

## ONLINE USER LICENCE AGREEMENT

This Licence Agreement (this "Agreement") is made effective as of (date – please leave blank) (the "Effective Date") between Adam Matthew Digital Ltd, Pelham House, London Road, Marlborough, Wiltshire, SN8 2AG, England ("Licensor") and Amigos Library Services, 14400 Midway Road, Dallas, Texas 75244-3509 ("Licensee").

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### I. Grant of Licence for Licensed Materials

The material that is the subject of this Agreement is electronic information published or otherwise made available by the Licensor and is described in SCHEDULE 'A' (hereinafter referred to as the "**Licensed Materials**").

The Licensee and its Authorised Users (as defined below) acknowledge that the copyright and title to the Licensed Materials and any trade marks, design rights, database rights, domain names or any other intellectual property rights subsisting therein or relating thereto remain with the Licensor and/or its suppliers. Neither the Licensee nor its Authorised Users shall have right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

In consideration of the payment by the Licensee to the Licensor of the licence fee set out on the Licensor's invoice (the "**Licence Fee**") and, if applicable, payment of the Hosting Fee or Hosting Renewal Fee according to the terms of Section IV and Section VII of this Agreement, the Licensor hereby grants to the Licensee a non-transferable non-exclusive licence to use the Licensed Materials (including the right for the Authorised Users to use the Licensed Materials) for the purposes set out in and in accordance with this Agreement.

The Licensee shall not grant sub-licences, in whole or in part, of any of the rights granted under this Agreement, or sub-contract any aspects of exploitation of the rights licensed to it, without the Licensor's prior written consent. However, the Licensee may permit Authorised Users to use the Licensed Materials on the terms set out in this Agreement and on condition that such Authorised Users do not grant any further sub-licence.

### II. Authorised Use of Licensed Materials

"Authorised Users" are:

(1) Persons Affiliated with the Licensee: Full and part time students (including students enrolled in distance education programs offered or sponsored by the Licensee) and employees (including faculty, staff, alumni, affiliated researchers and independent contractors) of the Licensee who in all cases need access to the Licensed Materials for the purposes of their research, education or other non-commercial use. Any off-campus access shall be provided only for individuals authenticated as affiliated as members of the Licensee's University, Institution or Organisation as defined as the Licensee herein; and

(2) Walk-ins: Patrons not affiliated with the Licensee who are physically present on the Licensee's premises.

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In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### I. Grant of Licence for Licensed Materials

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The Licensee shall not grant sub-licences, in whole or in part, of any of the rights granted under this Agreement, or sub-contract any aspects of exploitation of the rights licensed to it, without the Licensor's prior written consent. However, the Licensee may permit Authorised Users to use the Licensed Materials on the terms set out in this Agreement and on condition that such Authorised Users do not grant any further sub-licence.

### II. Authorised Use of Licensed Materials

"**Authorised Users**" are:

(1) Persons Affiliated with the Licensee: Full and part time students (including students enrolled in distance education programs offered or sponsored by the Licensee) and employees (including faculty, staff, alumni, affiliated researchers and independent contractors) of the Licensee who in all cases need access to the Licensed Materials for the purposes of their research, education or other non-commercial use. Any off-campus access shall be provided only for individuals authenticated as affiliated as members of the Licensee's University, Institution or Organisation as defined as the Licensee herein; and

(2) Walk-ins: Patrons not affiliated with the Licensee who are physically present on the Licensee's premises.

The Licensee and Authorised Users may use the Licensed Materials for the purposes of research, education or other non-commercial use as set out below:

**Downloads:** The Licensee and Authorised Users may download, retain, store and use unlimited portions of the Licensed Materials.

**Print Copy:** The Licensee and Authorised Users may print a reasonable portion of the Licensed Materials.

**Archival Copy.** Upon request of the Licensee and not less than 60 days before the expiration date of the current term of this Agreement, the Licensee may request and receive from Licensor and/or create one (1) copy of the entire set of metadata from the Licensed Materials (including but not limited to PDF images, text files, XML, XML schema) to be maintained as an "Archival Copy" or as required to exercise the Licensee's rights under Section IX, "Permanent Archival Access/Dark Archiving", of this Agreement. The Licensee may use the metadata to develop its own locally-hosted version of the Licensed Materials on the condition that the use of that local copy continues to comply with this Agreement.

