

## HATHITRUST PARTNERING INSTITUTION AGREEMENT

This document is an agreement for participation in HathiTrust between the Regents of the University of Michigan (“Michigan”) and INSTITUTION (hereafter the “Partnering Institution” or “INSTITUTION”). The University of Michigan and INSTITUTION seek to have INSTITUTION join a shared digital repository, hereafter referred to as HathiTrust, to house and service an array of INSTITUTION’s digital library assets.

**1. Background:** HathiTrust is a digital repository shared by Partnering research institutions. Its first focus is on books and journals digitized from the collections of those institutions. HathiTrust is funded in large part by Michigan and Indiana University, with significant support by the Partnering Institutions and library consortia. The initial phase of HathiTrust is a five-year effort, begun in January 2008. HathiTrust will undertake a formal review of the financial model and sustainability in 2011.

**2. The University of Michigan:** Michigan provides the fiscal and legal resources of Michigan to support the operation of HathiTrust. Although the HathiTrust Executive Committee and the Strategic Advisory Board guide the operation of HathiTrust, all decisions made in support of and by HathiTrust must be in accord with legal, fiscal, and other standards and regulations of Michigan.

**3. Governance:** The daily activities of HathiTrust are managed by the Executive Director of HathiTrust, who is in turn guided by the HathiTrust Executive Committee. The HathiTrust Executive Committee is comprised of representatives of the founding members of HathiTrust and, in conjunction with the Executive Director of HathiTrust, assumes responsibility for all operational decisions of HathiTrust. Through its Executive Committee, HathiTrust actively seeks input from Partnering Institutions via a Strategic Advisory Board. The Strategic Advisory Board is charged with helping to define strategic directions for the initiative and is constituted by members appointed by the Executive Committee.

**4. Fees:** HathiTrust is operated on a total cost and cost-recovery basis (subsidy + fees). The HathiTrust Executive Committee reserves the right to adjust the annual fee for participation depending on actual costs. HathiTrust will adjust annual fees in consultation with the HathiTrust Executive Committee and will provide adjusted cost information to the Partnering Institutions in a timely way. HathiTrust commits to controlling costs, and costs will not be increased without a minimum of nine months notice. Current fees specific to INSTITUTION’s participation are appended to this agreement in Schedule A. INSTITUTION agrees to pay the fees set forth in Schedule A hereto or as they may be adjusted from time to time.

**5. Services:** HathiTrust commits to provide a minimum set of resources and services outlined below. With the Partnering Institutions, HathiTrust will also explore creating and funding additional services. A list of HathiTrust’s short- and long-term functional objectives can be found at <http://www.hathitrust.org/objectives>. Minimum services include:

- Long-term preservation of deposited materials, including bit-level preservation and migration (HathiTrust preservation practices and strategies are documented at <http://www.hathitrust.org/preservation>).
- Management of rights information associated with the deposited materials.
- Provision of data to aid institutions in loading bibliographic records for content held in HathiTrust.
- Ingest services for content digitized by Google and the Internet Archive (HathiTrust currently accepts only page image files and associated OCR files and metadata).
- 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.

**6. Rights Management:** HathiTrust strives, where reasonable, to provide as much 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 permissions, 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 possible, provide search capabilities so that these works can serve as a lawful index to the printed text. To facilitate only lawful access to digitized content, the Repository employs a rights management mechanism that sets default rights based on publication place and date found in the bibliographic record provided by the Partnering Institution, and 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 negotiations. Michigan assumes liability for the parameters for general access, as outlined here. INSTITUTION assumes liability for errors in the bibliographic data it makes available to Michigan.

**7. Scope of Uses:** Michigan agrees that HathiTrust shall enable INSTITUTION to use INSTITUTION materials in accordance with HathiTrust services, the law and, if applicable, the parameters established by Google or other external contracting party. INSTITUTION agrees that use of materials made available to INSTITUTION via HathiTrust shall not infringe the rights of any third parties and shall be in accord with this Agreement and HathiTrust policies and procedures.

**8. System Security:** Michigan has deployed security mechanisms for system-level and user access to the content of HathiTrust, and has reviewed those mechanisms with security experts and with Google. Michigan will maintain and upgrade these mechanisms, as necessary. In the case of breaches made possible by activities at or under the control of INSTITUTION (e.g., an open proxy server), INSTITUTION assumes liability for these breaches. Michigan assumes no liability for these breaches and reserves the right to suspend access to services at INSTITUTION, until breaches are resolved based on the sole judgment of Michigan. This decision-making authority is essential to protect the integrity of HathiTrust for all.

