



## Terms of Service

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## 1. Introduction and Binding Agreement

### 1.1 Introduction

The scientific, educational, and charitable **mission** of Dryad is to promote the availability of data underlying findings in the scientific literature for research and educational reuse. The **vision** of Dryad is a scholarly communication system in which learned societies, publishers, institutions of research and education, funding bodies and other stakeholders collaboratively sustain and promote the preservation and reuse of data underlying the scholarly literature.

Dryad aims to:

- enhance the scholarly record by making data freely available and reusable for research and education;
- enable repository content to be widely indexed and discoverable;
- assign and provide Digital Object Identifiers (DOIs) to repository content;
- track the usage of content, and promote data reuse as a metric of scholarly credit;
- manage data publication embargos as stipulated by publisher policies;
- make data both accessible today and preserved for accessibility in the future;
- respect and protect the privacy of its users; and
- generally, meet the needs of its stakeholders for a trustworthy repository.

These Terms of Service apply to those who use or Publish Content in the Dryad Digital Repository, pay for others to Publish Content (whether through vouchers, deferred payment plans, subscriptions or otherwise), or obtain and reuse Content from the Dryad Digital Repository. These terms apply with equal force to those using the web interface or an application programming interface to the Dryad Digital Repository.

Please address questions or comments regarding these Terms of Service to [help@datadryad.org](mailto:help@datadryad.org).

### 1.2 Binding Agreement

**By Submitting Content to or using Content from the Dryad Digital Repository, Submitters and Users enter into a binding agreement to accept the Terms of Service described herein. If you do not agree to these Terms of Service, please refrain from using Content from or Submitting Content to the Repository.**

## 2. Definitions

The following definitions shall apply to terms used herein:

- Accept: a conclusion by Dryad (in accordance with the Content criteria in Section 3.1 and following curation as described in Section 4.1) that a Submitted Data Package can be Published.
- Content: data and other material (e.g. software code, ReadMe files, multimedia).
- CC0 (CC Zero) Waiver: the CC0 1.0 Universal Public Domain Dedication developed by Creative Commons. See <https://creativecommons.org/publicdomain/zero/1.0/>.
- Data Package: the Content files associated with one Document plus the metadata describing each file and the combined set of files.
- Data Publishing Charge (DPC): a one-time fee for publication of an Accepted Data Package in Dryad. There is no charge for rejected Submissions to the Review Workflow; a DPC is applied only when the associated Document is in press or has already been published prior to Submission.
- Document: a research article in a scholarly journal, or other scholarly publication such as, but not limited to, a book, chapter, conference proceedings, monograph or dissertation.
- Dryad Digital Repository or Repository: the repository operated by Dryad, including the software, interfaces, and contents.
- Eligible Country: a country listed on the World Bank website as having a low-income or a lower-middle-income economy.
- Embargo: a delay of the Publication of Content for a defined period after the publication date of the related Document in a journal or other media.
- Payment Plan: any of several methods set forth in a Purchase Agreement that allows purchasing entities to cover the Data Publishing Charge on behalf of individuals Submitting to Dryad.
- Publish/Publication: to deposit/depositing Content in the Repository for distribution to the public under a CC0 Waiver.
- Purchaser: the purchasing entity set forth in a Purchase Agreement or an individual Submitter who pays to Publish Content in Dryad.
- Review Workflow: the process whereby Content is made available to Document publishers and editors, who may share the Content with others via a private link and request changes to the Content, prior to Acceptance. This option is available only to journals using Submission Integration.
- Submission Integration: the process whereby a Submission to Dryad is coordinated with the manuscript processing system of a scholarly journal. There is no charge for a journal to set up Submission Integration.
- Submit/Submission: to deposit/depositing Content in the Repository.
- Submitter: the individual who Publishes Content in the Repository. It is anticipated that, in the majority of cases, the Submitter will be an author of the associated Document or a researcher collaborating with the author(s).
- User: someone who views, downloads, or otherwise reuses Content from the Repository.
- Waiver: a waiver of all fees to Submit Content to the Repository that may be granted by Dryad to a Submitter who is employed by an institution in an Eligible Country or who is an independent researcher in residence in an Eligible Country.
- Website: the webpages located under the datadryad.org domain.

