
Note to readers (these notes are not part of the tariff)

This tariff sets the interim royalties payable by any post-secondary educational institution that requires a licence to use the repertoire of Access Copyright. An institution that does not require a licence from Access Copyright is not required to comply with this tariff. An institution does not require such a licence if the institution does not use the repertoire, if the institution has licensed the use of a work through other means or if the *Copyright Act* already authorizes the use being made of the relevant work.

Section 29 gives every institution the option to licence digital copies pursuant to this tariff if it so wishes. The conditions for such a licence are set out in Schedule G. Digital copies made pursuant to section 2(a) attract no additional royalties: the FTE rate remains the same as before. The current rates and terms for coursepacks, licensed pursuant to section 2(b), will also apply to their digital equivalent known as “course collections”.

INTERIM STATEMENT OF ROYALTIES TO BE COLLECTED BY THE CANADIAN COPYRIGHT LICENSING AGENCY (ACCESS COPYRIGHT)

For the reproduction and authorization to reproduce in Canada, in 2011, 2012 and 2013, the works in Access Copyright’s repertoire by post-secondary educational institutions and persons acting under their authority.

SHORT TITLE

This tariff may be cited as the *Access Copyright Interim Post-Secondary Educational Institution Tariff, 2011-2013*.

DEFINITIONS

1. In this ~~Agreement~~ **Tariff**:

(a) “Alternate Format Copy” means an audio, braille, large print (by a reprographic process), or machine readable reproduction of all or part of a Published Work produced for a person who is blind, visually impaired or unable to view normal print because of a disability.

(a.1) “Coursepack” means bound or otherwise packaged or assembled Copies of Published Works from more than one publication.

(b) “Claim” means a written statement or demand in which it is alleged that the Licensee has infringed copyright in any Published Work, including any document commencing legal proceedings.

(c) “Copy” means a visually perceivable reproduction made by any of the following processes:

- (i) any copying by reprographic process which includes facsimile reproduction by photocopying and xerography;
- (ii) duplicating from a stencil;
- (iii) copying onto microform (including microfilm and microfiche);
- (iv) for the sole purpose of making presentations by overhead, slide or LCD projection, digital copying, copying by transcription by hand or drawing (including tracing) onto acetate or other media;
- (v) for the sole purpose of making paper copies,
 - a. typing or word-processing without adaptation, and
 - b. reproduction by a machine or device that makes Electronic Files, subject to ~~clauses sections~~ 2.1 to 2.3 of this ~~Agreement~~ **Tariff**;
- (vi) facsimile transmission and transmission by VideoTelecom; and
- (vii) without limitation to the technology used, digital transmission for the purposes of interlibrary loan.

(c.1) “Electronic File” means each file in digital format created as a result of making Copies pursuant to ~~clause section~~ 2(a); ~~or 2(b) or 2(c)~~ of this ~~Agreement~~ **Tariff**.

(d) “Exclusions List” means the list of Published Works which ~~forms Schedule A to this Agreement~~ **is posted on the website of Access Copyright pursuant to section 5 of this Tariff**.

(e) “FTE” means, subject to ~~clause section~~ 17 herein, **either**

(A) the sum of:

(i) the number of full time Students of the Institution reported by the Institution to Statistics Canada for the academic year immediately preceding the academic year in which the payment is made; and

(ii) the quotient obtained by dividing 3.5 into the number of part-time Students of the Institution, reported by the Institution to Statistics Canada for the academic year immediately preceding the academic year in which payment is made; **or**

(B) if this information is unavailable or does not exist, any full-time equivalent student for the current academic year as reported to Access Copyright by the Institution.

(f) “Index” means ~~the All-items (goods and services) category of the Consumer Price Index for~~

Canada set by Statistics Canada Omitted.

(f.1) “Institution” means an institution located in Canada (except in the Province of Quebec) that provides post-secondary, continuing, professional, or vocational education or training.

(g) “Library Worker” means any individual including any professional librarian, Student, Professor, volunteer or assistant working in a library which forms part of or is associated with the Licensee.

(h) “Licensee” means the Institution and each employee of the Institution, Student, Professor, Library Worker, volunteer and all other persons authorized or represented by the Institution for the purpose of this Agreement Tariff, including each person and body listed in Schedule B to the this-most recent Agreement between Access Copyright and the Institution.

(i) “Page” means a page of a Published Work.

(j) “Professor” means each professor, researcher, instructor, demonstrator, teaching or research assistant, lecturer or other person who provides instruction to Students and who is affiliated with the Licensee.

(k) “Published Work” means a literary, dramatic, or artistic or musical work of which copies have been issued to the public with the consent or acquiescence of the copyright owner in a publication such as a book, folio, magazine, journal, newspaper or other periodical, excluding a musical work.

(l) “Repertoire” means all Published Works for which Access Copyright has the right to grant licences in Canada.

(m) “Reproduction Rights Organization” means an entity that carries on the business of collective administration of reproduction rights in a repertoire of Published Works on behalf of copyright owners, including a “collective society” as defined in the *Copyright Act* R.S.C. 1985 c.C-42, as amended.

(n) “Sampling Survey” means a survey designed to gather bibliographic information and volume data on Copies made pursuant to clause section 2(a) of this Agreement Tariff and conducted in accordance with the sampling protocol to be last agreed upon between Access Copyright and the Institution or any Association of Universities and Colleges of Canada acting on its behalf.

(o) “Student” means each person enrolled in an educational, cultural or recreational activity including distance education or a correspondence course taking place on the premises of, or being administered or operated by, the Institution.

(p) “Textbook” means a book produced primarily for the educational market, and which may include one or more of the following:

(i) any of the following words in its title: Introduction to; Fundamentals of; Essentials of; or

(ii) reference to an edition, such as 3rd Edition; or

(iii) pedagogical features, such as exercises, question sets, cases, boxed items, or chapter learning objectives; or

(iv) an accompanying learning aid such as a study guide, lab manual, teacher guide or solutions sets.

~~(q) Unless the context of this Agreement requires otherwise, the singular number shall include the plural and vice versa and the verb shall be construed as agreeing with the word so substituted.~~**Omitted.**

~~THE LICENCES~~**USES AUTHORIZED PURSUANT TO THIS TARIFF**

2. ~~Access Copyright hereby~~**This Tariff** grants to ~~any the~~ Licensee the following ~~licences~~**rights**, subject to the terms and conditions of this ~~Agreement~~**Tariff**:

(a) the non-exclusive right to make Copies of Published Works for use by Students, Professors and administrative staff of the Licensee and for use in interlibrary loan to other non-profit educational institutions and non-profit libraries, archives, and museums subject to the additional terms and conditions set forth in Schedule C to this ~~Agreement~~**Tariff**.

(b) the non-exclusive right to make Copies of Published Works for sale to and use by Students, Professors and administrative staff of the Licensee, and for distribution to students enrolled in Distance Education, subject to the additional terms and conditions set forth in Schedule D to this ~~Agreement~~**Tariff**.

~~(c) the non-exclusive right to make Copies of Published Works for sale to or use by any persons or entities other than non-profit educational institutions, libraries, archives or museums subject to the additional terms and conditions set forth in Schedule E and the applicable Copying and Tariff Schedule to the Agreement issued in accordance with clause 14(f) herein.~~**omitted.**

(d) the non-exclusive right to make a single Copy of all or a part of any rare or fragile copy of a Published Work held by a library which forms part of or is associated with the Institution or any entity listed in Schedule B **to the most recent Agreement between Access Copyright and the Institution** for the purpose of preventing deterioration of such copy and for use by Students, Professors, and administrative staff of the Institution.

(e) the non-exclusive right to make a single Copy of not more than 20% of a Published Work to replace any damaged or missing pages of the work in the collection of a library

which forms part of or is associated with the Institution or any entity listed in Schedule B to the most recent Agreement between Access Copyright and the Institution.

