

WOMEN WRITERS PROJECT LICENSE FORM FOR EDUCATIONAL INSTITUTIONS

Licensee Name: \_\_\_\_\_

Agreement Date: \_\_\_\_\_

Licensee Notice Address: \_\_\_\_\_

Licensee Primary Contact (if different): \_\_\_\_\_

Licensee Technical Contact (responsible for providing IP information for access):

Technical Contact Email address; \_\_\_\_\_

Women Writers Project Notice Address:

Women Writers Project  
Snell Library 213  
Northeastern University  
Boston, MA 02115  
617-373-4435 (phone)  
617-373-5409 (fax)  
wwp@neu.edu

Full Time Equivalent (FTE) enrollment (undergraduate): \_\_\_\_\_

Note: The WWP will confirm this information annually upon renewal of license.

If this license is to cover multiple campuses, please list the campuses below.

Campus IP information: IP domain(s) to be included in the access permissions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Note: if IP information is not available when completing this agreement, the WWP will contact the Technical Contact listed above to obtain IP information.)

Please describe any special circumstances affecting the access your institution provides to restricted resources: for instance, public or walk-in access to institutional libraries or computer clusters, proxy

server providing off-campus network access. These factors will not affect the pricing of your license, but will help us anticipate user load.

License starting date: \_\_\_\_\_

Duration of license: \_\_\_\_\_

The parties agree to be bound by the terms and conditions of the Women Writers Project License Agreement attached hereto, in witness whereof the parties have set their hands as of the Agreement date above.

**Northeastern University:**

**Licensee:**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

## WOMEN WRITERS PROJECT LICENSE AGREEMENT

AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between Northeastern University, a not-for-profit corporation existing under the laws of the State of Massachusetts, located in the City of Boston, Massachusetts, on behalf of its Women Writers Project (hereinafter referred to as "WWP"). and \_\_\_\_\_ (hereinafter referred to as "Licensee").

### 1. Definitions

- 1.1. In the following agreement, "we", "us", and "WWP" refer to the Women Writers Project.
- 1.2. "You" refers to the institution purchasing a license.
- 1.3. "Authorized Users" means any employee, student, registered patron or other person affiliated with, or permitted to use, the facilities of the Licensee and who is authorized by the Licensee to access the Textbase, during the term covered by this license.
- 1.4. "Access" means access from site location using authorized I.P. address sites or permitted domain name.
- 1.5. "The Textbase" refers to the collection of electronically encoded texts which the WWP has produced, and to the electronic product derived therefrom (including the interface and the programming which supports it).
- 1.6. "User Rules" refers to the terms and conditions for use of the Textbase defined herein under Schedule D. WWP shall provide Licensee with advance notice before making any substantial changes in User Rules, hardware and software requirements, or mode of delivery of the Textbase, In the event Licensee is opposed to such changes, Licensee shall be entitled to terminate the Agreement with a pro-rated refund of the License Fee in accordance with the provisions of Section 6.1 below. A current copy of these rules will also be available at all times at the WWP web site, <<http://www.wwp.northeastern.edu/>>
- 1.7. "Materials" refers to electronic transcriptions, encoded files, or printouts derived from the Textbase.
- 1.8. "Derivative Work" means a work based upon one or more preexisting works such as a modification, enhancement, adaptation, translation, abridgment or any other form in which such preexisting work may be transformed or incorporated and which, if prepared without authorization of the owner of the copyright or other intellectual property right in such preexisting work, would constitute an infringement of such right.
- 1.9. "Intellectual Property" means any trademarks, copyrights and copyright registrations and applications, rights in ideas, designs, works of authorship, Derivative Works, and all other intellectual property rights relating to the Textbase.

### 2. Grant of license

The WWP hereby grants to the Licensee a non-exclusive, non-transferable license to use the Textbase and to provide the Textbase to Authorized Users as permitted herein (the "License") during the term of this Agreement. The Textbase shall consist of XML-encoded transcriptions of primary source documents by women, written before 1850.

