



May 29, 2018

International Technological University
2711 North 1st Street
San Jose, CA 95134

Dear Sir/Madam:

This letter constitutes an offer of renewal of the Annual Copyright License Agreement for Academic Institutions between International Technological University ("Academic Institution") and Copyright Clearance Center, Inc. ("CCC"), effective August 10, 2017 (the "Agreement"). Unless specifically altered herein, capitalized terms in this letter have the definitions given to them in the Agreement.

In accordance with the provisions of Paragraph D.2. of the Agreement, CCC hereby offers International Technological University a renewal of the Agreement for a Renewal Term effective from August 10, 2018 to August 9, 2019. The License Fee for such Renewal Term is \$6,692.00. Academic Institution represents and warrants that the total number of Students upon which the License Fee is based is 560.

CCC may from time to time make tools available for use in connection with the Agreement. If User chooses to avail itself of such tools, User agrees to the applicable terms of use, current versions of which will be made available here: <http://www.copyright.com/rightfindterms> and <http://www.copyright.com>.

By authorized signature below and timely payment of the License Fee for this Renewal Term, International Technological University indicates its acceptance of CCC's offer of renewal of the Agreement.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard A. Ruf", is written over a light blue horizontal line.

Richard A. Ruf
Vice President, Chief Financial Officer

AGREED: International Technological University

Signature: _____	Date: _____
Printed _____	
Name: _____	Title: _____

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**ANNUAL COPYRIGHT LICENSE
AGREEMENT
FOR ACADEMIC INSTITUTIONS**

This ANNUAL COPYRIGHT LICENSE AGREEMENT FOR ACADEMIC INSTITUTIONS is effective as of August 10, 2017 and is made between Copyright Clearance Center, Inc., a New York not-for-profit corporation ("CCC"), and International Technological University, incorporated under the laws of the state of California ("Academic Institution").

Capitalized terms not defined elsewhere in this Agreement are defined in Section H.

A. GRANT OF LICENSE.

1. CCC, as agent for the Rightsholders, grants to Academic Institution the non-exclusive right to make the following uses of articles and other portions (and only portions) of Works by Employees, Contractors and Students:
 - (a) to store Authorized Reproductions within Academic Institution's electronic network solely for the purposes set forth in this Agreement;
 - (b) to distribute, by means of an electronic network under the control of the Academic Institution and reserved for internal use (for example, by posting on an Academic Institution intranet or course management or e-reserve system or by sending by internal e-mail), Authorized Reproductions to any Employee, Contractor or Student with authorized access to such network, for reading and electronic "marking up" by such person and for other uses within the scope of this Agreement;
 - (c) to distribute, by means of e-mail, postal mail or other person-to-identified-person communication, Authorized Reproductions of portions of Works to Outside Persons with whom the individual Employee, Contractor or Student making the distribution is currently working on research recognized by the Academic Institution (it being understood that any such distribution conveys no right to any such Outside Person to make any use of the Authorized Reproduction beyond reading it), provided that such distribution (i) is without charge (including without a cost recovery charge), (ii) does not involve the systematic distribution of copies to any such Outside Person, and (iii) does not involve the bulk distribution of copies to any such Outside Person;
 - (d) to print out physical copies of digital Authorized Reproductions on paper or paper equivalents (for example, film or acetate);
 - (e) to photocopy portions of Works;
 - (f) to distribute such printed-out or photocopied Authorized Reproductions to Employees, Contractors and Students (or under the conditions identified in Section A.1(c) above);
 - (g) to combine paper or electronic Authorized Reproductions into coursepacks, e-coursepacks or their equivalent, for distribution to Students of Academic Institution (with electronic distributions including appropriate access controls, such as passwords), even if such "packs" might otherwise be deemed to be derivative works [see also Section A.2 below]; and