### **3. Publication Policies**

#### **3.1 Content Criteria**

Dryad only Accepts Content that meet the following criteria:

- Content must be associated with a published scientific, medical or other scholarly research Document.
- Content may only be submitted by an individual who represents and warrants that s/he is the creator and owner of the Content or otherwise has sufficient rights to be able to make the

Content available under a CC0 Waiver. At Dryad's sole discretion, legacy Content may be permitted to be made available under other licensing terms.

- Content other than data may be Submitted to the Repository provided such Content is allowed by the Document publisher's policy.
- The Submitter represents and warrants that the Content is in compliance with the formatting and reporting guidelines of the Document's publisher.
- Most Data Packages in the Dryad Repository are associated with peer-reviewed Documents, although data associated with non-peer reviewed Documents from scholarly sources are also accepted.
- Ordinarily, one Data Package will consist of no more than 10 Gigabytes of Content, but Data Packages containing more than 10 Gigabytes of Content may be accepted and will incur an excess storage fee.
- The primary language of the Content must be English. Dryad curators cannot effectively review or curate submissions in other languages at this time.

### 3.2 Embargos

- By default, all accepted Content is made public upon publication of the associated Document.
- If instructed by a Submitter, and if not disallowed by the Submission Integration preferences specific to the publisher of the Document (see <https://datadryad.org/pages/integratedJournals> for a list of Submission Integration preferences by journal), the Repository will Embargo Publication of Content for a period of one year following the earliest publication of the associated Document.
- If instructed by a Submitter, and if not disallowed by the Submission Integration preferences specific to the publisher of the associated Document, and if approved by the publisher's designated editorial authority, an Embargo period of greater than one year, and not greater than ten years, may be applied. An Embargo must have an explicit termination date by the time of Content Publication.

### 3.3 Expressions of Concern, Retraction and Removal of Data Files

In general, Dryad defers authority to the Document publisher when issues arise regarding validity of Content. If Content in the Repository is associated with a Document for which there is an "expression of concern," "retraction," or similar statement on the part of the Document publisher, Dryad will continue to make the Content available, but with an appropriate warning and a link to the statement from the Document publisher. Data files that are updated as corrections to the original paper will be similarly linked to the publisher's corrigendum where Dryad is made aware of such.

Those who wish to see Content in the repository taken down, either for copyright infringement, because of privacy concerns, or for other legitimate cause, should contact [curator@datadryad.org](mailto:curator@datadryad.org) providing the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
2. Identification of the work claimed to have been infringed, or, if multiple works at a single online site are covered by a single notification, a representative list of such works at that site;
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;
4. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the owner, its agent, or the law;

6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**Notwithstanding the foregoing, Dryad reserves the right to temporarily or permanently remove any Content at any time if Dryad determines in its sole discretion that the Content is inappropriate (containing personally identifiable, sensitive, infringing or otherwise illegal material, or Dryad is advised by legal counsel that inclusion of such Content presents a potential risk to Dryad); provided, however, Dryad shall not be responsible for screening Content prior to or after its Publication for such issues.**

### 3.4 Large files

During the process of submission and review, and with the knowledge and consent of the Submitter, unusually large files that are within the scope of another repository may be transferred for archiving by Dryad to that secondary repository without retention of a copy in the Repository.

## 4. Dryad Obligations, Representations & Warranties to Purchasers and Submitters

### 4.1 Curation

- Dryad curation personnel will provide Submitter support and will review and curate Content prior to and following Publication as follows:
  - (i) Confirm that files can be opened, are not corrupted, and do not contain viruses which can be discovered through commercially reasonable efforts;
  - (ii) Confirm that files contain information associated with a Document from a scientific, medical or other scholarly source;
  - (iii) Confirm that metadata for the Document is technically correct;
  - (iv) Confirm administrative metadata including, but not limited to, the embargo release date where applicable;
  - (v) Confirm that files are correctly versioned during the Review Workflow where applicable, and review updates to files and metadata Submitted either before or after Publication;
  - (vi) Confirm that the Submission is covered by a Waiver or Payment Plan where applicable;
  - (vii) Register Digital Object Identifiers (DOIs) for the Content;
  - (viii) Resolve issues that come to the attention of curators after Publication including, but not limited to take-down requests and retraction notices.
- Dryad may, but is under no obligation to:
  - (i) Review Content for personally identifiable or otherwise sensitive or inappropriate information;
  - (ii) Review Content for copyright and license statements that are potentially incompatible with a CC0 Waiver;
  - (iii) Review Content for compliance with file format and minimum reporting guidelines and alert Submitters or publishers when non-compliance is discovered.
- Dryad will not:
  - (i) Make decisions regarding what Content is to be archived by the Document publisher rather than Submitted to the Repository;
  - (ii) Check the scientific validity, veracity, accuracy or completeness of the Content;
  - (iii) Guarantee compliance with content policies or guidelines set by Purchasers, Document publishers or funders in the absence of a separate contract for special curation services;