**Dark Archiving:** The Licensor uses the services of Portico ([www.portico.org/digital-preservation](http://www.portico.org/digital-preservation)) to enable Dark Archiving to be provided in respect of all of the Licensed Materials for the benefit of all Licensees and their Authorised Users. See Section IX.

**Course Packs:** The Licensee may permit Authorised Users who are members of the Licensee's faculty or staff to download and print and use for teaching purposes copies of a reasonable portion of the Licensed Materials for the purpose of making a multi-source collection of information for classroom use (course-pack) to be distributed to students at the Licensee's institution free of charge.

**Electronic Reserve:** The Licensee and Authorised Users may store in electronic format in secure electronic data files a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by the Licensee and/or its parent institution.

**Scholarly Sharing:** Authorised Users may transmit to a third party colleague in hard copy or electronically, minimal, insubstantial amounts (defined as no more than 5% [five percent] of the total collection) of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for re-sale.

**Re-publication:** Authorised Users do not have the right to re-publish any items from the Licensed Materials, unless the Authorised User has first obtained copyright permission from the appropriate copyright holder or archive. Permission from the original source archive/copyright holder in the case of re-publication, figures, tables and brief excerpts from the Licensed Materials in the Authorised User's own scientific, scholarly and educational works is always necessary and Authorised Users should also obtain correct wording for all citations and credits from the original source archive/copyholder.

Nothing in this Agreement is intended to limit in any way whatsoever the Licensee's or any Authorised User's rights under the fair dealing provisions set out in the Copyright Designs and Patents Act 1988 (as may be re-enacted or modified) or if such acts take place outside the UK, in accordance with any equivalent legislation applicable in that territory (for example under the US Copyright Act of 1976, 17 U.S.C. § 107).

### III. Specific Restrictions on Use of Licensed Materials

**Unauthorised Use:** The Licensee shall not knowingly permit anyone other than Authorised Users to use the Licensed Materials.

**Modification of Licensed Materials:** The Licensee shall not modify, change or develop the Licensed Materials in any way or create a derivative work of the Licensed Materials without the prior written permission of Licensor.

**Removal of Copyright Notice:** The Licensee may not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

**Commercial Purposes:** The Licensee may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials or bulk reproduction or distribution of the Licensed Materials in any form.

#### **IV. Licensor Performance Obligations**

**Availability of Licensed Materials:** Upon the Effective Date of this Agreement and providing the Licensee has returned a signed copy of this Agreement and given all necessary information to the Licensor to enable the Licensor to make the Licensed Materials available to the Licensee, the Licensor shall make the Licensed Materials available to the Licensee at the price specified by the Licensor in the relevant invoice.

**Annual Hosting:** On payment of the hosting fee (calculated at 0.5% (half of one percent) of the net purchase price specified on the Licensor's first invoice) (the "**Hosting Fee**") the Licensor agrees, subject to any modifications required by the source archives, source libraries or copyright holders and subject to all other provisions of this Agreement, to host in accordance with the availability provisions set out below the Licensed Materials for one year from the Effective Date. If the Licensee so requires, subsequent annual hosting of the Licensed Materials will be provided under the terms of this Agreement, subject to Section VII.

**Documentation:** The Licensor will provide and maintain help files and other appropriate user documentation.

**Usage Statistics:** The Licensor will offer the Licensee access to an automated system which provides statistics on usage of the Licensed Materials by the Authorised Users.

**Support:** The Licensor will use reasonable endeavours to assist the Licensee with the implementation of any of the Licensor's software and use of the Licensed Materials. The Licensor will use reasonable endeavours to make its personnel available by email, phone or fax for feedback, problem-solving, or general questions. The Licensor shall not provide any on site installation in respect of the Licensed Materials or relevant software. The Licensed Materials will make use of standard internet protocols, interfaces and functions, including Help Files.

