to the Licensed Works and may also establish and charge Members a commission for its services; provided, however, that regardless of the price and commission the Member Organization actually charges or receives from Members, it shall remit payment to SE in accordance with this Paragraph 4.
- 4.5. In the event that the Member Organization fails to timely pay SE the fees due with respect to any Member as provided hereunder, SE shall deliver to the Member Organization written notice of such delinquency. Except to the extent

that, if any, such remedies and charges may be limited or prohibited by the laws or regulations governing contracts with the Member Organization, if the delinquency is not cured within thirty (30) calendar days of the date of the notice, SE may, in addition to any remedies available to it in connection with Paragraph 10.2, and without further notice, terminate the access of the Member Organization, its Members and their Authorized Users to the Licensed Works without thereby incurring any liability to the Member Organization, the Member, or its Authorized Users pending such payment (and the Member Organization would then be liable to pay SE immediately for the pro rata portion of the fees due for the relevant period, e.g. if the Member had two (2) months of access to the Licensed Works prior to termination of access, the Member Organization would thereupon owe SE 2/12 of the fees for such Subscription Period).

- 4.6. The price list and discount schedule for the Member Organization will be determined by SE in its sole discretion, and SE may, in its sole discretion, increase the annual fees for the next annual renewal a maximum of one time during each twelve (12) month period during the Term; provided however, that SE shall give the Member Organization notice of any such increase by email or other writing about four (4) months prior to the end of the Term;

5. RESPONSIBILITIES OF THE MEMBER ORGANIZATION

- 5.1. The Member Organization agrees to notify SE of changes to the access control records and billing or contact details in respect of the Members and upon SE's request, the Member Organization will cause the Members to provide SE with all identifying information, including IP address ranges, relating to the Member as may be necessary to enable SE to set up and to activate the Member's access to the Licensed Works.
- 5.2. The Member Organization agrees on behalf of each Member that the following are responsibilities of the participating Members:
 - 5.2.1 to use reasonable efforts to ensure that Authorized Users are informed of the terms of this Agreement;
 - 5.2.2 to use reasonable efforts to restrict and control unauthorized access to the Licensed Works;
 - 5.2.3 to notify SE of any breach by a Member or an Authorized User of the terms of this Agreement upon becoming aware of any such breach;
 - 5.2.4 upon becoming aware of any breach of the terms of this Agreement by a Member or an Authorized User, the Member shall work with SE to correct such breach.
- 5.3. The Member Organization agrees to use reasonable efforts to inform Members that Members are obliged to notify both the Member Organization and SE as soon as practicable if the Member should become aware of any of the following:

- 5.3.1 Any loss or theft of the Member's or any Authorized User's password.
- 5.3.2 Any unauthorized use of any of any Member's or any Authorized User's password.
- 5.3.3 Any unauthorized use of the Licensed Works by a Member or Authorized User.
- 5.4. The Member Organization agrees to use reasonable efforts to ensure that Members are aware of their obligations under this Agreement, including but not limited to the obligations set out in clause 5.2 and the Member Organization agrees to notify SE of any knowledge of any breach of clause 5.2 by any Members or their Authorized Users.
- 5.5. Any failure on behalf of the Member Organization to fulfill its obligations under this Paragraph shall be considered to be a material breach of this Agreement.
- 5.6. Member Organizations may not set up an anonymous remailer for purposes of allowing access to the Licensed Works. Member Organizations may set up a proxy server to facilitate access to the Licensed Works if Member is an institution that has disclosed such proxy server to SE, and such proxy server is operated in accordance with the specifications required by SE and provides access to Licensed Works only by Authorized Users.

