



Bhasha Prakashan Ebooks Agreement (Online Products – Academic)

This AGREEMENT (this “Agreement”) is entered into as of January 11, 2021 (the “Effective Date”), by and between Bhasha Prakashan having its registered office at 4735/22, Prakashdeep Building, Ansari Road, Daryaganj, New Delhi – 110002, INDIA (the “Company”) and Chhatrapati Shahu Ji Maharaj University, Kalyanpur, Kanpur, Uttar Pradesh- 208024. Bhasha Prakashan and Chhatrapati Shahu Ji Maharaj University maybe referred to herein as the “Company” and “Client” respectively.

ARTICLE – 1

Definitions

- “Article” means an individual document from the Licensed Products.
- “Authorized Sites” means the locations listed in Appendix B.
- “Authorized Users” means (a) persons affiliated with the Client as students, faculty or employees; (b) authorized persons physically present in Client’s library facilities; and (c) such other persons as Company may, at the request of the Client and in Company’s sole discretion, authorize in writing to access the Licensed Products.
- “eBook” means an electronic book published by the Company in PDF format and made available through the Company’s Portal.
- “Licensed Products” means the company’s online product(s) selected in Appendix A.
- “Remote Access” means access provided by The Client via secured authentication means only to students, faculty or employees of The Client who are not physically present at an Authorized Site.
- “Service Date” means the date the Company first provides The Client with access to the Licensed Products.
- License Fee. The Client agrees to pay the Company the fees set forth in the invoice issued by the Company or its authorized representative in accordance with the terms set forth therein.



ARTICLE – 2

License

License Grant

The Company grants the Client a non-exclusive, non-transferable, perpetual license to use the Licensed Products and to provide access to the Licensed Products electronically via the Internet only to Authorized Users at Authorized Sites or via Remote Access in accordance with the terms and conditions of this Agreement. The Company further agrees to provide to The Client the support services set forth in Appendix A.

ARTICLE – 3

AUTHORIZED USES

The Client and its Authorized Users may:

- Access, search, browse and view the Licensed Products.
- Download and print documents for the scholarly or research use of Authorized Users and make a reasonable number of photocopies of a printed Article for the scholarly or research use of Authorized Users.
- Print a reasonable number of pages from an eBook and make a reasonable number of photocopies of those printed pages for the scholarly or research use of Authorized Users.

ARTICLE – 4

Substantial Increase in Number of Authorized Users

The Client acknowledges that the License Fee has been assessed based upon the number of Authorized Users existing as of the Service Date. In the event that the number of Authorized Users substantially increases due to The Client's acquisition of or merger with another company or organization or any other cause, The Client shall promptly give notice of such increase to the Company. The Client agrees that such increase in the number of Authorized Users may be subject to additional license fees.



ARTICLE – 5

Term, termination and Events Upon Termination

Term

Unless terminated sooner in accordance with subparagraph “Material Breach” of this Section, this Agreement shall continue in effect for an initial term of 96 months (the “Initial Term”) from the Service Date. After that the changes in the technology is expected and we will assess the situation then only and will inform you about the platform updating fee.

Termination

This Agreement may be terminated as follows:

- **Material Breach.** Either party may terminate this Agreement in the event of a material breach by the other party that remains uncured thirty (30) days after the non-breaching party gives the breaching party written notice of such breach.
- **Suspension.** In the event that the Company notifies The Client of a material breach of Section of this Agreement, the Company reserves the right to suspend The Client’s access to the Licensed Products. the Company will make commercially reasonable efforts to limit suspension to the offending IP address or user account, to the extent that the offending IP address or user account can be reasonably ascertained under the circumstances; otherwise, the Company reserves the right to suspend all online access to the Licensed Products by The Client. The suspension shall remain in effect until The Client has cured the material breach, and The Client shall not be entitled to a refund of any fees during such suspension. If The Client does not cure the material breach within thirty (30) days after notice of such breach, the Company shall be entitled to terminate this Agreement.
- **Insolvency.** Either party may terminate this Agreement in the event that the other party becomes insolvent or bankrupt; becomes the subject of any proceedings under bankruptcy, insolvency or debtor’s relief law; has a receiver or manager appointed; makes an assignment for the benefit of creditors; or takes the benefit of any applicable law or statute in force for the winding up or liquidation of such party’s business.
- **On Notice.** Either party may terminate this Agreement at the conclusion of the Initial Term or any Renewal Term by giving the other party written notice at least thirty (30) days prior to the expiration of the then-applicable term.



ARTICLE – 6

Archival Access

Upon termination of this Agreement, except in the event of termination due to The Client's material breach or insolvency, The Client may obtain one (1) static copy of the Licensed Products, static file on a USB drive or comparable media available at the time. The Client shall have a non-exclusive, non-transferable license to use the static file only in accordance with the same terms and conditions that govern the use of Licensed Products under this Agreement.

