

## LICENSE AGREEMENT – E-BOOKS

THIS AGREEMENT is dated 31-03-2021 and made between:

PARTIES

**Bio-Green Books**, 4736/23, I Floor, Ansari Road, Darya Ganj, New Delhi-110002, India (the "**Publisher**"),

and

the Party named "The University Librarian, Central Library, Chhatrapati Shahu Ji Maharaj University-KANPUR (Uttar Pradesh)", (the "**Licensee**"), each a "**Party**" and collectively, the "**Parties**"

**WHEREAS:**

- A. The Publisher is responsible for publishing E-Books and is the owner of all copyrights and other intellectual property rights in the E-Books.
- B. The Publisher wishes to license, and the Licensee is prepared to accept, the license and perpetual rights to use the E-Books for the Fee, subject to the terms and conditions of this Agreement.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1. Particular Licensed Material(s) will be specified in a form set out at Schedule 1 hereto (hereafter referred to as "**Access Form**") that will be considered an integral part of this Agreement. Additional Licensed Material(s) may be incorporated into this Agreement by the Parties executing additional Access Forms. In the event of any conflict between this Agreement and any Access Form, the Access Form shall prevail.

In this Agreement, the following expressions shall have the following meanings

<b>"Agreement"</b>	means this license agreement, the Access Form, and any other schedules and annexes attached hereto.
<b>"Access Form"</b>	has the meaning given to it in clause 1.1.
<b>"Authorized Users"</b>	means an individual who is authorised by the Licensee to access, download, copy, print and save E-Books available through the Licensee's Secure Network and who is affiliated with the Licensee as a current student, faculty, library patron, employee, staff, researcher, walk-in user (whether on a permanent, temporary or contract basis), or in some other capacity whereby they are permitted to access such services in the Licensee's ordinary course of business, who are permitted by the Licensee to access the Licensee's Secure Network from within or outside the Licensee's premises (except for walk-in users who may not be given access to the Licensed Material(s) when they are not within the Licensee's physical premises), whose identity is authenticated at the time of login and periodically thereafter, and whose conduct is subject to regulation by the Licensee.
<b>"Authorized Device(s)"</b>	means computers used by Authorized Users to view E-Books.
<b>"Commercial Use"</b>	Means use for the purposes of monetary reward (whether by or for the Licensee, an Authorised User, or any other person or entity) by means of sale, resale, loan, transfer, hire, or other form of exploitation of the Licensed Material(s).
<b>"E-Book(s)"</b>	means a book-length publication in digital format issued by the Publisher.

<b>"Force Majeure Event"</b>	means any event outside the control of a Party which causes delay in or which hinders the performance by that Party of its obligations under this Agreement and which cannot be cured by measures which might reasonably be taken in the course of the performance of its obligations under this Agreement and shall include, without limitation, any outbreak or government declared intention of war or procedures that may have the same effect on the performance of the Agreement, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions acts or veto of a government or supra-governmental body, any law or governmental order, rule, regulation or direction, or any non-discriminatory action taken by a Government Authority or Regulatory Body, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, civil war, civil commotion or riots, strikes, lockouts or other industrial action (other than those relating to the employees of the Party claiming relief as a result of a Force Majeure Event), flood, fire, lightning, explosion, riot, epidemic or any other act of God, acts of public enemy, acts of terrorism and insurgency activity, quarantine restriction, freight embargoes, or extraordinary meteorological or atmospheric occurrences or disturbances.
<b>"Licensed Material"</b>	means the online version of each of the Publisher's E-Books for which the Licensee holds a valid license for online access in accordance with the terms of this Agreement, the details of such E-Books as specified in Item 2 of the Access Form.
<b>"Material"</b>	means any text, images, figures, tables or other material contained in the Licensed Material(s) and accessed online.
<b>"Non-Commercial Use"</b>	means use other than Commercial Use.
<b>"Publisher Trademarks"</b>	means any registered trademarks and trade mark applications, and all unregistered trademarks and logos of the Publisher.
<b>"Secure Authentication"</b>	Means the agreed process put in place by the Licensee for purposes of authenticating the identity of Authorized Users to allow access to the Secure Network.
<b>"Secure Network"</b>	means a network (whether a stand-alone network or a virtual network within the Internet) which is only accessible to Authorized Users.
<b>Server</b>	Means either the Publisher's server or a third party server designated by the Publisher on which the Licensed Material(s) are mounted and through which the Licensee and its Authorised Users may gain access to the Licensed Materials(s) by means of the World Wide Web.
<b>"Site"</b>	means the geographical site (or sites) in respect of which the Licensee has purchased an online access from which Authorised Users can access the Licensed Material(s) onsite from a computer or terminal on the Licensee's Secure Network located at the site and via which Authorised Users can additionally access the Licensed Work(s) offsite via a modem link to a valid IP address on the Licensee's Secure Network located at the site, such sites as set out in Item 5 of the Access Form.
<b>"Terms of Use"</b>	means the terms and conditions as set out in Clause 4, and any other terms and conditions as provided by the Publisher to the Licensee from time to time.
<b>"Unauthorized Users"</b>	means individuals and/or entities other than Authorized Users, including but not limited to Licensee's affiliates, partners and joint ventures.