### **3. Use of the Textbase**

3.1 Licensee and its Authorized Users may use the Textbase for purposes of education, scholarship, and personal research in accordance with the User Rules set forth in Schedule D.

3.2 The Licensee shall make reasonable efforts to prevent anyone other than Authorized Users from using the Textbase, and to protect the Textbase from any use that is not permitted under this Agreement. However, Licensee may provide access to the walk-in public at workstations located in public areas of library facilities. These users, who would not otherwise be included in the definition of Authorized User, have the right to search the Product and make limited copies of results for their scholarly, research, educational and personal use only.

3.3 In the event of any unauthorized use of the Textbase by an Authorized User, upon written notice to Licensee by the WWP, Licensee will use reasonable efforts to remedy the unauthorized use and take corrective action as appropriate.

3.4 It is understood that the Licensee may wish to use Materials from the Textbase for the purpose of fulfilling occasional requests from other collections, a practice commonly called Interlibrary Loan. Licensee may make printouts of Materials from the Textbase for the purpose of supplying Interlibrary Loan requests in hard copy form in accordance with the Interlibrary provision of Section 108 of the US Copyright Law and the CONTU Guidelines. Any Materials used for Interlibrary Loan must retain the WWP cover sheet identifying them as derived products from the WWP Textbase.

3.5 WWP shall gather data on usage of the Textbase, and shall provide such data to Licensee upon request. Notwithstanding the foregoing, the parties shall neither collect nor provide data from which an individual user could be identified.

3.6 Notwithstanding anything to the contrary in this Agreement, no term or provision of this contract shall be interpreted to limit or restrict the "Fair Use" rights of Licensee and its Authorized Users provided by statute in 17 U.S.C. sections 107 and 504.

### **4. Delivery; Support**

Licensee is responsible for establishing and maintaining hardware and Internet access to provide access to, and to transmit, the Textbase to Authorized Users. Licensee understands that Internet browser software is required to access the Textbase. Schedule C attached hereto and incorporated herein sets forth hardware platforms and browsing software required and/or recommended for accessing the Textbase. Licensee understands that from time to time the Textbase may be added to or modified by the WWP, that portions of the Textbase may migrate to other formats, and that the terms of Schedule C may be updated. WWP shall provide Licensee with advance notice before making any substantial changes in hardware and software requirements or mode of delivery of the Textbase, and Licensee shall be entitled to terminate the Agreement with a pro-rated refund of the License Fee in accordance with the provisions of Section 6.1 below in the event that the Licensee is opposed to such changes.

### **5. Fees**

Licensee shall make payment to WWP for the License granted herein pursuant to the payment terms set forth on Schedule A.

### **6. Term and Termination**

6.1. The term of this Agreement shall commence July 1 and terminate on June 30 of each year, except that in the first year this Agreement shall commence upon the date of execution by Northeastern, and will renew for successive one (1) year terms unless earlier terminated by either

party by written notice not less than thirty (30) days prior to the end of the then-current term. In the event that WWP's practices and policies necessitate a change in the terms hereof, WWP shall provide Licensee with advance notice before making any substantial changes, and such changes shall be reflected in a revised Agreement signed by both parties. In the event Licensee is opposed to such changes, Licensee shall be entitled to terminate the Agreement with a pro-rated refund of the License Fee. Should a significant portion of the Textbase be deleted or removed from access or in the event of substantial changes in hardware and software requirements or mode of delivery of the Textbase, Licensor will notify Licensee immediately in writing. Licensee will have at least thirty (30) days from receipt of notification to cancel the Agreement and request a pro-rated refund of the license fee.