(f) the non-exclusive right to make Alternate Format Copies of Published Works for use by Students, Professors and administrative staff of the Licensee who require Alternate Format Copies and those involved in assisting such persons, subject to the additional terms and conditions set forth in Schedule F to this AgreementTariff.

2.1 Input or output of Published Works (without adaptation) into or from an Electronic File by computer or word processor shall only be permitted under this AgreementTariff in amounts authorized and according to all other terms and conditions of this AgreementTariff for the purpose of producing paper copies:

(a) except for Copies made under ~~clause section~~ 2(b), paper Copies shall be produced immediately after the Electronic File has been created and the Electronic File shall be promptly destroyed;

(b) for Copies made under ~~clause section~~ 2(b), Electronic Files may be retained for a period not exceeding three years as long as records are maintained in accordance with ~~clause section~~ 13.1 and the Electronic Files are not distributed to or used by other institutions.

In any event, all Electronic Files shall be destroyed ~~no later than the expiry of this Agreement~~ forthwith if the Institution ceases to avail itself of this Tariff.

2.2 With the exception of digital transmission for the purposes of interlibrary loan permitted by this AgreementTariff, nothing in this AgreementTariff authorizes the dissemination or distribution of any such Electronic File in any electronic form in any way whatsoever, including but not limited to, on disk or over a computer network.

2.3 (a) Copies made under this AgreementTariff must be faithful and accurate reproductions of the Published Work and must not alter, manipulate, annotate, include comments, edit, amend or rearrange the content or appearance of all or part of the Published Work in any way.

(a.1) Notwithstanding ~~clause section~~ 2.3(a), annotations or comments may be made on the page that follows the page on which appears a reproduction of an extract of a Published Work made in accordance with the terms of this AgreementTariff.

(b) Notwithstanding ~~sub-section~~ 2.3(a) of this clause, for Copies made:

(i) under ~~clause section~~ 2.1 of this AgreementTariff for the purpose of producing paper Copies, making an Electronic File may involve any of the following activities:

(A) rotating the image orientation of the Published Work from landscape to portrait, or vice versa; or

(B) copying only a portion of the Page, provided that the copyright attribution as required by Schedule D, ~~clause section~~ 9 of this ~~Agreement~~Tariff includes a credit to both the author and publisher of the portion copied, as well as to the author and publisher of the Page from which the portion was copied;

(ii) under ~~clause section~~ 2.1 of this ~~Agreement~~Tariff but only for the specific purpose of producing Alternate Format Copies under ~~clause section~~ 2(f) of this ~~Agreement~~Tariff, making an Electronic File may involve any of the following activities:

(A) rotating the image orientation of the Published Work from landscape to portrait, or vice versa; or

(B) copying only a portion of the Page, provided that the copyright attribution as required by Schedule D, ~~clause section~~ 9 of this ~~Agreement~~Tariff includes a credit to both the author and publisher of the portion copied, as well as to the author and publisher of the Page from which the portion was copied; or

(C) increasing or decreasing the font size of the Published Work to a reasonable degree, provided that the font itself is not changed;

all provided that, in so doing, the Licensee shall not infringe the moral right of integrity held by the author of the Published Work.

3. This ~~Agreement~~Tariff does not cover:

(a) works in which copyright no longer subsists in Canada;

(b) works for which copyright is owned by the Institution;

(b.1) anything that is excepted from copyright infringement pursuant to the provisions of the *Copyright Act* and any amendments thereto that may be enacted before or after the date of this ~~Agreement~~Tariff but only from the effective date of such enactment;

(c) any fair dealing with any work for the purposes of private study, research, criticism, review or newspaper summary;

(d) works listed on the Exclusions List;

(e) unpublished works;

(f) all works published by Her Majesty in Right of Canada or any Province or any Territory other than the Province of Quebec or works for which Her Majesty the Queen in right of Canada or any Province or Territory other than the Province of Quebec holds copyright;

- (g) works for which the Licensee has first sought permission to make the Copies from the person who has the right to grant that permission, regardless of whether or on what terms that permission is granted, unless that person advises the Licensee that it has authorized Access Copyright (or a collective with which Access Copyright has a reciprocal agreement) to grant permissions on its behalf;
- (h) introductory quotations of short passages of Published Works;
- (i) originals of artistic works;
- (j) photographic negatives or other transparencies (positives) mounted or unmounted; and
- (k) publications containing a notice which expressly prohibits reproduction under the authorization of a licence from a Reproduction Rights Organization;

nor does this ~~Agreement~~ **Tariff** cover, unless such works contain a notice which specifically authorizes copying under a licence with Access Copyright or any Reproduction Rights Organization represented by Access Copyright, any of the following works:

- (l) published workbooks, work cards, assignment sheets, tests, examination papers, and any other Published Works intended to be “consumable”;
- (m) instruction manuals including teachers’ guides;
- (n) publications containing commercially valuable proprietary information, such as newsletters, with restricted circulation or that indicate use is restricted to fee-paying clientele;
- (o) ~~print music published for use by choirs, orchestras, bands, similar groups and individual performers whether religious, instructional, professional or recreational~~ **omitted**;
- (p) letters to the editor and advertisements in newspapers, magazines or periodicals; and
- (q) business cases which are available for purchase.

If the Licensee seeks to obtain permission to make Copies of works from a person referred to in ~~clause section 3(g)~~ of this ~~Agreement~~ **Tariff**, such Copies shall not be made or reported pursuant to this ~~Agreement~~ **Tariff**.

4. ~~By entering into this Agreement neither party is agreeing or representing in any way, either directly or indirectly, that the making of a single copy of all or a portion of a periodical article of a scientific, technical or scholarly nature and a single copy of a portion of any other Published Work, without the permission of the owner of copyright therein, is or is not an infringement of copyright.~~ **Omitted.**

5. (1) Forthwith upon this Tariff being issued, and in any event no later than on January 7, 2011, Access Copyright shall post on its website the Exclusions List it supplied to the Copyright Board on December 15, 2010. That list shall be in secured, searchable and printable PDF format. Access Copyright shall prominently post a hyperlink to this document on its Home page.

(2) Semi-annually from the commencement of this Agreement Tariff, that is, no later than February 1 and September 1 of each year during the term of this Agreement Tariff, Access Copyright may add Published Works to, or delete Published Works from, the Exclusions List by issuing a notice of change to the Exclusions List, which notice shall specify such addition or deletion. Such additions or deletions shall take effect 60 days from the date of giving of such notice of change. The Licensee shall be entitled to use, offer for sale, sell or distribute all Copies of any Published Work made prior to the effective date of the listing of the work on the Exclusions List. In addition to the foregoing, Access Copyright will use reasonable efforts to advise the Institution of any additions to the Exclusions List that have been notified to Access Copyright since the previous February 1 or September 1. Any such additions shall only take effect under this Agreement Tariff if such additions are included in a notice of change issued pursuant to this clause section.

(3) Access Copyright shall send any notice issued pursuant to section 5(2) of this Tariff to the Board and post it on its website.

6. The Licensee shall not copy onto acetate or any similar transparent material or for mounting as a slide any work of a fine art if a slide of the work is available on the Canadian market within a reasonable time frame and for a reasonable price and that may be located with reasonable effort.

7. The Licensee shall only make Copies pursuant to ~~clause sections~~ 2(a), (b), (d), (e) and (f) of this Agreement Tariff for the purpose of education or recreation associated with the Institution, including professional, research, archival and administrative activities. For greater certainty, the parties agree that no Copies may be made pursuant to this Agreement Tariff for use in association with partisan political activities, endorsement, or advertising of a product, service, cause or institution where the nature of the material to be copied and the proposed use would prejudice the author's honour or reputation.

