

AGREEMENT made as of the _____ day of _____ 2006, between the **Asia-Pacific Academic Consortium for Public Health**, an Australian not-for-profit consortium, with offices at Queensland University of Technology, Victoria Park Road, Kelvin Grove, Queensland 4059 Australia (“Consortium”), and **Sage Publications, Inc.**, a Delaware corporation, with offices at 2455 Teller Road, Thousand Oaks, California 91320 (“Publisher”).

WHEREAS, Consortium is the owner of the journal entitled *ASIA-PACIFIC JOURNAL OF PUBLIC HEALTH* (the “Journal”) and certain other assets related thereto, and develops and/or acquires copyrighted materials for publication therein; and

WHEREAS, Publisher is engaged in the business of publishing scholarly and professional periodicals, among other things, and desires to obtain the exclusive license to publish the Journal and the copyrighted materials developed and/or acquired by Consortium therefor; and

WHEREAS, Consortium desires that Publisher act as publisher of the Journal and wishes to grant Publisher such exclusive license; and

WHEREAS, certain capitalized terms and certain phrases used herein are defined in Article 17 hereof.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. GRANT OF LICENSES.

1.1 Ownership of the Journal. Consortium is, and will be, the sole owner of all rights, titles, and interests in and to the Journal, including:

- (a) the title of the Journal and the logos, trade dress, trade names, and such other marks used on or in connection or association with the Journal (collectively, the “Trademarks”), together with the goodwill of the Journal symbolized by the Trademarks;
- (b) the copyrights, and all exclusive rights comprised therein, in and to all issues of the Journal, each as a collective whole, published prior to the Term (the “Prior Issues”) and published hereunder during the Term (the “Publisher’s Issues”);
- (c) the copyrights, and all exclusive rights comprised therein, in and to all Contributions published in Prior Issues and Publisher’s Issues, to the extent same have been, or will be, granted, assigned, or otherwise conveyed to Consortium; and
- (d) the lists of names, mailing addresses, affiliations, and subscription history of all subscribers to the Journal, including both Consortium members (the “Member Subscriber List”) and those who are not members of Consortium (the “Non-Member Subscriber List”), as updated from time to time (collectively, the “Subscriber Lists”).

1.2 License of the Journal. Upon the terms and conditions of this Agreement, Consortium hereby grants and assigns to Publisher for the Term the exclusive right and license throughout the world:

- (a) to prepare, reproduce, manufacture, and reprint Copies of the Journal and Contributions, in whole and in part; and to publish, distribute, sell, license, transfer, transmit, and publicly perform and display such Copies;

- (b) to grant permissions and licenses: (i) directly or through rights clearance organizations, to reprint, photocopy, or otherwise reproduce Copies of Contributions; and (ii) to reprint or otherwise reproduce quotes or excerpts from Contributions in other works;
- (c) to prepare translations, adaptations, and other derivative works based on issues of the Journal or on Contributions; and to reproduce and manufacture Copies of such derivative works, in whole and in part, and to publish, distribute, sell, license, transfer, transmit, and publicly perform and display such Copies;
- (d) to exercise, license, or otherwise exploit any and all other subsidiary and other rights in the Journal and Contributions, now known or which may later come into existence, including without limitation, the right to reproduce and manufacture Copies thereof, in whole and in part, as part of compilations together with other works; and to publish, distribute, sell, license, transfer, transmit, and publicly perform and display Copies of such compilations. Compilations include, but are not limited to “course packs” and other commercial academic collections, customized works comprised of modular or disaggregated content, electronic databases, data storage and archival systems, document delivery services, search and retrieval services, online access services, and other automated information systems; and
- (e) to sub-license any of the rights set forth in Sections 1.2(c) and 1.2(d).

1.3 License of Subscriber Lists. Upon the terms and conditions of this Agreement, Consortium hereby grants to Publisher for the Term a non-exclusive license throughout the world to use the Subscriber Lists solely: (a) to obtain and fulfill subscriptions and renewals for issues of the Journal to be published hereunder and perform other subscription servicing functions; and (b) to conduct advertising and promotional activities on behalf of the Journal. Publisher will hold the Subscriber Lists in confidence and shall not utilize or disclose the Subscriber Lists except to the extent required to perform its obligations and exercise its rights hereunder, without the prior written consent of Consortium.

1.4 License of Trademarks. Upon the terms and conditions of this Agreement, Consortium hereby grants to Publisher for the Term the non-exclusive license throughout the world to use the Trademarks and the name of Consortium solely in connection with the exercise of any of the rights set forth in Section 1.2 or Section 1.3 above for the purpose of identifying Consortium as the source of the Journal and Contributions. All other rights in and to the Trademarks and the name of Consortium are expressly reserved by Consortium. Any and all goodwill arising from Publisher’s use of the Trademarks and the name of Consortium shall inure solely to the benefit of Consortium.

2. TERM OF LICENSES.

2.1 The Term. The term of the licenses granted herein by Consortium to Publisher (the “Term”):

- (a) shall commence on January 1, 2008, except that beginning on the date hereof Publisher may commence to exercise the non-exclusive rights in the Subscriber Lists granted under Section 1.3 and, in connection therewith, to utilize the Trademarks for purposes of obtaining subscription sales and renewals, conducting promotional activities, and other ordinary marketing functions with respect to issues of the Journal to be published hereunder; and
- (b) shall continue for an initial period through and including December 31, 2012, subject to earlier termination in accordance with the provisions of Article 14, and thereafter the Term will be renewed automatically for one (1) renewal period of one (1) year unless either party gives written notice to the other party at least twelve (12) months before the end of the Term that the Term will not be renewed and, in such event, the Term will expire and terminate on December 31, 2012.

3. EDITORIAL CONTROL, EDITORS.

3.1 Editorial Policy and Control. Consortium shall select and appoint an Editorial Board and Editor, as provided in Sections 3.2 and 3.3, respectively. Consortium, through the Editorial Board and the Editor, shall determine the editorial policy and define the aims and scope of the Journal, and establish procedures and standards for acceptance of Editorial Material. The Editor will act as Consortium's authorized agent in exercising editorial control of the Journal and fulfilling the editorial responsibilities of Consortium hereunder. The Editor and Consortium Representative, as set forth in Section 18.1, will be the only representatives of Consortium authorized to communicate to Publisher all controlling decisions on editorial policy and content of the Journal. The Editor and Publisher mutually will prepare author submission guidelines for the Journal, which will include information regarding the manuscript submission process, editorial and legal requirements, preparation of manuscripts and illustrations, and proofreading obligations. The Editor will confer with Publisher's personnel regarding the Journal at such times as Publisher reasonably requests.

3.2 Appointment of Editorial Board Members. Consortium shall determine the size and composition of the Editorial Board and the term of service of its members; and shall select, appoint, and secure the services of such members and obtain each member's authorization for the use of his or her name, likeness, biographical materials, and professional credits by Consortium, and by Publisher as its exclusive licensee, on Copies of the Journal and in connection with the marketing and promotion thereof. Consortium shall furnish Publisher with the names, addresses, and affiliations of the members of the Editorial Board as they are to be listed in the Journal, and shall promptly advise Publisher of all changes in the membership or structure of the Editorial Board.