6.2. In the event that either party believes that the other materially has breached any obligations under this Agreement, or if the WWP believes that the Licensee or any Authorized User has exceeded the scope of the License, such party shall so notify the breaching party in writing. The breaching party shall have sixty (60) days from receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that the cure has been effected. If the breach is not cured within the sixty (60) day period, the non-breaching party shall have the right to terminate this Agreement without further notice. In the event of a breach by the WWP, the Licensee may terminate this agreement and the license fee will be returned to Licensee pro-rated to the date of termination. In addition, the WWP may terminate this Agreement on sixty (60) days' written notice if, in the WWP's reasonable opinion, the cumulative effect of violations of User Rules by Authorized Users justifies such termination.

6.3. Except in circumstances of breach by Licensee, upon termination of this Agreement the WWP shall provide Licensee upon request with one (1) complete copy of the source data for the Textbase, containing the XML-encoded transcriptions of the documents contained in the Textbase as of the date of such termination, for a nominal fee to cover administrative costs. In the event that the WWP ceases to exist or ceases offering Textbase services as contemplated by this Agreement, the WWP hereby grants to Licensee a non-exclusive, royalty-free, perpetual license to use such data in accordance with the terms of Section 3 of this Agreement, which terms shall survive any termination of this Agreement. Notwithstanding the foregoing, no use may be made of such data that would serve as a substitute for a License to the Textbase unless the WWP has ceased to exist, or has ceased offering Textbase services as contemplated by this Agreement.

6.4. Upon termination of this Agreement, Licensee shall discontinue any practices which are defined herein as depending on the possession of an active license, including Interlibrary Loan of WWP Materials, online redelivery of downloaded electronic files, and inclusion of WWP Materials in course packets. Licensee and Authorized Users may retain possession of printed copies of Materials, including course packets and individual electronic files which have been downloaded for personal research, or incorporated into individual research projects or classroom projects.

## **7. Proprietary Rights**

Licensee hereby recognizes and agrees that the Textbase and all Intellectual Property Rights residing therein are proprietary to the WWP, subject to the rights of third parties therein. Licensee hereby warrants that it will not, during the term of this Agreement or any time thereafter, attach, dispute or contest, directly or indirectly, the WWP's right and title in and to the Textbase, nor assist or aid others to do so. Neither party may use the other's name or trademark(s) in a way likely to cause confusion as to the origin of goods or services, or to endorse or show affiliation with the other, except as specifically approved.

## **8. Representations and Warranties**

8.1. Each party hereby warrants that it is duly organized and validly subsisting, and has full authority to enter into this Agreement.

8.2. Licensee represents and warrants that (a) the above list of IP addresses provided to the WWP is accurate and valid, (b) it is providing no IP addresses to the WWP that pertain to any campus other than those listed or indicated on page one of this Agreement, or for which access has otherwise been agreed in writing by the WWP, and (c) Licensee shall exert reasonable efforts to maintain sufficient security with respect to such IP addresses such that no one other than Authorized Users is or will be able to access the Textbase.

8.3 The WWP represents and warrants that it has the right and authority to make the Product available pursuant to these terms and conditions and that the materials, which constitute the Textbase, do not infringe upon any copyright, patent, trade secret or other proprietary right of any third person or party.

8.4. The WWP makes no warranties respecting any harm that may be caused by the transmission of a computer virus, worm, time bomb, logic bomb, or other such computer program. The WWP further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

8.5. If due to causes within WWP's reasonable control availability of the system falls below 98% of scheduled online hours during any one-month period, this Agreement will be extended by one-hour for every hour of such unavailability. Should unavailability fall below 98% of scheduled online hours in three or more months of the contract term, subscriber may elect to terminate this Agreement with a pro-rated refund upon written notice to WWP.

8.6. The WWP shall not be liable for any loss, injury, claim, liability or damage of any kind resulting from the unavailability of the Textbase, interruption of the services provided hereafter, or arising out of or in connection with Licensee's use of Materials. If the Textbase fails to operate in conformance with the terms of this Agreement, Licensee shall immediately notify the WWP, and the WWP's sole obligation shall be to repair the nonconformity. In no event shall the WWP's liability exceed the fees paid to the WWP by the Licensee. Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, even if advised of the possibility of a claim.