GENERAL OBLIGATIONS ON THE INSTITUTION

8. The Institution shall not sell Copies made pursuant to this Agreement Tariff except for:

(a) Copies made for interlibrary loan pursuant to ~~clause section~~ 2(a) and Copies made pursuant to ~~clause section~~ 2(b) of this Agreement Tariff, which may only be sold for an amount which does not exceed the cost of making such Copies, an amount to cover royalties payable to Access Copyright in respect of making such Copies, and administrative overhead costs;

(b) Copies made pursuant to clause 2(c) of this Agreement. ~~Omitted.~~

9. The Institution shall use reasonable efforts to inform Professors, Students, Library Workers, and its administrative employees of the general terms of this AgreementTariff with respect to the making or use of Copies, the purposes for which copying is authorized, the restrictions on sale of Copies and, where appropriate, record keeping, to facilitate and encourage compliance with such terms.

10. If or when the Institution distributes or disseminates to Library Workers, Professors, Students and all other persons authorized or represented by the Institution information that refers to Access Copyright by its corporate name "The Canadian Copyright Licensing Agency" or its trade-mark "CANCOPY" or "Access Copyright", or both, for the purpose of providing information on the making or ordering of Copies under this AgreementTariff, the Institution shall give to Access Copyright notice pursuant to this clause section in advance of such distribution, which notice shall enclose a copy of such material, to enable Access Copyright to have a reasonable opportunity to comment on the material if it so chooses. If Access Copyright fails to notify the Institution of any objection that it may have with respect to the material within 10 days of receipt of such notice, Access Copyright shall be deemed to have agreed to the form and content of the material and the use of the material for the purposes specified in clause section 9 of this AgreementTariff.

10.1 The Institution shall affix Access Copyright posters giving information about the terms and conditions of copying permitted under this AgreementTariff within the immediate vicinity of each machine or device used for making Copies in a place and manner that is readily visible and legible to persons using such machine or device. The content of such posters shall be approved by AUCC, approval of which can not be unreasonably withheld either that on which Access Copyright and the Institution agree or that of the most recent poster affixed by the Institution on or before December 24, 2010. Posters shall be provided to the Institution by Access Copyright and at Access Copyright's cost.

RECORD KEEPING

11. Subject to the provisions of clause section 12 of this AgreementTariff, the Institution shall not be obliged to establish or maintain any records with respect to Copies made pursuant to the licence granted under clause section 2(a) of this AgreementTariff.

11.1 Any records that the Institution shall be obliged to maintain and provide under clauses sections 12 to 13.1 of this AgreementTariff shall be maintained in electronic form. In the event that the Institution is unable to maintain such records in electronic form or Access Copyright is unable to access or process such records in the electronic form adopted by the Institution, the parties shall negotiate a mutually acceptable alternative form of record keeping.

12. The Institution shall establish and maintain records of all microforms including microfiches and microfilms, and Alternate Format Copies made by the Licensee pursuant to this AgreementTariff which records shall specify, for each of such reproductions made, the title, publisher, author or authors (where known), the ISBN/ISSN number (where known), material onto which such reproductions were made, the total number and page numbers of the Pages

reproduced, and, where reasonably available, the total number of Pages in the publication from which the Copies are directly made. The Institution shall submit, together with each payment made under ~~clause section 15.1 or 16 of this Agreement~~ **Tariff**, copies of such records to Access Copyright covering the period for which such payment is being made.

13. The Institution shall establish and maintain records of all Copies made by the Licensee pursuant to ~~clause section 2(b) and (c) of this Agreement~~ **Tariff** which records shall specify, for each of such Copies made, the title, publisher, author or authors (where known), the ISBN/ISSN number (where known), material onto which such Copies were made and the total number and page numbers of the Pages reproduced, and, where reasonably available, the total number of Pages in the publication from which the Copies are directly made. In addition, the Institution shall establish and maintain records of the total number of Copies made by the Licensee. The Institution shall submit, together with each payment made under ~~clause section 15.1 or 16 of this Agreement~~ **Tariff**, copies of such records to Access Copyright covering the period for which such payment is being made.

13.1 The Institution shall establish and maintain records of all Electronic Files made by the Licensee pursuant to ~~clause section 2(b) of this Agreement~~ **Tariff** and retained for more than one trimester, which records shall specify, for each Electronic File, the date such file was originally created, the title, publisher, author or authors (where known), the ISBN/ISSN number (where known) and the total number and page numbers of the Pages reproduced, as well as the dates of such reproductions and, where reasonably available, the total number of Pages in the publication from which the Copies were made. The Institution shall submit copies of such records to Access Copyright within 60 days of August 31 covering the previous 12 months.

PAYMENT ROYALTIES

14. ~~An Institution shall pay to Access Copyright~~ For the rights granted pursuant to this Agreement the Institution shall pay to Access Copyright the following amounts:

(a) For all copies made pursuant to section 2(a) of this Tariff, an annual royalty calculated by multiplying the FTE by \$3.58 for Institutions that signed the Proprietary College Licence, and by \$3.38 for all other Institutions;

~~— (i) During the period September 1, 2003 to August 31, 2004, the FTE multiplied by \$3.07; and~~

~~— (ii) During the period September 1, 2004 to August 31, 2005 the FTE multiplied by \$3.21; and~~

~~— (iii) During the period September 1, 2005 to August 31, 2006, the FTE multiplied by \$3.28; and~~

~~— (iv) During the period September 1, 2006 to August 31, 2007, the FTE multiplied by \$3.38.~~

(b) ~~(i)~~ Subject to the provisions of ~~clauses sections~~ **sections** 14(c) and (d) of this ~~Agreement~~ **Tariff**,

~~\$0.10~~⁰⁶⁴ (~~\$0.11 for Institutions that signed the Proprietary College Licence~~) for each Page or printed sheet copied pursuant to clause ~~section 2(b)~~ of this Agreement ~~Tariff~~ (including each Page copied onto paper from microform) and reported under clause ~~section 13~~ herein, during the period ~~September 1, 2003 to August 31, 2004;~~

~~(ii) Subject to the provisions of clauses 14(c) and (d) of this Agreement, \$0.074 for each Page or printed sheet copied pursuant to clause 2(b) of this Agreement (including each Page copied onto paper from microform) and reported under clause 13 herein, during the period September 1, 2004 to August 31, 2005;~~

~~(iii) Subject to the provisions of clauses 14(c) and (d) of this Agreement, \$0.087 for each Page or printed sheet copied pursuant to clause 2(b) of this Agreement (including each Page copied onto paper from microform) and reported under clause 13 herein, during the period September 1, 2005 to August 31, 2006;~~

~~(iv) Subject to the provisions of clauses 14(c) and (d) of this Agreement, \$0.10 for each Page or printed sheet copied pursuant to clause 2(b) of this Agreement (including each Page copied onto paper from microform) and reported under clause 13 herein during the period September 1, 2006 to August 31, 2007.~~

~~(c) For out of print works copied pursuant to this Agreement ~~Tariff~~, the maximum amount the Institution shall pay to Access Copyright for each Copy of the entire out of print work is \$10.00;~~

~~(d) For each Page or printed sheet of newspaper copied pursuant to this Agreement ~~Tariff~~ (including each Page copied onto paper from microform), the Institution shall pay to Access Copyright fifty percent of the amount that, but for this clause ~~section 14 (d)~~, the Institution would have had to pay to Access Copyright pursuant to clauses ~~section 14 (b)(i) to (iv)~~ of this Agreement ~~Tariff~~;~~

~~(e) \$1.00 for each microfiche containing up to 420 Pages or its microfilm equivalent made pursuant to this Agreement; ~~Omitted~~;~~

~~(f) such amount for each Page or printed sheet or per article copied pursuant to clause 2(c) of this Agreement (including each Page copied onto paper from microform) as Access Copyright may specify to the Institution from time to time in its applicable ~~Tariff and Copying Schedule~~; ~~Omitted~~;~~

~~(g) \$1.00 for the first Alternate Format Copy of any Published Work and \$.10 for each subsequent Alternate Format Copy. ~~Omitted~~.~~

15. The parties acknowledge that the payment under clause 14(a) does not represent a pre-estimate of the quantity of Copies made or their value and that the Institution is not obliged to make any payment in respect of the making of any extra Copies made in order to establish and maintain the records referred to in clauses 12 to 13.1 of this Agreement. ~~Omitted~~.