6. RESPONSIBILITIES OF SE

- 6.1. SE shall make the Licensed Works available through Member Organization's Discovery Service System(s) for indexing and discovery purposes.
- 6.2. SE shall use reasonable efforts to ensure that the SE's server or servers have sufficient capacity and rate of connectivity to provide Members and Authorized Users with a quality of service comparable to current standards in the on-line information provision industry in a Member's locale. SE shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-time includes periodic unavailability due to server maintenance; software installation or testing; loading or making available additional Licensed Works as they become available; and unavailability because of service or equipment failure outside the control of SE (including problems with public or private telecommunications services, or Internet nodes or facilities). SE may schedule brief unavailability periods, but will do so only where (1) it has given at least forty-eight (48) hour notice to the Member Organization, and (2) in ways and at times that minimize inconvenience to Members and its Authorized Users, regardless of when notice has been given.
- 6.3. SE must provide both composite systemwide use data and itemized data for individual Members, on a monthly basis. Statistics shall meet or exceed the most recent project [Counting Online Usage of NeTworked Electronic Resources](#)

(COUNTER) Code of Practice Release,¹ including but not limited to its provisions on customer confidentiality. When a release of a new COUNTER Codes of Practice is issued, SE shall comply with the implementation time frame specified by COUNTER to provide use statistics in the new standard format.

SE shall not provide any Member's usage statistics in any form to any third party without the Member Organization's written authorization, unless the third party owns rights in the Licensed Works. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy laws. SE shall not disclose or sell to other parties usage data or information about the Members or its Authorized Users without the Member Organization's written permission or as required by law.

- 6.4. SE agrees that no personally identifiable information, including but not limited to log-ins recorded in system logs IP addresses of patrons accessing the system, saved searches, usernames and passwords, will be shared with third parties, except in response to a subpoena, court order, or other legal requirement. If SE is compelled by law or court order to disclose personally identifiable information of Authorized Users or patterns of use, SE shall provide Member Organization with adequate prior written notice as soon as is practicable, so that Members or Authorized Users may seek protective orders or other remedies. SE will notify Members and Authorized Users as soon as is practicable if SE's systems are breached and the confidentiality of personally identifiable information is compromised.
- 6.5. In the event that SE utilizes or implements any type of digital rights management (DRM) technology to control the access to or usage of the Licensed Works, SE will provide to Member Organization a description of the technical specifications of the DRM and how it impacts access to or usage of the Licensed Works. In no event may such Digital Rights Management Technology be used in such a way as to limit the usage rights of a Member or any Authorized User as specified in this Agreement or under applicable law. If the use of DRM renders the Licensed Works substantially less useful to the Members or its Authorized Users, the Member Organization may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Paragraph 11, below.
- 6.6. In the event that SE utilizes any type of watermarking technology for any element of the Licensed Works, SE agrees that watermarks will not reduce readability of content and will not degrade image quality. These watermarks shall not contain user-related information, including but not limited to an account number, IP address, and usernames. If digital watermarking technology is implemented, SE will notify Member Organization at least thirty (30) days in advance of implementation, and SE will provide the technical specifications for the technology used. If the use of the watermarking technology renders the Licensed

¹ http://www.projectcounter.org/code_practice.html

Works substantially less useful to the Members or its Authorized Users, the Member Organization may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Paragraph 11, below.

- 6.7. If the Licensed Works fail to operate, display, load, or render in conformance with the terms of this Agreement, Member Organization shall immediately notify SE, and SE shall promptly use best efforts to restore access to the Licensed Works as soon as possible. In the event that the non-conformity materially affects the Member's or Authorized Users' use of the Licensed Works, and SE fails to repair the nonconformity within five (5) business days, SE shall reimburse Member Organization for such problems in an amount that is proportional to the total Fees owed by Member Organization under this Agreement.
- 6.8. SE will provide activation and installation support, including assisting Members and Authorized Users with the implementation of any SE software. SE will offer reasonable levels of continuing support to assist Members and Authorized Users in use of the Licensed Works. SE will make its personnel available by email and/or phone during its regular business hours, Monday through Friday, for feedback, problem-solving, or general questions and will respond in a timely manner.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. The Member Organization acknowledges that SE shall retain all right, title and interest and all intellectual property rights in and to the Licensed Works and no transfer of copyright or any other right, title or interest therein is made by this Agreement, except for the right to access and use the Licensed Works in accordance with the terms and conditions of this Agreement.
- 7.2. The Member Organization will notify SE promptly if it becomes aware of any claim by any third party that the Licensed Works infringe an intellectual property or other right of any third party.
- 7.3. The Member Organization and SE shall notify each other promptly of the facts and circumstances surrounding any unauthorized possession or use of the Licensed Works, Member Account Information, or SE Intellectual Property, or any portion thereof, by anyone other than persons authorized or contemplated by this Agreement to possess and use such material.
- 7.4. The provisions of this Paragraph 6 will survive the termination of this Agreement.

