

## SUBSCRIPTION AGREEMENT

This agreement (“Agreement”) is entered into as of 11 December 2019 by and between **University of Chemistry and Technology Prague**, Technicka 5, Prague, 166 28, Czech Republic (the “Subscriber”), and xxxxx (“xxxxx”).

The parties hereto agree as follows:

### SECTION 1. SUBSCRIPTION.

#### 1.1 *Subscribed Products.*

xxxxx hereby grants to the Subscriber the non-exclusive, non-transferable right to access and use the products and services identified in Schedule 1 (“Subscribed Products”) and provide the Subscribed Products to its Authorized Users (as defined herein) subject to the terms and conditions of this Agreement.

#### 1.2 *Authorized Users/Sites.*

Authorized Users are the full-time and part-time students, faculty, staff and researchers of the Subscriber and individuals who are independent contractors or are employed by independent contractors of the Subscriber affiliated with the Subscriber’s locations listed on Schedule 2 (the “Sites”) and individuals using computer terminals within the library facilities at the Sites permitted by the Subscriber to access the Subscribed Products for purposes of personal research, education or other non-corporate use (“Walk-in Users”).

#### 1.3 *Authorized Uses.*

Each Authorized User may:

- access, search, browse and view the Subscribed Products;
- print, download and store a reasonable portion of individual items from the Subscribed Products for the exclusive use of such Authorized User;
- incorporate links to the Subscribed Products on the Subscriber’s intranet and internet websites and in electronic coursepacks, reserves and course management systems and instructor websites, provided that the appearance of such links and/or statements accompanying such links will be changed as reasonably requested by xxxxx
- provide print or electronic copies of individual items from the Subscribed Products to other Authorized Users and to third-party colleagues for their scholarly or research use
- access, search, browse, view, print, make electronic copies and store for the exclusive use of such Authorized User certain journal articles and book chapters from the ScienceDirect® online service that are not subscribed to as part of the Subscribed Products, with each twenty-four (24) hour access period for a selected article or chapter, a “Transaction.”; and
- if the Authorized User is a librarian/information specialist, access, search, browse, view, print, make electronic copies and store a Transaction for the exclusive use of another Authorized User.

The Subscriber may:

- print and deliver book chapters from the ScienceDirect Subscribed Products to fulfill requests as part of the practice commonly known as “interlibrary loan” from non-commercial libraries located within the same country as the Subscriber.

The Subscriber:

- (i) may extract and index Data from the Published Journal Articles/Published Book Chapters from Authors included in the Subscribed Products to index and store these in perpetuity in the Subscriber’s Institutional Repository by implementing the ScienceDirect APIs as outlined in the use case at: <http://xxxxx>; and
- (ii) may, in the user interface of the Institutional Repository, publicly display abstracts or Snippets thereof and dynamically display, via a ScienceDirect API, a first page PDF preview or, subject to the user authentication, the Full PDF of Published Journal Article/Published Book Chapter for which the Subscriber has indexed Data. Abstracts may only be displayed on the abstract records on the Subscriber data’s websites, all other services of the Institutional Repository, such as (but not limited to) alerts, e-mail services and API’s may only display Snippets but not abstracts.

In connection with the storage of Data from the Published Journal Articles/Published Book Chapters from Authors in the Subscriber’s Institutional Repository, the Subscriber will:

- (i) integrate the Institutional Repository software with xxxxx’s APIs in accordance with the API Documentation;
- (ii) display clear indicators informing users of the Institutional Repository in case they are entitled to the Published Journal Article/Published Book Chapter next to each instance where Data are displayed;
- (iii) ensure links to the relevant Published Journal Article/Published Book Chapters landing page in the Subscribed Product are available as part of the displayed Data. In the event links to multiple instances of the full text article/book chapter are displayed, the Subscriber will ensure that the link to the Published Journal Article/Published Book Chapter is displayed more prominently than the links to the other versions of the article/book chapter;
- (iv) undertake reasonable efforts to ensure that Accepted Manuscripts bear a CC BY-NC-ND license and link back to the Published Journal Article/Published Book Chapter on ScienceDirect;
- (v) ensure the indexes only include Data and no other parts of the Published Journal Articles/Published Book Chapters; and
- (vi) remove illicit versions of Published Journal Articles on the terms which are set out here: <https://www.xxxxx> upon xxxxx’s request and allow xxxxx to review the implementation of the Data into the Institutional Repository. xxxxx will have the right to suggest improvements to the display of the search results for the Published Journal Articles/Published Book Chapters that are available on the xxxxx site.

