

HATHITRUST SUPPORTING INSTITUTION AGREEMENT

This document is an agreement (hereafter “Agreement”) between the Regents of the University of Michigan (“Michigan”) and (hereafter “Supporting Institution”). Michigan hosts a shared digital repository service (hereafter “HathiTrust”) to support the long-term curation and lawful uses of digital assets contributed by Supporting Institutions and other depositors. Michigan and the Supporting Institution (hereafter “Parties”) seek to have the Supporting Institution join HathiTrust.

For the mutual benefits described above and in exchange of the mutual promises described below, which the Parties agree constitutes fair and reasonable consideration for the Agreement, the Parties agree as follows:

- 1. The University of Michigan:** Although the HathiTrust Board of Governors guides the operation of HathiTrust, all decisions made in support of HathiTrust must be in accord with legal, fiscal, and other standards and regulations of Michigan.
- 2. Governance:** HathiTrust is guided by a Board of Governors, comprised of six members appointed by the founding institutions, six members elected at-large from the other institutions, and the Chief Executive Officer (ex officio). Five board members serve on an Executive Committee. A list of the founding institutions, as well as the charge and current membership of the Board can be found at http://www.hathitrust.org/board_of_governors.
- 3. Fees:** Fees are determined in part on the basis of information provided by Supporting Institutions about their library print holdings. The Supporting Institution agrees to pay, in a timely manner, the fees set forth in Schedule A or as they may be adjusted from time to time. The annual fee to participate in HathiTrust may change depending on actual costs. Annual fees will not be increased without a vote of the membership.
- 4. Resources and Services:** HathiTrust provides a variety of resources and services. Current resources and services include:
 - Long-term preservation of deposited materials, including bit-level preservation and migration (see <http://www.hathitrust.org/preservation>).
 - Management of rights information associated with the deposited materials (See Section 5. Rights Management).
 - Provision of bibliographic data for content held in HathiTrust that can aid institutions in loading bibliographic records for this content into local discovery systems.
 - Ingest services for digital content. There are no fees associated with ingest of content digitized by Google, the Internet Archive, or content packaged to HathiTrust specifications (see <http://www.hathitrust.org/ingest>).
 - Large-scale search capabilities over bibliographic records for content held in HathiTrust.

- Full-text search capabilities for major portions of HathiTrust content, including public domain texts.
- Expanded access to public domain volumes (e.g., full-volume download from HathiTrust in cases where third-party restrictions may limit public download)

Because some resources and services that HathiTrust strives to provide broadly—for example, full-text access for certified users who have print disabilities and Section 108 library uses such as replacement, preservation, and distribution of digital materials—have more complex legal and security issues, HathiTrust may require Supporting Institutions to sign additional agreements to get access to those resources and services in order to ensure the most prudent practices.

5. Rights Management: HathiTrust strives to provide as much reasonable access as is lawful and practical to materials stored in the repository. For public domain materials and for materials where a rights holder has granted sufficient permission, HathiTrust strives to provide a level of access that makes it possible for any user in the world to read these works online. For other materials, HathiTrust will, where lawful and practical, provide reasonable search capabilities so that these works can serve as an index to the printed text. To facilitate only lawful access to digitized content, HathiTrust employs a rights management mechanism that sets default rights based on information such as the publication place and date found in the bibliographic records provided by Supporting Institutions. HathiTrust stores other rights information as a result of specific overrides. This additional overriding information is typically the result of copyright determination work, but may also include the results of collaboration with rights holders. As between the Parties, Michigan assumes liability for the parameters for general access, as outlined here. As between the Parties, Supporting Institution assumes liability for errors in the bibliographic data it makes available to Michigan.

6. Scope of Uses: Michigan agrees that HathiTrust shall enable the Supporting Institution to use HathiTrust materials in accordance with HathiTrust services, the law and, if applicable, the parameters established by Google or other external contracting parties. The Supporting Institution agrees that its use of materials lawfully made available to it via HathiTrust shall be in accord with law, this Agreement, and HathiTrust policies and procedures (see, e.g., http://www.hathitrust.org/access_use).

7. System Security: HathiTrust has deployed security mechanisms for system-level and user access to the content of HathiTrust. HathiTrust will maintain and upgrade these mechanisms, as appropriate. As between the Parties, Michigan assumes liability for system-level security and breaches at or under the control of Michigan. As between the Parties, in the case of breaches made possible by activities at or under the control of the Supporting Institution (including, for example, an open proxy server, misidentified users or materials, or otherwise enabling unauthorized access), the Supporting Institution assumes liability for these breaches and will notify Michigan immediately when it becomes aware of actual or reasonably plausible security breaches. Michigan may, at its sole discretion, suspend access to services at the Supporting Institution until breaches are

resolved. This decision-making authority is essential to protect the integrity of HathiTrust for all.

8. Terms of Deposit: Additional terms of deposit for materials submitted to HathiTrust shall be specified in each Digital Assets Submission Inventory (DASI), which must accompany each deposit. The terms and substance of any DASI submitted by the Supporting Institution are, hereby, included as a part of this Agreement. Any materials submitted previously to HathiTrust by the Supporting Institution are also covered by this Agreement.

9. Holdings Data: Michigan relies on the accuracy of any holdings data submitted by Supporting Institution to make determinations about fees, access, and uses, among other things. Supporting Institution assumes liability for the accuracy of any holdings data it submits to HathiTrust.

10. Communication Mechanisms: HathiTrust will provide monthly updates to the Supporting Institution. Updates are posted to the HathiTrust website (HathiTrust.org). These updates include, at a minimum, the following:

- Status on development activities.
- Status on volumes added.
- Planned outages.
- System availability in the previous month.