- (h) to transmit paper or electronic Authorized Reproductions, each of them a faithful representation of the applicable Work portion, to an agency of the United States government or of the government of a state (or political subdivision thereof) or of the government of another country (or political subdivision thereof), or to a nationally recognized accrediting agency (responsible for accreditation or professional licensing of Academic Institution or of an Employee, Contractor or Student of Academic Institution), if required by such government or agency for regulatory (such as for patent applications), accreditation or licensing purposes, provided that such electronic copy or photocopy carries the copyright notice attached to the Work and is marked to the effect of "This Copy of Copyrighted Material Was Made and Delivered to the Agency Under License from Copyright Clearance Center, Inc. – No Further Reproduction is Permitted".
2. Subject to the limitations set forth in Section A.3 below, CCC, as agent for the Rightsholder, grants to Academic Institution the non-exclusive right to make Authorized Reproductions and/or combine articles and other portions of Works in the form of paper coursepacks or electronic course content (including electronic coursepacks or e-reserves) through arrangement with third-party entities (for whose activities hereunder Academic Institution accepts responsibility) on the following conditions: each such third-party entity
- (i) shall be identified to CCC in advance of the applicable academic term by Academic Institution,
 - (ii) shall enter into such agreement with Academic Institution as Academic Institution shall require, which agreement shall, in addition to any other requirements imposed by Academic Institution, include obligations to produce and deliver such usage data as may be required to fulfill Academic Institution's obligation to provide usage data to CCC relating to such use, and
 - (iii) shall produce paper coursepacks or electronic course content solely at the request of, and for distribution to, Employees, Contractors and/or Students and, in connection therewith, each item covered by this Agreement shall be marked to the effect of "the fee for this item does not include any copyright fee because any copyright fee has been prepaid by [Academic Institution] on the recipient's behalf."
3. The authorizations provided by Section A.1 and Section A.2 above:
- (a) do not include any right to manipulate or change an individual Work portion in any way,
 - (b) do not include any right to create a library, collection or database (i) intended to substantially replace Academic Institution's need for a particular Work, or (ii) intended other than for the use of the individual person reproducing the materials or for use in an individual Academic Institution course,
 - (c) do not include any right to reproduce or otherwise use within the scope of this Agreement all or substantially all of a Work (except as provided in Section H.10),
 - (d) except as provided in Section A.1(c) and Section A.1(h), do not include any right for Academic Institution to distribute an electronic copy, or photocopy of a Work portion to any person other than an Employee, Contractor or Student for his or her own use within the context of Academic Institution, and
 - (e) except as provided in Section A.2, do not authorize any Outside Person to create or deliver an Authorized Reproduction to Academic Institution or any Employee, Student or Contractor.

4. The rights granted to Academic Institution hereunder are expressly limited to those described above.

B. WAIVER.

Each Rightsholder hereby automatically waives any and all unasserted prior claims for copyright infringement falling within the scope of the rights granted by Section A of this Agreement upon Academic Institution's (i) adherence to the terms and conditions of this Agreement during the first Term after the beginning of participation in this Agreement of such Rightsholder's Works and (ii) payment of the License Fee for the first Renewal Term thereafter.

C. TERM AND TERMINATION.

1. This Agreement shall be in effect during the Initial Term and shall continue thereafter for successive Renewal Terms, unless terminated earlier as provided below; provided, however, that it shall be a condition to the commencement of any Renewal Term that Academic Institution shall have paid to CCC the amount determined by CCC to be the License Fee due for such Renewal Term no later than the first day of such Renewal Term.
2. Academic Institution may terminate this Agreement at any time upon written notice to CCC, effective as of the end of the existing Term.
3. CCC may terminate this Agreement at any time upon written notice to Academic Institution in the event that Academic Institution breaches its obligations under this Agreement and such breach is not cured within thirty (30) days after Academic Institution is notified in writing of the nature of the breach, but no such termination shall entitle Academic Institution to a refund of any License Fees previously paid.
4. CCC may terminate this Agreement without cause, effective as of the end of a Term upon no less than one (1) year's prior written notice to Academic Institution.