The Subscriber recognizes that xxxxx wants to ensure that the Institutional Repository will not share personal or private information, including user identities. In the event the Institutional Repository collects or otherwise processes or uses personal data the Subscriber will be responsible for complying with the relevant data protection and privacy laws.

In connection with the storage of Data from the Published Journal Articles/Published Book Chapters from Authors in the Subscriber's Institutional Repository, xxxxx will:

- (i) render and (if applicable) embed via a ScienceDirect API first page PDF previews and, subject to the user authentication, the Full PDFs of the Published Journal Articles/Published Book Chapters in the pages of the Institutional Repository.

As used in this section regarding the storage of Data from the Published Journal Articles/Published Book Chapters from Authors in the Subscriber's Institutional Repository:

“Authors” means employees, students and other staff of the Subscriber and independent contractors appointed by the Subscriber.

“Accepted Manuscript” means an author's version of the manuscript of a journal article or book chapter that has been accepted for publication and which typically includes author-incorporated changes suggested during submission, and editor-author communications. Accepted Manuscripts should not be added to or enhanced in any way in order to appear more like, or to substitute for, the Published Journal Article/Published Book Chapter.

“CC BY-NC-ND” (Creative Commons Attribution – Non Commercial – No Derivatives) means Creative Commons license for non-commercial purposes. CC BY-NC-ND allows others to distribute and copy the Accepted Manuscript for non-commercial purposes, as long as they credit the author(s) (with a link to the formal publication through the relevant DOI), provide a link to the license, and do not represent that the licensor endorses the use made of the article/book chapter. If the user alters or revises the Published Journal Article/Published Book Chapter in any way, it cannot distribute the modified version of the article/book chapter to others.

“Data” will be limited to the following: index terms, bibliographic information, headers, references, digital object identifiers, embargo end dates, keywords, author affiliation, Snippets and abstracts, or any other data when included, of the full text articles/book chapters.

“Institutional Repository” means the Subscriber's secure database system that Subscriber uses to collect, preserve and disseminate information about the intellectual output of the Subscriber's institute(s).

“Published Book Chapter” means the definitive final record of published research that appears, or will appear, in the book and embodies all value-adding publisher activities including copy-editing, formatting and (if relevant) pagination, and online enrichment.

“Published Journal Article” means the definitive final record of published research that appears, or will appear, in the journal and embodies all value-adding publisher activities including copy-editing, formatting and (if relevant) pagination, and online enrichment.

“Snippets” mean a short contextually relevant query-dependent text or data which may include bibliographic metadata as well as a maximum of 120 words of query-dependent text from individual Published Journal Articles/Published Book Chapters.

#### 1.4 *Restrictions on Use of Subscribed Products.*

Except as expressly stated in this Agreement or otherwise permitted in writing by xxxxx, the Subscriber and its Authorized Users may not:

- abridge, modify, translate or create any derivative work based on the Subscribed Products, except to the extent necessary to make them perceptible on a computer screen to Authorized Users;

- remove, obscure or modify in any way any copyright notices, other notices or disclaimers as they appear in the Subscribed Products;
- use any robots, spiders, crawlers or other automated downloading programs, algorithms or devices to continuously and automatically search, scrape, extract, deep link, index or disrupt the working of the Subscribed Products;
- substantially or systematically reproduce, retain, store locally, redistribute or disseminate online the Subscribed Products; or
- post individual items from the Subscribed Products on social networking sites.

Authorized Users who are individuals who are independent contractors or are employed by independent contractors may use the Subscribed Products only for the purposes of the contracted research work for the Subscriber.