- 1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3. Words in the singular shall include the plural and vice versa.
- 1.4. Where the words: include(s), including or in particular, are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.
- 1.5. References to clauses and schedules are to the clauses and schedules of this Agreement.
- 1.6. In the event of any conflict between the terms of this Agreement and the terms of the Scope of Work or other schedules, the terms of the Scope of Work or other schedules shall prevail to the extent of such conflict.

## 2. GRANT OF LICENSE

- 2.1. In respect of each Site, the Publishers grants perpetual rights to the Licensee a non-exclusive, non-transferable and perpetual license to allow Authorized Users to access, download, copy, print, save and use the Licensed Material(s), on Authorized Devices, by means of one or more Secure Networks for the purpose of academic research and development, education, private study and other Non-Commercial Use, subject to payment of the Fee by the Licensee and compliance with the other terms and conditions of this License Agreement ("License").

## 3. LICENSEE'S UNDERTAKINGS

- 3.1. The Licensee acknowledges and agrees that the License shall not extend to Unauthorized Users except with the prior written consent of the Publisher.
- 3.2. The Licensee hereby undertakes that it shall not, and shall ensure that none of its employees, agents or contractors procure or in any way be involved in the commissioning of any material that breaches the Publisher's Intellectual Property.

## 4. TERMS OF USE

- 4.1. The Licensee and the Authorized Users may access (either one or in various combinations at the ability to view), copy, download, save (to hard disk or diskette etc.) and print out single copies of individual chapters of the E-Books which form part of the Licensed Material(s) for the purpose of personal use and scholarly, educational and scientific research
- 4.2. The Licensee and its Authorized Users may create links to the Publisher's E-Books from their Online Public Access Catalog (OPAC) records, library catalogs, locally hosted databases or library web pages, provided those links do not result in:
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- 4.3. Except as provided for in this Agreement, the Licensee and Authorized Users shall not:
  - (a) copy, distribute, transmit or otherwise reproduce, sell or resell the Licensed Material;
  - (b) store the Licensed Material in any form or medium in a retrieval system;
  - (c) transmit the Licensed Material, directly or indirectly, for use in any paid service such as document delivery or list serve, or for use by any information brokerage or for systematic distribution, whether or not for commercial or non-profit use, or for a fee or free of charge;
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- (e) remove or alter the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Material(s);
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- (g) permit anyone other than Authorized Users to access or use the Licensed Material(s); or
- (h) use all or any part of the Licensed Material(s) for any Commercial Use.

4.4. If an Authorized User or a Licensee fails to abide by the provisions of this Clause 4, the Publisher reserves the right, in its sole discretion, to suspend or terminate such Licensee's and/or Authorized User's access to the Licensed Material(s) immediately without notice, in addition to any other available remedies.