3.3 Appointment of Editors. Consortium shall select, appoint, and secure the services of the Editor and determine the Editor's term of service; and shall appoint successor Editor(s) in a manner so as to avoid any vacancy in the position and allow for an orderly editorial transition. The Editor, with the prior approval of Consortium, may select and appoint adjunct editors (e.g., associate editor, assistant editor, advisory editor, book review editor, etc.) and, from time to time, guest editors as the Consortium deems appropriate relative to the editorial requirements of the Journal. If the services of the Editor are terminated or the Editor otherwise ceases to serve prior to the expiration of his or her term of service, then Consortium shall immediately so notify Publisher and shall use its best efforts to expeditiously select and appoint a new Editor. During periods of editorial transition, Consortium will keep Publisher fully informed, as necessary, of the status of the new editorial appointment and Consortium and Publisher will consult and cooperate with each to provide for an orderly transition.

3.4 Editor Agreements. Consortium shall enter into a written agreement with the Editor, and with each adjunct or guest editor, that provides that:

- (a) all original copyrightable works prepared by such editor for the Journal in the course of performing his or her editorial services for the Journal shall be deemed specially ordered or commissioned by Consortium for the Journal and shall be considered "works made for hire" for Consortium under the Copyright Act; and the copyrights and all the exclusive rights comprised therein shall vest initially in and be owned by Consortium. To the extent, if any, that any material prepared by such editor and contained in the Journal does not qualify as a "work made for hire," or copyright or other proprietary right thereto might otherwise vest in such editor, the editor grants, assigns and transfers all such rights throughout the world exclusively and in perpetuity to Consortium, as of the date of its creation, in all languages and formats, in all media now known or later conceived or developed; and
- (b) the name, likeness, biographical materials, and professional credits of such editor may be used by Consortium, and by Publisher as its exclusive licensee, on Copies of the Journal and in connection with the marketing and promotion thereof.

Upon Publisher's request, Consortium will provide Publisher with a copy of that portion of the agreement between Consortium and the Editor or any adjunct or guest editor setting forth the terms herein.

3.5 Use of Names and Likenesses. Consortium hereby grants to Publisher for the Term, to the extent such right is granted to Consortium, the right to use the names, likenesses, biographical materials, and professional credits of the Editor, each adjunct or guest editor, and each Editorial Board member, on Copies of the Journal and in connection with the marketing and promotion thereof.

3.6 Editor Compensation. As between Publisher and Consortium, Consortium will have sole responsibility for, and shall pay when due, any and all payments of any nature whatsoever which may become due and payable to the Editor or any adjunct or guest editor in respect of editorial services rendered for the Journal, or to any editorial support staff employed or engaged by the Editor. Unless expressly agreed by Publisher in writing, Publisher shall have no monetary obligation whatsoever to the Editor or any adjunct or guest editor in respect of Publisher's exercise of its rights or otherwise hereunder; and in no event shall any editorial support staff employed or engaged by the Editor be deemed to have been employed by Publisher or engaged for the account or on behalf of Publisher.

4. PRODUCTION SCHEDULE AND SPECIFICATIONS.

4.1 Frequency of Publication. Upon the terms and subject to the conditions of this Agreement, during the Term Publisher will publish the Journal in annual volumes, each volume consisting of four (4) quarterly issues, numbered 1 through 4, to be published in March, June, September and December of each Volume Year in accordance with the Production Schedule. During the initial period of the Term, Publisher will commence publication of the Journal with Volume 20, Number 1 (March 2008) and continue through and including Volume 24, Number 4 (December 2012).

4.2 Production Schedule. With respect to each volume of the Journal to be published hereunder, Publisher and Consortium shall develop a mutually-agreeable Production Schedule based on a fourteen (14) week print production cycle.

4.3 Physical Specifications. The Journal will be published in 7" x 10" print format. The other physical specifications and cover design of the Journal will be determined by Consortium in consultation with Publisher, provided that all such specifications can be reasonably accommodated by Publisher.

4.4 Annual Page Budget. The Annual Page Budget for each volume of the Journal to be published hereunder shall be a maximum of two hundred eighty-eight (288) Editorial Pages, and the Issue Allotment shall be a minimum of sixty-four (64) Editorial Pages and a maximum of eighty (80) Editorial Pages. Each issue shall contain no less than the minimum, and no more than the maximum, number of Editorial Pages in the Issue Allotment, except as provided in Section 4.5. Notwithstanding the maximum Issue Allotment for any volume of the Journal, the Annual Page Budget for such volume will be controlling and the total number of Editorial Pages published in all the issues of such volume will not exceed the Annual Page Budget therefor, unless the Editor has obtained Publisher's prior written consent.

4.5 Additional Editorial Pages. In the event the Editor wishes to include in an issue of the Journal Editorial Pages in excess of the Issue Allotment for such issue (for example, to allow for publication of a special theme-oriented issue), the Editor will give Publisher prior written notice at least six (6) months before the mail date for said issue set forth in the Production Schedule that an additional signature(s) of four (4) Editorial Pages is to be added to said issue. Publisher will not charge Consortium for such additional Editorial Pages if the number of additional Editorial Pages published in said issue is offset by a corresponding reduction in the number of Editorial Pages published in other issue(s) in the same volume of the Journal so that the Annual Page Budget is not exceeded; provided, however, that in no event will the number of Editorial Pages in any issue be

reduced by way of offset to fewer than the minimum Issue Allotment for such issue without Publisher's prior approval, not to be unreasonably withheld. If, however, such additional Editorial Pages are not fully offset by a corresponding reduction of Editorial Pages in other issues of the same volume and, as a consequence, the total number of Editorial Pages published in said volume exceeds the Annual Page Budget, then, to the extent not fully offset, Consortium will reimburse Publisher for the typesetting costs and the additional incremental costs of paper, printing, binding, and postage for each Editorial Page published in excess of the Annual Page Budget for said volume. As of the date of this Agreement, the current cost for each additional Editorial Page published in excess of the Annual Page Budget is ninety dollars (\$90.00); however, Publisher reserves the right to increase such amount during the Term to reflect an increase in Publisher's production costs. Any such increase will be documented by the parties by written amendment to this Agreement.

4.6 Illustrations. Publisher will publish in the Journal, without additional charge to Consortium or the contributors, black and white illustrations included in Contributions and submitted to Publisher in a form suitable for direct use without retouching, redrawing or reworking by Publisher, in either digital form or as "camera-ready" artwork. Should any black and white illustrations not be in a form suitable for direct use, as reasonable with respect to the Production Schedule, Publisher will provide the Consortium an opportunity to reproduce the illustrations. At the request of the Editor, Publisher will publish in the Journal four-color images at a charge to Consortium or the contributor of the Contribution in which such color image(s) is to be included, as Consortium shall direct, at the per image rate of eight hundred dollars (\$800.00), if such color image is the first color image printed in an article; or two hundred dollars (\$200.00), if such color image is an additional color image printed in an article. Publisher reserves the right to increase the charges for four-color images during the Term to reflect an increase in Publisher's production costs. Any such increase will be documented by the parties by written amendment to this Agreement.

5. EDITORIAL OBLIGATIONS

5.1 Selection and Editing of Editorial Material. The Editor shall:

- (a) solicit submissions of high quality manuscripts for publication in the Journal;
- (b) review and evaluate submitted manuscripts for content and merit in accordance with the editorial policy, procedures and standards of the Journal, and accept or reject manuscripts for publication on such basis;
- (c) arrange for and supervise independent peer review of suitable manuscripts of Contributions and make, or request the contributor thereof to make, such revisions as the reviewers deem appropriate, and reject any such manuscript the Editor deems unsatisfactory;
- (d) substantively edit and proofread accepted manuscripts for technical and scientific content and accuracy, and for style, form and clarity in accordance with the editorial policies and author submission guidelines of the Journal;
- (e) review and correct page proofs of each issue of the Journal provided by Publisher, in accordance with Section 6.2; and
- (f) maintain records regarding the status of manuscripts of Contributions submitted to the Journal (e.g., acceptance/rejection rate, peer review outcome) and, if requested, provide Publisher with an annual status report.