**Privacy:** The Licensor recognises the importance of protecting the information it collects in the operation of Licensed Materials and will take all reasonable steps to maintain the security, and privacy of this information. The Licensor will ensure that any information it collects will be relevant and not excessive for purposes of operating the Licensed Materials and will be deleted when no longer needed. The Licensor will only disclose to third parties navigational and transactional information in the form of anonymous, aggregate usage statistics and demographics in forms that do not reveal an Authorised User's or the

Licensee's identity or confidential information. Further information regarding privacy can be found in the Licensor's Privacy Policy, posted on the Licensor's website <http://www.amdigital.co.uk/About-Us/Privacy-Policy.aspx>.

**Availability:** The Licensor shall use reasonable efforts to make the Licensed Materials available on a continuous seven (7) days a week basis with an average of at least 98% up-time per month. The allowable down-time includes periodic unavailability due to maintenance of the server(s), the installation or testing of software, the loading of additional Licensed Materials as they become available, and downtime related to the failure of equipment or services outside the control of the Licensor, including but not limited to public or private telecommunications services or internet nodes or facilities. The down-time also allows for periodic server migrations, updating resources and relevant technologies, as necessary to improve the service consistent with overall standards in the on-line information provision industry. The majority of updates will not involve any server down-time. The allowable down-time does not include any unavailability which occurs due to a Force Majeure event (see section XV).

Appropriate advance notice shall be supplied in the event of scheduled maintenance which involves any significant amount of server down-time. Scheduled down-time will be performed at a time to minimise inconvenience to the Licensee and its Authorised Users. Appropriate notification in the event of unscheduled downtime will also be provided wherever possible.

If the Licensed Materials fail to operate in conformance with the terms of this Agreement, the Licensee shall immediately notify the Licensor, and the Licensor shall promptly use reasonable efforts to restore access to the Licensed Materials as soon as possible.

The Licensee understands that from time to time the Licensed Materials may be modified; including additions, revisions, amendments and deletions, by the Licensor and/or that portions of the Licensed Materials may migrate to other formats. This is part of the process of the Licensor ensuring that the Licensed Materials are current and up to date and accordingly such modifications, additions or deletions shall not be grounds for the Licensee to terminate this Agreement for breach.

**Withdrawal or Major Modification of Licensed Materials:** In the unlikely event of the need to withdraw the Licensed Materials or make a Major Modification (defined as a withdrawal of over 30% of the content of the Licensed Materials), the Licensor reserves the right in such instances to modify or withdraw from the Licensed Materials any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes Intellectual Property Rights, or which is inaccurate, defamatory, offensive or otherwise likely to be unlawful or promote illegal or unlawful activity. In relation to the withdrawal of a material part of the Licensed Materials, such that this is a Major Modification, the Licensor shall give written notice to the Licensee of such withdrawal no later than 30 days following the removal of any item.

## **V. The Licensee Performance Obligations**

**Provision of Notice of Terms of Use to Authorised Users:** The Licensee shall require all its Authorised Users to agree to terms and conditions of use of the Licensed Materials that:

- (1) require them to comply with all applicable laws in using the Licensed Materials;
- (2) state that the Licensed Materials being supplied are only for the Authorised User's personal use;

- (3) prohibit reproduction or distribution of Licensed Materials that violates applicable law; and
- (4) contain a reservation for the Licensor of all Intellectual Property Rights and other rights in the Licensed Materials; and
- (5) Set out the limitations on access or use of the Licensed Materials as set forth in this Agreement,

(collectively, the “**Terms of Use**”). The Licensee shall provide a copy of such Terms of Use to the Licensor should this be requested by the Licensor.

**Protection from unauthorised use:** The Licensee shall use all reasonable efforts to protect the Licensed Materials from any use that is not permitted under this Agreement. In the event of any unauthorised use of the Licensed Materials by an Authorised User or the Licensee, the Licensor may suspend or terminate the Licensee’s access to the Licensed Materials until the circumstances of unauthorised use are resolved to the Licensor’s satisfaction, and/or terminate this Agreement according to Section VIII of this Agreement.