## 5. OBLIGATIONS

5.1. The Licensee shall:

- (a) inform Authorized Users of the Terms of Use governing the Licensed Materials and shall notify such Authorized Users of the need of complying with the Terms of Use.
- (b) provide access to the Licensed Material(s) only to Authorized Users, subject to Secure Authentication, by means of the Secure Network
- (c) use its best efforts to prevent access to the Licensed Material(s) by Unauthorized Users and shall promptly terminate any unauthorized access of which it has actual notice or knowledge;
- (d) promptly notify the Publisher of any copyright infringement or unauthorized usage of the Licensed Material(s), which comes to its attention, and shall cooperate with the Publisher in the investigation of such infringement or unauthorized use and in any action, which the Publisher takes to enforce its copyright;
- (e) provide all identifying information relating to the Licensee and its Authorized Users as required by the Publisher, and the Licensee acknowledges that access to the Licensed Work(s) under this Agreement is conditional upon the Licensee providing such details. The Licensee shall promptly provide to the Publisher any additions, deletions or other alterations to the information supplied;
- (f) issue passwords (or other information to enable access to the Secure Network) only to Authorized Users and shall not divulge, and shall use all reasonable endeavours to ensure that Authorized Users do not divulge, their passwords or other access information to any third party;
- (g) not trespass, break into, access, use or attempt to trespass, break into, access or use any other parts of the Server, the Licensed Material(s) and/or any data areas for which the Licensee has not been authorized by the Publisher; and
- (h) obtain at its cost all telecommunications and other equipment and software (including an Internet browser and portable document file reader) together with all relevant software licenses necessary to access the Licensed Material(s) online via the Licensee's Secure Network; and
- (i) notify the Publisher as soon as practicable if it becomes aware of any of the following: (a) any loss or theft of any password(s); (b) any unauthorized use of any of the password(s); or (c) any breach by an Authorized User of the terms of this Agreement. Upon becoming aware of any breach of the terms of this Agreement by an Authorized User, the Licensee further agrees promptly to initiate disciplinary procedures in accordance with the Licensee's standard practice,

5.2. The Publisher shall:

- (a) make the Licensed Material available to the Licensee and to Authorized Users from the Server, save for routine maintenance and unscheduled interruption (which shall be notified to the Licensee in advance or as soon as reasonably possible);

- (b) use reasonable endeavours to ensure that the Server has sufficient capacity and rate of connectivity to provide the Licensee with a quality of service consistent with current standards in the World Wide Web on-line information provision industry;
- (c) use reasonable endeavours to provide the Licensee with adequate and competent technical support and assistance to enable the Licensee to use the Licensed Material as contemplated hereby; and
- (d) use reasonable endeavours to restore access to the Licensed Material(s) as soon as possible in the event of an interruption or suspension of service.
- (e) The Publisher reserves the right at any time to withdraw from the Licensed Material any item or part of any E-Book or other Material which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable.

## 6. **INTELLECTUAL PROPERTY RIGHTS**

- 6.1. The Licensee acknowledges that all copyrights, patent rights, Publisher Trademarks, services marks, database rights, trade secrets and other intellectual property rights relating to the Licensed Material(s) (collectively the "Publisher Intellectual Property"), are the sole and exclusive property of Publisher, unless otherwise noted, and that this Agreement does not convey to the Licensee any right, title, or interest therein except for the right to use the Licensed Material(s) in accordance with the terms and conditions of this Agreement.
- 6.2. The Licensee shall notify the Publisher promptly (i) of the facts and circumstances surrounding any unauthorized possession or use of the Licensed Material(s), or Publisher Intellectual Property, or any portion thereof; and (ii) on becoming aware of any claim by any third party that the Licensed Material(s) infringes an intellectual property or proprietary right of any third party.

