

**CONGRESSIONAL QUARTERLY, INC.  
SUBSCRIPTION AGREEMENT  
AND TERMS & CONDITIONS  
FOR SUBSCRIBERS TO THE CQ WEEKLY PERPETUAL LICENSE OPTION**

THIS SUBSCRIPTION AND ACCESS AGREEMENT (this "*Agreement*") entered into as of (the "*Effective Date*") by and between Congressional Quarterly ("CQ") ("*Licensor*"), located at [text removed]; and University of California San Diego, [text removed] ("*Licensee*") intending to be legally bound, for CQ to provide to Licensee, subject to this Agreement, access to the print and electronic materials described herein.

**I. Content of Licensed Materials; Grant of License**

Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials contained within the CQ Weekly Online database that were accessible during the term of this Agreement. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement. The means by which Licensee shall have access to such Licensed Materials shall be in a manner and form substantially equivalent to the means by which access is provided under this Agreement.

**II. Fees**

**BILLING.** Licensee shall be billed a one-time fee of [text removed] for the ownership option. Annual fees may apply if Licensee chooses to have CQ provide annual data updates to Licensee in a mutually agreed to format. Payment shall be due and payable upon receipt of the invoice. Accounts not paid in full within 30 days of the invoice date shall be considered delinquent, in which case CQ reserves the right to suspend this Agreement and Licensee's access to the Publications and Services without further notice. Licensee agrees to bear all reasonable costs, including attorneys fees CQ incurs to collect payment due hereunder.

CQ WEEKLY. The annual subscription fee for electronic access to CQ Weekly shall be [text removed], and this fee shall remain fixed for the life of the subscription, so long as the terms run concurrent with no lapse in the subscription.

TAXES. Except for an Agreement to be fulfilled entirely within the District of Columbia, charges hereunder shall exclude any state or local sales taxes or other similar charges directly applicable. However, Licensee agrees to reimburse CQ for any such tax or charge assessed to or levied on CQ within ten (10) days of Licensee's receipt.

**III. Specific Restrictions on Use of Licensed Materials**

Unauthorized Use. Except as specifically provided elsewhere in this agreement, Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials.

Modification of Licensed Materials. Licensee shall not modify or create a derivative work of the Licensed Materials without the prior written permission of Licensor.

Removal of Copyright Notice. Licensee may not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

Commercial Purposes. Other than as specifically permitted in this Agreement, Licensee may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials or bulk reproduction or distribution of the Licensed Materials in any form.

**IV. Licensee Performance Obligations**

Provision of Notice of License Terms to Authorized Users. Licensee shall make reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement including, in particular, any limitations on access or use of the Licensed Materials as set forth in this Agreement.

Protection from Unauthorized Use. Licensee shall use reasonable efforts to inform Authorized Users of the restrictions on use of the Licensed Materials. In the event of any unauthorized use of the Licensed Materials by an Authorized User, (a) Licensor may terminate such Authorized User's access to the Licensed Materials, (b) Licensor may terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred, and/or (c) Licensee may terminate such Authorized User's access to the Licensed Materials upon Licensor's request. Licensor shall take none of the steps described in this paragraph without first providing reasonable notice to Licensee (in no event less than 15 days and cooperating with the Licensee to avoid recurrence of any unauthorized use.

Maintaining Confidentiality of Access Passwords. Where access to the Licensed Materials is to be controlled by use of passwords, Licensee shall issue log-on identification numbers and passwords to each Authorized User and use reasonable efforts to ensure that Authorized Users do not divulge their numbers and passwords to any third party. Licensee shall also maintain the confidentiality of any institutional passwords provided by Licensor.

#### **V. Mutual Performance Obligations**

Confidentiality of User Data. Licensor and Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its Authorized Users. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party.

Implementation of Developing Security Protocols. Licensee and Licensor shall cooperate in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.

#### **VI. Warranties**

Subject to the Limitations set forth elsewhere in this Agreement:

Licensor warrants that it has the right to license the rights granted under this Agreement to use Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party. The Licensor shall indemnify and hold Licensee and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Licensee or any Authorized User in accordance with the terms of this Agreement. This indemnity shall survive the termination of this agreement. **NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.**

#### **VII. Limitations on Warranties**

Notwithstanding anything else in this Agreement:

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, arising out of the use of or the inability to use the Licensed Materials.

Licensor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

Except for the express warranties stated herein, the Licensed Materials are provided on an "as is" basis, and Licensor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. Licensor 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. Licensor further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

#### **VIII. Indemnities**

Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request. This indemnity shall survive the termination of this Agreement.

#### **IX. Assignment and Transfer**

Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

#### **X. Governing Law**

The Services are offered and the Site is controlled by CQ from its offices within the District of Columbia and, subject to Section 9 above, the substantive laws of the District of Columbia or the substantive laws of the Licensor's domicile will govern any dispute arising under this Agreement, without regard to any conflict of laws provisions.

#### **XI. Dispute Resolution**

If a dispute arises out of or relates to this Agreement or its breach (with the exception of rights to injunctive relief with respect to Intellectual Property Rights and obligations with respect to confidentiality), and the parties have not been successful in resolving the dispute through direct negotiation, then (i) the dispute shall be resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, (ii) any judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction, (iii) the location of the arbitration shall be ~~the District of Columbia, USA~~ at a location that is reasonably centrally located between the two parties, or otherwise mutually agreed upon by the parties, and (iv) the parties shall have the right to take discovery of the other party by any method allowed by the ~~Federal~~ applicable Rules of Civil Procedure. The arbitrator(s) shall each be a natural person who has never been employed (either as an employee or as an independent consultant) by either of the parties, or any parent, subsidiary or affiliate thereof. The arbitrator(s) may upon request exclude from in the arbitration proceeding any evidence not made available to the other party pursuant to a proper discovery request. The arbitrator(s) shall issue a reasoned award. The cost of the arbitration shall be borne equally by the parties. ~~pending the award. Upon the decision of the arbitrator(s), the prevailing party shall be entitled to received from the other party its reasonable attorneys' fees and costs.~~ The parties, their representatives, other participants, the arbitrator(s) and the administrator(s) of the arbitration shall hold in confidence the existence, content and outcome of the arbitration.

#### **XII. Entire Agreement**

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.

#### **XIII. Amendment**

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of Licensor and Licensee.

#### **XIV. Severability**

If any provision or provisions of this Agreement shall be held to be 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.

**XV. Waiver of Contractual Right**

Waiver of any provision herein shall not be deemed 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.

**XVI. Notices**

All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be deemed received within 10 days after mailing if sent by registered or certified mail, return receipt requested. If any notice is sent by facsimile, confirmation copies must be sent by mail or hand delivery to the specified address. Either party may from time to time change its Notice Address by written notice to the other party.

**ACCEPTED AND AGREED:**

**CONGRESSIONAL QUARTERLY, INC.**

**LICENSEE**

By: [signature removed]

By: [signature removed]

Name: Xavier Ridel

Name: Luc Declerck

Title: Circulation Manager

Title: Associate University Librarian for  
Technology & Technical Services