

PLAN OF ALLOCATION

ARTICLE I.

Subscriptions

The Registry shall distribute to Rightsholders, as set forth below, all revenues received from Google for all Institutional Subscriptions based on (a) all use of Books in the Institutional Subscription Database (“Subscription Usage Fees”), and (b) the availability of Books and Inserts in the Institutional Subscription Database (“Inclusion Fees”).

1.1 Subscription Usage Fees.

(a) Usage Formula. To calculate the Subscription Usage Fees for each Book used by users of Institutional Subscriptions, the Registry will develop a fair and equitable usage formula. The formula may include factors such as the number of times users view a Book, how much of the Book is viewed, whether and how much of the Book is copied/pasted and/or printed, and each Book’s Settlement Controlled Price.

(b) Usage Fund. To pay Subscription Usage Fees, during the first ten (10) years after the Registry receives the first payment from Google for an Institutional Subscription, the Registry will, subject to Section 4.2 below, deposit into a Subscription Usage Fund seventy-five percent (75%) of the revenues it receives from Google for Institutional Subscriptions. After the first ten (10) years, the Registry shall fund Subscription Usage Fees in accordance with Section 1.2(f) below.

(c) Eligibility. To claim Subscription Usage Fees for a Book, a Rightsholder must register with the Registry within five (5) years of the end of the reporting period in which the Book earned such Subscription Usage Fees. (The Registry will determine an appropriate reporting period pursuant to Section 4.1 below.)

(d) Payment. At the end of each reporting period, and subject to the minimum amount for payment established pursuant to Section 4.1 below, the Registry shall pay Subscription Usage Fees to each Registered Rightsholder whose Book was used during that period. If, at any time within five (5) years after the end of such period, a Rightsholder whose Book was used during that reporting period registers, such Rightsholder shall be paid Subscription Usage Fees for such reporting period.

(e) Unclaimed Funds. Any and all Subscription Usage Fees for a reporting period not claimed by a Rightsholder within five (5) years after the end of such period shall be reallocated by the Registry as follows: first, if the Subscription Inclusion Fund is insufficient to pay all Inclusion Fees, to the Subscription Inclusion Fund (see Section 1.2 below); second, to defray reasonable and necessary operational expenses of the Registry

that are related to its performance on behalf of the Rightsholders of the functions described in Section 6.1 (Functions) of the Settlement Agreement and, as determined by the Board of Directors of the Registry in the exercise of its fiduciary duties, to maintain reserves for such expenses; and, third, as to any remaining funds, to Registered Rightsholders whose Books earned Subscription Usage Fees during such reporting period on a basis proportionate to the usage of such Books during such reporting period.

(f) Inserts. Rightsholders of Inserts will not be paid Subscription Usage Fees. They will, however, be eligible for Inclusion Fees, as set forth in Section 1.2 below.

1.2 Inclusion Fees

(a) Amounts. Inclusion Fees are targeted at US \$200 per Book, although the actual per Book Inclusion Fee may be greater or less than US \$200, as calculated pursuant to Section 1.2(f) below. Inclusion Fees for Inserts shall be no less than US \$50 per Entire Insert and US \$25 per Partial Insert (subject to Sections 1.2(b) and 1.2(h) below). Inclusion Fees will be funded from (i) Institutional Subscription revenues, (ii) if implemented, Consumer Subscription revenues, and (iii) if approved by the Registry pursuant to Section 3.2 below, some or all of any excess funds from the US \$45 million Google will pay the Registry for Cash Payments.

(b) Inserts. The Registry shall pay an Inclusion Fee for each Insert. The total of all Inclusion Fees paid for all Inserts consisting of Expression from the same work (e.g., from a Book, poem, song lyric, short story, or news article), however, may not exceed US \$500.

(c) Eligibility. A Rightsholder will be eligible to receive an Inclusion Fee provided he, she or it satisfies the following criteria:

(i) Such Rightsholder must have registered a Book or Insert with the Registry within five (5) years of the Effective Date; and

(ii) On the fifth (5th) anniversary of the Effective Date or at any time thereafter when such Inclusion Fee is to be paid, (1) if a Book, such Book is a Display Book and no Book Rightsholder has, at that time, directed that such Book be excluded from Institutional Subscriptions; or (2) if an Insert, no Rightsholder of such Insert has, at that time, directed that such Insert be excluded from all Display Uses.