## 7. **WARRANTIES; INDEMNITIES**

- 7.1. The Publisher represents and warrants that it has the power to enter into this Agreement and to grant the rights conferred herein to the Licensee and that the Licensed Material(s) do not violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary right or contract right of any third party.
- 7.2. Save as provided above, the Publisher gives no warranty, express or implied, and makes no representation that (i) the Licensed Material(s) will be of satisfactory quality, suitable for any particular purpose or for any particular use under specified conditions, notwithstanding that such purpose, use, or conditions may be known to the Publisher; or (ii) that the Licensed Material(s) or the Server will operate error free or without interruption or that any errors will be corrected; or (iii) that the Material published in the Licensed Material(s) is either complete or accurate.
- 7.3. In no circumstances will the Publisher be liable to the Licensee, any Authorised User or any other third party for any loss resulting from a cause over which the Publisher does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, or operator errors.
- 7.4. In no circumstances will the Publisher be liable to the Licensee, any Authorized User or any other third party for any consequential, incidental, special or indirect damages or loss of profits including, without limitation, damages for loss of data or corruption of data, loss of programs, loss of business or goodwill, or other damages or losses of any nature arising out of the use of, or inability to use the Server and/or the Licensed Material(s).
- 7.5. The Licensee agrees that the entire liability of the Publisher to the Licensee or Authorized Users arising out of any kind of legal claim (whether in contract, tort, by statute or otherwise) in any way connected with the use or inability to use the Licensed Material(s) shall be the refund of any Fee paid to the Publisher for online access to the Licensed Material(s).

- 7.6. The Licensee shall defend, indemnify, and hold the Publisher harmless against all claims, suits, proceedings, losses, liabilities, and damages (including costs, expenses, and reasonable attorneys' fees) arising from (i) any unauthorized use or dissemination of the Licensed Material(s) by the Licensee or Authorized Users and (ii) any violation of this Agreement or of any third party's rights by the Licensee or Authorized Users, including but not limited to infringement of any copyright, violation of any proprietary right and invasion of any privacy rights.
- 7.7. Notwithstanding the limitation of liability in clause 9.5, the Publisher shall defend, indemnify, and hold the Licensee harmless against all claims, suits, proceedings, losses, liabilities, and damages (including costs, expenses, and reasonable attorneys' fees) asserted by third parties against the Licensee which arise out of any act or omission by the Publisher that constitutes a breach of the Publisher's warranties hereunder.

## 8. **TERM AND TERMINATION**

- 8.1. The term of this Agreement shall commence on the date of execution of this Agreement and shall continue until the termination of this Agreement in accordance with this clause 9, whichever is earlier.
- 8.2. Either Party may terminate this Agreement upon a minimum of three (3) months' prior written notice to the other Party.
- 8.3. Notwithstanding clause 9.2, the Publisher may terminate this Agreement forthwith at any time by notice to the Licensee if the Licensee breaches any term of this Agreement or if the Licensee's, or any Authorized User's, use of or actions in connection with the Licensed Material are inappropriate in the sole opinion of the Publisher.
- 8.4. Upon expiry or termination for any cause other than breach by the Licensee, the Publisher acknowledges and agrees that the Licensee and Authorized User shall have continuing access to that part of the Licensed Material which was published and paid for in accordance with the terms of this Agreement.
- 8.5. Any termination of this Agreement shall not affect any accrued rights or liability of either Party nor shall it affect the coming into force or the continuance in force of any terms and conditions hereof which is expressly or by implication intended to come into or continue in force or after such termination.
- 8.6. It is agreed that, including but not limited to, clauses 1, 8, 9.3 and 9.4 shall survive the termination of this Agreement.