ARTICLE – 7

Intellectual Property, Restriction of Use and Audit

Intellectual Property Rights

- Ownership. The Client acknowledges and agrees that all right, title and interest in and to the Licensed Products, including all copyright and other intellectual property rights under Indian laws, remain with the Company and its licensors.
- Protection. The Client shall make reasonable efforts to advise all Authorized Users of the restrictions on use of and the Company's rights in the Licensed Products set forth in Article 3 of this Agreement. In the event that The Client becomes aware of any unauthorized use of the Licensed Products by way of The Client's IP addresses, servers or other facilities, The Client shall promptly give notice to the Company of such unauthorized use and make all reasonable efforts to eliminate such unauthorized use.

Restriction of Use

Except as expressly permitted in this Agreement, The Client and its Authorized Users may not:

- Substantially or systematically download, reproduce, retain or redistribute the Licensed Products;
- Electronically distribute, via e-mail or otherwise, any Article or eBook;
- Abridge, modify, translate or create any derivative work based upon the Licensed Products without the prior written consent of the Company;
- Display or otherwise make available any information from the Licensed Products to anyone other than



Authorized Users;

- Sell, resell, rent, lease, license, sublicense, assign or otherwise transfer any rights granted in Article 3, including, but not limited to, use of the Licensed Products for document delivery, fee-for-service or any other substantially similar commercial purpose; or
- Remove, obscure or modify in any way copyright notices, other notices or disclaimers that appear on or in the Licensed Products.

Audit

The Client shall maintain accurate and complete records concerning its use of the Licensed Products ("Records") for at least one (1) year following the end of the calendar year to which they pertain. The Company may, at its expense, inspect The Client's Records and the equipment used by The Client to access the Licensed Products in order to verify The Client's compliance with the terms and conditions of this Agreement ("Inspection"), provided that such Inspection occurs not more frequently than once per twelve-month period and upon at least five (5) business days written notice. Notwithstanding the foregoing, if an Inspection reveals that The Client's use of the Licensed Products materially exceeds the scope of the rights granted under this Agreement, The Client shall be responsible for the reasonable costs of the Inspection and immediate payment to the Company of an amount in addition to the License Fee, based upon the Company's then-current rates, for The Client's use of the Licensed Products beyond the scope of this Agreement.

ARTICLE – 8

Representations and Warranties

The Company and The Client each represent and warrant to the other that:

- (a) It has the necessary power and authority to enter into this Agreement.
- (b) The execution and performance of this Agreement has been authorized by all necessary corporate or institutional action.
- (c) Entry into and performance of this Agreement will not conflict with any provision of law or the certificate of incorporation, by-laws or comparable organizational documents of the party or conflict with any condition of any contract to which it is a party.



(d) No action by any governmental organization is necessary to make this Agreement valid and binding upon the party.

(e) It possesses all licenses and other governmental approvals necessary to perform its obligations under this Agreement.

(f) All the eBooks will be DRM free.

(g) No maintenance fees/yearly fees will be charged by Bhasha Prakashan.

(h) If any discrepancies are found to access in eBooks package in future, it will be resolve by Bhasha Prakashan without any fees.

(i) Legal disputes. If any, shall be settled in Kanpur, Uttar Pradesh only.

Dispute Resolution; Arbitration.

Any controversy or claim arising out of or relating to this MLSA shall be finally settled by binding arbitration. The Parties shall seek to mutually appoint an arbitrator. If the Parties cannot agree on a single arbitrator, then there shall be three arbitrators: one selected by each Party, and a third selected by the first two. Arbitration will take place in the Venue set forth in Section "Governing Law and Jurisdiction". All negotiations and arbitration proceedings will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions. The language of the arbitration shall be English.

ARTICLE – 9

Confidentiality

Notice

Notices given under this Agreement shall be in writing and may be delivered by hand or sent by courier, registered mail, e-mail to the physical address for each party set forth on the first page of this Agreement. Any such notice shall be deemed successfully given:

(1) If delivered personally, at the time of delivery.



(2) In the case of an internationally-recognized courier service, the date of delivery confirmation.

(3) In the case of registered mail, five (5) days from the date of posting.

(4) In the case of e-mail at the time of successful transmission.

Assignment

The Client may not assign this Agreement, or sublicense, assign or delegate any right or duty hereunder, by operation of law or otherwise, without the prior written consent of the Company.

Entire Agreement

This Agreement, including all annexes, exhibits and Appendixes, contains the final and entire agreement of the parties on the subject matter herein and supersedes all previous and contemporaneous oral or written negotiations or agreements on the subject matter herein.

Amendment

This Agreement may not be amended except in a writing executed by an authorized representative of each party.

Severability

If any provision of this Agreement is prohibited by law or declared invalid, illegal or unenforceable, then such provision shall be severed, and all other terms of this Agreement shall remain in full force and effect.

Non-Waiver

The failure of either party to require strict performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

Survival

The provisions of this Agreement that should by their nature survive termination of this Agreement shall survive such termination.