#### *1.5 Intellectual Property Ownership.*

The Subscriber acknowledges that all right, title and interest in and to the Subscribed Products remain with xxxxx and its suppliers, except as expressly set forth in this Agreement, and that the unauthorized redistribution or dissemination online of the Subscribed Products could materially and irreparably harm xxxxx and its suppliers.

### **SECTION 2. xxxxx PERFORMANCE OBLIGATIONS.**

#### *2.1 Access to Subscribed Products.*

xxxxx will make the Subscribed Products accessible to the Subscriber and its Authorized Users from the internet address set forth on Schedule I or as may be otherwise set forth herein, upon receipt by xxxxx of this Agreement document in the territory of The Netherlands, as duly signed by the Subscriber, which acceptance will be evidenced and timestamped by an authorised representative of xxxxx in the Netherlands.

#### *2.2 Quality of Service.*

xxxxx will use reasonable efforts to provide the Subscribed Products with a quality of service consistent with industry standards, specifically, to provide continuous service with an average of 98% up-time per year, with the 2% down-time including scheduled maintenance and repairs performed at a time to minimize inconvenience to the Subscriber and its Authorized Users, and to restore service as soon as possible in the event of an interruption or suspension of service.

#### *2.3 Withdrawal of Content.*

xxxxx reserves the right to withdraw from the Subscribed Product content that it no longer retains the right to provide or that it has reasonable grounds to believe is unlawful, harmful, false or infringing.

#### *2.4 Usage Data Reports.*

xxxxx will make usage data reports on the Subscriber's usage activity available as described at <https://xxxxx>. Such reports may be accessed by vendors or other third parties retained by the Subscriber only with the express written permission of xxxxx and for the purpose of usage analysis of the Subscriber.

### **SECTION 3. SUBSCRIBER PERFORMANCE OBLIGATIONS.**

#### *3.1 Authentication.*

Access to the Subscribed Products will be authenticated by the use of Internet Protocol ("IP") address(es) and/or usernames and passwords and/or a delegated authentication mechanism requiring at least

two different credentials, as identified on Schedule 2. Distribution of usernames, passwords, credentials or otherwise providing remote access to the Subscribed Products by Authorized Users who are Walk-in Users is not permitted.

### 3.2 *Protection from Unauthorized Access and Use.*

The Subscriber will:

- take appropriate measures to protect against the misuse or unauthorized access, whether by the Subscriber or any third party, through or to (a) the Subscriber's credentials used to access the Subscribed Products; and (b) the Subscribed Products and/or information derived therefrom;
- manage identification, use, access and control of all credentials used to access the Subscribed Products in an appropriately secure manner, including, but not limited to, by:
  - limiting access to and use of the Subscribed Products to Authorized Users and notifying all Authorized Users of the usage restrictions set forth in this Agreement and that they must comply with such restrictions;
  - issuing any passwords or credentials used to access the Subscribed Products only to Authorized Users, not divulging any passwords or credentials to any third party, and notifying all Authorized Users not to divulge any passwords or credentials to any third party; and
  - providing true, complete and accurate IP addresses, as identified on Schedule 2, (if any) for the exclusive use by the Subscriber (including, if requested by xxxxx, written confirmation by the relevant third party internet service provider) and proactively informing xxxxx of any changes to the Subscriber IP addresses, including the addresses no longer being used exclusively by the Subscriber.
- without undue delay, deactivate any credentials when no longer needed or where access presents a security risk;
- implement appropriate policies and procedures to seek to ensure that all use of the Subscribed Products is for its legitimate business purposes and in compliance with all terms and conditions herein;
- implement and maintain its own appropriate program for credentials management and will use commercially reasonable efforts to follow the policies and procedures for account maintenance as may be communicated to the Subscriber by xxxxx from time to time in writing;
- on an appropriate basis, review access to the Subscribed Products by its passwords or credentials used to access the Subscribed Products to ensure that such access was in compliance with all terms and conditions herein; and
- promptly upon becoming aware of any unauthorized use of the Subscribed Products, inform xxxxx and take appropriate steps to end such activity and to prevent any recurrence.