D. LICENSE FEES.

1. Upon execution of this Agreement, Academic Institution shall pay to CCC a License Fee for the Initial Term equal to \$12,002.58, which License Fee constitutes a royalty of \$10,002.15 for Academic Institution's access to, and use of, the Works, plus a General and Administrative charge of \$2,000.43. Academic Institution represents and warrants that the total number of Students (as defined in Section H) on which the License Fee is based is 837.
2. CCC shall notify Academic Institution of the amount of the License Fee for a Renewal Term at least sixty (60) days prior to the beginning of such Renewal Term, provided that CCC has received from Academic Institution, at least fifteen (15) days prior thereto, the Academic Institution-specific information required to complete such calculations. The License Fee for each Renewal Term shall be due and payable no later than the first day of such Renewal Term.
3. Because they are based on access to the CCC repertory for its Annual Copyright License for Academic Institutions, the License Fees set forth herein are net of all factors that might otherwise be considered deductions therefrom, including fair use and the use of Academic Institution's own Works that may be included in such repertory.
4. Academic Institution shall notify CCC promptly of any change in numbers of Employees, Contractors or Students that might reasonably be expected significantly to affect Academic Institution's copying activities.

E. USAGE DATA AND CONFIDENTIALITY.

1. Academic Institution agrees to cooperate with CCC in conducting surveys of Academic Institution's usage activities within the scope of this Agreement, depending upon the reasonable data needs of CCC as described below. Generally, CCC will accept as data representing Academic Institution's usage activities: detailed tables of coursepack contents, actual copies of coursepacks or other similar records of use, together with enrollment numbers of the applicable courses, representing a statistically valid sampling (as reasonably determined by CCC) of the coursepacks produced by or for Academic Institution during a survey period, such coursepacks to be drawn from a range of academic disciplines reasonably representing most disciplines taught at Academic Institution; or, a spreadsheet, submitted in hard copy or by electronic mail containing course name, course number, department number, and course enrollment number for all courses offered for the requested semester. Timely completion of such surveys is a material term of this Agreement. Survey frequency shall be determined by CCC in its reasonable discretion but shall be no more often than one "major period" (for example, one semester or two quarters) in each academic year. Notwithstanding the foregoing, the parties agree that a particular survey may have to be redone if CCC determines that the survey conducted did not comply with CCC's standard procedures then in effect.
2. Each of the Rightsholders whose Works are licensed hereunder has agreed with CCC to rely upon the results of surveys for computing the distribution among them of the License Fees collected from Academic Institution and other academic institutions. Academic Institution represents to CCC and to such Rightsholders that it shall conduct any surveys in compliance with CCC's then-standard procedures. Academic Institution also agrees to permit CCC, subject to reasonable confidentiality agreements if requested by Academic Institution, to participate on its premises during survey periods to the extent CCC feels it necessary to verify the accuracy of Academic Institution's surveys.
3. CCC shall keep confidential and shall not disclose to Rightsholders or to anyone else, except pursuant to court process or order, any of the information Academic Institution supplies to it concerning specific Academic Institution reproduction transactions or electronic uses. Further, the specific dollar figures contained in Section D of this Agreement shall also be treated by both parties as confidential. Notwithstanding the foregoing, CCC may provide to Rightsholders the identities of academic institutions licensed under CCC's Annual Copyright License for Academic Institutions, as well as aggregated information that does not specifically identify the extent of any individual Academic Institution's use of any individual Work, and CCC may retain information relating to Academic Institution's copying and other uses as part of the databases of survey results required to administer both the collection and distribution of royalties under the Annual Copyright License for Academic Institutions. In the event of court process or order requiring production of information, CCC shall provide timely notification to Academic Institution but shall not be required to actively oppose providing the information sought.

F. REPRESENTATIONS AND WARRANTIES OF CCC AND RIGHTSHOLDERS.

1. CCC represents and warrants that it is authorized to act as agent of the Rightsholders in granting this license on the terms set forth herein.
2. CCC represents and warrants that Rightsholders have warranted to CCC that they are authorized to license the rights to the Works which are granted to Academic Institution hereunder.
3. Except as provided in Sections B and F, Rightsholders and CCC make no representations or warranties hereunder.