5.2 Transfer of Copyright. A Transfer of Copyright ("TOC"), in the form attached hereto as Exhibit "A" or as otherwise approved or provided from time to time by Publisher, signed by all the copyright holders of each accepted Contribution (including those contributed by the Editor) must be obtained by the Editor. The Editor shall retain a copy of the fully executed TOC for Consortium's own records and shall deliver a copy to Publisher together with the manuscript of such Contribution.

5.3 Permissions. If any Contribution contains copyrighted material from another source, then a Permission for such material must be obtained by the Editor and a copy thereof must be delivered to Publisher together with the manuscript of such Contribution.

5.4 Delivery of Editorial Material to Publisher. The Editor shall deliver to Publisher reviewed and edited manuscripts of Editorial Material as soon as practicable after each is accepted for publication. At least fourteen (14) weeks before the mail date for each issue set forth in the Production Schedule, the Editor shall complete delivery of at least a sufficient amount of Editorial Material to satisfy the minimum Issue Allotment for such issue. Editorial Material delivered in excess of the maximum Issue Allotment for an issue will be held by Publisher for publication in a subsequent issue of the Journal, such material to be selected by Publisher in consultation with the Editor. The Editor shall use best efforts to ensure the currency and accuracy of all Editorial Material as of the date delivered to Publisher. The Editor shall deliver Editorial Material to Publisher in the format and manner set forth in Section 5.5, together with a copy of the executed TOC for each Contribution and Permissions required as set forth in Section 5.3. No Editorial Material will be published in the Journal unless Publisher receives a copy of the required executed TOC and, if applicable, Permissions.

5.5 Format of Editorial Material. The Editor shall deliver Editorial Material to Publisher in the following formats and manner, or as the parties may otherwise agree, from time to time during the Term:

- (a) An electronic copy of each manuscript uploaded to the Publisher's online production-tracking system. Each manuscript shall be in English, in Microsoft Word format, and be double-spaced, with footnotes and references grouped as endnotes at the end. Complete contact information for each author and co-author shall accompany each manuscript.
- (b) One (1) copy of each illustration in a form suitable for direct reproduction without requiring retouching, redrawing or reworking by Publisher, uploaded into Publisher's online production-tracking system. If digital artwork is not available, camera-ready artwork shall be provided by a trackable shipping method.
- (c) TOCs and any needed Permissions shall be delivered to the Publisher at the time manuscripts are uploaded into Publisher's online production-tracking system.

6. PRODUCTION PROCEDURES AND PUBLICATION.

6.1 Copyediting, Composition, and Indexing. After receipt from the Editor, Publisher will copyedit manuscripts of Editorial Material for spelling, grammar, punctuation, and style consistent with the style and format adopted by Consortium for the Journal; check references for style; code text for electronic delivery; prepare the manuscript and digital files for composition; prepare artwork; typeset, format, and compose pages into page proofs; and proofread composed pages. Publisher will prepare an author and article index to each volume of the Journal published hereunder, and will publish such indexes in the last issue of each such volume.

6.2 Proofs. Publisher will transmit in digital form one (1) set of page proofs of each issue of the Journal to the Editor, and one (1) set of page proofs of each Contribution to the appropriate author. The Editor shall promptly review, correct, and return all proofs to Publisher within the time provided in the Production Schedule, and shall follow up with authors who received proofs to similarly promptly review, correct, and return same to Publisher. Publisher shall be responsible for correcting all typesetting and copyediting errors in proofs. The Editor and/or an author may alter the text of Editorial Material on proofs; however, Publisher reserves the right to charge the respective party for reimbursement of the costs of making the requested textual changes that exceed five percent (5%) of Publisher's original costs of composition and typesetting for such proofs. If corrected proofs are not returned by an author within one week of Publisher's transmittal, Publisher, at its discretion, may proceed with the publication of his or her Contribution as the Editor and Publisher mutually

deem appropriate or may omit, as determined in consultation with the Editor, same from the intended issue of the Journal.

6.3 Publication. Publisher, in accordance with the Production Schedule, shall: (a) print, bind, and publish each issue of the Journal in print form and (b) post each issue of the Journal in electronic form on Publisher's online content website (the "Publisher's Website"), which is currently located at <http://online.sagepub.com>, in accordance with the Production Schedule and upon the terms and conditions of this Agreement, provided that all the Editorial Material for such issue is timely delivered to Publisher and corrected page proofs timely returned in accordance with the Production Schedule and Sections 4.2, 5.4 and 6.2 above. All print-form copies of the Journal and of other materials produced by Publisher under this Agreement shall be the property of Publisher. During the Term, all digital copies of the Journal, and the Contributions contained therein, shall be the property of the Publisher. Upon termination of this Agreement, in accordance with Section 15.2, Consortium shall own all digital copies then in Publisher's possession.

6.4 Online Content. Publisher, at its own expense, shall undertake to include all Prior Issues, as well as the Publisher's Issues, on Publisher's Website. Upon Publisher's request, Consortium shall assist Publisher by providing, as available, digital files of the Prior Issues, or print-form copies of the Prior Issues for Publisher to digitize at its own expense.

- (a) Consortium acknowledges and understands that subscribers, licensees, and other purchasers of online access to the digital version of issues of the Journal (Prior Issues and/or Publisher's Issues) may be entitled to continuing archival access to such digital content in the same manner as they would to print versions thereof, regardless of the expiration or termination of this Agreement. Accordingly, any use or license of Journal content for the purpose of providing continuing electronic archival access (either online or embodied on any media) shall survive any termination or expiration of the Term.

6.5 Business Operations and Financial Responsibility. Publisher solely shall bear the financial risks and responsibilities of publication of the Journal and the business operations and functions it has hereby undertaken to perform with respect thereto. Publisher will determine and control all matters relating to the production, manufacture, publication, distribution, promotion, advertising sales, and marketing of the Journal, subject to the terms of this Agreement, and in a manner Publisher deems appropriate to the contents and readership of the Journal and consistent with the reputation of Consortium. Consortium shall have no financial obligation to Publisher with respect to the publication of the Journal except as expressly provided in this Agreement.

7. NOTICES AND COPYRIGHT ADMINISTRATION.

7.1 Copyright Notice and Registration. Publisher shall affix to Copies of each issue of the Journal published hereunder a copyright notice in accordance with the Copyright Act as follows: "© [year of first publication], Asia-Pacific Academic Consortium for Public Health. All rights reserved." Promptly after the publication of each issue of the Journal published hereunder, Publisher shall prepare and submit to the United States Copyright Office an application for copyright registration in the name of Consortium for such issue; and Consortium hereby designates Publisher as its authorized agent for the purpose of executing such copyright registration applications and other Copyright Office documents as may be necessary to secure such registrations.

7.2 Official Journal. During the Term, the Journal shall be the only official journal of Consortium, except as otherwise mutually-agreed in writing by the parties. The legend: "Official Journal of the Asia-Pacific Academic Consortium for Public Health," shall be affixed to Copies of the Journal published hereunder, and may be used in catalog listings, brochures, and other promotional and marketing materials for the Journal in any format or media.

7.3 Publisher Branding. Publisher shall have the right to affix to the cover, spine, and title page of Copies of the Journal published hereunder, and on digital equivalents thereof (such as Web pages and title screens), Publisher's name, imprints, logos, and/or the following legend: "Published by SAGE Publications in association with the Asia-Pacific Academic Consortium for Public Health." Such branding shall not be greater in size than the name of the Journal and the Trademarks of the Consortium.