The Licensor may require the Licensee to cease all use of any of the Licensed Materials if it reasonably believes that the Licensee’s use of the Licensed Materials (or part thereof) infringes the Intellectual Property Rights of any third party, or breaches any applicable law or regulation. In this instance, the Licensor may, at its option either:

- (1) provide the Licensee with alternative Licensed Materials so as to avoid the infringement; or
- (2) terminate or modify this Agreement immediately on written notice in respect of the affected Licensed Materials.

The Licensee shall comply with all applicable laws in performing its obligations and exercising its rights under this Agreement.

The Licensee shall not, and shall procure that any Authorised Users shall not, infringe any moral rights (as defined in Chapter IV of the Copyright, Designs and Patents Act 1988 or if such acts take place outside the UK, in accordance with any equivalent legislation applicable in that territory) that subsist in respect of the Licensed Materials.

The Licensee shall use the best available practices and systems applicable with regard to the use of the Licensed Materials to:

- (1) enforce the territorial and use restrictions of this Agreement; and
- (2) prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Licensed Materials.

If the Licensee becomes aware of any potential or actual infringement or misuse of any Licensed Materials, or any security breach in connection with this Agreement that could compromise the security or integrity of the Licensed Materials or otherwise adversely affect the Licensor, the Licensee shall, at the Licensee’s expense, promptly notify the Licensor and fully co-operate with the Licensor to remedy the issue as soon as reasonably practicable. The Licensor may suspend the Licensee’s rights under this Agreement until the infringement, misuse or security breach is remedied.

The Licensee shall ensure that Authorised Users do not remove, bypass, circumvent, neutralise, or modify any of the technological protection measures used for the Licensed Materials.

## VI. Mutual Performance Obligations

**Confidentiality:** For the purposes of this section, “**Confidential Information**” shall mean the existence and terms of this Agreement; any data relating to the usage of the Licensed Materials by the Licensee and its Authorised Users; any statistics relating to usage of the Licensed Materials which is provided by the Licensor (or its suppliers) to the Licensee, and any information (including, without limitation, in written, oral, visual or electronic form, or on tape or disk) which is not publicly available including, but not limited to, know-how and information about design, development, specifications, manuals, instructions, customer lists, sales, marketing, promotion, distribution, business plans, forecasts, and technical or other expertise.

Each party undertakes that it shall not at any time during this Agreement, nor for a period of five (5) years after termination of this Agreement, disclose to any person any Confidential Information except as permitted by this section.

Each party may disclose the other party’s Confidential Information:

- (1) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party’s obligations under this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party’s confidential information comply with this clause; and
- (2) as may be required by law, court order or any governmental or regulatory authority;
- (3) in respect of data relating to the usage of the Licensed Materials by the Licensee and its Authorised Users, such data may be provided to third parties in aggregate form.

Neither party shall use the other party’s Confidential Information for any purpose other than to perform its obligations under this Agreement.

## VII. Hosting Renewal and Payment

This Agreement shall be automatically renewed at the end of the initial term of one year for a successive term of one year, and thereafter, at the end of each one year term the Agreement shall be automatically renewed for a subsequent one year term unless in either case either party gives written notice of its intention not to renew at least 60 days before expiration of the relevant current term. Each renewal shall be subject to the payment by the Licensee of 0.5% (half of one percent) of the net purchase price specified on the Licensor’s first invoice (the “**Hosting Renewal Fee**”) on or before the renewal date, where such fee is to cover the Licensor’s cost of providing ongoing access to the Licensed Materials. In the event that the Licensee does not pay the Hosting Renewal Fee when it is due, the Licensor’s provision of online access will be terminated on the expiration date unless the Licensee has given two months’ notice of its election to use a locally hosted copy of the Licensed Materials in accordance with Section II: “Archival Copy”.

All fees set out in this Agreement are exclusive of Value Added Tax or other Sales Tax and shall be subject to the addition of Value Added Tax or other Sales Tax at the appropriate rate, which the Licensee agrees to pay.

The Licensor reserves the right to charge interest on overdue payments at the rate of 4% above the base rate from time to time of HSBC Bank PLC calculated from the date on which the payment becomes due until the date of payment.