15.1 The Institution shall remit the amounts payable pursuant to section 14 herein and report the

information relevant thereto according to the timetable most recently agreed to between Access Copyright and the Institution. If no such agreement exists, payment shall be made and reports shall be provided pursuant to section 16.

16. (a) The Institution to which section 15.1 does not apply shall remit the total amount payable pursuant to ~~clause section~~ 14 (a) herein within 60 days of September 30 of each year during the term of this ~~Agreement~~Tariff, ~~commencing September 1, 2003~~, subject to ~~clause 16.(a)(i) herein~~;

(a.1) ~~The Institution shall remit the total amount payable pursuant to clause 14(a) herein within 60 days of signing of this Agreement by all parties~~; **Omitted.**

(b) ~~That~~ Institution shall remit to Access Copyright within 60 days of August 31 of each year during the term of this ~~Agreement~~Tariff the total amount payable for the immediately preceding period of September 1 through August 31 of each year during the term of this ~~Agreement~~Tariff calculated pursuant to ~~clauses~~sections 14 (b) through (d) of this ~~Agreement~~Tariff;

(c) Together with each payment made pursuant to ~~clause section~~ 16(b) of this ~~Agreement~~Tariff, including the first, ~~the~~at Institution shall submit to Access Copyright a detailed statement in such form agreed upon between Access Copyright and the Institution showing the data upon which such payment is based.

16.1 Notwithstanding anything in this Tariff, any amount that would have been payable before December 31, 2010 for a period starting on January 1, 2011 or thereafter shall be paid by no later than February 28, 2011.

17. (a) ~~The Institution shall notify Access Copyright of the number of its FTE students by no later than 15 days following the earlier of the date such information is reported by the Institution to Statistics Canada or October 1~~ **November 30** of each year during the term of this ~~Agreement~~Tariff ~~commencing in 2003~~; and

(b) Should an Institution fail to provide notice of its FTE to Access Copyright by the time it is required to provide payment as set out in ~~clause section 15.1 or~~ 16 herein, Access Copyright shall be entitled to receive the amount payable pursuant to ~~clauses~~sections 14(a), **15.1** and 16 herein on the date such payments are due based on the Institution's FTE for the preceding year. In the event that the Institution's FTE is greater than the FTE upon which payments were based in accordance with this ~~clause section~~ 17, Access Copyright shall be entitled to the difference plus interest in respect of the difference as provided for in ~~clause section~~ 18.

18. Late payments shall be subject to interest charges from the due date, calculated at a rate equal to the prime rate of the Bank of Nova Scotia (as it exists on January 1 of the year in which the payment was due) plus one per cent per annum, compounded monthly.

19. The Institution shall pay to Access Copyright as may be required by law any sums in respect

of any applicable taxes levied on the Institution by government in respect of the copying, calculated at the rate of taxation then in force.

AUDIT AND SAMPLING

20. To verify the accuracy of payments made pursuant to ~~clause~~ **sections** 14(a) through (gd) of this **AgreementTariff**, and not more than once within each calendar year, Access Copyright shall have the right, at any reasonable time during business hours and upon 21 days written notice to the Institution, by an independent chartered accountant (or accountant of similar standing) approved in writing by the Institution, which approval shall not be unreasonably withheld, to inspect and audit the obligations of the Institution pursuant to this **AgreementTariff** and accounts and records of the Institution relating to the number of Copies made pursuant to this **AgreementTariff** and the calculation of the payments due under this **AgreementTariff**. The costs of such inspection and audit shall be borne by Access Copyright.

21. Access Copyright shall keep all information obtained as a result of any inspection or audit referred to in ~~clause~~ **section** 20 of this **AgreementTariff** confidential to itself and to its professional advisors and shall not use such information for any commercial purposes other than to verify the accuracy of the payments and compliance with the terms of copying.

22. In the event that any inspection and audit referred to in ~~clause~~ **section** 20 of this **AgreementTariff** shall reveal an error between the amount paid by the Institution pursuant to this **AgreementTariff** and the amount actually due in respect of the period for which such inspection and audit shall have been made, any such error shall, if an underpayment by the Institution, be made good within 30 days of receipt of notice of such error from Access Copyright. If such an inspection and audit reveals an error of more than 10% of the amount owed for that period, then the Institution shall reimburse Access Copyright for its costs of such inspection and audit. The Institution shall be held liable for audit costs relating to adequacy of payment only and not its general obligations. In the event that any inspection and audit referred to in ~~clause~~ **section** 20 of this **AgreementTariff** shall reveal an error between the amount paid by the Institution pursuant to this **AgreementTariff** and the amount actually due in respect of the period for which such inspection and audit shall have been made, any such error shall, if an overpayment by the Institution, be reimbursed within 30 days of notice of such overpayment by the Institution.

~~22.1 Access Copyright and the Association of Universities and Colleges of Canada have agreed to negotiate by August 31, 2004 or such other date as they may agree upon a mutually acceptable protocol to be adopted in the~~ **may conduct a** Sampling Survey. The Sampling Survey **is** will be designed to gather bibliographic information and volume data on Copies made pursuant to ~~clause~~ **section** 2(a) of this **AgreementTariff**.

22.2 Access Copyright has the right to conduct a Sampling Survey of Copies made pursuant to ~~clause~~ **section** 2(a) of this **AgreementTariff** upon reasonable notice and no more than once each calendar year during the term of this **AgreementTariff**. The costs, reasonably incurred, of carrying out such a Sampling Survey, shall be borne by Access Copyright. In particular, at the request of the Institution, Access Copyright shall provide and/or train staff required to undertake

the Sampling Survey.

22.3 Access Copyright acknowledges that the amount of payment made by the Institution pursuant to clause 2(a) of this Agreement is based upon agreement between the parties and that such payment has no relationship to either the volume of material copied pursuant to such clause or the nature of the material copied. Access Copyright shall refrain from using any information obtained as a result of the conduct of the Sampling Survey for any purpose other than to assist it in making distribution of the Institution's payments to copyright owners including to its affiliates. In particular, Access Copyright shall not use any of such information in an attempt to justify the increase in future of the amount payable for such a licence and shall not disclose any of such information to the Copyright Board, a court, an arbitrator or a mediator for any purpose *whatsoever*.

INDEMNIFICATION

23. Access Copyright shall indemnify and save the Licensee harmless from any costs, expenses and damages relating to any Claim against the Licensee whatsoever and howsoever arising from the exercise of rights under this Agreement **Tariff**, with the exception of any claim based on an alleged infringement of moral rights or by Access Copyright, provided that:

(a) the Institution shall have furnished to Access Copyright notice of any such Claim within 10 days of receipt of actual notice by the individual nominated by the Institution for the purpose of receiving notice pursuant to ~~clause section 3827~~ of this Agreement **Tariff** or within 10 days from the date of service on the Institution of any document commencing legal proceedings in respect to any such Claim; and

(b) the Licensee shall not have been in breach of the terms of this Agreement **Tariff** with respect to the making or use of any Copies upon which such Claim is based.

Breach of the terms of this Agreement **Tariff** by a Licensee other than the Institution shall not deprive the Institution of the benefit of this indemnity.

Notwithstanding the foregoing:

(c) Access Copyright shall have no obligation to indemnify the Licensee or the Institution if a person authorized or represented by the Institution fails to advise the Institution or Access Copyright of a Claim within a reasonable period and thereby prejudices Access Copyright's ability to deal with such Claim effectively.