7.4 Notices. Publisher may affix such notices and credits to Copies of the Journal published hereunder in accordance with its usual practices, such as a warning legend, disclaimer, photocopying permission information, and other standard notices.

8. SUBSCRIPTIONS.

8.1 Subscription Rates. During the Term, the annual subscription rate for each Consortia member will be two hundred sixty-one U.S. dollars (USD 261.00) and the annual subscription rate for individuals will be one hundred U.S. dollars (USD 100.00). The annual rates for other subscriber categories will be determined by Publisher in consultation with Consortium.

8.2 Fulfillment of Subscriptions.

- (a) Upon the terms and subject to the conditions of this Agreement, during the Term Publisher will service and fulfill all paid subscriptions and orders relating to issues of the Journal and Contributions published hereunder. To the extent print form back issue inventory of Prior Issues is made available to Publisher, Publisher will fulfill orders and replacement claims relating to Prior Issues.
- (b) The price charged by Publisher for an annual institutional subscription to the Journal will provide such subscribing institution with one print form copy of each issue of the volume subscribed and/or online electronic access to the full-text digital version of each such issue. Online access to subscribed issues will be made available through Publisher's Website and/or various third-party access intermediaries. Publisher reserves the right to change, add, or terminate any intermediary at any time, and to revise the terms and conditions of online electronic access rights and electronic subscriptions to the Journal.

Consortium Member Subscriptions.

- (a) Benefit of Membership. During the Term, Consortium shall provide an annual subscription to the Journal as a benefit of membership for all member categories, and Consortium shall include in the annual membership dues Consortium charges each of its members an amount equal to the applicable member subscription rate. Each annual member subscription will include one print-form copy of each issue in the volume subscribed, and at no additional charge, online electronic access to the full-text digital version of each such issue. Consortium warrants that member subscribers will be Consortium members only; other institutional subscription sales will be made solely by Publisher. Consortium shall remit to Publisher all member subscription fees for each volume of the Journal published hereunder in the manner set forth below.
- (b) Maintenance and Delivery of Member Subscriber List. Consortium shall maintain the Member Subscriber List during the Term. With respect to each volume of the Journal to be published hereunder, at least eight (8) weeks before the mail date set forth in the Production Schedule for each issue of such volume, Consortium, at its expense, will deliver to Publisher, or a designated printer or subscription fulfillment service as Publisher may direct, the then current Member Subscriber List in a mutually agreeable digital form, in zip code sequence,

according to Publisher's specifications for use by Publisher to generate mailing labels and fulfill Consortium member subscriptions to such volume. Consortium shall use reasonable efforts to assure that the information contained in the Member Subscriber List as provided to Publisher from time to time is complete, accurate, up to date, and includes the names and full mailing addresses of all then current Consortium members.

- (c) Remittance of Member Subscription Fees. Simultaneously with Consortium's delivery to Publisher of the Member Subscriber List pursuant to Section 8.3(b), Consortium shall remit therewith member subscription fees in an amount equal to twenty-five percent (25%) of the applicable annual member subscription rate set forth on the Subscription Rate Schedule multiplied by the number of Consortium members set forth on said Member Subscriber List.

8.4 Maintenance of Non-Member Subscriber List. During the Term, Publisher will maintain the Non-Member Subscriber List. Publisher will solicit non-member subscriptions to the Journal throughout the world as Publisher, in its sole discretion, may determine. As Consortium may reasonably request, Publisher will provide Consortium with a copy of the Non-Member Subscriber List in a mutually agreeable digital form. The parties acknowledge that, during the Term, new non-member subscribers will be obtained by Publisher, or as a result of Publisher's efforts, and that a significant number of such new subscribers to the Journal may also be, or may have been, subscribers to other publications published by Publisher. Accordingly, notwithstanding that the Non-Member Subscriber List is, and shall remain, the sole property of Consortium, it is hereby understood and acknowledged that it is not the purpose or the intention of the parties to in any way prohibit, limit, or restrict Publisher's rights to utilize, during or after the Term, in accordance with the Privacy Act as it applies to this Agreement and any similarly applicable Act, the names, addresses, subscription histories and other information pertaining to those non-member subscribers who also subscribe or had subscribed to other publications of Publisher, and that any use by Publisher of such subscriber information shall not constitute a breach or violation of any duty or obligation owed by Publisher to Consortium hereunder.

8.5 Delivery of Non-Member Subscriptions.

- (a) Non-Member Subscriber List. Within fifteen (15) days after the date of this Agreement, Consortium shall deliver to Publisher, or shall cause the prior publisher of the Journal, _____, to deliver to Publisher, a copy of the then current Non-Member Subscriber List in digital form. If the most current and up-to-date Non-Member Subscriber List is in the possession of the prior publisher of the Journal, and such list is not received by Publisher within thirty-five (35) days after the date hereof, then Consortium shall provide Publisher the most current Non-Member Subscriber List that Consortium has in its possession.
- (b) Non-Member Subscription Fees and Other Items. Within sixty (60) days after the date hereof, Consortium shall deliver to Publisher, or shall use best efforts to cause the prior publisher of the Journal to deliver to Publisher, all orders and monies received by Consortium or, as the case may be, by the prior publisher, pertaining to non-member subscriptions to, and advertising in, Volume 20, Number 1 (March 2008) and subsequent issues of the Journal, together with identifying back-up documentation sufficient to fulfill such obligations. Consortium shall ensure that the prior publisher transfer to Publisher, within twenty-one (21) days after receipt, all orders and monies thereafter received by the prior publisher pertaining to non-member subscriptions and advertising for such issues and volumes of the Journals, together with identifying back-up documentation sufficient to fulfill such obligations. Publisher will be obligated to fulfill only those unfulfilled subscriptions, or portions thereof, for which Publisher has received subscription fees. As soon as practicable after the date hereof, Consortium shall deliver to Publisher, or shall cause the prior publisher

of the Journal to deliver to Publisher, digital files containing Consortium logos, trade dress, and such other marks and art used in the Journal.

8.6 Prior Issue Inventory. Within sixty (60) days after date hereof, Consortium shall deliver to Publisher a list setting forth the number of copies of each Prior Issue in print form on hand in inventory and where such inventory is located. Publisher and Consortium mutually shall determine the quantity of Prior Issue inventory to be shipped to Publisher and Publisher will arrange and pay for shipment thereof to Publisher's warehouse.

8.7 Reports. Publisher will provide a Publisher's Report for the Journal annually and will provide additional reports as Consortium may reasonably request at other times.

9. COMPLIMENTARY SUBSCRIPTIONS AND AUTHOR COPIES.

9.1 Complimentary Subscriptions. During each Volume Year, Publisher shall provide Consortium, free of charge, thirty-five (35) annual subscriptions to the Journal, which will include complimentary copies for the Editors and the members of the Editorial Board, which Consortium will distribute as it deems appropriate. Publisher, at its expense, will bulk ship copies of each issue to the offices of Consortium or to such other destination as Consortium may advise in writing.

9.2 Authors. Publisher shall provide, free of charge, to each credited author of a Contribution published in the Journal hereunder, one (1) copy of the issue of the Journal in which such Contribution was first published.

10. PROMOTION AND MARKETING.

10.1 Advertisements. Publisher shall have the sole and exclusive right and responsibility for soliciting and obtaining advertising in the Journal, compatible with the professional standards and reputation of the Journal and Consortium, and shall determine the rates to be charged therefor.