(d) One Inclusion Fee Per Book. Only one Inclusion Fee will be paid per Book (not counting any Inserts therein).

(e) No Exclusion After Payment. Once a Rightsholder has been paid any portion of the Inclusion Fee for its Book or Insert, such Rightsholder may not thereafter exclude such Book or Insert from Institutional Subscriptions unless such Rightsholder returns to the Registry all or such portion of the Inclusion Fee previously received by such Rightsholder for such Book or Insert.

(f) Funding.

(i) Initial Ten Years.

(1) Beginning on the date on which the Registry receives the first payment from Google for an Institutional Subscription, and during the ten (10) years thereafter, the Registry will, subject to Section 4.2 below, deposit twenty-five percent (25%) of the revenues the Registry receives from Google for Institutional Subscriptions into the Subscription Inclusion Fund and seventy-five percent (75%) of such revenues into the Subscription Usage Fund. The Subscription Inclusion Fund will be divided into two sub-funds: eighty percent (80%) (of the 25%) for the Book Sub-Fund and twenty percent (20%) (of the 25%) for the Insert Sub-Fund.

(2) If, by the end of such ten (10)-year period, the Book Sub-Fund and the Insert Sub-Fund are sufficient to pay US \$200 for every Book of an eligible Book Rightsholder and US \$50 and US \$25 for every Entire Insert and Partial Insert, respectively, of an eligible Insert Rightsholder, the Registry shall complete the payment of all such Inclusion Fees and shall thereafter cease allocating revenues to the Inclusion Fund.

(3) If, at the end of such ten (10)-year period, the amount in the Book Sub-Fund exceeds the amount necessary to pay US \$200 for every Book of an eligible Book Rightsholder, or the amount in the Insert Sub-Fund exceeds the amount necessary to pay US \$50 or US \$25 for every Entire Insert or Partial Insert of an eligible Insert Rightsholder, then such excess shall be paid to eligible Rightsholders of Books from the Book Sub-Fund, and to eligible Rightsholders of Inserts from the Insert Sub-Fund, with each Rightsholder of an Entire Insert being paid twice the amount paid to each Rightsholder of a Partial Insert.

(ii) Subsequent Ten-Year Periods.

(1) Book Sub-Fund. If, at the end of the initial ten (10)-year period (or at the end of any subsequent ten (10)-year periods), the Book Sub-Fund is insufficient to pay US \$200 for every Book of an eligible

Rightsholder, a majority of the Board of Directors of the Registry shall determine whether to continue allocating Institutional Subscription revenues to the Book Sub-Fund for one or more additional ten (10)-year periods, until such time as the amount in the Book Sub-Fund is sufficient to pay US \$200 for every Book of an eligible Rightsholder. In the absence of a determination by a majority of the Board to cease such allocation, such allocation shall continue. If the Board votes to cease such allocation, the Inclusion Fee paid for each Book under this Plan of Allocation may be less than US \$200. If, at any time before the end of any subsequent ten (10)-year period authorized by the Board, the amount in the Book Sub-Fund is sufficient to pay US \$200 for every Book of an eligible Book Rightsholder, the Registry shall complete the payment of such amount and shall thereafter cease allocating revenues to the Book Sub-Fund.

(2) Insert Sub-Fund. If, at the end of the initial ten (10)-year period (or at the end of any subsequent ten (10)-year periods), the Insert Sub-Fund is insufficient to pay US \$50 for every Entire Insert and US \$25 for every Partial Insert of an eligible Insert Rightsholder, the Registry shall continue to allocate Institutional Subscription revenues to the Insert Sub-Fund until such time as the amount in the Insert Sub-Fund is sufficient to pay such amounts for every Entire Insert and Partial Insert of an eligible Insert Rightsholder. If, at any time before the end of any such subsequent ten (10)-year period, the amount in the Insert Sub-Fund is sufficient to pay US \$50 per Entire Insert and US \$25 per Partial Insert of an eligible Insert Rightsholder, the Registry shall, at such time, pay such amount and shall thereafter cease allocating revenues to the Insert Sub-Fund.

