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VIII. TERM

This Agreement shall continue in effect for one (1) year- commencing on the Effective Date.

IX. RENEWAL

This agreement shall be renewable at the end of the current term for a successive term unless either party gives written notice of its intention not to renew forty-five (45) days before expiration of the current term.

X. EARLY TERMINATION

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if Licensor believes that any Participating Member Institution has exceeded the scope of the License, such party shall so notify the breaching party in writing. The breaching party shall have thirty (30) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the thirty (30) day period, the non-

breaching party shall have the right to terminate the Agreement without further notice.

Upon Termination of this Agreement for cause online access to the Licensed Materials by Participating Member Institution and Authorized Users shall be terminated. Authorized copies of Licensed Materials may be retained by Participating Member Institution or Authorized Users and used subject to the terms of this Agreement.

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 on their behalf for any remaining period of the Agreement from the date of termination.

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Licensor hereby grants to Participating Member Institutions a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that were accessible during the term of this Agreement. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement. Except in the case of termination for cause, Licensor shall provide the Participating Member Institutions with access to the Licensed Materials in a manner and form substantially equivalent to the means by which access is provided under this Agreement.

XII. WARRANTIES

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Licensor warrants that it has the right to license the rights granted under this Agreement to use Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party. The Licensor shall indemnify and hold Licensee, its Participating Member Institutions and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Participating Member Institutions or any Authorized User in accordance with the terms of this Agreement. This indemnity shall survive the termination of this agreement. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.

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Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

XV. ENTIRE AGREEMENT

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

XVI. AMENDMENT

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.

XVII. SEVERABILITY

If any provision or provisions of this Agreement shall be 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 in any way be affected or impaired thereby.

XVIII. WAIVER OF CONTRACTUAL RIGHT

Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

XIX. NOTICES

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IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

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BY: _____
Signature of Authorized Signatory of Licensor

DATE: _____

Print Name:
Title:
Address:
Telephone No.:
Facsimile:
E-mail:

NorthEast Research Libraries Consortium:

BY: _____

DATE: _____

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