- (iv) Modify Content except as a by-product of format migration for preservation and accessibility.

#### 4.2 Content Distribution

- Dryad will make Accepted Content available to the public under a CC0 Waiver and communicate scholarly norms for data reuse to Submitters and Users including, but not limited to, guidelines for data citation. However, Dryad shall NOT be responsible for enforcing scholarly norms.
- Dryad shall make commercially reasonable efforts to maintain the continual availability of the Repository at [datadryad.org](http://datadryad.org) (subject to reasonable downtime for maintenance), and provide advance notice, when possible, of any material changes or discontinuities. However, Dryad shall NOT be responsible for the consequences of any downtime, disruptions or discontinuity of the Repository, Website or application programming interfaces.
- Dryad is NOT responsible for the uses of Published Data Packages made by third parties, including those who view and download Data Packages through the Repository.

#### 4.3 Preservation

Dryad will take the following commercially reasonable steps to preserve Content Published in the Repository:

- Dryad will maintain backup copies of both Published and unpublished Content. Content will be backed up to an independent remote server frequently throughout the day and to a long-term storage system daily. If Dryad servers experience a failure, Content may be lost if it has not yet been migrated to a backup system.
- Dryad will make Published Content available for replication and indexing by third-party partners.
- Dryad may, at its discretion, add to a Published Data Package a format-migrated version of a file when Dryad judges that it improves the preservation potential or accessibility of the Content. Migrated files cannot be guaranteed to contain all the information available in the original file format; however, Dryad will strive to minimize information loss through file format migration.
- Dryad will maintain its status as a participating publisher with CLOCKSS (<http://www.clockss.org>) and maintain a failover copy of all published Content in the CLOCKSS dark archive. In the event that Dryad can no longer maintain the Repository as an active service, all Dryad-registered DOIs will be updated to resolve to the copy at the CLOCKSS archive, which will continue to provide free access to the Content under the same licensing terms. At its sole discretion, Dryad may choose to switch providers from CLOCKSS to another failover service.

#### 4.4 Representations & Warranties

- Dryad represents and warrants that it has the authority to enter into the Purchase Agreement (in the case of Purchasers) and these Terms of Service (in the case of Purchasers, Submitters and other Users), and to bind itself to the Terms of Service herein.
- In the case of a Purchase Agreement, Dryad further represents and warrants to the Purchaser that it has caused the Purchase Agreement to be executed by a duly authorized representative.

### 5. Purchaser Obligations, Representations & Warranties to Dryad

#### 5.1 Purchaser Obligations

- For Purchasers of single-use vouchers, it is the responsibility of the Purchaser, and not Dryad, to distribute the vouchers and maintain the security of the vouchers. Dryad shall not be responsible for the misuse of vouchers once supplied to Purchaser.
- Purchaser is responsible for communicating to Dryad in a Purchase Agreement the coverage of journal titles for each Payment Plan selected and any caps on the number of Accepted Data

Packages. Dryad shall not be responsible for any restrictions not set forth in a Purchase Agreement. Purchaser may communicate changes to Submission caps and covered journals by providing written notice to Dryad, and such changes will become effective upon counter-notice by Dryad (generally within 10 working days of Dryad's receipt of notice from Purchaser).

- Purchaser is responsible for informing Dryad of any changes to its contact information in the Purchase Agreement.
- Purchasers may not Submit Content on behalf of Submitters without the express permission and full knowledge of the Submitter, including explicit agreement to the Dryad Terms of Service.
- Purchasers who wish to review Content prior to Publication in the Repository must use the Review Workflow for Integrated Submission.
- Purchasers who use the Subscription Plan must maintain Submission Integration for all covered journals.