24. If Access Copyright is obliged to indemnify the Institution pursuant to ~~clause section 23~~ of this Agreement **Tariff** in respect of the making or use of any Copies by any Professor, Student or member of its administrative staff otherwise than in accordance with the terms of copying set out in one or more of Schedules C, D, ~~E~~, or F to this Agreement **Tariff**, at the request of Access Copyright, the Institution shall cooperate with Access Copyright in pursuing any Claim for compensation in respect of the making or use of such Copies that Access Copyright or the

Institution may have against the Professor or Student or member of its administrative staff. If Access Copyright requires the Institution to so co-operate, Access Copyright shall indemnify and save the Institution harmless from all costs and expenses whatsoever and howsoever arising that the Institution may incur relating to such cooperation.

25. Access Copyright shall assume the responsibility for the conduct of any legal proceedings arising from any Claim made against the Licensee immediately upon receipt of notice of any such claim pursuant to ~~clause section~~ 23 of this Agreement ~~Tariff~~. The Institution shall ensure that no admission or offer of payment or indemnity shall be made or given on its behalf or on behalf of Access Copyright and without Access Copyright's prior written consent, and, at the request of Access Copyright, shall use reasonable efforts to advise an alleged infringer not to make any admission or offer of payment or indemnity without Access Copyright's prior written consent, provided the Institution has a current address for such person. Should the Institution settle any Claim without such consent, the Institution shall be deemed to have waived the indemnity referred to in ~~clause section~~ 24 of this Agreement ~~Tariff~~ in respect of such Claim. Should any other alleged infringer authorized or represented by the Institution settle any Claim without such consent, Access Copyright will have no obligation to indemnify such person. Access Copyright will notify the Licensee of the details of any Claim settled under the terms of this ~~clause section~~, within 30 days of settlement.

26. The Institution shall cooperate in the disposition of any Claim in such ways as Access Copyright may reasonably require. If Access Copyright requires the Institution to so cooperate, Access Copyright shall indemnify and save the Institution harmless from all costs and expenses whatsoever and howsoever arising that the Institution may incur relating to such cooperation.

ADDRESSES FOR NOTICES AND PAYMENT

27. (1) Anything that an Institution sends to Access Copyright shall be sent to:

Executive Director, Access Copyright
The Canadian Copyright Licensing Agency
One Yonge Street, Suite 800, Toronto, Ontario, M5E 1E5
Telephone: (416) 868-1620
Fax: (416) 868-1621
Email: tariffs@accesscopyright.ca

(2) Anything that Access Copyright sends to an Institution shall be sent to the last address of which Access Copyright has been notified in writing.

DELIVERY OF NOTICES AND PAYMENT

28. (1) A notice may be delivered by hand, by postage paid mail, by fax or email. A payment may be delivered by hand, by postage paid mail or by electronic bank transfer.

(2) Anything mailed in Canada shall be presumed to have been received three (3) business days

after the day it was mailed.

(3) A notice or payment sent by fax, email or by electronic bank transfer shall be presumed to have been received on the first business day following the day it is transmitted.

DIGITAL COPIES

29. (1) An Institution can elect to licence Digital Copies pursuant to Schedule G.

(2) An election must be in writing, and must be received by Access Copyright at least 30 days before it is to take effect.

(3) An election is valid for six months starting on either January 1 or July 1 of any given year. It is automatically renewed for a further period of six months unless Access Copyright is advised at least 30 days before the end of the election period that the Institution no longer wishes to avail itself of Schedule G.

(4) Notwithstanding section 29(2), the election for January 1, 2011 can be made no later than on January 14, 2011.

Clauses 27 to 40 of the Model Licence are omitted.

TERM, RENEGOTIATION AND TERMINATION

~~27. The rights and privileges granted to the Institutions under this Agreement commence on the date of execution of this Agreement and expire on August 31, 2007 subject to renewal in accordance with clause 28 of this Agreement. However, the obligations of the Institution pursuant to this Agreement commence on September 1, 2003 and expire on August 31, 2007 subject to renewal in accordance with clause 28 of this Agreement.~~

~~28. This Agreement shall be automatically renewed for a period of three years on the same terms and conditions including the payment terms and conditions which are applicable for the year ending August 31, 2007 unless, at least six months prior to the expiry of the initial or any subsequent period, one party notifies the other and the Association of Universities and Colleges of Canada that it wishes to review the terms of this Agreement. Upon the giving of such notice this Agreement will terminate at the end of the applicable period unless renewed on such terms and conditions as the parties may agree upon or as the Copyright Board may establish. The rights and obligations set out in clauses 13.1, 22.3 and clauses 23 through 26 inclusive survive termination for Copies made prior to termination.~~

~~29. If Parliament passes new legislation which in the opinion of either party substantially changes the legal conditions relevant to the licences granted by this Agreement, either Access Copyright or the Institution may give the other party and the Association of Universities and Colleges of Canada notice of intent to renegotiate this Agreement. In the event that the Institution and Access Copyright are unable to agree on amendments to this Agreement, the~~

party which gave notice of intent to renegotiate shall have the right to terminate this Agreement by giving the other party notice of termination, which shall take effect 60 days following such notice or 6 months following the giving of the notice of intent, whichever is later.

30. At any time following receipt of a notice of change with respect to the Exclusions List referred to in clause 5 of this Agreement that would, in the opinion of the Institution, adversely affect what may be copied, and before the change contained in such notice shall have taken effect, the Institution may give Access Copyright notice of intent to renegotiate this Agreement. On receipt of such notice Access Copyright shall enter into negotiations with the Institution and the Association of Universities and Colleges of Canada with respect to proposed amendments to this Agreement, as appropriate. In the event that the Institution and Access Copyright are unable to agree on such amendments within 30 days from the giving of such notice, the Institution shall have the right to terminate this Agreement by giving notice of termination to Access Copyright at any time after 30 days from the giving of such notice and before any such agreement on any amendments to this Agreement is reached. This Agreement shall terminate 30 days following the giving of such notice of termination.

31. Subject to the provisions of clause 32 and 33 of this Agreement, if the Institution shall be in breach of any of its obligations under clauses 2 through 26 hereof or is in breach of any of the terms and conditions of copying set forth in the Schedules to this Agreement, Access Copyright may give written notice to the Institution of such breach, and if the Institution does not cure such breach within 30 days of the giving of such notice, or if the breach is one which requires more than 30 days to remedy and the remedy shall not have commenced within such period and shall not have thereafter been diligently pursued, Access Copyright shall be entitled to give notice of termination to the Institution. This Agreement shall terminate on the giving of such notice of termination.

32. If the Institution shall be in breach of any of the terms and conditions relating to the making of Copies pursuant to the licence granted in clause 2(c) of this Agreement, Access Copyright may give written notice to the Institution of such breach, and if the Institution does not cure such breach within 30 days of the giving of such notice, or if the breach is one which requires more than 30 days to remedy and the remedy shall not have commenced within such period and shall not have thereafter been diligently pursued, Access Copyright shall be entitled to give notice of termination of the licence granted pursuant to clause 2(c) of this Agreement. The licence granted pursuant to clause 2 (c) of this Agreement shall terminate on the giving of such notice.

33. If the Institution has complied with its obligations contained in clause 9 of this Agreement, the breach of a term or condition governing the making of Copies by Licensee shall be deemed not to be a breach of this Agreement by the Institution.

MISCELLANEOUS

34. If the parties have a dispute concerning the application or interpretation of this Agreement, no party shall apply to the Copyright Board for the resolution of such dispute or commence legal proceedings relating to such dispute until after 30 days from the giving of notice specifying such

dispute to the other party and to the Association of Universities and Colleges of Canada. Within 30 days after the giving of such notice each party shall enter into negotiations with the other party and the Association of Universities and Colleges of Canada to amicably resolve such dispute by agreement.

