

TERMS AND CONDITIONS

1. Grant of Rights

- (a) You hereby appoint Access Copyright (sometimes referred to as “we” or “us”) as your exclusive Canadian collective society.
- (b) Subject to the other provisions of this Agreement, you hereby grant us a non-exclusive worldwide right to license the reproduction of all of your published literary, dramatic, artistic and musical works (each, a “**Work**”), except any Works that you have expressly excluded from such grant by written notice to Access Copyright, and except any Works to the extent that they are not entirely owned or controlled by you.
- (c) You further hereby grant to us a non-exclusive worldwide right to license the communication to the public of your Works by telecommunication. For greater certainty, “communication to the public by telecommunication” and “telecommunication to the public” as used in this Agreement includes making a Work available to an individual in a way that allows access to it from a place and at a time chosen by that individual.
- (d) The rights in a Work granted to us in subsections 1(b) and 1 (c) may be licensed either directly by us or indirectly through our agreements with other Canadian or foreign collective societies or with other reproduction rights organizations (collectively, the “**Rights**”). The grant of Rights under this Agreement constitutes an interest in the copyright of the Work.
- (e) Access Copyright may license and sublicense the Rights, subject to the following limits:
 - i. Up to twenty percent (20%) of a literary, dramatic or artistic Work or, if licensed directly by Access Copyright on a transactional basis, up to 25% of a literary, dramatic or artistic Work;
 - ii. A single entire article or page in a newspaper, journal or other periodical;
 - iii. A single short story, play, poem, essay, or article that is not a stand-alone publication;
 - iv. A single entire reproduction of an artistic Work;
 - v. One chapter that is no more than twenty-five percent (25%) of a Work;
 - vi. An entire musical Work that is included in a book or periodical and forms no more than twenty-five percent (25%) of the book or periodical; and
 - vii. Up to one hundred percent (100%) of a book that is not commercially available and out-of-print.
- (f) You hereby grant Access Copyright a non-exclusive licence to reproduce and telecommunicate your Works for our internal business purposes.
- (g) You hereby grant Access Copyright a non-exclusive worldwide right to license the reproduction and telecommunication to the public of your Works in a format specially designed for persons with a perceptual or other print disability that would qualify them as beneficiaries under the *Copyright Act* or an applicable WIPO treaty.

2. Obligations

- (a) Access Copyright will make reasonable efforts to license persons and organizations for the uses of your Works that are authorized under this Agreement and will charge and collect appropriate fees for such uses.
- (b) Unless specifically authorized by you, Access Copyright will not license a Work for posting or other copying uses on publicly accessible websites on the Internet.

- (c) Access Copyright will collect bibliographic and copying volume data from our licensees that we deem necessary or reasonable in order to distribute the royalties collected for uses of Works licensed by us.
- (d) We will distribute the royalties collected by us from our licensees in accordance with the Revenue Distribution Guidelines in Schedule A to this Agreement. You acknowledge that other collective societies or reproduction rights organizations that have been sublicensed by Access Copyright, and from which we receive royalties for our affiliates, follow their own licensing rules and revenue distribution guidelines.
- (e) Our Board of Directors may amend, delete or replace any of the Revenue Distribution Guidelines. Prior to any change to the Revenue Distribution Guidelines, we will consult with organizations that are members of Access Copyright. You, as an affiliate of Access Copyright, will be given three (3) months' written notice of any change. Failure to give notice of termination in accordance with this Agreement will confirm your acceptance of the terms of the revised or new schedule.
- (f) We will pay you any amounts that we have identified as owing and payable to you no later than the end of our financial year following the financial year in which those royalties were collected.
- (g) If applicable, you will redistribute or otherwise return to us the royalties received from Access Copyright to any other rightsholders, including writers, visual artists, other authors or publishers, who are entitled to share the royalties.
- (h) You will provide Access Copyright with any information we reasonably require to administer this Agreement. Failure to give notice to Access Copyright of any change in your contact information may result in non-payment of royalties to which you might otherwise be entitled.
- (i) You will provide written notice to Access Copyright identifying any of your Works that you do not wish to include in our repertoire of Works under this Agreement. Exclusions will take effect prior to Access Copyright's issuance of any new licence or as soon as permitted by the terms of an existing licence.

3. Warranty, Indemnification and Enforcement

- (a) You represent and warrant that you are the creator of your Works, that you are a Canadian citizen, permanent resident of Canada or identify as a First Nations or aboriginal person born, resident or domiciled in Canada, that you own or control the Rights to your Works or have a contingent right to reversion or reassignment of copyright in your Works and that you have the authority to license them to Access Copyright. You will advise Access Copyright in writing if you are no longer entitled to license the Rights in any of your Works within ten (10) days of transferring the Rights in those Works to any other person or organization, or of becoming aware that you are no longer entitled to authorize the licensing of those Rights to Access Copyright.
- (b) Access Copyright may enforce the Rights that we administer and license on your behalf, including pursuing claims of copyright infringement of any of your Works. You will provide us with all necessary or reasonable assistance.
- (c) You will use reasonable efforts to include a reference to Access Copyright in any notice on the copyright page of your Works with respect to permission required for reproduction or telecommunication of parts of the Work.
- (d) You will indemnify Access Copyright for any liability or loss resulting from any breach by you of your warranties in this Agreement or from claims made against us that arise from or relate to a material misrepresentation by you of the extent of your ownership or control of the Rights granted to us or your failure to advise us that you are no longer entitled to deal with the Rights in a Work.