10.2 Abstracts. Publisher will make best efforts to maintain all pre-existing abstracting and indexing agreements for the Journal and to secure inclusion of the Journal in other major abstracting and indexing services in relevant fields.

11. ROYALTIES AND EDITORIAL SUPPORT.

11.1 Royalties. In consideration for the rights granted hereunder, Publisher shall pay Consortium, in the manner provided in Section 12.1, royalties equal to ten percent (10%) of Net Revenue. The royalties payable hereunder are comprehensive, and Publisher shall have no monetary obligation whatsoever to the Editor, any adjunct or guest editor, editorial staff member of the Journal, or otherwise for or in connection with this Agreement or Publisher's exercise of its rights hereunder, unless expressly agreed by Publisher in writing.

11.2 Editorial Office Support.

- (a) Editorial Stipend. In respect of editorial office expenses incurred by Consortium in preparation of the Journal, during each Volume Year of the initial period of the Term, Publisher shall pay to Consortium a non-refundable, non-recoupable, annual editorial stipend in the amount of ten thousand U.S. dollars (USD 10,000.00), payable in quarterly installments of two thousand five hundred U.S. dollars (USD 2,500.00) by the first day of January, March, June, and September of the applicable volume year. The first such

installment shall be due by January 1, 2008, and the final such installment shall be due by September 1, 2012.

- (b) Software. Publisher will provide Consortium with reasonably acceptable manuscript tracking software for the editorial office of the Journal to track Editorial Material through the review and production process and assist the Editor in meeting the Production Schedule and planning the flow of submission of Editorial Material to Publisher.

12. ACCOUNTING AND PAYMENT.

12.1 Annual Statement of Account; Payment of Royalties. Publisher shall maintain accurate books and records of account relating to the Journal. Royalties earned hereunder will be accrued annually as of December 31st of each year. On or before March 1st of each year of the Term, Publisher will prepare and issue an annual statement of account for the preceding calendar year, detailing Net Revenue, advances paid, and royalties earned and payable to Consortium for such year. Payment of royalties earned in such year, less the amount of the advance paid in such year, shall be remitted to Consortium within sixty (60) days of such statement. Publisher's obligation to account and remit royalties hereunder shall survive for two (2) years after termination or expiration of the Term.

12.2 Examination of Royalty and Related Subscription Records. Upon reasonable prior written notice to Publisher, not more than once in any twelve (12) month period, Consortium, by its duly authorized representative and at its expense, may examine and make copies of the royalty and related subscription records maintained by Publisher relating to the Journal, at Publisher's offices during normal business hours. All statements rendered hereunder by Publisher shall be conclusive for any reason unless objection is made within two (2) years from the date of such statement, except that any errors in computation shall promptly be corrected upon discovery. Consortium's right to examine Publisher's royalty and related subscription records shall survive for a period of two (2) years after expiration or termination of the Term.

13. WARRANTIES AND REPRESENTATIONS; INDEMNIFICATION.

13.1 By Consortium. Consortium warrants and represents that:

- (a) all necessary actions required to be taken by or on the part of Consortium to authorize it to enter into this Agreement have been duly and properly taken; that it has the full power, right, and authority to enter into this Agreement, to grant the rights herein granted, and to fully perform the terms and conditions hereof; that the rights granted herein are not now subject to prior assignment, transfer or encumbrance; that this Agreement does not violate any agreement or legal obligation to which Consortium is subject; and that the person executing this Agreement on Consortium's behalf is authorized to do so; and
- (b) to the best of Consortium's knowledge, the Editorial Material submitted to Publisher for publication in the Journal will be previously unpublished and original, except for such excerpts from works in the public domain or from previously copyrighted works as may be included with the permission of the copyright owners thereof; and to the best of Consortium's knowledge, will contain no material that infringes upon or violates any copyright, trademark, obligation of confidentiality, or any other right or the privacy of any third party, or material that is libelous or otherwise contrary to law, or material or matter or instructions that may cause harm or injury; and that statements contained in the Journal asserted as fact are true or based upon generally accepted professional research practices.

13.2 By Publisher. Publisher warrants and represents: that all corporate actions required to be taken by or on the part of Publisher necessary to authorize it to enter into this Agreement and to perform all terms and

conditions hereof have been duly and properly taken; that it has the full power, right and authority to enter into this Agreement; that this Agreement does not violate any agreement or legal obligation to which Publisher is subject; and that the person executing this Agreement on Publisher's behalf is authorized to do so.

13.3 Indemnification. Subject to the provisions of Section 13.4:

- (a) By Consortium. Consortium shall indemnify and hold harmless Publisher, its subsidiaries and affiliates, and its and their officers, directors, employees, agents and licensees, against any Damages incurred by reason of any Claim to the extent such Claim arises from any act or omission of Consortium under or related to this Agreement, or breach by Consortium of any representation or warranty given by it herein.
- (b) By Publisher. Publisher shall indemnify and hold harmless Consortium, its officers, trustees, directors, employees, agents and licensees, against any Damages incurred by reason of any Claim to the extent such Claim arises from any act or omission of Publisher under or related to this Agreement, or breach by Publisher of any representation or warranty given by it herein.

13.4 Conditions for Indemnification. With respect to a Claim as to which a party believes it may be entitled to indemnification under this Article 13, the party seeking indemnification (the "Claimant") shall give prompt written notice of the existence of such Claim to the party that would be required to provide indemnification (the "Indemnitor"). The failure of the Claimant to so notify the Indemnitor shall relieve the Indemnitor from liability under this Article 13 only if, and to the extent that, such failure to notify results in the forfeiture by the Indemnitor of, or material prejudice to, rights and defenses otherwise available to it with respect to such Claim.

13.5 Defense of Claims. The Indemnitor shall have the right, upon written notice to the Claimant within twenty (20) days after receipt of a notice of a Claim pursuant to Section 13.4, to assume and control the defense of such Claim at its expense, with counsel of its choice reasonably satisfactory to Claimant; provided that the Indemnitor acknowledges and agrees that it has responsibility to indemnify the Claimant with respect to such Claim to the extent provided herein. Otherwise, the Claimant may assume and control the defense of such Claim, with counsel of its choice, and without prejudice to its right to indemnification with respect to such Claim, including, without limitation, the reasonable attorneys' fees and expense associated with such defense. Regardless of which party controls the defense of a Claim: the other party may participate and assist in the defense with counsel of its choice, at its own expense; and the parties will periodically confer regarding the defense of the Claim, provide each other with information and copies of court papers and correspondence, and reasonably assist and cooperate with each other in the defense. The party controlling the defense of a Claim will have the full authority to settle or defend the Claim, and appeal any judgment or ruling in connection therewith, subject to Section 13.6.

13.6 Settlement of Claims. (a) If the Claimant controls the defense of a Claim, it shall not compromise, settle, default on, or admit liability with respect to such Claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld or delayed. (b) If the Indemnitor controls the defense of a Claim, then, without the prior written consent of the Claimant, which consent shall not be unreasonably withheld or delayed, the Indemnitor shall not settle, compromise, or default on such Claim if, as a result thereof, any liability or other obligation would be created for or imposed upon the Claimant and for which the Claimant is not entitled to indemnification under this Agreement. The Indemnitor may, however, settle any Claim as it deems advisable if under such settlement the only relief is solely the payment of money damages by the Indemnitor.