In the event of any unauthorized use of the Subscribed Products, xxxxx may suspend the access and/or require that the Subscriber suspend the access from where the unauthorized use occurred upon notice to the Subscriber. The Subscriber will not be liable for unauthorized use of the Subscribed Products by any Authorized Users provided that the unauthorized use did not result from the Subscriber's own negligence or willful misconduct and that the Subscriber did not permit such unauthorized use to continue after having actual notice thereof. The Subscriber will be responsible for the adherence to the terms and conditions of this Agreement by a third party provider the Subscriber engages, in particular, if such third

party provider supplies and manages IP addresses.

### 3.3 *Security Requirements.*

The Subscriber agrees that the Subscriber will have in place documented policies and procedures, which may be reviewed, covering the administrative, physical and technical safeguards in place and relevant to the access, use, loss, alteration, disclosure, storage, destruction and control of information. The Subscriber will promptly notify xxxxx if it determines that there has been a breach of such safeguards if such breach results in a compromise of any information provided hereunder and cooperate with xxxxx's reasonable requests surrounding such breach including taking appropriate steps to end such activity and to prevent any recurrence.

## **SECTION 4. FEES AND PAYMENT TERMS.**

The Subscriber will pay to xxxxx the fees set forth in Schedule 1 (the "Fees") within thirty (30) days of date of invoice. Late payments will be subject to interest charges of 1% per month on the unpaid balance. In addition to other remedies provided in this Agreement, xxxxx reserves the right to suspend access to the Subscribed Products upon thirty (30) days' prior written notice and without incurring liability if 1) the full amount of any xxxxx invoice hereunder has not been paid within the agreed payment deadline or 2) any invoice is outstanding under previous subscription agreements between parties for the Subscribed Products. The suspension of the Subscriber's access for non-payment or on any other grounds provided herein is without prejudice to the Subscriber's obligation to pay its outstanding and future invoice amounts in full. xxxxx and the Subscriber acknowledge that the Fees payable under this Agreement are not in the nature of royalties and consequently no withholding tax should be applied to the Fees. The Fees will be exclusive of any sales, use, value added, withholding or similar tax and the Subscriber will be liable for any such taxes in addition to the Fees. Any sum to be paid by the Subscriber to xxxxx under this Agreement will be paid by way of transfer to xxxxx's bank account in the Netherlands. The currency of account and the currency of payment for any sum to be paid by the Subscriber to xxxxx under this Agreement will be EUR (meaning the lawful currency of the European part of the Netherlands at the effective date of this Agreement), notwithstanding any changes in Euro zone membership that might occur after the effective date of this Agreement, except in the event that (a) the Netherlands cease to be a

member of the Euro zone of the European Union or (b) all participating members of the Euro zone cease to do so and the Euro ceases to exist, in which event the sum will become payable in the currency that will be officially adopted as the legal currency in the Netherlands. The Subscriber waives any right it may have at any time in any jurisdiction to pay any sum under this Agreement in a currency unit other than that in which it is expressed to be payable under this clause. The Subscriber will be charged local value added tax (VAT), based on the Subscriber's place of establishment, unless the Subscriber is a foreign relevant business person and provides to xxxxx its VAT Identification Number. The Subscriber will promptly notify xxxxx of any changes to its VAT Identification Number or VAT status. xxxxx may charge the Subscriber any VAT, fines, penalties, interest and other costs that xxxxx may incur as a result of incorrect VAT information.

## **SECTION 5. TERM.**

The term of this Agreement will commence on 11 December 2019 and continue in perpetuity in accordance with the provisions of this Agreement ("Term").

## **SECTION 6. xxxxx WARRANTIES AND INDEMNITIES.**

### 6.1 *Warranties.*

xxxxx warrants that use of the Subscribed Products in accordance with the terms and conditions herein will not infringe the intellectual property rights of any third party.