4. Term and Termination

- (a) This Agreement takes effect as of the date of your acceptance of this Agreement and continues unless terminated.
- (b) Either party may terminate this Agreement by at least ten (10) days' written notice at any time. Such termination will take effect six (6) months following notice of termination of this Agreement, subject to payment of royalties collected or to be collected under licences offered by Access Copyright in which your Works are included.

5. Miscellaneous

- (a) This Agreement, once signed by you, immediately replaces any existing affiliation agreement between Access Copyright and you, which prior agreement will be of no future force and effect without prejudice to any existing rights or obligations, including payment of royalties collected or to be collected by us with respect to licences granted by us under the prior affiliation agreement.
- (b) We respect your privacy. Access Copyright may only collect, use and disclose your personal information (if any) in accordance with Access Copyright's Privacy Policy available at www.accesscopyright.ca. Access Copyright may also send electronic messages to your electronic address for the purposes of administering and managing this affiliation agreement and our relationship with you.
- (c) In order to be effective, any notice provided under this Agreement must be in writing. All notices permitted or required under this Agreement may be delivered by mail, fax or e-mail to the addresses provided. Notices sent by mail will be deemed received five (5) business days after sending. Notices sent by fax or e-mail will be deemed received on the next business day after sending.
- (d) Access Copyright will not assign this Agreement without your prior written consent. You may assign this Agreement to any other person or organization to which you assign the Rights in your Works. Any such assignee will be bound by the terms of this Agreement. If the Rights in any of your Works are held by a corporation owned by you, this Agreement binds both you and the corporation.
- (e) A waiver of any provision of this Agreement must be in writing. No amendment of this Agreement, except as provided under subsection 2(e), will be binding unless signed by both parties.
- (f) The invalidity or unenforceability of any provision of this Agreement will not affect or limit the validity or enforceability of the remaining provisions.
- (g) The laws of the Province of Ontario and the laws of Canada applicable therein, without giving effect to principles of conflict of laws, govern all matters arising under this Agreement.

**SCHEDULE A
REVENUE DISTRIBUTION GUIDELINES**

1. Before calculating payment to you and other rightsholders, we allocate a percentage of revenues collected by us to cover our operating costs, including tariff costs, and a percentage of revenues collected by us for cultural purposes, as determined from time to time by our Board of Directors in consultation with our membership.
2. The Board of Directors also designates a percentage of revenues collected by us for distribution to Rightsholders as payment for their contribution to our overall repertoire of Works.
3. For title-specific distributions:
 - (a) Access Copyright will then distribute royalties to publishers and creators as follows:

	Material copied from	Royalties for distribution
A.	Education and technical books and scholarly publications, including journals and books	
a.	In-print	
i.	If the creator has assigned copyright to the publisher:	100% to publisher
ii.	Otherwise:	50% to publisher; 50% to creator
b.	Out-of-print	
i.	If the creator has assigned copyright to the publisher and there has been no provision for reversion or reassignment of rights:	100% to publisher
ii.	Otherwise:	100% to creator
B.	Trade books	
a.	In-print:	50% to publisher; 50% to creator
b.	Out-of-print:	100% to creator
C.	Newspapers and periodicals	
i.	If the creator is a freelance creator:	100% to creator
ii.	Otherwise:	100% to publisher
D.	Other:	50% to publisher; 50% to creator

- (b) Where only the publisher of a Work is entitled to affiliate with Access Copyright, we will send all royalties for that Work to the publisher, if affiliated with us, unless:
 - i. the publisher’s publishing agreement with creators includes a clause authorizing the creators to affiliate with Access Copyright; or
 - ii. the publisher has authorized us to send royalties collected by us to creators on behalf of the publisher.
 - (c) If a publisher wishes Access Copyright to send royalties to creators that would otherwise go to the publisher and subsequently from the publisher to the creator, the publisher will provide us with the necessary business and contact information to do so.

- (d) Where Access Copyright sends the publisher of a Work the creator's share of royalties, the publisher will pay the creator as soon as reasonably practicable. If the publisher fails to do so, we may deduct the specified amounts from any subsequent royalties that become payable to that publisher from Access Copyright.
- (e) Any publisher that receives royalties from Access Copyright that are subsequently sent by that publisher to Canadian creators will report the total amount of those royalties that flow through it to Canadian creators on an annual basis, in the form and manner prescribed by Access Copyright.

For Reference Only