13.7 Infringement Actions. If either Consortium or Publisher becomes aware of any actual or potential infringement of a copyright in the Journal or of any trademark rights associated therewith, or of unfair

competition or misappropriation, it shall promptly confer and agree on a response. If they cannot promptly agree, either party may commence proceedings, but if proceedings are commenced by a party without the written agreement of the other party regarding payment of such litigation costs and expenses and the disbursement of any recovery, the party commencing proceedings shall (unless the parties agree otherwise), pay all costs and expenses properly incurred in such proceedings. Each party shall cooperate fully with the other in connection with such proceeding. In the absence of any agreement between the parties to the contrary, any monies which are recovered shall, after reimbursement or payment of all costs and expenses (including reasonable attorneys' fees), be divided and disbursed 75% to the party prosecuting such action and 25% to the other party.

14. TERMINATION

14.1 Default in Performance. In the event either party shall breach or default in the performance of any of its material obligations under this Agreement, the other party may terminate this Agreement by written notice upon the failure of the defaulting party to cure such breach or default within sixty (60) days after receipt of written notice setting forth in reasonable detail the nature and circumstances of such breach or default (a "default notice"); provided, however, that in the case of a breach or default which is curable but cannot reasonably be cured within such sixty (60) day period, the Term may not be so terminated if the defaulting party commences to take all reasonable curative action promptly after receipt of a default notice, in which event, the defaulting party shall advise the other party of such curative action undertaken and such sixty (60) day period shall be extended for an additional sixty (60) days during which time the defaulting party shall continue such curative action diligently and in good faith. If, after a total cure period of one hundred twenty (120) days such breach or default has not been reasonably cured, then the non-defaulting party may terminate this Agreement by written notice. Any election to terminate this Agreement shall not be exclusive of, and is in addition and without prejudice to, any other rights and remedies provided by law or in equity.

14.2 Bankruptcy. If either party: (a) makes a general assignment for the benefit of its creditors; (b) is adjudged bankrupt or insolvent, or a receiver or trustee in bankruptcy is appointed for such party; or (c) becomes the subject of a bankruptcy or insolvency proceeding under United States laws, then, to the extent permitted by the applicable provisions of the United States Bankruptcy Code, 11 U.S.C. §§101 *et seq.*, the other party may, at its option, terminate this Agreement upon written notice. The parties acknowledge and agree that the Journal and the Contributions are "intellectual property," as defined in §101(56) of the Bankruptcy Code.

14.3 Tax Status. If, as a result of any revision of the Internal Revenue Code of 1986, as amended, or any other applicable federal or state tax law, or a change in the application or interpretation of the applicable provisions thereof, the continued conduct by Consortium of the publication of the Journal would, in the view of counsel for Consortium, cause Consortium to lose its tax-exempt status, then Consortium may terminate this Agreement upon ninety (90) days prior written notice to Publisher (the "Termination Notice"), except as sooner provided in Section 14.3(b). In such event, Publisher shall have an exclusive first option to purchase all of Consortium's rights, title, and interest in the Journal, which may be exercised upon Publisher's receipt of a Termination Notice and shall be exercised, if at all, in the following manner:

- (a) Publisher shall have thirty (30) days from the date of the Termination Notice (the "Option Period") within which to submit to Consortium a written offer setting forth the material terms and conditions upon which Publisher proposes to purchase all of Consortium's rights in the Journal. During the Option Period, Consortium will not solicit, negotiate, or accept any offers from third parties to purchase the Journal.
- (b) If Publisher does not timely submit an offer within the Option Period, then: (i) notwithstanding anything herein to the contrary, the Term shall terminate effective as of the last day of the Option Period; and (ii) Consortium may dispose of all of its rights, title, and

interest in the Journal in any manner as it may determine, free of any rights of Publisher under this option.

- (c) If Publisher timely submits an offer within the Option Period, then the parties shall negotiate such offer in good faith. If, within ninety (90) days after the date of the Termination Notice, the parties are unable in good faith to conclude a purchase agreement, then Consortium may dispose of all of its rights, title, and interest in the Journal in any manner as it may determine, free of any rights of Publisher under the option; provided that Consortium shall not enter into a purchase agreement with a third party for the sale of the Journal on terms equal to or less favorable to Consortium than those offered by Publisher.

This option shall be void if, as of the date of the Termination Notice, Publisher is in breach of this Agreement, or has filed a petition in bankruptcy, has been declared bankrupt, or has made any assignment for the benefit of creditors.

15. RIGHTS AND OBLIGATIONS UPON TERMINATION.

15.1 Reversion of Rights. Upon the effective date of expiration or termination of the Term (the “Termination Date”), all rights licensed by Consortium to Publisher under this Agreement shall immediately revert to Consortium, subject only to the continuing right of Publisher and any sub-licensee to allow Journal subscribers continuing access to those digital versions of back issues of the Journal to which they had subscribed (as described in Section 6.4(a)). With the exception of the foregoing, no sub-licensee shall exploit any right in the Journal that Publisher no longer retains or has the right to exploit. Publisher shall execute all documents necessary to evidence such reversion of rights to Consortium, as Consortium may request.

- (a) Publisher and Consortium agree to cooperate with each other in order to achieve an orderly transition of the Journal and to ensure that after the Termination Date, subscribers, licensees, and other purchasers of online access to the digital version of issues of the Journal (the “Content Subscribers”) will have uninterrupted electronic archival access to the subscribed or licensed Journal content to which they are entitled.
 - (i) No later than ninety (90) days after the Termination Date, Consortium will arrange for the hosting of the Journal digital files on its server or that of its designee in order to provide continuing electronic archival access to the Content Subscribers. In order to facilitate Consortium’s arrangements, within thirty (30) days after the Termination Date, Publisher will provide to Consortium, or its designee, a list of the Content Subscribers, including necessary contact information and access details. Consortium will provide to Publisher a written notice of completion once it has finalized its hosting arrangements. Upon receipt of such notice, Publisher will cease providing electronic archival access to the Journal to the Content Subscribers and shall post notice to such effect on Publisher’s Website.
 - (ii) If Consortium is unable to arrange hosting of the Journal digital files on its server or that of its designee within ninety (90) days after the Termination Date, Consortium shall provide immediate written notification to Publisher, and Publisher will continue to provide access to the Content Subscribers, at its sole discretion, by either: (A) continuing to host online access to such digital content on Publisher’s Website or a third-party intermediary’s server, or (B) supplying archival copies of such digital files, embodied in Publisher’s choice of medium.

15.2 Delivery of Items and Monies to Consortium. On or before the effective date of expiration or termination of the Term, Publisher shall deliver to Consortium or, upon written notice, to its designee:

- (a) the then current and complete Non-Member Subscriber List in digital form; unpublished Editorial Material previously submitted by the Editor; digital files of the Copies in Publisher's possession on the Termination Date, in Publisher's preferred format, and the corresponding author, article, and subject indexes; orders, contracts, and advertising records pertaining to issues of the Journal to be published after the Term; copyright registrations pertaining to issues of the Journal published during the Term; all business files and correspondence relating to the Journal; and unfulfilled orders in respect of issues of the Journal published during the Term; and
- (b) all money received by Publisher for prepaid subscriptions to, and advertising in, issues of the Journal to be published after the Term, together with identifying back-up documentation.

15.3 Continuing Obligation to Forward. All monies, orders, correspondence, manuscripts, inquiries, and any other document or thing relating to the Journal remaining in the possession or control of, or received by, Publisher after the effective date of termination of the Term shall be promptly forwarded to Consortium or, upon written notice, to its designee.

15.4 Purchase of Inventory. Consortium shall have the option to purchase from Publisher any or all copies of back issues, reprints, and other physical copies of the Journal on hand in Publisher's inventory as of the effective date of termination of the Term at a price equal to Publisher's cost of paper, printing, binding, and shipping therefor. Upon request, Publisher will promptly furnish the Consortium with information regarding such inventory copies and the cost thereof.