8. WITHDRAWAL OF MATERIAL

- 8.1. SE reserves the right at any time to (i) withdraw from the Licensed Works any item or part of an item that SE no longer retains the right to publish; or (ii) withdraw from the Licensed Works, or cease providing online hosting services hereunder for any Licensed Work or part thereof, any material that SE determines may be defamatory, obscene, unlawful, a violation of copyright or otherwise

objectionable. SE shall give prompt written notice to the Member Organization of such withdrawal and if the withdrawn materials represent more than 10% of the Licensed Works, SE shall make a pro rata refund of part of the fees already paid, taking into account the amount of material withdrawn and the remaining unexpired portion of the Subscription Period. If any withdrawal, irrespective of the quantity of materials withdrawn, renders the Licensed Works substantially less useful to Members or its Authorized Users, Member Organization shall receive from SE a pro rata refund of any pre-paid fees and the Member Organization may seek to terminate this Agreement for breach pursuant to the termination provisions in Paragraph 11, below.

With respect to any such item(s) or part(s) thereof for which SE determines not to provide hosting services pursuant to the foregoing, SE will, to the extent permitted under applicable law and any agreements to which SE is a party, provide the Member Organization an electronic copy of any such item(s) or part(s) thereof in XML format or other mutually acceptable format for use by the Members subject to the rights and restrictions set forth in this Agreement. For avoidance of doubt, SE will not be obligated to provide the Member Organization or Members with any Licensed Work or part(s) thereof that SE no longer has the right to publish, license or otherwise distribute.

9. **REPRESENTATIONS, WARRANTIES AND INDEMNITIES; FORCE MAJEURE**

- 9.1. SE represents and warrants that it has the power to enter into this Agreement and to grant the rights conferred herein to the Member Organization and the Members and that the Licensed Works do not violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary right or contract right of any third party. Except as provided in the foregoing sentence, SE gives no warranty, express or implied, regarding any information or materials contained in or produced by the Licensed Works, nor regarding the accuracy, completeness, or reliability of the Licensed Works. SE PROVIDES THE LICENSED WORKS ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND EXCEPT AS EXPRESSLY PROVIDED ABOVE. 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 CONSORTIUM, SE DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTIES THAT THE MATERIAL IN THE LICENSED WORKS IS COMPLETE OR ACCURATE AND IN NO EVENT WILL SE OR THE MEMBER ORGANIZATION BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF, OR INABILITY TO USE THE LICENSED WORKS OR FOR THE LOSS OR DAMAGE OR CORRUPTION OF DATA, LOSS OF PROGRAMS, A LOSS OF BUSINESS OR GOODWILL OR OTHER DAMAGES OR LOSSES OF ANY NATURE ARISING OUT OF THE USE OF,

OR INABILITY TO USE THE LICENSED WORKS, INCLUDING WITHOUT LIMITATION: LOSSES ARISING FROM ANY ERRORS, OMISSIONS OR OTHER INACCURACIES IN, OR CORRUPTION CAUSED BY, THE LICENSED WORKS, WHETHER BY TRANSMISSION PROCESSING OR OTHERWISE; OR CLAIM FOR LOST PROFITS, LOST DATA, OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL SE'S LIABILITY HEREUNDER, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE AMOUNT OF FEES PAID HEREUNDER FOR THE LICENSE OF THE LICENSED WORKS.

- 9.2. SE shall indemnify and hold harmless the Member Organization, Members and Authorized Users for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, that arise from any third party claim that alleges copyright infringement or other intellectual property infringement arising from the use of the Licensed Works by the Member Organization, Members or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.
- 9.3. The signatory for the Member Organization of this Agreement represents and warrants to SE that s/he has the power and authority to execute this Agreement on behalf of the Member Organization and each Member.
- 9.4. Paragraphs 9.1, 9.2 and 9.3 will survive the termination of this Agreement.
- 9.5. Neither party will be responsible to the other for any failure to perform any obligation under this Agreement caused by an Act of God, war, riot, embargo, acts of civil or military authority, fire, flood, typhoon, wind storm, snow storm, blizzard hurricane or other cause outside the control of the party that could not be avoided by the exercise of due care (a "force majeure event"). In the event of any delay in performance arising out of a force majeure event, the delayed party's obligations will be extended accordingly, provided that the parties will at all times use reasonable efforts to perform their respective obligations under this Agreement in a timely manner, taking into account such circumstances.