G. MISCELLANEOUS.

1. This Agreement shall be governed by and construed under the laws of the State of New York, without regard to the principles thereof of conflicts of law. Any case, controversy, suit, action or proceeding arising out of, in connection with, or related to this Agreement shall be brought in any federal or state court located in the County of New York, State of New York. Academic Institution and CCC expressly submit to the personal jurisdiction and venue of any federal or state court located in the County of New York, State of New York.
2. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be modified except in a writing signed by both parties.
3. Neither party to this Agreement shall have the right to assign or sublicense any of its rights or obligations hereunder without the prior written consent of the other party, and any unauthorized assignment or sublicense shall be void and of no force or effect.

H. DEFINITIONS -- The following words shall have the following meanings when used in this Agreement:

1. Academic Institution shall mean the entity named at the top of this Agreement, including its constituent schools, faculties, institutes and the like to the extent that they are part of the educational or research functions of Academic Institution (but not to the extent that the primary function of such constituent entity is to generate revenues by selling goods or services to any Outside Person).
2. Authorized Reproduction shall mean, as the context requires, either (a) a copy of a digital form of a Work portion either (1) selected from Works received from a Rightsholder (or an authorized representative of a Rightsholder) already in digital form or (2), where portions of Works are not readily available in digital form in accordance with clause (a)(1), converted to digital form (in PDF format or other image-capture format that produces a faithful and accurate representation of such Work portion) from a lawfully obtained paper copy of the Work or Work portion, or (b) a photocopy of a lawfully obtained portion of a Work.
3. Contractor shall mean a natural person other than an Employee or Student whom Academic Institution can effectively control and compel to comply with the terms of this Agreement. (Examples of Contractors are adjunct faculty, outsourced-service workers, and "temporary employees" who are not in fact employees of Academic Institution but are supplied by a "temp agency".)
4. Employee shall mean a natural person (i) employed by Academic Institution as a full- or part-time member of its teaching, research or administrative staff, or (ii) serving as a trustee or member of any other governing board of Academic Institution while performing his/her responsibilities for Academic Institution, but shall not include employees of affiliated institutions which are not primarily part of the educational function of the Academic Institution.
5. Initial Term shall mean the period beginning on the date set forth at the top of this Agreement and ending on the first anniversary thereof.
6. Outside Person shall mean, in connection with the scope and limitations of the rights granted in this Agreement, any person other than Academic Institution itself or an Employee, Student or Contractor of Academic Institution.
7. Renewal Term shall mean each successive one-year period of this Agreement beginning on the first anniversary hereof.

8. Rightsholder shall mean an entity or individual who has granted CCC authority to license any of the rights described in Section A.1 of this Agreement.
9. Student shall mean a natural person enrolled in any academic program of an Academic Institution to the extent that he or she is acting as a student (and not, for example, as an employee of any commercial enterprise).
10. Work shall mean any publication listed in CCC's repertory for its Annual Copyright License for Academic Institutions. Such repertory shall be available in publicly-accessible electronic form (at www.copyright.com). Each Work in such repertory has been placed there with the authorization of one or more Rightsholders. The included rights to any Work listed on the first day of a Term of this Agreement, together with the included rights to any Work added during such Term, shall be licensed hereunder from the day such rights are first listed until the end of such Term (even if such rights are removed during such Term). Photographs, illustrations, graphs and similar materials which are identified as included in a Work by permission may not be used under Section A except in the context of the Work. For purposes of this Agreement, the prohibition under Section A.3(c) against reproducing or otherwise using all or substantially all of a Work shall not extend to any Work that is a portion of a larger work (meaning that, for example, a chapter in a book containing many chapters, or an article in a journal issue containing many articles, may be reproduced in its entirety hereunder provided that all other provisions of this Agreement apply). Finally, whenever CCC identifies a Work in the repertory as carrying special license terms, any such special license terms (which shall be available to Academic Institution as part of the repertory listing) shall supersede any general term imposed by CCC and addressing the same issue.

International Technological University
2711 North 1st Street
San Jose, California 95134

Copyright Clearance Center, Inc.
222 Rosewood Drive
Danvers, Massachusetts 01923

By: 
Authorized Signature

By: _____
Officer's Signature

ANGIE LO
Printed Name

Richard A. Ruf
Printed Name

Director of University Affairs
Title

VP and Chief Financial Officer
Title

Dated: September 11, 2017

Dated: September 13, 2017

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