~~35. This Agreement may not be assigned by either party without the prior written consent of the other party. The Institution may sub-contract the rights granted to it pursuant to this Agreement to a third party, but only for purposes of making Copies authorized pursuant to clause 2 of this Agreement for the Institution and not for the purposes of offering for sale or distributing such Copies by the third party to any other person.~~

~~36. Any termination under this Agreement shall be without prejudice to Access Copyright's right to receive any payments for Copies that have not been paid for, including a pro rata payment in respect to the payment under clause 14(a).~~

~~37. In the event of such termination prior to the expiry of this Agreement, the Institution agrees to promptly circulate a memo to all Professors, Library Workers and administrative staff including the persons and bodies listed in Schedule B, to remove all posters with respect to the making or use of Copies under this Agreement with Access Copyright and to post a notice in all photocopying areas to advise users that this Agreement has terminated.~~

~~38. Subject to 38.1 and 38.2 of this Agreement, any notice required or permitted by the terms of this Agreement shall be in writing, and shall be well and sufficiently given if personally delivered, if transmitted by facsimile, if e-mailed or if sent by pre-paid registered mail:~~

~~(a) In the case of Access Copyright to:~~

~~One Yonge Street
Suite 1900
Toronto, Ontario
M5E 1E5~~

~~Fax: (416) 868-1621~~

~~E-mail: postsec@accesscopyright.ca~~

~~Attention: Executive Director~~

~~(b) In the case of the Institution to:~~

~~Fax: _____~~

~~Email: _____~~

Attention: _____

(c) In the case of the Association of Universities and Colleges of Canada in respect to any notice under clauses 22.2, 28, 29 and 34, to:

Association of Universities and Colleges of Canada
350 Albert Street, Suite 600
Ottawa, Ontario K1R 1B1

Fax: (613) 563-9745

E-mail: swills@aucc.ca

Attention: Manager, Legal Affairs

The parties to this Agreement shall by notice advise promptly of any changes to the notice recipient information set out in sub-sections (a) and (b) of this clause.

38.1 Any notice required or permitted under clauses 23, 25, 31, 32 and 34 of this Agreement shall be in writing, and shall be given by pre-paid registered mail.

38.2 Any notice required or permitted under clauses 28 and 29 of this Agreement shall be in writing, and shall be given by pre-paid registered mail to the Association of Universities and College of Canada and shall be given by personal delivery, facsimile transmission, email or by pre-paid registered mail to the Institution.

38.3 Notices shall be deemed to have been duly given when personally served upon the individual identified in clause 38 of this Agreement, and if sent by facsimile or by e-mail, to have been given on the second business day following the facsimile or e-mail transmission, and if mailed, to have been given on the fifth business day following the day on which it was registered in a post office.

39. This Agreement constitutes the entire agreement and understanding of the parties and the parties acknowledge that there are no other representations or other terms and conditions of any kind except as provided for in this Agreement. Further, the parties acknowledge that this Agreement supersedes any and all prior understandings or agreements regarding the subject matter of this Agreement, including the Earlier Agreement. No variation to, or assignment of, this Agreement is effective unless it is in writing and signed by the parties. A signature by facsimile shall be considered an original for the purposes of this Agreement.

40. This Agreement shall be governed and construed in accordance with the laws of the province of _____ and the laws applicable therein and the parties hereby submit to the jurisdiction of the courts of the province of _____.

IN WITNESS WHEREOF the parties hereto have signed this Agreement as of the date first set

forth above:

THE CANADIAN COPYRIGHT LICENSING AGENCY

[Signature]

By: Brian O'Donnell

Title: Director, Business Development

Date: December 18 2003

THE INSTITUTION

By: _____

Title: _____

Date: _____

Schedule A – ~~Omitted~~ – Access Copyright Post-Secondary Exclusions List

December 16, 2003

This Licence includes:

~~works published in Australia, Canada, Denmark, France, Germany, Hong Kong, Iceland, Ireland, Italy, Jamaica, Liechtenstein, Malta, Mexico, Netherlands, New Zealand, Norway, South Africa, Spain, Switzerland, the United Kingdom, and the United States of America;~~

This Licence excludes:

~~works which are published outside of the countries listed above;~~

~~works published by the following copyright owners who have informed Access Copyright that they do not want their publications copied under your licence with Access Copyright. Permission must be obtained directly from the copyright owner before copying from any of them if the copying would otherwise be an infringement of copyright. All works from each publisher are excluded unless otherwise noted:~~

Publisher/Author	Imprint/Title
Academie Impact (Editions)	
American Health Consultants Inc.	
American Medical Association	Non-US editions
American Psychological Association	
Anbar Publications Ltd.	
Arnold Ltd.	All works in the Stratford-upon-Avon Studies series
Ashley Publications Ltd.	
Avantage	Initiation a la vie of l'entreprise
Beaulieu, Danie	
Bell, David A. (1930-)	Author, engineering and IT.
Canadian Tax Foundation	
Captus Press, Captus University Publications	Journal of Accounting Case Research; Business 111 and Business 121; Carson & Olivo, Intro to Law in Canada, Pliniussen, Introduction to Canadian Business and Management; Journal of Aboriginal Economic Development; All titles within two calendar years of publication
Case Clearing House	
Comprehensive Therapy	

Publisher/Author	Imprint/Title
Dazibao	Admonitor; Anamnèse; Cinetières; La rage muette; De là curiosité, petite anatomie du regard; De la minceur de l'image; Deux ou trois feux; Face, un moment photographique; Incidences; Jeune photographique 1996; Paysage; Portrait d'un malentendu, chronique photographique récentes; Thomas Corriveau; Une déprise de la photographie
École polytechnique (Éditions de l')	All published works except textbooks
Édisem	
Éditions HRW	All titles by Charles M. Schultz. All teacher's guides, posters, (étiquettes-mots), acetates, answer books, statistical books and card books.
Educational Technology Publications Inc.	
European Respiratory Journal	
Financial Times	All companies and imprints
Ganesha (Editions)	
Garamond Press	
Gordon & Breach Publishers Ltd.	
Harvard Business School	All imprints and journals.
Heron Publishing	
Hoff, Ron	I can see you naked; a fearless guide to making great presentations ISBN 0836279441
Image de L'art	
Ivey Publishing	
Journal of Roman Archaeology (U.S.)	
Lippincott Williams & Wilkins	See attached list of titles
Little Brown Publishing Co.	Trade Books.
London Mathematical Society	Russian Mathematical Surveys
McGraw-Hill Ryerson Ltd.	All titles published under Primis service (print on demand) Pliniussen, Introduction to Canadian Business
Medical Research Council (UK)	
Ordre des Conseillers en Ressources	All titles including the periodical "Effectif"
Humaines et en Relations Industrielles	
Agrees du Quebec	
Pion Ltd.	
Presses de l'Université du Montreal (PUM)	La Flore Laurentienne 3rd ed. Of Marie-Victorin; Profession: consultant 3rd ed.