## 5.2 Purchaser Representations & Warranties

- Purchaser represents and warrants that it has the authority to enter into the Purchase Agreement (including, without limitation, these Terms of Service), and to bind itself to the Terms of Service herein.
- Purchaser further represents and warrants that it has caused the Purchase Agreement to be executed by a duly authorized representative.

## 6. Submitter Obligations, Representations & Warranties to Dryad

### 6.1 Permission

- By Submitting Content to the Repository, Submitter grants Dryad irrevocable permission to make the Data Package available to the public under a CC0 Waiver.
- Unless otherwise indicated during the Submission process to the Repository (see Section 3.2), the Submitter agrees that Content may be Published once the associated Document has been published.
- Submitter further grants Dryad permission to (i) promote and advertise the availability of the Data Package; (ii) re-format or otherwise transform the Data Package in any way to ensure its accessibility and preservability; (iii) modify and incorporate metadata or other documentation in the Content; and (iv) take any steps Dryad deems necessary in its sole discretion to remove inappropriate Content; provided however, Dryad shall have no responsibility to screen or remove inappropriate Content from Submissions.
- Submitters may, at their discretion, update metadata for Published Data Packages and submit new and/or updated files to a Published Data Package without being required to pay an additional Data Publishing Charge (excess storage charges may still apply). Dryad shall include updated files in the Repository while retaining and allowing access to all prior Published versions. Each file will be given a unique identifier and the metadata of the Data Package will be updated to include information about the order of the versions.

### 6.2 Representations & Warranties

- Submitter represents and warrants that s/he is an author of the Document associated with the Submitted Content or has been granted authority by the authors to Submit and Publish Content in the Repository.
- Submitter represents and warrants that the Publication of the Content does not infringe on the intellectual property or privacy rights of any person or entity (including co-authors or co-creators), and that distribution of the Content under a CC0 Waiver complies with all relevant laws and publisher, funder, and employer guidelines and/or contractual restrictions.

- Submitter represents and warrants that the Content does not contain any information (i) which identifies, or which can be used in conjunction with other publicly available information to personally identify, any individual; or (ii) which is false or misleading.
- If Submitter is using a single-use voucher, Submitter represents and warrants that s/he is using the voucher for the purposes for which it was provided by the Purchaser.
- If Submitter requests a Waiver, the Submitter represents and warrants that s/he is employed by an institution in an Eligible Country or is an independent researcher in residence in an Eligible Country.

## **7. Payment**

### **7.1 Charges at Acceptance**

Dryad does not charge any fees for Submissions that are not Accepted by the Repository. Dryad only Accepts Submissions that meet the Content criteria described in Section 3.1, including being in press or previously published by a scholarly publisher.

### **7.2 Hierarchy of Payments**

In determining the party responsible for the Data Publishing Charges, Dryad will apply the following rules in sequence:

1. If a Submitter qualifies for a Waiver, no Data Publishing Charge will be incurred.
2. If Submission is covered by a Subscription plan, the Data Publishing Charge will be covered by the Subscription Plan.
3. If Submission is covered by a Voucher Account or a Deferred Payment Plan, the Voucher Account or Deferred Payment Plan will be charged.
4. If Submitter has a Single Use Voucher, the Voucher will be redeemed.
5. If none of the above applies, Submitter will be charged.

### **7.3 Additional charges**

In all instances (other than where a Waiver is granted), Submitters will be charged excess data fees for Data Packages greater than 10 Gigabytes. Submitters also are responsible for paying any third-party costs associated with Submission of the Content (*e.g.* fee to use a large file transfer service external to Dryad). In addition, if no Waiver or Payment Plan applies, and the publication in which the Document appears does not have Integrated Submission with the Repository, the Submitter will be charged an additional fee.

### **7.4 Refunds**

Data Publishing Charges, excess storage fees and non-Integrated Submission fees are not refundable. Please see Purchase Agreements for information regarding refunds for Payment Plans.