## **9. Notices**

All notices given pursuant to this Agreement shall be in writing sent by registered or certified mail, return receipt requested or by overnight carrier. If any notice is sent by facsimile, confirmation copies must be sent as specified above. Either party may from time to time change its Notice Address by written notice to the other party.

## **10. Miscellaneous**

10.1. This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written. No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of the WWP and Licensee.

10.2. This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement.

10.3. Waiver of any provision herein shall not be deemed to be a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

10.4. If any provision or provisions of this Agreement shall be held invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.5. Any suit and/or proceeding in connection herewith will be brought and prosecuted only in the home state of the party against whom that suit and/or proceeding is instituted. This Agreement will be construed under and pursuant to the laws of the forum in which any controversy hereunder is adjudicated.

10.6. For Authorized Users, this Agreement shall expressly supersede any click-through, click-on, or other user Agreement appearing on the Licensor's site.

## SCHEDULE A: PAYMENT TERMS

### **Access fee**

The Access Fee shall be \$\_\_\_\_\_, and shall be due and payable as of July 1 of every calendar year during the initial or renewal terms of the Agreement. The Access Fee for the first year shall be prorated to reflect the number of months remaining in the calendar year following the Agreement Date, and shall be due and payable sixty (60) days after the Agreement Date. The Access Fee is subject to reasonable annual increases.

\* Access fee for the first year shall be prorated from the date the Agreement is signed.

### **Payment terms**

All payments shall be made by check payable to Northeastern University, or by credit card.

## SCHEDULE B: SUPPORT

User support for the WWP Textbase will be conducted largely through online help and documentation, which will accompany the Textbase. In addition, the WWP will offer the following support to assist Licensee and Authorized Users in use of the Textbase.

WWP support staff will be available by email and telephone during regular business hours, Monday through Friday:

phone: 617-373-4435  
email: wwp@neu.edu

Support will include:

- troubleshooting individual problems
- regular system and project updates documented at the WWP web site
- maintenance of an online listserv discussion group

In addition, the WWP support staff will be responsible for the maintenance of the help files and user documentation available online.

## SCHEDULE C: HARDWARE AND SOFTWARE REQUIREMENTS

The following hardware and software is required or recommended in order to access the Textbase. These requirements and recommendations will change as computer hardware and software technology evolves.

### **Minimum requirements:**

Computing device (including mobile devices) capable of accessing the internet

Internet connectivity

Web browsing software

## SCHEDULE D: USER RULES

Authorized Users may reuse downloaded electronic files (HTML or XML) or transcriptions from the Textbase for private scholarly or pedagogical purposes, such as personal research, or to include in a course web site.

Authorized Users may modify the downloaded files or transcriptions, but they shall not represent the modified files as original WWP files, and they shall provide appropriate acknowledgment of the WWP as the source. The WWP shall supply, in a public location at our web site or on request, suggested forms of acknowledgment.

Authorized Users may use downloaded files and WWP transcriptions in products intended for sale with the written permission of the WWP, and such permission shall not be unreasonably withheld. For academic projects such as scholarly editions the fee for such use will be nominal. For commercial reuse, we may charge a fee or royalty based on the anticipated distribution and price of the publication.

Licensee and Authorized Users (including the Licensee's campus bookstore or photocopy center) may include printed Materials in course packets which will be resold within the Licensee's institution, without separate permission from the WWP, during the term of this Agreement. Such printed Materials must include a reasonable identification of the WWP as source.

Licensee and Authorized Users may download and redeliver electronic Materials in XML or HTML from the Textbase as long as Licensee holds a valid, current license, and as long as they maintain internal access pages which provide reasonable identification of the WWP as source and owner of the Textbase, including a link to the WWP web site.

Neither Licensee nor Authorized Users (including a campus bookstore or photocopy center) may distribute or sell downloaded files or printouts outside the Licensee's institution.