10. TERMS OF SERVICE

- 10.1. In the event that SE requires Authorized Users to agree to additional terms relating to the use of the Licensed Works (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 or viewing of the Licensed Works, 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.

11. TERMINATION

- 11.1. Member Organization may terminate this Agreement without penalty if sufficient content acquisitions funds are not allocated to enable the Member Organization, in the exercise of its reasonable administrative discretion, to continue this Agreement. In the event of such financial circumstances, Member Organization will notify SE of the intent to terminate the Agreement as soon as is reasonably possible, but in any case, no less than thirty (30) days prior to next payment date, and this transaction shall terminate on the last day of the subscription period for which payment has been made without penalty of expense to SE of any kind whatsoever, except as to the portions of payments herein agreed for which funds shall have been appropriated and budgeted or otherwise available.
- 11.2. If either party materially breaches any covenant or provision of this Agreement, then, in addition to any rights and remedies that may be available in law or equity, the non-breaching party may terminate this Agreement by written notice to the breaching party unless, in the case of a breach capable of cure, such breach will have been cured within thirty (30) days after delivery of written notice of such breach to the breaching party. Without limitation, breach by the Member Organization of the provisions of Paragraph 5 would constitute a material breach.
- 11.3. In the event of early termination permitted by this Agreement, except for termination for a material breach by the Member Organization or a Member, Member Organization shall be entitled to a refund of any fees or pro-rata portion thereof paid by Member Organization for any remaining period of the Agreement from the date of termination.

12. GENERAL

- 12.1. This Agreement will be interpreted and construed according to, and governed by, the laws of the State of California, excluding any such laws that might direct the application of the laws of another jurisdiction.
- 12.2. This Agreement and its exhibits constitute the entire agreement between the parties regarding its subject matter and supersedes all prior agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement may be amended only by a writing executed by both parties.
- 12.3. This Agreement may be executed in any number of counterparts which, when taken together, will constitute one original, and photocopy, facsimile, electronic or other copies shall have the same effect for all purposes as an ink-signed original. Each party hereto consents to be bound by photocopy or facsimile or electronically mailed (PDF) signatures of such party's representative hereto.
- 12.4. This Agreement may not be assigned by the Member Organization or by any Member without the prior written consent of SE. SE may freely assign this


Agreement to an affiliate, a successor to its business or a transferee of SE's right to publish and distribute the Licensed Works. Member Organization may terminate this Agreement and receive a pro rata refund of any prepaid fees in the event that any such assignment results in a material degradation of the Licensed Works. The rights and obligations of this Agreement will bind and benefit any successors and permitted assigns of the parties. Any attempted assignment in violation of this Paragraph will be null and void and of no force or effect.

- 12.5. Any notice or other communication required by this Agreement will be in writing addressed to the individuals named at the signature page of this Agreement at the addresses shown for the respective parties at the first page of this Agreement (or such other person and/or address as the relevant party may from time to time designate by notice pursuant to this Paragraph). Any such notice will be deemed to have been duly given on the day of service if served personally; three (3) days after mailing if mailed by First Class mail, registered or certified, postage prepaid; or two days after mailing if mailed by commercial overnight courier.
- 12.6. If any provision of this Agreement is invalid, illegal, or unenforceable under any applicable statute or rule of law, the provision will be deemed omitted to the extent that it is invalid, illegal, or unenforceable. In such a case, the remainder of the Agreement will be construed in a manner as to give greatest effect to the original intention of the parties hereto.
- 12.7. The waiver or failure of either party to exercise in any respect any right provided in this Agreement in any instance will not be deemed to be a waiver of such right in the future or a waiver of any other right under this Agreement.
- 12.8. The relationship of the parties hereto will be that of independent contractors. Nothing herein will be construed to create any partnership, joint venture, or similar relationship or to subject the parties to any implied duties or obligations respecting the conduct of their affairs, which are not expressly stated herein. Neither party will have any right or authority to assume or create any obligation or responsibility, either expressed or implied, on behalf of or in the name of the other party, or to bind the other party in any matter or thing whatsoever.