By payment of the agreed fees and subject to the Licensee complying with the terms of this Agreement, the Licensee shall have the right to continue to use the hosting facilities offered by the Licensor for the relevant Licensed Materials according to the provisions set out in this Agreement.

### **VIII. Early Termination**

Either party (the Terminating Party) may by written notice to the other party (the Other Party) terminate this Agreement immediately if:

- (1) the Other Party commits any material breach of its obligations under this Agreement which is incapable of remedy, or if capable of remedy, is not remedied within 21 days of the Terminating Party giving written notice requiring the breach to be remedied; or
- (2) the Other Party ceases, or threatens to cease, to carry on business; or
- (3) any of the following events occur (or any event analogous to any of the following occurs in a jurisdiction other than England and Wales) in relation to the Other Party:
  - (i) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986, or a proposal is made for any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
  - (ii) a shareholders' meeting is convened to consider a resolution that it be wound up, or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
  - (iii) a petition is presented for its winding-up, or an application is made for the appointment of a provisional liquidator (in each case, which is not dismissed within 14 days of its service), or a creditors' meeting is convened under section 98 of the Insolvency Act 1986; or
  - (iv) a receiver, administrative receiver or similar officer is appointed over the whole, or any part, of its business or assets; or
  - (v) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
  - (vi) it is, or becomes, insolvent within the meaning of section 123 of the Insolvency Act 1986.

On any expiration or termination of this Agreement all rights and authorisations granted by the Licensor to the Licensee under this Agreement shall automatically terminate and immediately revert to the Licensor; and on-line access to the Licensed Materials by the Licensee and Authorised Users shall be terminated.

### **IX. Permanent Archival Access/Dark Archiving**



Dark Archiving is provided by Portico ([www.portico.org/digital-preservation](http://www.portico.org/digital-preservation)), part of ITHAKA, a not-for-profit organisation helping the academic community use digital technologies, for all of the Licensed Materials for the benefit of all Licensees and their Authorised Users in accordance with Section II (Dark Archiving). This insurance backup will only be activated in the event of any of the following trigger events:

- (1) **Licensors No Longer in Business.** Licensor is no longer in business or is no longer in the business of publishing or providing access to previously published Licensed Materials.
- (2) **Title No Longer Offered.** Licensor has stopped publishing and is no longer providing access to the Licensed Materials for a period longer than ninety (90) days.
- (3) **Back List Titles No Longer Available.** Licensor has stopped offering or providing access to some or all of the back list titles of the Licensed Materials for a period longer than ninety (90) days.
- (4) **Catastrophic Failure.** Licensor has stopped publishing or providing access to the Licensed Materials for a period longer than ninety (90) days due to technical difficulties or any business interruption, bankruptcy, insolvency, receivership or business failure.

#### X. Warranties

- (1) Each party warrants to the other that it has full power and authority to enter into and perform its obligations under this Agreement;
- (2) The Licensor warrants that it has the right to licence the rights granted under this Agreement to use the Licensed Materials, that it has obtained any and all necessary permissions from third parties to licence the Licensed Materials, and that so far as it is aware, use of the Licensed Materials by the Licensee in accordance with the terms of this Agreement shall not infringe the copyright of any third party; and
- (3) The Licensee warrants that it will not knowingly use the Licensed Materials:
  - so as to infringe any third party's copyright;
  - in a manner which is defamatory, libellous, obscene, or otherwise unlawful; or
  - in a manner which will violate any applicable law, statute or subordinate legislation;

#### XI. Intellectual Property Infringement

The Licensee shall indemnify the Licensor against all claims, liabilities and expenses arising out of any infringement of any rights of the Licensor or the Licensor's licensors by the use of the Licensed Materials by the Licensee.

Each party shall promptly notify the other of any actual or suspected infringement of the Licensed Materials that comes to its attention ("**Infringement**").