Publisher/Author	Imprint/Title
Professional Pubns Inc (Ca)	
R A Rapaport Publishing Inc.	
Regal Books	
Renee E. Watkins	
Reynald Goulet	
QuenMar Music Inc.	
Renouveau pédagogique (Éditions du)/ERPI	
Saint-Martin (Montreal)	
Salinger, J.D.	Any edition
Scholars Press (US)	
Scottish Universities Law Institute	Scottish Law Institute series
Simon & Schuster	All imprints
Stoffman, Daniel	“Completely Predictable People”, Report on Business (11/90)
Quebecor	Journal de Montreal and the Journal de Quebec
Université du Québec à Montréal (publications of)	
University of Chicago Law School	All publications except Journal of Law & Economics and Journal of Legal Studies
University of Wales Press	
Van Nostrand Reinhold (International)	Simmonds, Case Problems of Marketing
W. Green	Scottish Universities Law Institute series
Yvon Blais	All titles of Formation permanente du Barreau du Québec generally entitled Développements récents..., All titles of Collection de droit du Barreau du Québec

For Document Delivery pertaining to clause 2 c) of the licence, the following are also excluded:

Publisher/Author	Imprint/Title
American Institute of Chemists	
L'Artichaut	
Atout micro (periodical)	
Bibliothèque québécoise	Anthologie des poètes du Québec. Au-delà des visages. Cent chansons. Chocs baroques. Marie-Didace. Le Survenant
British Standards Institution	
Canadian Association of Social Workers	
Canadian Institute of Steel Construction	
Childwall University Press	
Darden Educational Materials	Case Distribution service
Drug Policy Research Institute Inc.	
Institute of Environmental Health Officers/Chadwick House	
IF Matters	Commodity Week. The Public Ledger
Journal of Bone and Joint Surgery	
Journal of Clinical Investigation	
National Science Foundation	
Powder Advisory Centre	
Royal Entomological Society	
Royal Pharmaceutical Society	Martindale, Extra Pharmacopoeia. Complete Drug Reference
Royal Society of Chemistry	
RSA Examinations Board	
US Pharmacist	

Lippincott Williams & Wilkins

Title Exceptions

The following Lippincott Williams & Wilkins books are excluded:

Agur, Grants Atlas of Anatomy
Arthroscopic Surgery series (3)
Brant, Fundamentals of Diagnostic Radiology
Caine, Art, Surgery, Transplantation
Carpenito, Nursing Care Plans and Documentation
Carpenito, Handbook of Nursing Diagnosis
Carpenito, Nursing Diagnosis

Cormack, *Essential Histology*
Errico, *Spinal Trauma*
Favus, *Primer on the Metabolic Bone Diseases and Disorders of Mineral Metabolism*
Fox, *Biology and Diseases of the Ferret*
Gelberman, *Operative Nerve Repair and Reconstruction*
Handin, *Blood*
Harvey and Champe, Lippincott Illustrated Review Series
Hoppenfeld, All books
Kaplan, Harold I. & Sadock, Benjamin J., All books
Katch, Frank I., Katch, Victor & McArdle, William D., All books
McGinty, *Operative Arthroscopy*
Master Techniques in Orthopaedic Surgery series (10)
Masters & Johnson, *Human Sexual Response*
Olsen, *ADAM Student Atlas of Anatomy*
Peterson, *Principles of Oral and Maxillofacial Surgery*
Pizzo, *Pediatric AIDS*
Porth, *Pathophysiology: Concepts of Altered Health States*
Rockwood, *Fractures in Adults* (only Dr. Lee's chapter exempted)
Rohen, *Color Atlas of Anatomy*
Rosse, *Hollinshead's Textbook of Anatomy*
Rosskopf, *Diseases of Cage and Aviary Birds*
Rubin/Farber, *Pathology*
Sadler, *Langman's Medical Embryology*
Sarrafian, *Anatomy of the Foot and Ankle*
Schwartz, *Principles and Practice of Emergency Medicine*
Sobotta & Clemente (published by Urban & Schwarzenberg), All books
Stedman's book requests
Thompson, *Telinde's Operative Gynecology*
US Task Force, *Guide to Clinical Preventive Services*
Whipple, Arthroscopy Series
White, *Clinical Biomechanics of the Spine*
Wright, Color Atlas Ophthalmology Series—exempted are following volumes:
Tse: Plastic Surgery
Glaser: Retina
Kaufman: Cornea and Refractive Surgery
Wright: Strabismus
Kratz: Cataracts
Minckler: Glaucoma

Schedule B – Omitted PERSONS OR BODIES TO BE COVERED UNDER THIS AGREEMENT

Schedule C – Terms of Copying (~~Clause~~ **Section 2(a) of the Agreement Tariff)**

1. All Copies shall be made onto paper except for Copies made onto acetate or similar transparent material, slides, microfiche and microfilm. Copies made onto slides, microfiche and microfilm shall only be made in accordance with the additional terms and conditions of this ~~Agreement~~ **Tariff**. For interlibrary loan transmission, a Library Worker who sends a Copy in an Electronic File to an institution entitled to receive such Copy should advise the institution that the Electronic File may only be used to make a paper Copy for the individual who requested the Copy and that the Electronic File should thereafter be promptly destroyed. The Library Worker should thereafter promptly destroy the Library Worker's Electronic File.

2. Except as otherwise specifically provided in the ~~Agreement~~ **Tariff**, no copying shall exceed 10% of a Published Work or the following, whichever is greater:

- (a) an entire newspaper article or a page;
- (b) an entire single short story, play, poem, essay or article from a book or periodical issue (including a set of conference proceedings) containing other works;
- (c) an entire single item of print music from a book or periodical issue containing other kinds of work;
- (d) an entire entry from an encyclopedia, dictionary, annotated bibliography or similar reference work;
- (e) an entire reproduction of an artistic work (including drawing, sculpture, painting, prints, architectural works of art or works of artistic craftsmanship) from a book or periodical issue containing other works;
- (f) one chapter, provided it is no more than 20% of a book.

Access Copyright shall use reasonable efforts to clear requests to copy in excess of these limits. It is understood that such clearances may be subject to additional payment of royalties. In these cases, royalties will be calculated using the tariff for Copies made pursuant to ~~clause~~ **section 2(b)** of this ~~Agreement~~ **Tariff**.

3. Access Copyright shall use reasonable efforts to clear requests to copy works published in excluded countries or by excluded publishers and excluded works. It is understood that such clearances may be subject to additional payment of royalties, calculated using the tariff for Copies made pursuant to ~~clause~~ **section 2(b)** or any other tariff set by the rights holder.

4. The Institution shall only make a sufficient number of Copies to provide one for each Student, two for each Professor and such number required by the Institution for administrative purposes.

5. The Institution shall not make any Copies of any Published Work which to the knowledge of

the Institution or the person doing the copying or ordering the Copies is commercially available as a separate publication at a reasonable price and within a reasonable period of time.

6. The Institution shall not engage in systematic, cumulative copying of the same Published Work for a single course or program in one academic year beyond the limits set out in ~~clause~~ **section 2** of this Schedule.

7. The Institution shall not assemble any Copies of Published Works into a Coursepack.

8. The Institution shall include on at least one page of all multiple Copies made pursuant to ~~clause~~ **section 2(a)** of this ~~Agreement~~ **Tariff** for the purpose of distribution to Students and on all Copies made pursuant to ~~clause~~ **section 2(a)** of this ~~Agreement~~ **Tariff** for the purpose of interlibrary loan, the international copyright symbol ©, a credit to the publisher, the artist or illustrator of any artistic work reproduced (where known) and the author or authors (where known) and, when possible, shall display the following prominent notice:

“This material has been copied under licence from Access Copyright. Resale or further copying of this material is strictly prohibited.”

Schedule D – Terms of Copying (~~Clause~~ **Section 2(b) of the AgreementTariff)**

1. All Copies shall be made onto paper except for Copies made onto slides, microfiche and microfilm. Copies made onto slides, microfiche and microfilm shall only be made in accordance with the additional terms and conditions of this ~~Agreement~~**Tariff**.

2. Except as otherwise specifically provided in this ~~Agreement~~**Tariff**, no copying shall exceed 15% of a Published Work or the following, whichever is greater:

- (a) an entire newspaper article or a page;
- (b) an entire single short story, play, poem, essay or article from a book or periodical issue (including a set of conference proceedings) containing other works;
- (c) an entire single item of print music from a book or periodical issue containing other kinds of work;
- (d) an entire entry from an encyclopedia, dictionary, annotated bibliography or similar reference work;
- (e) an entire reproduction of an artistic work (including drawing, sculpture, painting, prints, architectural works of art or works of artistic craftsmanship) from a book or periodical issue containing other works;
- (f) one chapter, provided it is no more than 20% of a book.