## 9. **MISCELLANEOUS**

- 9.1. This Agreement shall be binding on and inure for the benefit of each Party's respective successors in title and assignees (where permitted in accordance with this Agreement). Licensee shall not assign in whole or in part or novate this Agreement to any other person or party without obtaining the prior written consent of the Publisher.
- 9.2. A Party is excused from performing its obligations to the extent it is prevented by a Force Majeure Event. A Party shall immediately notify the other of the occurrence of the Force Majeure Event when it becomes aware of it. Each Party shall make all reasonable efforts to minimize the effects of a Force Majeure Event. If the affected Party is prevented by the Force Majeure Event from performing its obligations under this Agreement for ninety (90) days or such other period as the Parties may agree in writing, then the other Party may in its sole discretion immediately terminate the Agreement by giving notice in writing of termination to the other Party. Where the Agreement is terminated in accordance with this clause, the Parties shall otherwise bear their own costs and shall be under no further liability to perform the obligations contained within this Agreement, save for any obligations that had arisen prior to the Force Majeure Event or continue post termination or expiry.
- 9.3. This Agreement shall be governed by and construed in accordance with the laws of the federal laws of India as applied in State of Delhi.
- 9.4. Unless otherwise stated in this Agreement, any and all disputes arising out of or in connection with this Agreement (including without limitation any question regarding its existence, validity or termination), which are not resolved within thirty (30) days after a party notifies the other party in writing of the existence of the said dispute, shall be referred to arbitration administered by the court of New Delhi, India in accordance with its rules which rules are deemed to be incorporated into this Agreement by reference. The number of arbitrators shall be one and the arbitration shall be conducted in the English language. Notwithstanding the foregoing, each party shall be entitled to apply to a court of competent

jurisdiction for urgent injunctive relief in the event of any breach of this Agreement by the other party. All disputes to be governed by laws of India subject to jurisdiction of Courts in New Delhi only.

- 9.5. All notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this License, or such other address as the party concerned shall from time to time designate by notice pursuant to this clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted ten (10) days after posting. All notices to the Publisher shall be marked for the attention of the Managing Director. All notices to the Licensee shall be marked for the attention of the person whose contact details are given in the Access Form.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to execute and deliver this Agreement on the date first written above.

**EXECUTED** for and on behalf of **BIOGREEN BOOKS** by [Mr. Dinesh Arora] in his capacity as [Manager]:



\_\_\_\_\_  
Signature

Date:

**EXECUTED** for and on behalf of [  
**The University Librarian, Central Library,  
Chhatrapati Shahu Ji Maharaj University-  
KANPUR (Uttar Pradesh)**] in his capacity as [  
]:

\_\_\_\_\_  
Signature

Date:



**SCHEDULE 1: ACCESS FORM**

This Access Form is entered into this 31<sup>st</sup> day of March, 2021.

BETWEEN **BIO-GREEN BOOKS**, 4736/23, 1 Floor, Ansari Road, Darya Ganj, New Delhi-110002,India (the "Publisher") and the Licensee as named below, each a **Party** and together the **Parties**.

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

This Access Form is incorporated into and hereby made part of the License Agreement dated 31-03-2021 between the Parties ("**License Agreement**"). This Access Form together with the License Agreement constitutes the agreement between the Parties with regard to the Licensed Material referred to herein.

All terms not otherwise defined herein shall have the meanings ascribed to them in the License Agreement.

ITEM	DESCRIPTION	DETAILS
1	Licensee	The University Librarian, Central Library, Chhatrapati Shahu Ji Maharaj University. Kalyanpur, KANPUR - 208024 Uttar Pradesh
2	E-Books	330 (CSJMU/LIB/PUR/248/21)
3	Fee	As per invoice (EB-3 Dated 31/03/2020)
4	Payment Terms	[As mentioned in the agreement]
5	Site(s)	www.digikosh.com

This Access Form is governed by and construed according to the laws of India subject to jurisdiction of Courts in New Delhi. Should a dispute arise between the Parties, the provisions of clause 9.4 of the License Agreement shall apply.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Access Form as of the date first written above.

<p><b>Signed for and on behalf of Publisher</b></p> <p><b>BIO-GREEN BOOKS</b></p> <p>By <u>4736/23, 1st Floor, Ansari Road, Darya Ganj, New Delhi-110002</u> Ph : 23245573, 23244987</p> <p>Name: Mr. Dinesh Arora Title: Manager</p>	<p><b>Signed for and on behalf of the Licensee</b></p> <p>By <u>[Signature]</u></p> <p>Name: डा0 आशीष कुमार श्रीवास्तव पुस्तकालय अध्याक्ष Title: केन्द्रीय पुस्तकालय सौरभ संस्कृत विश्वविद्यालय कानपुर</p>
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