The Licensee shall co-operate fully with the Licensor by taking all steps required by the Licensor (in its sole discretion) in connection with any Infringement, including, without limitation, legal proceedings in the name of the Licensor or in the joint names of the parties. The Licensor shall be responsible for the cost of any legal proceedings it requires, and is entitled to any damages, account of profits and/or awards of costs recovered. The Licensee

shall use its best endeavours to assist the Licensor in any legal proceedings relating to any infringement. The Licensee shall not take any steps relating to any infringement unless the Licensor has requested that the Licensee does so.

## **XII Limitations**

NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT:

- (1) NOTHING IN THIS AGREEMENT SHALL LIMIT EITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE.
- (2) WHERE EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL CONDITIONS, WARRANTIES, COVENANTS, REPRESENTATIONS AND UNDERTAKINGS WHICH MAY BE IMPLIED, WHETHER STATUTORY OR OTHERWISE, IN RESPECT OF THE PERFORMANCE BY EITHER PARTY OF ITS OBLIGATIONS HEREUNDER ARE EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW.
- (3) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER ARISING, OR FOR ANY LOSS (WHETHER DIRECT OR INDIRECT OR CONSEQUENTIAL) OF PROFITS, USE, ANTICIPATED SAVINGS, GOODWILL OR CONTRACTS OR FOR ANY LOSS ARISING FROM DAMAGED, CORRUPTED OR LOST DATA.
- (4) THE AGGREGATE LIABILITY OF EACH PARTY IN RELATION TO THIS AGREEMENT SHALL NOT IN TOTAL EXCEED AN AMOUNT EQUAL TO THE CHARGES PAID UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY ARISES IN CONTRACT, TORT, MISREPRESENTATION, BREACH OF DUTY OR OTHERWISE.

## **XIII. Legal Disputes**

If any dispute arises in connection with this Agreement, directors or other senior representatives of the parties with authority to settle the dispute will, within seven (7) days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing (ADR notice) to the other party to the dispute requesting mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than thirty (30) days after the date of the ADR notice.

No party may commence any court proceedings or arbitration in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

Save as set out above, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.

## **XIV. Governing Law**

This Agreement shall be interpreted and construed according to, and governed by, the laws of England and Wales.

**XV. Force Majeure**

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control, and in such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for four (4) weeks, the party not affected may terminate this Agreement by giving fourteen (14) days' written notice to other party.

**XVI. Entire Agreement**

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

**XVII. Amendment**

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by Authorised representatives of the Licensor and the Licensee.

**XVIII. Severability**

If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**XIX. Waiver**

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

**XX. Notices**

Any notice required to be given under this Agreement, or in connection with the matters contemplated by it, shall (except where specifically provided otherwise) be in writing and shall be delivered personally, or sent by pre-paid first-class (or airmail) post or recorded delivery or by commercial courier or fax, to the party required to receive the notice at the address provided by it for this purpose from time to time (such address to include a named representative responsible for receiving it).

Any notice shall be deemed to have been received:

- (1) if delivered personally, when left at the address and for the contact identified by the party;
- (2) if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second business day after posting;
- (3) if sent by airmail, at 9.00 am on the fifth business day after posting;
- (4) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed;
- (5) if sent by fax, at the time of transmission.

Either party may from time to time change its notice address by written notice to the other party.

If to the Licensor:

Adam Matthew Digital Ltd  
Pelham House,  
London Road,  
Marlborough  
Wiltshire,  
SN8 2AG,  
United Kingdom

If to the Licensee: Amigos Library Services]

Address of Licensee: 14400 Midway Road  
City of Licensee: Dallas  
State of Licensee: Texas  
Country of Licensee: USA  
Postal Code of Licensee: 75244-3509

#### **XXI Third Party Rights**

A person who is not a party to this Agreement shall not have any rights under or in connection with it.

#### **XXII Partnership**

Nothing in this Agreement shall be deemed to constitute a partnership between the parties nor, except as expressly set out in this Agreement, constitute either party the agent of the other party for any purpose.

#### **XXIII Assignment**

The Licensor may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this Agreement.