## **8. Usage**

### **8.1 Content Usage**

- Repository Users are allowed and encouraged to reuse Content from the Repository in any manner except as described herein under “Prohibited Uses Generally” (Section 8.2). To the extent possible under law, Submitters have waived all copyright and related or neighboring rights to this data.
- It is hoped and expected that Users will follow accepted scholarly norms for citing data and giving credit to fellow scholars (see <http://datadryad.org/pages/faq#using>).
- The desired format for links to the data packages is the fully resolvable DOI URL (*e.g.* “Data submitted to the Dryad Digital Repository. <http://dx.doi.org/10.5061/dryad.1888>”)

### **8.2 Prohibited Uses Generally**



- Users, Purchasers and Submitters may not use the Repository (i) in any unlawful manner; or (ii) in any manner that would impair Dryad's services to others or compromise the security or functionality of the Repository or Dryad's services generally.
- Dryad is committed to building an international organization for Purchasers, Submitters, and users from around the globe. However, if Purchaser or Submitter is prohibited under any U.S. laws or regulations from receiving U.S. origin services or software, Purchaser or Submitter (as the case may be) may not use the Dryad Repository, Dryad Website or Dryad software.

### 8.3 Ownership and Use of Other Intellectual Property

Dryad owns the service marks Dryad, Dryad Digital Repository, and the Dryad logos appearing on the Dryad Website.

#### *Permitted Uses of Dryad Intellectual Property:*

- Purchasers, Submitters and Users are welcome to use screenshots, the Dryad Digital Repository name, the Dryad name and other Dryad trademarks (such as the Dryad logo) for informational purposes only.
- Content other than Data Packages on the Dryad Website and wiki is available for reuse with attribution under a Creative Commons CC-BY 3.0 license.

#### *Prohibited Uses Dryad of Intellectual Property:*

- Users, Purchasers and Submitters may not use trademarks associated with Dryad (including, without limitation, the Dryad logo) to imply an association or endorsement by Dryad without prior written consent.

## **9. Privacy**

Dryad respects the privacy of our Users and Submitters and works to protect all personally identifiable information we collect.

### 9.1 Information Automatically Collected and Stored via the Website

For planning and scientific review purposes, Dryad will keep records of usage. Dryad makes available to the public information about aggregate usage of Data Packages and individual files. Logs of usage may also be maintained for the purposes of monitoring and improving services, or measuring the impact of a particular function on our resources. These logs may be made available, after anonymization, to third parties. Usage of the Dryad website indicates agreement to the use of a Google Analytics cookie.

Dryad may automatically collect and store the following information not generally considered "personally identifiable" from Users or Submitters who access Dryad Content directly or indirectly, including:

- The operating system of the computer used
- The version and type of Web browser used
- The IP address of the computer used to access our Web site
- The date and time of the visit
- The pages visited, including files downloaded, search terms used, and links followed
- The URL of the Web site the user came from

These data are kept for the purpose of maintaining and improving services on our site and are only reported publically in aggregated form. Unless it is specifically stated otherwise, no additional information about Users will be collected.

### 9.2 Personally Provided Information

Users who do not Submit Content to Dryad are not asked to provide any personally identifying information.

The Repository shall not store or record any Purchaser's credit card, debit card, bank account or any other form of payment account information on its servers. All electronic payments made through the Dryad website will be transmitted and processed using PayPal Payments Pro Payflow "transparent redirect." All payment data is handled by PayPal and is governed by the PayPal terms of service and privacy policy as described at PayPal.com.

A Dryad account is required to Submit or update Content to the Repository. A Dryad account requires a name, email address and phone number. A password is also needed unless the Submitter logs in to the Dryad system through a trusted third party service. Personally identifiable information is used by Dryad to conduct and improve core services; including billing, authentication, and responding to customer help requests. We may contact account holders in order to verify/update the information in their accounts, to notify them of relevant changes in policies or services, and with information or questions directly related to their use of the Repository service. Publishing organizations and the Repository may send automated notices to each other as part of Submission Integration; these communications may convey personally identifiable information regarding authors and Submitters that will only be accessed by staff as required to provide services.

If Users or Submitters choose to provide Dryad with additional personally identifiable information through an e-mail message, form, survey, etc., Dryad will maintain the information securely to the extent allowable by law and take every precaution to protect it. However, Dryad will treat feedback on services and software provided by Dryad, excluding personally identifiable information, as non-confidential unless the individual or organization providing the feedback states otherwise.

### 9.3 Security and Intrusion Detection

Dryad implements and follows commercially reasonable electronic security measures to secure the systems through which information is collected or stored. Security protections, and all other elements of this policy, extend to data copies and backups implemented for business continuity.