### 6.2 *Indemnities.*

xxxxx will indemnify, defend and hold harmless the Subscriber and its Authorized Users from and

against any loss, damage, costs, liability and expenses (including reasonable attorneys' fees) arising from

or out of any third-party action or claim that use of the Subscribed Products in accordance with the terms and conditions herein infringes the intellectual property rights of such third party. If any such action or claim is made, the Subscriber will promptly notify and reasonably cooperate with xxxxx. This indemnity obligation will survive the termination of this Agreement.

#### 6.3 *Disclaimer.*

EXCEPT FOR THE EXPRESS WARRANTIES AND INDEMNITIES STATED HEREIN AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SUBSCRIBED PRODUCTS ARE PROVIDED "AS IS" AND xxxxx AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE SUBSCRIBED PRODUCTS AND ANY OTHER DATA, DOCUMENTATION OR MATERIALS PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ERRORS, INACCURACIES, OMISSIONS, OR DEFECTS CONTAINED THEREIN, AND ANY IMPLIED OR EXPRESS WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

#### 6.4 *Limitation of Liability.*

Except for the express warranties and indemnities stated herein and to the extent permitted by applicable law, in no event will xxxxx or its suppliers be liable for any indirect, incidental, special, consequential or punitive damages including, but not limited to, loss of data, business interruption or loss of profits, arising out of or in connection with this Agreement, nor will the liability of xxxxx and its suppliers to the Subscriber exceed a sum equal to the Fees paid by the Subscriber hereunder during the twelve (12) month period immediately preceding the date on which the claim arose, even if xxxxx or any supplier has been advised of the possibility of such liability or damages.

### **SECTION 7. GENERAL.**

#### 7.1 *Force Majeure.*

Neither party's delay or failure to perform any provision of this Agreement as a result of circumstances beyond its control (including, but not limited to, war, strikes, fires, floods, power failures, telecommunications or Internet failures or damage to or destruction of any network facilities or servers) will be deemed a breach of this Agreement. The parties agree that the departure of one or more members of the Euro zone will not, in and of itself, be a "circumstance beyond its control" and will not have the effect of discharging or excusing performance of (any obligation under) this Agreement.

#### 7.2 *Severability.*

The invalidity or unenforceability of any provision of this Agreement will not affect any other provisions of this Agreement.

#### 7.3 *Entire Agreement.*

This Agreement contains the entire understanding and agreement of the parties and replaces and supersedes any and all prior and contemporaneous agreements, communications, proposals and purchase orders, written or oral, between the parties with respect to the subject matter contained herein.

#### 7.4 *Modification.*

No modification, amendment or waiver of any provision of this Agreement will be valid unless in writing and signed by the parties, except for changes reflecting substituted titles, IP addresses, authentication mechanisms, invoicing and contact address details which may be confirmed by xxxxx in an email notice sent to the Subscriber.

#### 7.5 *Assignment.*

The Subscriber will not assign, transfer or license any of its rights or obligations under this Agreement unless it obtains the prior written consent of xxxxx, which consent will not unreasonably be withheld.

7.6 *Privacy.*

To the extent that Authorized Users provide any personal data to xxxxx during account registration or otherwise, the Subscriber acknowledges that such information will be collected, used and disclosed by xxxxx in accordance with the xxxxx privacy policy applicable to the Subscribed Products.

7.7 *Notices.*

All notices given pursuant to this Agreement will be in writing and delivered to the party to whom such notice is directed at the address specified below or the electronic mail address as such party will have designated by notice hereunder.

If to xxxxx: xxxxx.

If to the Subscriber: University of Chemistry and Technology Prague, Technicka 5, Prague, 166 28, Czech Republic.

7.8 *Confidentiality.*

The Subscriber and its employees, officers, directors and agents will maintain as confidential and not disclose to any non-affiliated third party without xxxxx's prior written consent the financial terms and commercial conditions of this Agreement. xxxxx may only disclose such information (i) to applicable service providers to the extent necessary to perform their functions in support of this Agreement and (ii) where reasonably necessary to address security, safety, fraud or other legal issues, and share the Subscriber's IP address ranges and holdings information (ISSN/ISBN, access start and end date) with internet search engine providers for the sole purpose of displaying to Authorized Users in their internet search results links to full-text articles and books available in the Subscribed Products.