Counterparts

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

ARTICLE – 10

Force Majure

Any prevention of or delay in either party's performance hereunder due to labor disputes, acts of God, governmental restrictions, enemy or hostile governmental action, fire or other casualty or other causes beyond such party's reasonable control shall excuse such party's performance of its obligations hereunder for a period equal to the duration of any such prevention or delay.

ARTICLE – 11

Limitations of Liability

- In no event shall either party be liable to the other party for any incidental, indirect, special, punitive or consequential damages, including, but not limited to, damages arising from any type or manner of commercial, business or financial loss occasioned by or resulting from any use of the licensed products, such as any malfunction, defect or failure of the licensed products or their delivery via the internet, even if such party had actual or constructive knowledge of the possibility of such damages and regardless of whether such damages were foreseeable.
- The company undertakes no responsibility for, and disclaims all liability arising from, any defects or failures in any communications lines, the internet or internet service provider, the Client's computer hardware or software, or any other service or device used to access the licensed products or to authenticate any user as an authorized user.



ARTICLE – 12

Disclaimer

The licensed products are provided to the Client “as is” and “without all faults.” The Company, to the maximum extent permitted by law, expressly disclaims all warranties and representations (except as set forth in Article 8), express or implied, including, without limitation:

The implied warranties of merchantability and fitness for a particular purpose.

Any warranty with respect to the quality, accuracy, currency or completeness of the licensed products, or that the Client’s use of the licensed products will be error-free, uninterrupted, free from other failures or will meet the Client’s requirements.

IN WITNESS THEREOF, the “Client” and the “Company” hereto have executed this Agreement as of the Effective Date. January 11, 2021

Chhatrapati Shahu Ji Maharaj University

Bhasha Prakashan

Name:

Dr. Ashish Kumar श्रीवास्तव
डा० आशीष कुमार श्रीवास्तव
पुस्तकालयाध्यक्ष
केन्द्रिय पुस्तकालय
डी.एस.जे.एम. विश्वविद्यालय
जयपुर

Name: Reetu

APPENDIX A: LICENSED PRODUCTS AND SUPPORT SERVICES

Licensed Products include:

Bhasha Prakashan 1000 eBooks (publication year 2020) on perpetual access (life time)



Installation Support

Bhasha Prakashan will provide the following installation support to Licensee:

- General assistance with implementation of Licensed Products
- Guidance with configuring printer application on various platforms
- Provision of general instructions and background materials

Continuing Support

Bhasha Prakashan will provide the following continuing support to Licensee:

- Troubleshooting individual problems
- As practicable, maintenance of discussion groups via listserv and/or e-mail

Customer Service

Bhasha Prakashan will provide customer service via e-mail, during regular business hours (10:00 a.m. to 6:00 p.m. Indian Time, Monday through Friday, excluding Indian holidays) for feedback, problem-solving or general questions.

Email: info@bhashaparakashan.com



Availability

The Licensed Products shall be subject to periodic unavailability due to regular maintenance, including, but not limited to, maintenance of the server(s) and other equipment used to host the Licensed Products, installation or testing of software and loading of eBooks as they become available. Bhasha Prakashan shall use commercially reasonable efforts to minimize the extent of any period of unavailability due to such regular maintenance. Licensee shall not be entitled to any credit, reduction or set-off against the License Fee for downtime or any interruption in the availability of the Licensed Products unless such interruption exceeds twenty-four (24) continuous hours in duration. In such event, Bhasha Prakashan shall provide Licensee with a credit equal to 1/365 of the annual License Fee for each continuous twenty-four (24) hour period from the time of interruption until restoration of Licensee's access to the Licensed Products, provided that Licensee promptly notifies Bhasha Prakashan of the service interruption. No adjustments shall be made for accumulating periods of non-continuous interruptions. No credit allowance will be issued for any interruption in Licensee's access to the Licensed Products caused by any negligence or willful act of Licensee or failure of equipment, software or services not provided by Bhasha Prakashan.

APPENDIX B: AUTHORIZED SITES

A. Name and physical address(es) of Authorized Site(s) of the Client:

Chhatrapati Shahu Ji Maharaj University, Kalyanpur, Kanpur, Uttar Pradesh- 208024

B. IP Address(es) of Authorized Site(s) - if proxy server is used, skip part B:

52.172.51.57, 52.172.192.249, 14.139.236.162 to 174

Client Responsibilities

The Client shall be responsible for verifying the status of Authorized Users, providing lists of valid IP addresses to Bhasha Prakashan, and updating such lists promptly as changes are made. Licensee shall cooperate with Bhasha Prakashan in the implementation of additional security procedures reasonably requested by Bhasha Prakashan.

Licensee represents and warrants that:

- The list of IP addresses provided above is accurate and valid.
- Licensee shall use reasonable efforts to maintain sufficient security with respect to such IP addresses so as to prevent use of Licensed Products by anyone other than Authorized Users.