

**Electronic Art and Architecture Portal
Institutional Subscription License Agreement**

This **License Agreement** (the “Agreement”) dated July 1, 2019, the Effective Date by and between University of California, San Diego, with its principal offices located at 9500 Gilman Dr., La Jolla, CA 92093 (“Institutional Licensee”) and Yale University, on behalf of its Department, Yale University Press, 302 Temple Street, New Haven, CT 06511 (“YUP” or “Licensor”);

WHEREAS YUP has developed and maintains the Electronic Art and Architecture Portal¹ (“A&AePortal”, or “EAAP”), an online database currently at www.aaeportal.com, featuring selected art and architectural history content published by university presses and museums (the “Publishers”) for non-commercial educational, scholarly, and/or charitable use by institutions and individuals as set forth below;

WHEREAS YUP is providing access to the EAAP to academic institutions and libraries for scholarly purposes on an annual subscription basis (the “Institutional Subscription”);

WHEREAS Participant is an academic institution and seeks access to the EAAP through the Institutional Subscription;

WHEREFORE, IT IS AGREED:

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The Content (the “Content”) consists of scholarly works, e.g. ebooks and chapters, in the field of art and architectural history, in whole or in part, as made available on the EAAP, the selection of which may be modified from time to time, and which shall include coursepacks. Coursepacks (“Coursepacks”) consist of selected chapters from among ebooks available on the EAAP (and may not include the entirety of an eBook), plus any UGC (notes, annotations or bookmarks) and combined into a single electronic package designed to be used in a course of study.

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III. FEES

Institutional Licensee shall pay an annual fee to Licensor for use of the Content pursuant to the terms and schedule set forth in Exhibit A, attached hereto.

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Walk-ins. Patrons, not affiliated with Institutional Licensee, who are physically present at Institutional Licensee's site(s) ("walk-ins").

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If the EAAP fails to operate in conformance with the terms of this Agreement, Institutional Licensee shall immediately notify Licensor, and Licensor shall promptly use reasonable efforts to restore access to the Content as soon as possible. In the event that Licensor fails to repair the nonconformity in a reasonable time, Licensor shall reimburse Institutional Licensee in an amount that is proportional to the nonconformity in relation to the total Fees owed by Institutional Licensee under this Agreement.

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IX. INSTITUTIONAL LICENSEE PERFORMANCE OBLIGATIONS

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XI. TERM AND RENEWAL

This Agreement shall continue in effect for one (1) year renewable terms, the first term commencing on July 1st of the current calendar year and continuing for twelve (12) months through June 30th of the following calendar year unless terminated earlier by either party for any reason, and renewing at the end of each term for a successive term unless either party gives written notice to the other of its intention not to renew forty-five (45) days before expiration of the then current term.

XII. EARLY TERMINATION

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if Licensor believes that any Institutional Licensee has exceeded the scope of the License, such party shall notify the other party in writing. Upon receipt of such notice, the breaching party shall have thirty (30) days to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the thirty (30) day period, the non-breaching party shall have the right to terminate the Agreement without further notice.

Upon early termination as provided in this section, online access to the Content by Institutional Licensee and Authorized Users shall be terminated.

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XV. FORCE MAJEURE

Neither the Licensors nor Institutional Licensees or Authorized Users will be liable for failures or delays in performing their obligations pursuant to this contract arising from any cause beyond their control, including but not limited to, act of God, acts of civil or military authority, terrorism, fires, strikes, lockouts or labor disputes, epidemics, wars, riots, earthquakes, storms, typhoons and floods and in the event of any such delay, the time for either party's performance will be extended for a period equal to the time lost by reason of the delay. If the conditions giving rise to the delay continue beyond thirty (30) consecutive days, either party may terminate its agreement with the

other by giving written notice to the 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. The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction shall in no way invalidate any other provision hereof.

XVII. AMENDMENT; ASSIGNMENT

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of Licensor and Institutional Licensee. This Agreement may not be assigned by either party without the prior written consent of the other, without which any assignment shall be null and void.

XVIII. WAIVER OF CONTRACTUAL RIGHT

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.

XIX. NOTICES

All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be deemed received within five (5) days after mailing if sent by registered or certified mail, return receipt requested. If any notice is sent by facsimile, confirmation copies must be sent by U.S. Mail or hand delivery to the specified address. Either party may from time to time change its Notice Address by written notice to the other party.

FOR UNIVERSITY OF CALIFORNIA, SAN DIEGO:

Name of Authorized Signer (printed): [Text deleted]

Signature of Authorized Signer: [Text deleted]

Date: 5-21-19

FOR YALE UNIVERSITY PRESS:

Name of Authorized Signer (printed): [Text deleted]

Signature of Authorized Signer: [Text deleted]

Date: 8/22/19

Exhibit A – Fees

Subscription Rate: \$ [Text delete] _____ , for the year starting July 1, 2019 and ending on June 30, 2020, payable within 30 days of receipt of invoice following mutual signing of the Agreement. . Licensor will notify Licensee of the applicable rate within 90 days of the next renewal term

Exhibit B: Registration Form

Please return a signed copy of this registration form along with the EAAP Institutional Subscription License Agreement by email to: [Text deleted]
Or by mail: [Text deleted]

Organization Information

Please provide the name and address of the library, department or institute that has requested this electronic access.

University of California, San Diego

Mailing Address:

[Text deleted]

Name:

Title:

E-mail: [Text deleted]

Telephone:

[Text deleted]

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Network addresses shall be provided as a domain name and as a range of addresses; (e.g. "128.135." or "128.135.1-20.") You may register as many IP addresses as necessary to describe the network in use at the EAAP identified above.

[Text deleted]

[Text deleted]

Exhibit C – Institutional Representative

Below, please fill out the appropriate information for the Institutional Representative for your Institutional Subscription License. This individual will receive all correspondence and will be the main point of contact:

Name: [Text deleted] _____

Title: Head, Serials & Electronic Resources, CARS, Library _____

Institution: University of California, San Diego _____

Phone: [Text deleted] _____

Email: [Text deleted] _____