15.5 Right to Match Purchase Offer. If during the Term, or upon expiration of the Term pursuant to Section 2.1, Consortium wishes to sell, transfer or assign to an unaffiliated third party purchaser all of its rights, titles, and interest in the Journal, then before Consortium contractually commits itself to accept any *bona fide* purchase offer or proposal therefor, Publisher shall have the right to match such offer, which right shall be exercised in the following manner. Consortium shall notify Publisher of the terms and conditions of any such *bona fide* purchase offer or proposal it is prepared to accept and Publisher shall have ten (10) business days from the date of such notice within which to match the terms and conditions thereof. If, at the end of such period:

- (a) Publisher does not match such offer, then Consortium shall be free to accept it and proceed on the terms and conditions contained therein; or
- (b) Publisher notifies Consortium that it will match such offer, then for a period of sixty (60) days after the date of such notice from Publisher, the parties shall negotiate in good faith. If, at the end of such negotiation period, the parties are unable to agree upon the terms and conditions of a purchase agreement, or the negotiation period is not extended by mutual agreement, then Consortium shall be free to accept such offer upon the terms and conditions as originally contained therein.

The foregoing right to match shall be void if, at the time it may be exercised, Publisher is in breach of this Agreement, or has filed a petition in bankruptcy, been declared bankrupt, or has made any assignment for the benefit of creditors.

15.6 Survival. The provisions of Section 1.1, Section 6.4(a), Article 12, Article 13, Article 15, Article 16, Article 17, and Article 18 shall survive termination of this Agreement for any reason whatsoever.

16. RESOLUTION OF DISPUTES.

16.1 Mediation. If a dispute arises from or relates to this Agreement or the breach hereof, and if the dispute cannot be settled by the parties through direct negotiation, the parties shall, in the first instance, try in good faith to settle the dispute by mediation before resorting to arbitration. The place of mediation shall be Los

Angeles County, California. The parties shall mutually select a mediator and, in the event the parties cannot agree upon a mediator, each party will chose a representative and said representatives will confer with each other and mutually select a mediator to hear the dispute. The parties shall share equally the mediation administrative costs and mediator's fees. The requirements of filing a notice of claim with respect to the dispute submitted to mediation shall be suspended until the conclusion of the mediation process.

16.2 Arbitration. If the parties' dispute is not resolved within sixty (60) days after initiation of the mediation process described in Section 16.1 above, any unresolved controversy or claim between the parties arising out of or relating to this Agreement, or breach, default, or misrepresentation with respect to any provision hereof shall be settled by a single arbitrator by arbitration administered by the American Arbitration Association under its then current Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The place of arbitration shall be Los Angeles County, California. The arbitrator shall apply the substantive law (and the law of remedies, if applicable) of the State of California or federal law as interpreted by the U.S. federal district and appeal courts of the Ninth Circuit, applicable to the claims asserted. The arbitrator shall determine how the administrative fees and arbitrator's compensation will be allocated between the parties, and, in his or her discretion, may award the prevailing party all or part of its costs and fees. For purposes of this provision, "costs and fees" means all reasonable pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, stenographer, court costs, witness fees, and reasonable attorneys' fees.

17. DEFINITIONS.

17.1 Certain Definitions. Those terms used herein and identified with initial capital letters, whether used in the singular or in the plural, shall have the meanings ascribed to them below:

- (a) "Annual Page Budget" means the maximum total number of Editorial Pages to be published in a volume of the Journal.
- (b) "Claim" means any claim, demand, action, suit, or proceeding of any kind regardless of how asserted.
- (c) "Content Subscribers" has the meaning specified in Section 15.1(a).
- (d) "Contributions" mean the separate and independent original works of authorship (text plus any accompanying graphic and pictorial materials) assembled and first published in the Journal, such as articles, reviews, essays, commentaries, clinical notes, research notes, case reports, summaries, editorials.
- (e) "Copies" mean material objects in which a work is fixed by any method or process, in any form, format, and/or medium (whether or not permanently fixed in such medium), now known or later conceived or developed, and from which the work can be perceived, reproduced, or otherwise communicated (sequentially or non-sequentially) either directly or with the aid of a machine or device, including, but not limited to, all print forms and all digital, analog, optical, electronic, magnetic, laser-based, mechanical, and other machine-readable forms.
- (f) "Copyright Act" means the United States Copyright Act of 1976, as amended, 17 U.S.C. §§101 *et seq.*, and the rules and regulations promulgated thereunder, as same may be hereafter amended.
- (g) "Damages" means damages, losses, liabilities, charges, judgments, settlement amounts, recoveries, deficiencies, fines, penalties, interest, assessments, costs, expenses (including without limitation, reasonable attorneys' fees, disbursements, and expenses).
- (h) "Editor" means the individual having final responsibility for the editorial operations,

policies, and content of the Journal.

- (i) “Editorial Material” means text, graphic and pictorial materials, in any form or medium, accepted or created by the Editor for publication in the Journal, i.e., title page(s), table of contents, subscription and indexing information page, Editorial Board credits, manuscripts of articles, reviews, essays, commentaries, clinical notes, research notes, case reports, summaries, editorials, abstracts, editorial notes, supplements, indexes, author submission guidelines, proceedings, letters, bibliographies, news, and announcements; and illustrations such as photographs, charts, tables, figures, drawings, graphs, or other artwork. Editorial Material shall not include paid or filler advertisements.
- (j) “Editorial Pages” means composed pages of typeset and formatted Editorial Material as printed in a Journal.
- (k) “Issue Allotment” means the range between the minimum and the maximum number of Editorial Pages to be published in an issue of the Journal.
- (l) “Member Subscriber List” has the meaning specified in Section 1.1(d).
- (m) “Net Revenue” means all revenue of the Journal recognized by Publisher from any and all use, exercise of rights, and other exploitation of the Journal and the Contributions, in whole or in part, alone or in compilations, and derivative works based thereon, including, without limitation, from sales of non-member subscriptions, single issues, back issues, author reprints, bound volumes, and from the sub-licensing or other grant of any rights in and to the Journal and the Contributions, less the following: subscription agency fees, discounts, rebates and allowances; and sales, excise, value added, and similar taxes. Net Revenue shall also include earned revenue recognized by Publisher from all invoiced sales of advertising, commercial reprints, sponsored journal supplements, and bulk sales of issues, less the following: advertising agency commissions, discounts, rebates, uncollectible debt, write-offs, and sales tax. Net Revenue shall not include member subscription fees or any amounts received by Publisher as reimbursement of its costs or expenses, such as, but not limited to, sums for excess proof alterations, additional Editorial Page charges, color page charges, and shipping charges.
- (n) “Non-Member Subscriber List” has the meaning specified in Section 1.1(d).
- (o) “Permission” means a written permission, license, or other authorization from a copyright owner or his/her authorized agent, in a form acceptable to Publisher, to reprint or reproduce his/her selected copyrighted material in a Contribution, derivative works based on the Contribution, and compilations containing the Contribution together with other works, throughout the world in all formats and media now known or later conceived or developed.
- (p) “Prior Issues” has the meaning specified in Section 1.1(b).
- (q) “Production Schedule” means the applicable schedule of deadline dates for the completion of each stage of production, from delivery of Editorial Material to the mail date, for each issue of a volume of the Journal to be published hereunder.
- (r) “Publisher’s Issues” has the meaning specified in Section 1.1(b).
- (s) “Publisher’s Website” has the meaning specified in Section 6.3.
- (t) “Subscriber Lists” means the Member Subscriber List and the Non-Member Subscriber List, collectively, as specified in Section 1.1(d).
- (u) “Term” means the term of the licenses herein granted by Consortium to Publisher, as

specified in Section 2.1.