12. Governing Law, Construction, Venue, Immunity, and Survival. All matters arising out of or related to this Agreement shall be governed by and construed under the laws of the State of Michigan without regard for principles of choice of law. Any claims, demands, or actions asserted by the Sustaining Institution against the Regents of the University of Michigan, its employees, or agents arising under this Agreement shall be brought in the Michigan Court of Claims. Neither party waives any immunity under this agreement. This paragraph 12, as well as paragraph 13, shall survive the termination or term of this Agreement.

12. Contract Claims: For any claim or cause of action arising out of or related to the creation, performance, or dealings of or for this Agreement, the only remedies for such claims or causes of action, whether at law or equity, are those available for breach of contract.

13. Term of Agreement. The Term of this Agreement shall last until the end of December, 2017. Thereafter the Term shall automatically renew for one-year periods, unless either party notifies the other, in writing, at least 30 days prior to the renewal Term.

14. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this agreement, which shall remain in full force and effect.

15. Execution. This Agreement may be executed in duplicate, each of which when executed and delivered shall be an original. The Parties acknowledge and agree that this Agreement has been mutually discussed, negotiated, and drafted by the Parties and that it replaces and supersedes, in whole, any similar agreement with the University of Michigan. This Agreement becomes effective when signed by each party.

In witness:

**FOR REGENTS OF THE
UNIVERSITY OF MICHIGAN:**

FOR :

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date of Signature: _____

Date of Signature: _____

Address (for notices): _____

Address (for notices): _____

Schedule A

Fees for Supporting Institutions fees are determined on the basis of several “fixed” elements (designed to pay for basic repository work) that are calculated on a yearly basis, and one adjustable element (designed to pay for programmatic activities). The fixed elements are:

- The number of public domain volumes in HathiTrust (PD).
- The number of in-copyright volumes in a partner’s print holdings that overlap with HathiTrust digital holdings (IC). These calculations include print volumes that are, or were previously held by the partner institution.
- The number of partners that hold a particular in copyright volume (H).
- The total number of partners (N).
- The basic infrastructure costs for preserving volumes in HathiTrust (C). Infrastructure costs are determined based on the amount of content Supporting Institutions estimate to deposit in the coming calendar year.

The adjustable element is a flexible multiplier (X), set by the Board of Governors, whose purpose is to generate surplus to develop new services and functionality for HathiTrust. The HathiTrust Board of Governors has determined that a multiplier value of 1.5 yields a surplus that is sufficient to support current programmatic activities. The Board of Governors will review this value periodically.

Supporting Institutions pay:

1. An evenly distributed share of the cost to support public domain volumes in HathiTrust, or

$$(PD*X*C)/N$$

2. A share of the cost of in-copyright volumes in the HathiTrust repository that overlap with volumes currently or previously held by the Supporting Institution. The cost for a given in-copyright volume is determined as below:

$$IC = (C*X)/H$$

Fees will be billed in January of each full year the Supporting Institution participates in HathiTrust throughout the Term of Agreement, and prorated for partial years.

The Supporting Institution agrees to pay fees according to this fee schedule. The estimated fee for the current year, prior to fee proration, is .

HathiTrust Digital Assets Submission Inventory

Depositing Institution/Organization

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Please designate a formal “Content Provider”. For explanation see <http://bit.ly/1ad27sN>

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Name of Collection (for reference purposes; may be formal title such as “Making of America” or project designation such as “first round of Internet Archive files”)

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Brief Description of Content and Content Subject Area

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Ongoing versus One-time Deposit

Please indicate if this is a one-time deposit or if content will be submitted over a period of time.

One-time deposit	
Ongoing deposit. Please characterize the content to be deposited (e.g., total number of volumes, expected number of metadata submissions, and period of time over which content will be submitted. Please also include the number of digital objects to be included with each batch, if known).	<i>Example: We plan to submit 5,000 volumes over 3 months; volumes will be submitted in batches of 1,000.</i>

Bibliographic Metadata

Bibliographic data must accompany all submitted content and will serve as the manifest for that content. Bibliographic metadata should be submitted to Zephir, the HathiTrust Metadata Management System. Metadata should be formatted according to specifications (see http://www.hathitrust.org/bib_specifications) and submitted according to the instructions at http://www.hathitrust.org/bib_data_submission.

Digital Content

Authority/Provenance of Digital Content

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Please designate a formal “Digitization Agent”. Help: <http://bit.ly/1ad27sN>

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Object Type/Material Type Description

Object Type	Average Object Size (estimate in Megabytes)	# of Objects (e.g., volumes)
Texts - ASCII		
Texts - XML		
Images - TIFF		
Images – JP2		
Google JP2 Package		
Google Hybrid Package (TIFF and JP2)		
Internet Archive Package		

Content Submission Method (Please indicate method of submission)

Return from Google	
Download from Internet	

Archive	
FTP (zip or tar files)	
Removable media (e.g., disk, CD, DVD)	
Other (please specify)	

If content submission method is not “Return from Google” or “Download from Internet Archive”, indicate if the data is compressed or uncompressed (please specify file type)

Rights and Access Restrictions

If permissions have been obtained from the copyright holder to display in copyright content that is part of this submission, permission documentation should be attached to this form. Also, documentation of any access or use restrictions should be similarly attached.

Duration

The deposit of content described in this inventory will be both non-exclusive and perpetual. At the request of the depositing institution, a copy of content will be returned on a time and materials cost basis

Signed

Name	Signature	Date
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Title

Phone

Email