Access Copyright shall use reasonable efforts to clear requests to copy in excess of these limits.

3. At the discretion of Access Copyright, and with its prior written consent, up to the whole of a work which is out of print in all editions may be copied.

4. Access Copyright shall use reasonable efforts to clear requests to copy works published in excluded countries or by excluded publishers and excluded works. It is understood that such clearances may be subject to a different tariff than for other copies governed by this Schedule, as required by the rights holder.

5. The Institution shall only make a sufficient number of Copies to provide one for each Student, two for each Professor and such number required by the Institution for administrative purposes.

5.1 The Institution shall establish and maintain records of all Electronic Files made pursuant to ~~clause section 2(b)~~ and retained by the Licensee pursuant to ~~clause section 2.1(b)~~ of this ~~Agreement~~**Tariff** and shall submit such records to Access Copyright annually, in accordance with ~~clause section 13.1~~ of this ~~Agreement~~**Tariff**.

6. The Institution shall not make any Copies of any Published Work which to the knowledge of

the Institution or the person doing the copying or ordering the Copies is commercially available as a separate publication at a reasonable price and within a reasonable period of time.

7. The Institution shall not engage in systematic, cumulative copying of the same Published Work for a single course or program in one academic year beyond the limits set out in ~~clause~~ **section 2** of this Schedule.

8. If a Coursepack made pursuant to this ~~Agreement~~ **Tariff** includes extracts from Textbooks, the following limitations apply:

(a) a maximum of 5% of a Textbook may be reproduced, but in any case no more than one chapter;

(b) a Coursepack may contain up to two such extracts written by the same author and published by the same publisher, within any five year period; and

(c) up to 50% of the pages in a Coursepack can be reproduced from Textbooks.

9. The Institution shall include on at least one page of all Copies made pursuant to ~~clause~~ **section 2(b)** of this ~~Agreement~~ **Tariff** the international copyright symbol ©, a credit to the publisher, the artist or illustrator of any artistic work reproduced (where known) and the author or authors (where known) and shall display the following prominent notice:

“This material has been copied under licence from Access Copyright. Resale or further copying of this material is strictly prohibited.”

Schedule E – ~~Omitted~~ Terms of Copying (Clause 2(c) of the Agreement)

~~1. All Copies shall be made onto paper except for interlibrary loan transmission. For interlibrary loan transmission, a Library Worker who receives a Copy in an Electronic File may provide the individual who has requested it with a paper Copy only and thereafter will promptly destroy the Electronic File. A Library Worker who sends a Copy in digital form to a non-AUCC institution entitled to receive such Copy should advise the institution to do the same.~~

~~2. Except as otherwise specifically provided in this Agreement, no copying shall exceed 15% of a Published Work or the following, whichever is greater:~~

- ~~—— (a) an entire newspaper article or a page;~~
- ~~—— (b) an entire single article from a journal, magazine, or periodical issue (including a set of conference proceedings) containing other works;~~
- ~~—— (c) one chapter, provided it is no more than 20% of a book.~~

~~Access Copyright shall use reasonable efforts to clear requests to copy in excess of these limits:~~

~~3. At the discretion of Access Copyright, and with its prior written consent, up to the whole of a work which is out of print in all editions may be copied.~~

~~4. Access Copyright shall use reasonable efforts to clear requests to copy works published in excluded countries or by excluded publishers and excluded works. It is understood that such clearances may be subject to a different tariff than for other copies governed by this Schedule, as required by the rights holder.~~

~~5. The Institution shall not make any Copies of any Published Work which to the knowledge of the Institution or the person doing the copying or ordering the Copies is commercially available as a separate publication at a reasonable price and within a reasonable period of time.~~

~~6. The Institution shall not engage in systematic, cumulative copying of the same Published Work for the same user within the same calendar year beyond the limits set out in clause 2 of this Schedule.~~

~~7. No Copies of Published Works may be assembled into Coursepacks.~~

~~8. The Institution shall include on at least one page of all Copies made pursuant to clause 2(c) of this Agreement the international copyright symbol ©, a credit to the publisher, the artist or illustrator of any artistic work reproduced (where known) and the author or authors (where known) and shall display the following prominent notice:~~

~~—— “This material has been copied under licence from Access Copyright. Resale or further copying of this material is strictly prohibited.”~~

**Schedule F – Terms of Copying (Clause ~~Section~~ 2(f) of the Agreement ~~Tariff~~)
Alternate Format Copies**

1. The Institution shall include on all Alternate Format Copies made pursuant to ~~clause section~~ 2(f) of this Agreement ~~Tariff~~ the international copyright symbol ©, a credit to the publisher and the author or authors (where known) and shall display the following prominent notice:

“This material is reproduced in alternate format under licence from Access Copyright.
Resale or further copying of this material is strictly prohibited.”

2. The Institution shall not make any Alternate Format Copies of any Published Work where to the knowledge of the Institution such a Copy is commercially available as a separate publication at a reasonable price and within a reasonable period of time.

3. On request, and if available, the Institution shall provide a Copy of any Alternate Format Copy made by it pursuant to this Agreement ~~Tariff~~ to Access Copyright, on behalf of the owner of copyright.

Schedule G – Additional Provisions Dealing with Digital Copies (Section 29 of the Tariff)

1. This Schedule applies to Digital Copies made pursuant to this tariff. It does not apply to copies (or uses therefore) of Repertoire Works for which an Institution does not require a licence from Access Copyright.

2. In this Schedule,

“Copy” means any Digital Copy that is made by or as a consequence of any of the following activities, in so far as they are protected by copyright:

- (a) scanning a paper copy;
- (b) transmission by electronic mail;
- (c) transmission by facsimile;
- (d) storage of a Digital Copy on a local storage device or medium;
- (e) posting or uploading a Digital Copy to a Secure Network or storing a Digital Copy on a Secure Network;
- (f) transmitting a Digital Copy from a Secure Network and storing it on a local storage device or medium;
- (g) projecting an image using a computer or other device;
- (h) displaying a Digital Copy on a computer or other device; and
- (i) posting a link or hyperlink to a Digital Copy.

“Course Collection” means, for use by an Licensee as part of a Course of Study, and whether for required or recommended reading for the Course of Study or otherwise, Digital Copies of Published Works that are:

- (i) emailed, linked or hyperlinked to; or
- (ii) posted, uploaded to, or stored, on a Secure Network.

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3. (1) Digital Copies made pursuant to this Tariff shall not be transmitted to, made available from, posted or uploaded to, or stored on, any computer network other than a Secure Network.

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(3) Digital Copies made pursuant to this Tariff shall not be transmitted to, made available from, posted or uploaded to, or stored, on any device or medium, computer or computer network in such a manner that makes them publicly available or accessible including available or accessible over the Internet or other public network.

(4) Where the Institution is no longer covered by this interim tariff, the Institution and all Licensees shall immediately cease to use all Digital Copies made pursuant to this Tariff, delete from their hard drives, servers and networks, and make reasonable efforts to delete from any other device or medium capable of storing Digital Copies, those Digital Copies and upon written request from Access Copyright shall certify that it has done so.

(5) Nothing in this interim tariff authorizes any person to descramble a scrambled work or decrypt an encrypted work or to otherwise avoid, bypass, remove, deactivate, impair, or otherwise circumvent a technological measure that restricts or controls access to, copying of, retention of, distribution, or transmission of a work licensed pursuant to this Schedule.

4. (1) Sections 23 to 26 of this Tariff do not apply to Digital Copies.

(2) Subject to the provisions of this Schedule, all other provisions of this tariff and its other Schedules applicable to Coursepacks, including section 14(b) of this Tariff, are applicable, with such modifications as necessary, to Digital Copies made for the purposes of Course Collections.