**9. Terms of Deposit:** All terms of deposit for content 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 INSTITUTION are, hereby, included as a part of this agreement.

**10. Communication Mechanisms:** HathiTrust will provide monthly updates to INSTITUTION. Updates are posted to a project website. These updates include, at a minimum, the following:

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

**11. Governing Law, Construction, and Venue.** This Agreement shall be governed by and construed under the laws of the State of Michigan. Any claims, demands, or actions asserted against The Regents of the University of Michigan shall be brought in the Michigan Court of Claims.

**12. Term of Agreement.** The Term of this Agreement shall last until the end of December, 2012. Thereafter the Term shall automatically renew for one-year periods, unless either party notifies the other, in writing, up to 30 days prior to the renewal Term.

**13. Notices.** Any notice to either party must be in writing, signed by the party giving it, and served to the addresses indicated on the Signature page (or to such other addressee as may be later designated by written notice) by personal delivery, recognized overnight courier service, or by the United States mail, first-class, certified or registered, postage prepaid, return receipt requested. All such notices shall be effective when received, but no later than three (3) days after mailing. All notices to INSTITUTION shall be sent to the attention of:

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**14. 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.

**15. Indemnity.** The University of Michigan shall defend, indemnify, and hold harmless INSTITUTION, its Trustees, officers, employees, and agents from and against any costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney fees, which may arise out of the University of Michigan's acts or omissions under this Agreement or which arise from the breach by the University of Michigan of its representations hereunder. INSTITUTION shall defend, indemnify, and hold harmless the University of Michigan, its Regents, officers, employees, agents, and students from and against any costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney fees, which may arise out of the

INSTITUTION's acts or omissions under this Agreement or which may arise from the breach by INSTITUTION of its representations hereunder.

In acknowledgement of the terms and conditions set out above and in return for fair and aggregate compensation the receipt of which is acknowledged by all signatories. This Agreement is executed as of \_\_\_\_\_.

**REGENTS OF THE UNIVERSITY  
OF MICHIGAN:**

**INSTITUTION:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of Signature: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

Address (for notices): \_\_\_\_\_

Address (for notices): \_\_\_\_\_

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## Schedule A

1. Costs for participation in HathiTrust are determined on the basis of the number of gigabytes of data deposited. Costs are calculated on a yearly basis, and prorated based on the portion of the year the Partnering Institution participates (a full explanation of cost calculation is provided on the HathiTrust website). INSTITUTION shall pay \$3.40 for each gigabyte of data deposited in the first year of the Term. It shall pay this amount every year through 2012, with costs to be adjusted in 2013 for subsequent years. In addition, INSTITUTION shall pay a one-time fee that is 25% of the yearly cost of the content specified for deposit in the first year. Based on INSTITUTION's estimate of TBD volumes at an average of TBD MB per volume, INSTITUTION shall pay \$TBD per year from 2011 through 2012 (with cost proration in 2010), with an additional one-time fee of \$TBD to be paid in 2011.

These payments will cover INSTITUTION's share of all costs for the submitted content in the first year of the Term. Costs in subsequent years will be determined by the amount of content contributed by INSTITUTION and the HathiTrust per GB cost at that time. HathiTrust currently projects costs for new content deposited in 2012 at \$3.29 for each gigabyte of data. In addition to the yearly cost, a one-time fee of 25% of the yearly cost will apply for each discrete content submission. Figures for each year will be finalized in January of the year of payment (e.g. for 2012 they will be finalized in January, 2012).

2. For content requiring the development of specialized load routines, time and materials costs for ingest will be negotiated with HathiTrust in a separate agreement.

3. There are no costs associated with ingest of content through the Google Return Interface (GRIN) or downloaded from the Internet Archive.

## HathiTrust Digital Assets Submission Inventory

Depositing Institution/Organization

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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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### Bibliographic Metadata

Bibliographic data must accompany all submitted content, and will serve as the manifest for that content.

Authority/Provenance of Bibliographic Metadata

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Bibliographic Metadata Submission Method (Please indicate method of submission)

FTP (zip or tar files)	
Download from Internet Archive	
Disk	
CD	
DVD	
Other (please specify)	

Digital Content

Authority/Provenance of Digital Content

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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)	
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)

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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
Title		
Phone		
Email		