7.9 *Compliance with Laws.*

Each party will comply with all applicable laws and regulations relating to its duties and obligations under this Agreement. xxxxx reserves the right to deny access to the Subscribed Products to any person or entity who is prohibited from receiving such access based on any applicable export control and trade sanctions laws or embargo programs.

7.10 *Execution.*

This Agreement and any amendment thereto may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective to the same extent as original signatures.

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

**UNIVERSITY OF CHEMISTRY AND TECHNOLOGY PRAGUE  
(Subscriber)**

Name: xxxxx  
Title: The Bursar

**xxxxx  
(xxxxx)**

Name: xxxxx  
Title: Executive Vice President Research Solution Sales

No. 1-18253677454



**SUBSCRIPTION AGREEMENT**  
**Schedule 1**  
**Subscribed Products/Access/Fees**

**UNIVERSITY OF CHEMISTRY AND TECHNOLOGY PRAGUE**

No. 1-18253677454

Subscribed Products – publisher	Access	2019 EUR
xxxxx	xxxxx	
xxxxx (perpetual access) xxxxx		xxxxx
<b>TOTAL FEES</b>		<b>xxxxx</b>

**Transaction Fee**

The Subscriber may purchase pre-paid Transactions (“PPT”) upon mutual agreement of the parties in writing. Unused PPT will be forfeited one (1) year after issue or upon termination of this Agreement, whichever is earlier.

**xxxxx Reference Works Additional Terms and Conditions**

The perpetual access granted hereunder for the above reference work(s) is subject to payment of a one-time fee set forth in the fee table above and, after the initial year of the Term of this Agreement, an annual access fee based on the number of chapters downloaded from such reference work(s) during the prior twelve (12) months at a rate of EUR xxxxx per download, with a minimum annual fee of EUR xxxxx (adjusted annually for inflation and cost increases) for the Subscriber’s access to the platform. The annual access fee will not be charged if the Subscriber maintains an annual subscription on ScienceDirect online. xxxxx will make available for inspection by a duly authorized auditor of the Subscriber, at the Subscriber’s sole expense, the records concerning the calculation of such annual access fee once per year during regular business hours upon thirty (30) days written notice to xxxxx. In the event that the Subscriber does not pay any reference work(s) annual access fee, or maintain any annual subscription on ScienceDirect online, the Subscriber may, at its option, acquire, load and technically format on a server that enables access and use by Authorized Users an electronic copy of such reference work(s) for cost in accordance with the usage provisions of the Agreement. The copy may not contain links and other features and functionality associated with the online version.

**SUBSCRIPTION AGREEMENT**  
**Schedule 2**  
**Sites/Authentication/Contacts**

**Subscriber:** University of Chemistry and Technology Prague

<b>Sites: #Auth. Users:</b> Technicka 5, Prague, 166 28, Czech Republic	xxxxx	<b>Authentication:</b>  xxxxx
--	-------	-------------------------------------

Estimated total number of Authorized Users for ScienceDirect: xxxxx

For the avoidance of doubt, other institutions and organizations that reside or do business at the above locations (including without limitation companies that are owned wholly or in part by, or affiliated with, the Subscriber) are not Sites, unless expressly stated above.

The Subscriber will promptly notify xxxxx of any material changes in the number of Authorized Users, and may add, withdraw or substitute authentication mechanisms upon mutual agreement of the parties in writing.

**Primary Contact**

Name: xxxxx  
Title: Head of Centre for Information Services  
Name/Address (if different from Section 7.7): University of Chemistry and Technology Prague,  
Technicka 5, Prague, 166 28, Czech Republic  
E-mail: xxxxx  
Phone: xxxxx / Hp : xxxxx

**Billing Contact**

Name: xxxxx  
Title: Sales Administrator  
Name/Address (if different from Section 7.7): Albertina icome Praha sro, Stepanska 16, Prague,  
11000, Czech Republic  
E-mail: xxxxx  
Phone: xxxxx

The Subscriber will promptly notify xxxxx of any changes to any of the contact information above.