(3) Deposits After First Ten Years. After the initial ten (10)-year period, if the Registry continues to allocate revenues from Institutional Subscriptions to one or both of the Sub-Funds pursuant to paragraphs (1) or (2) above, then the Registry will, subject to Section 4.2 below, deposit ten percent (10%) of such revenues into the Subscription Inclusion Fund and ninety percent (90%) of such revenues into the Subscription Usage Fund. The Registry shall determine what percentage of the amounts deposited into the Subscription Inclusion Fund shall be further allocated to the Book Sub-Fund and/or Insert Sub-Fund (depending on whether all of the Inclusion Fees for Books and/or Inserts have been paid).

(4) Allocation of Revenues After Payment of All Inclusion Fees. After all Inclusion Fees have been paid pursuant to this Section 1.2 above, all revenues the Registry receives from Google for Institutional Subscriptions shall be deposited into the Subscription Usage Fund.

(g) Disbursement of Inclusion Fees. Depending on the amounts deposited in the Subscription Inclusion Fund or in any Sub-Fund, the Registry may, at any time after the five (5)-year period following the Effective Date and in a manner designed to maximize efficiency, disburse some or all of the Inclusion Fees to eligible Rightsholders.

(h) Insert Rightsholder Exception. An eligible Rightsholder of an Insert may receive more than the Inclusion Fee for an Insert, as set forth in Sections 1.2(a) and 1.2(b) above, in accordance with the following:

(i) The Rightsholder demonstrates to the Registry (or Arbitrator under Article IX (Dispute Resolution) of the Settlement Agreement) that it has a written contract or written permission by which such Rightsholder had authorized a Book Rightsholder to include such Insert in a Book; and

(ii) Such written contract or written permission specifically provides that the Insert Rightsholder is entitled to a specified amount of monetary compensation, set forth on the face of such contract or written permission, for the Book Rightsholder's use of an Entire Insert or Partial Insert in an online database or method of distribution substantially similar to the Institutional Subscription; and

(iii) Such amount of such monetary compensation exceeds US \$50 (for an Entire Insert) or US \$25 (for a Partial Insert); and

(iv) After notifying the Rightsholder of the Book that contains such Insert, the Registry (or Arbitrator) decides that, in light of such contract or permission and any response thereto, such Rightsholder of the Insert is entitled to receive the specified amount of monetary compensation set forth in such writing; and

(v) The decision of the Registry (or Arbitrator) will be binding on the Rightsholders of the Book and of the Insert. Any fees paid to a Rightsholder of the Insert in accordance with such decision will be paid from the Insert Sub-Fund.

1.3 Consumer Subscriptions. If Google is authorized by the Registry to sell Consumer Subscriptions pursuant to Section 4.7(d) (Consumer Subscription Models) of the Settlement Agreement, the Registry shall pay Rightsholders subscription usage fees using a fair and equitable methodology that is based on the methodology for Subscription Usage Fees implemented for Institutional Subscriptions.

ARTICLE II.

Revenue Models Other Than Subscriptions

2.1 Book Use Revenues. The Registry will, subject to Section 4.2 below, distribute to Rightsholders of Books the revenues earned from Consumer Purchase, Advertising Uses, per-page printing fees from the Public Access Service and commercial public access services and, if agreed, the Revenue Models specified in Sections 4.7(a) (Print on Demand), 4.7(b) (Custom Publishing) and 4.7(c) (PDF Download) of the Settlement Agreement, on a Book-by-Book basis according to actual use or purchase by users (“Book Use Revenues”).

2.2 Eligibility. To claim Book Use Revenues for a Book, a Rightsholder must register with the Registry within five (5) years after the end of the reporting period in which the Book earned such Book Use Revenues.