Agreed and Accepted on behalf of the Member Organization and each and every Member by:

Agreed and Accepted:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA



Signature of Authorized Representative

Signature of Authorized Representative

Ivy Anderson
Printed Name of Authorized Representative

30 July 2019
Date:

Andrew Beveridge
Printed Name of Authorized Representative

Jul 16, 2019
Date:

Exhibit A: List of Member Organization Members/ Authorized Sites

UC – Berkeley (includes Lawrence Berkeley National Laboratory)

UC – Los Angeles

UC – Davis

UC - Irvine

UC – San Diego

UC Riverside

UC – Santa Cruz

UC – Santa Barbara

UC – Office of the President

Exhibit B – Price List

Social Explorer Pricing for July 2019 through June 2020

California Digital Library

School	Seats	Pricing Per School		
UC - Berkeley	Infinite / Concurrent			
UC - Los Angeles	Infinite / Concurrent			
UC - Davis	Infinite / Concurrent			
UC - Irvine	Infinite / Concurrent			
UC - San Diego	Infinite / Concurrent			
UC - Riverside	Infinite / Concurrent			
UC - Santa Cruz	Infinite / Concurrent			
UC - Santa Barbara	Infinite / Concurrent			

1, 2019 through June 30, 2020:

Total cost for July

Total price due by August 1, 2019 is

Exhibit C – Authorized IP Addresses

Berkeley (UCB)

Range Start

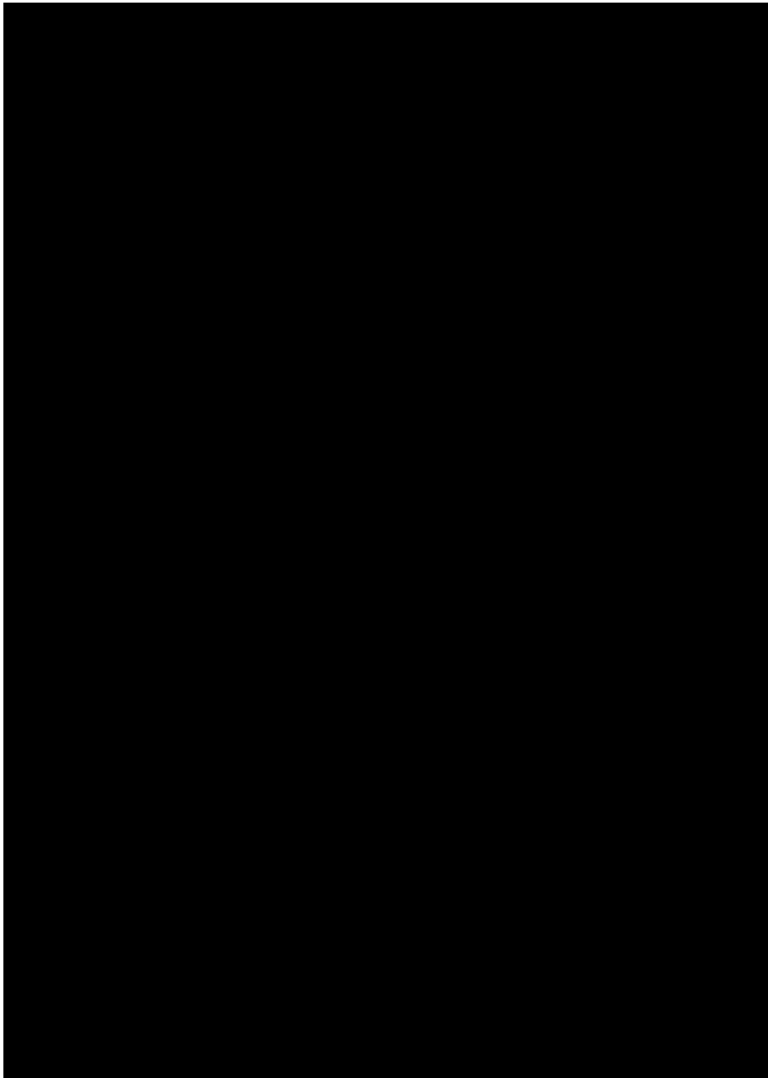
Range End



Lawrence Berkeley National Laboratory (LBL)