- (v) “Termination Date” has the meaning specified in Section 15.1
- (w) “TOC” means a Transfer of Copyright agreement.
- (x) “Trademarks” has the meaning specified in Section 1.1(a).
- (y) “Volume Year” means a twelve month period (January 1 through December 31) of the Term during which one volume of the Journal is to be published.

17.2 Interpretation; Other Definitions and Meanings. Article and Section headings contained herein are for convenience of reference only and shall not be deemed to be a part of, or to affect the meaning or interpretation of, this Agreement. For purposes of this Agreement:

- (a) “non-member” means an individual or an entity not a member of Consortium;
- (b) to “publish, distribute, sell, license, transfer, transmit, and publicly perform and display” means to do so by any method, device, or process, through any and all channels of distribution or transmission, now known or later conceived or developed, including, by transfer of material objects and by digital, analog, electronic, wireless, telephonic, cable, satellite, broadcast, computer networks, online, and/or any other means, service, or system of distribution, data transmission, or communication;
- (c) “compilation” and “derivative work” have the meanings ascribed in §101 of the Copyright Act;
- (d) the words “including” and “such as” are illustrative and not limiting;
- (e) “this Agreement” means this Agreement and all schedules and exhibits hereto; and
- (f) the words “hereof,” “herein,” “hereunder,” and “hereby” and other words of similar import refer to this Agreement as a whole.

18. GENERAL PROVISIONS.

18.1 Notices. All notices required or which may be given hereunder shall be in writing and shall be sent in any manner requiring a signed and dated receipt or equivalent record of delivery (e.g., receipted by-hand delivery; nationally recognized overnight courier service; U.S. Express Mail; U.S. certified mail, return receipt requested). A notice shall be deemed given and effective upon the date of receipt as so recorded and in the absence of such record it shall be presumed to have been delivered five (5) days after dispatch. At the time of dispatch, a courtesy copy of each notice given hereunder shall be simultaneously given by either facsimile transmission or e-mail. Notices and courtesy copies shall be sent to the parties at the respective addresses and facsimile numbers set forth below or to such other address, facsimile number, or attention of such other person, as a party may from time to time designate by notice given pursuant this provision:

To Publisher:

Attn: Alison Mudditt
Executive Vice President
Higher Education Group
Sage Publications, Inc.
2455 Teller Road
Thousand Oaks, California 91320
Fax: (805) 499-0871
e-mail: alison.mudditt@sagepub.com

To Consortium:

Attn: Richard F. Southby
President
Asia-Pacific Academic Consortium for Public Health
Queensland University of Technology
Victoria Park Road
Kelvin Grove, Queensland 4059 Australia
Fax: _____
e-mail: _____

All grants or denials of any consent or approval of Consortium as may be required hereunder, other than those relating to editorial decisions, shall be communicated to Publisher as specified by Consortium Representative listed above or any individuals designated in writing by Consortium Representative to Publisher (“Designee” or “Designees”).

18.2 Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, riots, acts of government, shortage of materials or supplies, or any other cause beyond the reasonable control of such party; provided, that the party interfered gives the other party prompt written notice of any such event or occurrence.

18.3 Assignments. Neither party may transfer or assign this Agreement or assign any of its rights or delegate any of its duties and obligations hereunder without the prior written consent of the other, except that: (a) Consortium may assign its right to receive payments hereunder; and (b) Publisher may assign this Agreement and all of its rights herein granted and delegate all of its obligations hereunder as part of a transfer of all, or substantially all, of its journal publishing assets to a third party or to any successor in interest of its journal publishing business, including an affiliate as part of a corporate reorganization. In such event, Publisher shall provide notice to Consortium within ten (10) business days of such transfer, and Consortium reserves the right to terminate this Agreement without penalty upon publication of the remaining issues in the then-current volume, or the issues corresponding to the six (6) months from the date of notice, whichever is greater. During such time, Consortium and Publisher (or Publisher’s successor) shall continue their respective obligations and duties to the Journal and to each other as outlined herein. Thereafter, the parties shall have no further obligation to each other hereunder, except for the terms outlined herein. Any other attempted assignment or delegation made without such prior consent shall be null and void. Upon full execution, this Agreement shall be binding upon and inure to the benefit of the parties hereto and, subject to the foregoing, their respective permitted assigns and successors.

18.4 Relationship of Parties. The parties to this Agreement are independent contractors providing for the licensing of valuable property rights. Nothing contained in this Agreement is intended to, or shall be construed to constitute or establish an agency, joint venture, partnership or fiduciary relationship between the parties; and neither party shall have the right or authority to bind the other, nor shall either party be responsible for the acts or omissions of the other.

18.5 Modification, Waiver, Cumulative Remedies. No amendment or modification of any provision of this Agreement shall be valid or binding unless made in writing and signed by the parties hereto. The waiver of any provision or condition of this Agreement shall not be deemed to be a waiver of any other provision or condition hereof. The waiver or failure to claim any breach of any provision of this Agreement, or the delay in the exercise of any right or remedy, shall not operate or be construed as a waiver of any subsequent breach of such provision or a waiver of any breach of any other provision hereof. All remedies provided to the parties either under this Agreement or at law or in equity shall be cumulative.

18.6 Severability. If any provision of this Agreement is finally found by a court of competent jurisdiction or arbitration panel to be invalid, illegal, or otherwise unenforceable, such provision shall be deemed to be severed from this Agreement and shall not affect the validity or enforceability of every other provision of this Agreement, which shall remain in full force and effect.

18.7 Governing Law. This Agreement shall be construed, interpreted, governed, and enforced in accordance with the laws of the State of California, without regard to its conflict of laws provisions, and the laws of the United States as interpreted by the U.S. federal courts of the Ninth Circuit. Subject to Article 16,

each party hereby consents to the jurisdiction and venue of the courts of the State of California located in Los Angeles County and of the U.S. District Court for the Central District of California.

18.8 Entire Agreement. The schedules and exhibits attached to this hereto constitute integral parts of this Agreement and are incorporated herein by reference as though fully set forth. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, understandings, representations, and warranties, written or oral, between the parties in such regard.

18.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized officer, as of the date first written above.

**ASIA-PACIFIC ACADEMIC CONSORTIUM
FOR PUBLIC HEALTH**

SAGE PUBLICATIONS, INC.

By: _____
Richard F. Southby
President

By: _____
Alison Mudditt
Executive Vice President
Higher Education Group

Date: _____
EIN: _____

Date: _____

EXHIBIT "A"
(referenced in Section 5.2)

Note: This form is made available in electronic form for the convenience of authors, and the text must not be altered.

**ASIA-PACIFIC ACADEMIC CONSORTIUM FOR
PUBLIC HEALTH**

Attn: Brian Oldenberg
President
Asia-Pacific Academic Consortium for
Public Health
Queensland University of Technology
Victoria Park Road
Kelvin Grove, Queensland 4059 Australia

COPYRIGHT TRANSFER AGREEMENT

JOURNAL: *ASIA-PACIFIC JOURNAL OF PUBLIC HEALTH*

WORKING TITLE OF CONTRIBUTION: _____

CORRESPONDING AUTHOR*: _____ **AUTHOR:** _____

AUTHOR: _____ **AUTHOR:** _____

* The "Corresponding Author" is authorized to communicate with the Editor of the Journal on behalf of all the Authors.

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