For site security purposes, and to ensure that this service remains available to all Users, we employ software programs to monitor traffic and to identify unauthorized attempts to upload or change information or to otherwise cause damage. In the event of authorized law enforcement investigations, and pursuant to any required legal process, information from these sources may be used to help identify an individual.

### 9.4 Disclosure of Personally Identifiable information

Aggregate information or individual information that does not personally identify a user can be shared with third parties without restriction. One such third party is Google Analytics, (see their [privacy policy](#)), which is used to understand how the website is being used.

Dryad will only disclose individually identifiable personal information about its users under the following restricted circumstances:

- It has been included within a Data Package by the Submitter or the publisher;
- It is required for law enforcement or by statute, or to protect our or others' legal rights, property, or safety;
- Disclosure is required to resolve disputed submissions or otherwise carry out the obligations of our Terms of Services; and/or
- Disclosure to trusted third parties is required for them to assist us in operating our services, provided those parties agree to keep this information confidential.

### 9.5 Privacy Protection Limits

- **Submitter responsibility:** protecting privacy is a shared responsibility. Submitters should refrain from sharing passwords with third parties. If a Submitter's password has been compromised for any reason, Submitters should reset the password immediately or contact [help@datadryad.org](mailto:help@datadryad.org) to request assistance.
- **Referrals to external sites:** Dryad's web services may link to Internet sites and services outside the administrative domain of Dryad (for example, PayPal). Dryad does not govern the privacy practices of these external sites. Users and Submitters should read the privacy statements at these sites to determine their practices.

## 9.6 Privacy Concerns

If you are concerned about the accuracy of personally identifiable information maintained by Dryad or wish to review, access, amend or correct this information, or would like your personally identifiable information removed from Dryad's records or otherwise deactivated, please contact us at [help@datadryad.org](mailto:help@datadryad.org). We reserve the right to review requests on a case by case basis.

## 10. General Provisions

### 10.1 Termination

Dryad reserves the right to suspend use by any party (Submitter, Purchaser or User) if that party engages in, or is suspected of engaging in, Prohibited Activities or in any other way breaches any of the party's obligations, representations or warranties hereunder.

For Purchase Plans, in the event that Purchaser or Dryad believes that the other party has materially breached any responsibilities, obligations (including timely payment of any fees due hereunder, including under any purchase agreement), representations, or warranties, the non-breaching party shall so notify the breaching party. The breaching party will have 10 days from the receipt of such notice to cure the alleged breach and to notify the non-breaching party in writing that such cure has been affected. If the breach is not cured within the 10-day period, the non-breaching party shall have the right to terminate the Agreement immediately upon written notice.

Notwithstanding the foregoing, Dryad reserves the right to immediately terminate any Purchase Agreement where fees are outstanding for over 60 days.

Dryad has applied for tax-exempt status with the United States Internal Revenue Service ("IRS"), and reserves the right to modify or terminate any Purchase Agreement or Content Publication arrangement subject to a fee if it is advised by the IRS or legal counsel that continuation would jeopardize the exempt status of Dryad; provided that in the event of such termination, Dryad would provide Purchaser or Submitter (as relevant) with as much notice as reasonably practicable and a pro-rata refund.

### 10.2 Disclaimer

**The Content in the Repository and Dryad Website is made available to Purchasers, Submitters and Users on an "AS IS" basis. Except as set forth herein, and to the maximum extent permitted by law, Dryad makes no representations or warranties, express or implied, including, without limitation, (i) implied warranties of accuracy, quality, performance, compatibility, merchantability and/or fitness for a particular purpose, (ii) that any such Content, Data Package or other material is free from personally identifiable, sensitive, infringing or illegal data or material, and (iii) that any such Content not suffer loss, corruption or destruction. While Dryad tries to ensure that the Repository, its Website and its software are safe from bugs, viruses, disruptions and delays, Dryad does not represent or warrant that they will always be so.**

### 10.3 Limitation and Release of Liability

To the fullest extent permitted by law, in no event shall Dryad, its directors, officers, employees, agents, contractors, consultants, and assigns (the “Dryad Parties”) be liable for any special, indirect, and/or consequential damages incurred by Purchaser, Submitter or User in connection with the Repository, Content, Data Packages, the Dryad Website, software or any other Dryad services, even if such damages are foreseeable. Further, to the extent permitted by law, the parties agree that the maximum liability of the Dryad Parties to any Purchaser, Submitter or User hereunder shall not exceed the fees (other than Purchaser’s membership fees or Submitter’s indemnity) paid by the relevant Purchaser, Submitter or User to Dryad in the last year hereunder. In the case of Users who have paid no such fees, if the law of the relevant jurisdiction bars zero damages, the maximum liability of the Dryad Parties shall be \$50.00.