2.3 Unclaimed Funds.

(a) **Book Use Revenues.** The Registry shall distribute all Book Use Revenues paid to the Registry by Google that are not claimed by Rightsholders to a Book use fund (“Book Use Fund”). Five (5) years after the end of the reporting period in which such Book Use Revenues were earned, the Registry shall allocate such unclaimed Book Use Revenues pursuant to clauses (1), (2) and (3) of Section 6.3(a)(i) (Unclaimed Funds-Non-Subscription Revenue Models) of the Settlement Agreement, provided that any payment under Section 6.3 (a)(i)(2) of the Settlement Agreement will be made to a Rightsholder of a Book only if and to the extent that such Book earned Book Use Revenues during such reporting period, and, further, that each such payment, together with all previous Book Use Revenues paid to such Book’s Rightsholder for such Book for such reporting period, shall not exceed such Rightsholder’s share of the seventy percent (70%) of the Gross Revenues (as defined in Section 6.3(a)(i) (Unclaimed Funds-Non-Subscription Revenue Models) of the Settlement Agreement) earned by such Book during such reporting period. The difference between such previously-paid amounts and such Rightsholder’s share of seventy percent (70%) of the Gross Revenues is referred to in this Plan of Allocation as the “Maximum Usage Payment.” If the Book Use Fund is insufficient to pay the Maximum Usage Payments to all Rightsholders whose Books earned such Book Use Revenues, the Registry shall allocate the Book Use Fund to each such Rightsholder in proportion to the Maximum Usage Payment owed to each such Rightsholder.

(b) **Other Revenue Models.** If and at such time as Google and the Registry agree to implement a Revenue Model not specified in Part I or Section 2.1 above, the Registry shall at that time determine a fair and equitable methodology for distributing revenues from such Revenue Model that are not claimed by Rightsholders five (5) years after the end of the reporting period in which such revenues were earned.

2.4 Inserts. Rightsholders of Inserts will not be paid from revenues earned in Revenue Models other than Institutional Subscription or Consumer Subscriptions (if implemented), but they will be eligible for Inclusion Fees under Part I above.

ARTICLE III.

Cash Payments

3.1 Amounts. Cash Payments shall be made from the Settlement Fund in accordance with Section 5.1 (Cash Payments to Class Members Whose Books and Inserts Have Been Digitized) of the Settlement Agreement.

3.2 Excess Funds. If, after Cash Payments have been made to all Rightsholders entitled to receive such payments from the Settlement Fund, excess funds remain from Google's minimum payment of US \$45 million pursuant to Section 5.1(b) (Funding of Cash Payments) of the Settlement Agreement, then such excess funds will be paid, on a proportional basis, to all such Rightsholders until all such Book Rightsholders receive an amount no greater than US \$300 per claimed Book and until all such Insert Rightsholders receive an amount no greater than US \$75 per claimed Entire Insert and US \$25 per claimed Partial Insert. Any funds remaining thereafter shall be paid to the Registry and shall be disposed of as follows: three (3) years after the Effective Date, the Board of Directors of the Registry shall determine by majority vote whether some or all of such balance shall be deposited into the Subscription Inclusion Fund or be used for the performance by the Registry of the functions described in Section 6.1 (Functions) of the Settlement Agreement.

ARTICLE IV.

Miscellaneous

4.1 Administrative Efficiency. To minimize its administrative costs and in its discretion, the Registry shall determine the length of each reporting period and establish a minimum amount for making payments to Rightsholders; provided, however, that accrued amounts in excess of US \$25 or more will be distributed at least every five (5) years; provided, further, that the payment of Cash Payments, irrespective of the amount of such Cash Payment, shall be made promptly after the resolution of all disputes arising out of the final report pursuant to Section 13.5 (Final Report Concerning Cash Payments) of the Settlement Agreement.

4.2 Registry Administration Costs. The Registry shall pay net revenues to Rightsholders pursuant to Parts I and II above after deducting the Registry's costs of administration and operations, and any taxes payable by the Registry, on a proportionate and equitable basis.

4.3 Author-Publisher Procedures. All payments due under this Plan of Allocation to Author Sub-Class members and to Publisher Sub-Class members shall be made in accordance with the Author-Publisher Procedures. Multiple Author Rightsholders and multiple Publisher Rightsholders may share their respective payments pursuant to agreements or arrangements between them.

4.4 Claiming Rightsholders. Payments to Rightsholders will be subject to the eligibility requirements set forth in Section 13.1 (Registration and Completing Claims) of the Settlement Agreement and in the claim forms developed pursuant thereto.

4.5 No Precedential Effect. This Plan of Allocation is for purposes of the Settlement Agreement only, and has no precedential effect.

4.6 Dispute Resolution for Insert Rightsholders. All disputes arising under this Plan of Allocation shall be resolved under the dispute resolution mechanism set forth in Article IX (Dispute Resolution) of the Settlement Agreement.