#### **XXIV United States Government End Users:**

This software and documentation are developed exclusively with private funds and constitute "commercial items," as defined in the Federal Acquisition Regulations ("FAR") at 48 C.F.R. 2.01, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R.12.212 and 48 C.F.R. 227.7202-1. Consistent with 48 C.F.R. 12.212, and the comparable Defense Federal Acquisition Regulation ("DFAR") at 48 C.F.R. 252.227.7202-1 through 252.227.7202-4, this software and documentation is licensed to you only as commercial computer software and commercial computer software documentation and only with the rights and obligations granted to public users generally as set forth in this license agreement. Notwithstanding any other FAR, DFAR or other contractual provision into which this license agreement may be incorporated, any government end user only acquires the rights to use this software and documentation as set forth in this license agreement. This software is acquired under the specific terms and conditions set forth herein. If any portion of the software is deemed "non-commercial," or the following FARs or DFARs are deemed to apply, the software is licensed under the terms hereof and under the RESTRICTED RIGHTS set forth in 48 C.F.R. 52.227-14 and 48 C.F.R. 252.227-7014 (and the government's use, duplication and disclosure rights are restricted as set forth therein). Contractor/manufacturer is Adam Matthew Digital Ltd, Pelham House, London Road, Marlborough, Wiltshire, SN8 2AG, England.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

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

FOR THE LICENSOR:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Signature of Authorised Signatory of Publisher

Name:  
Title:  
Address: Adam Matthew Digital Ltd., Pelham House,  
London Road, Marlborough, Wiltshire, SN8 2AG, UK  
Telephone No.: +44 (0) 1672 511921  
Facsimile: +44 (0) 1672 511663  
E-mail:

FOR THE LICENSEE:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Name:  
Title:  
Address: Amigos Library Services  
14400 Midway Road  
Dallas, TX 75244-3509  
Telephone No.: 800-843-8482  
Facsimile: 972-991-6061  
E-mail:

**Very important information – PLEASE COMPLETE ALL SECTIONS**

In order for us to provide access to the Licensed Material by IP Address recognition, please ensure the following details are completed

Main Library Contact Name:

Telephone No:

Facsimile:

E-mail:

IT Administrator Name

Telephone No.:

Facsimile:

E-mail:

Licensee IP Address range:

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**SCHEDULE 'A'**

The material that is the subject of this Agreement is electronic information published or otherwise made available by the Licensor and is described as:

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*The content of SCHEDULE 'A' will be updated by each ADDENDUM to this agreement and subject to each End User's purchases.*

**REFER TO SCHEDULE 'B' FOR A SAMPLE ADDENDA**



SCHEDULE 'B': SAMPLE ADDENDUM

AN ADDENDUM dated (add date) (the 'Effective Date') to Online Licence Agreement dated (add date of original agreement on Page 1) (the "Original Agreement") between Adam Matthew Digital Ltd (the "Licensor") and [please complete with LICENSEE'S full name and contact address details] (the "Licensee")

The following Material is Licensed by this Addendum on the same terms as the Original Agreement:

SCHEDULE 'A'

- (please add collection name)
  - (please add collection name)
- 

IN WITNESS THEREOF, the parties have executed this Agreement by their respective, duly Authorised representatives as of the date first above written on page (2) of this Addendum:

LICENSOR:



BY: Signature of Authorised Signatory of Licensor

DATE: (add date)

Name: **Khal Rudin**  
Title: Director  
Adam Matthew Digital Ltd  
Pelham House, London Road,  
Marlborough, Wiltshire, SN8 2AA, England  
Tel: +44 (0)1672 511921  
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Email: [khal@amdigital.co.uk](mailto:khal@amdigital.co.uk)

THE LICENSEE: PLEASE COMPLETE

BY: Charles Cason III  
Signature of Authorised Signatory of Licensee

DATE: 4-2-13

NAME: CHARLES CASON III  
TITLE: CFO  
ADDRESS: 14400 MIDWAY ROAD  
DALLAS, TX 75244-3509  
TEL: 972 340-2846  
FAX: 972 991-6061  
EMAIL: CASON@AMIGOS.ORG

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PLEASE COMPLETE, SIGN AND RETURN ONE COPY OF THIS FULLY-EXECUTED LICENCE  
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