Range Start

Range End



[Redacted]

Davis (UCD)

Range Start	Range End
-------------	-----------

[Redacted]

Irvine (UCI)

Range Start	Range End
-------------	-----------

[Redacted]

Los Angeles (UCLA)

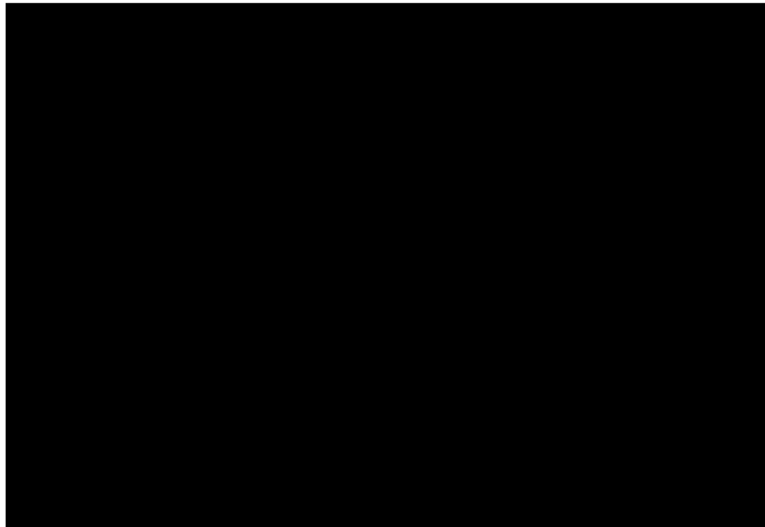
Range Start	Range End
-------------	-----------



Office of the President (UCOP)

Range Start

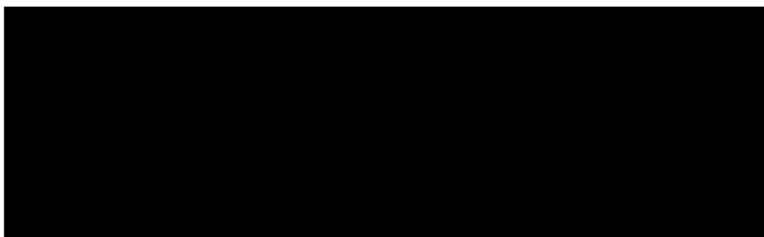
Range End



Riverside (UCR)