**Dryad is not responsible for the actions of other persons and entities, including without limitation, the Content submitted by Submitters and the use of such Content. Each Submitter, Purchaser and User (as the case may be) irrevocably releases and holds harmless the Dryad Parties from any and all liability from claims, actions, losses, damages, costs, and/or expenses (collectively, “Claims”) arising out of or related to any claim a Submitter, Purchase or User may have against such other person or entity.**

#### 10.4 Indemnity

Each Submitter agrees to indemnify and hold harmless the Dryad Parties against any Claims or threatened Claims (including, without limitation, reasonable attorneys’ fees) arising out of or related to Content Submitted by the Submitter or a breach of the Prohibited Uses set forth in Section 8.2.

Each User agrees to indemnify and hold harmless the Dryad Parties against any Claims or threatened Claims arising out of or related beach of the Prohibited Uses set forth in Section 8.2.

#### 10.5 Notices

Any and all notices required or permitted by the Terms of Service shall be deemed delivered if delivered personally, transmitted by electronic facsimile/email or, if mailed by registered or certified mail or express mail, postage prepaid to (i) to Executive Director, in the case of Dryad, or (ii) the party listed on the Purchase Agreement, in the case of Purchasers, or (iii) the Submitter listed during the submission process, in the case of Submitters. Any party may from time to time change the name and address of the individual(s) to receive notice by written notice to the other party as set forth in this section.

#### 10.6 Changes to Terms of Service

Dryad reserves the right to alter services offered by Dryad and/or these Terms of Service at any time in order to ensure their appropriateness to Dryad’s mission. Dryad will post any changes on the Website or a link therefrom and make reasonable efforts to communicate material changes to Submitters and Purchasers; it is the responsibility of Purchasers, Submitters and Users to periodically check the Website for such changes. Notwithstanding the foregoing, Dryad will provide Purchasers with 30 days’ written notice prior to the effective date (“Change Effective Date”) of any material reduction in services or material modification to these Terms of Service (as determined by Dryad in its discretion), and a Purchaser shall have the right to provide Dryad with notice prior to the Change Effective Date of its desire to terminate as of the Change Effective Date any outstanding Vouchers, Deferred Payment Plans or Subscription with a pro-rata refund if it does not agree to such material changes.

#### 10.7 Arbitration/Governing Law

Any Purchase Agreement and these Terms of Service shall be interpreted under and governed by the laws of North Carolina (United States) excluding any laws that might direct the application of the laws of another jurisdiction. Each party waives all rights, if any, arising under the United Nations Convention on Contracts for the International Sale of Goods, and all rights of application or appeal, if any, to non-U.S. courts in connection with any question of law. All disputes shall be settled in court

or by mutually agreed arbitration in North Carolina, and each party consents to such jurisdiction. Each party shall be entitled, without waiving any other rights or remedies, to injunctive or other equitable relief.

#### 10.8 General Miscellaneous Provisions

Each party shall comply with all applicable laws. Dryad reserves the right to take any actions necessary in order to comply with applicable laws or court orders in any jurisdiction. These Terms of Service, together with the Purchase Agreement in the case of Purchasers, makes up the entire agreement between Dryad and Purchaser, Submitter or User, and supersedes any prior written or oral agreements related to the subject matter hereof. If any term is unenforceable, it will not affect the other Terms of Service which shall remain in full force and effect. A waiver of any provision or breach shall not be deemed to be a waiver of any other provision or breach. These Terms of Service do not create any third party rights. Submitter/Purchaser/User (as the case may be) may not assign or otherwise transfer its rights hereunder without the prior written consent of Dryad, and any transfer to the contrary shall be null and void. Dryad reserves the right to transfer all of its rights and obligations under any Purchase Agreement and these Terms of Service, including ownership and/or operation of the Dryad Repository to another nonprofit entity in the event of a merger, joint venture, dissolution, or other corporate restructuring.