Range Start

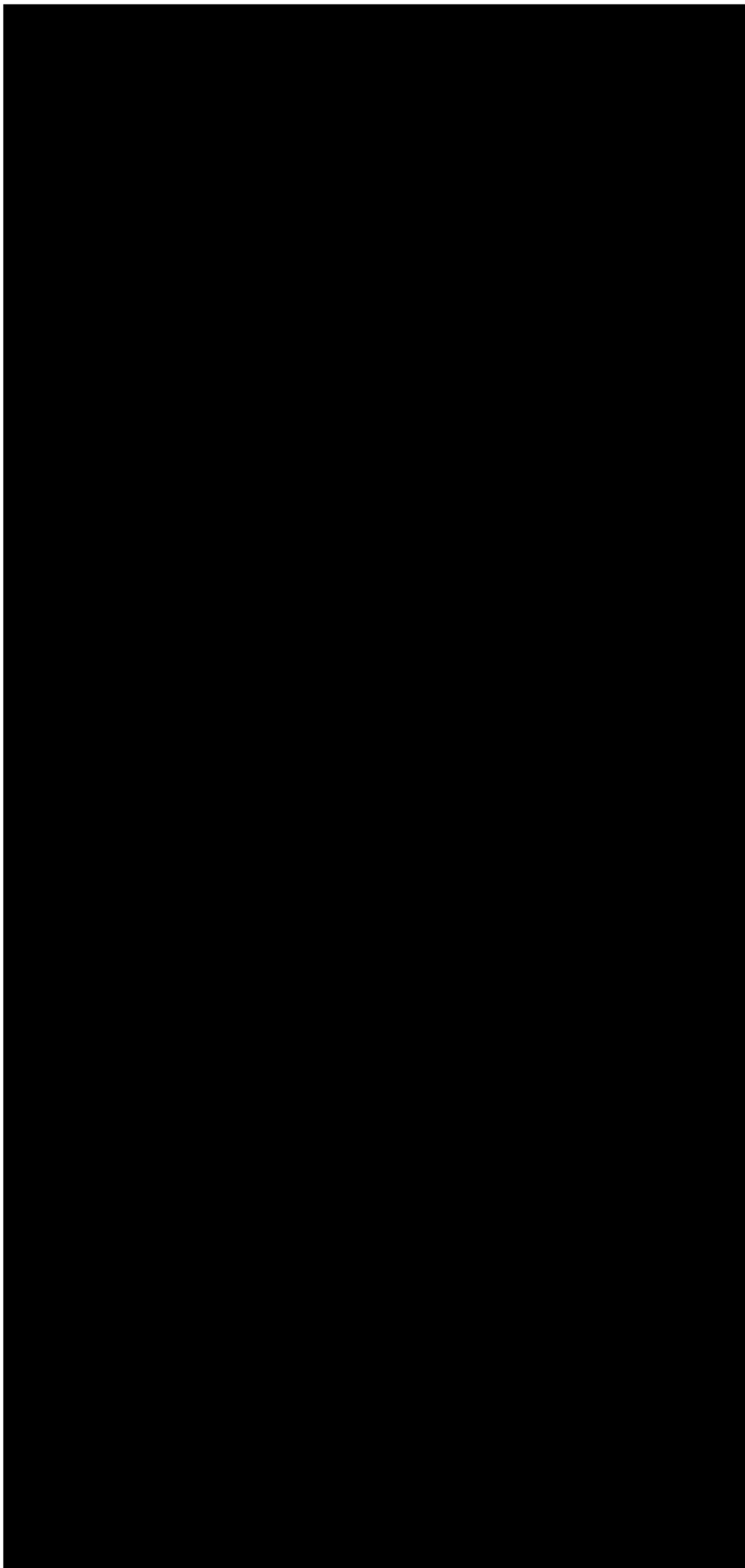
Range End

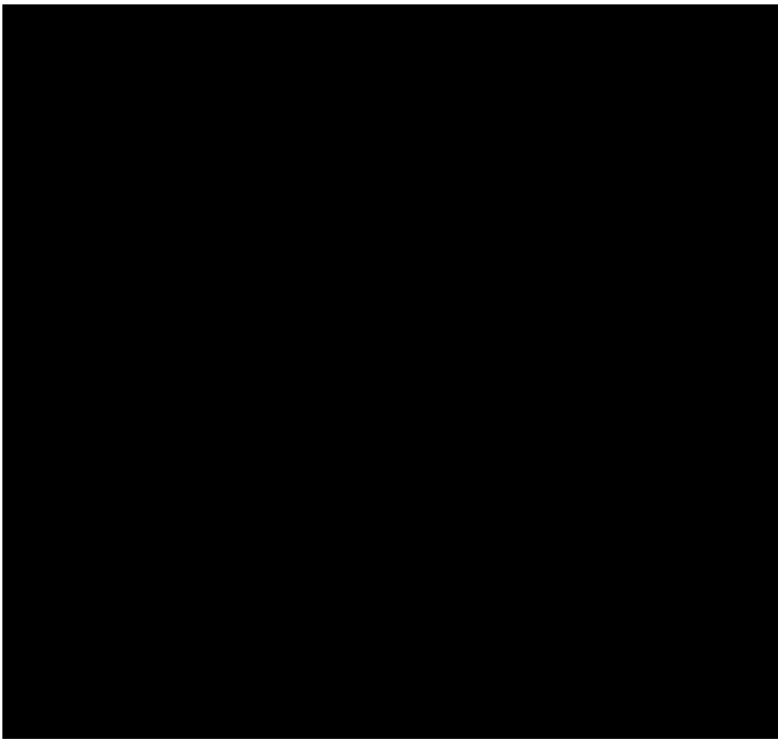


San Diego (UCSD)

Range Start

Range End





Santa Barbara (UCSB)

Range Start	Range End
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Santa Cruz (UCSC)

Range Start	Range End
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