



ARCHIVE-IT SERVICE AGREEMENT



This **ARCHIVE-IT SERVICE AGREEMENT**, including the Terms and Conditions and any Exhibits attached hereto, (the "Agreement") is made and entered into as of July 1, 2017 ("Effective Date") by and between The Internet Archive ("Internet Archive"), a non profit California corporation located at 300 Funston, San Francisco, CA 94118 and the participating Consortia representing each party identified in Exhibit A ("Institution") (collectively "the Parties").

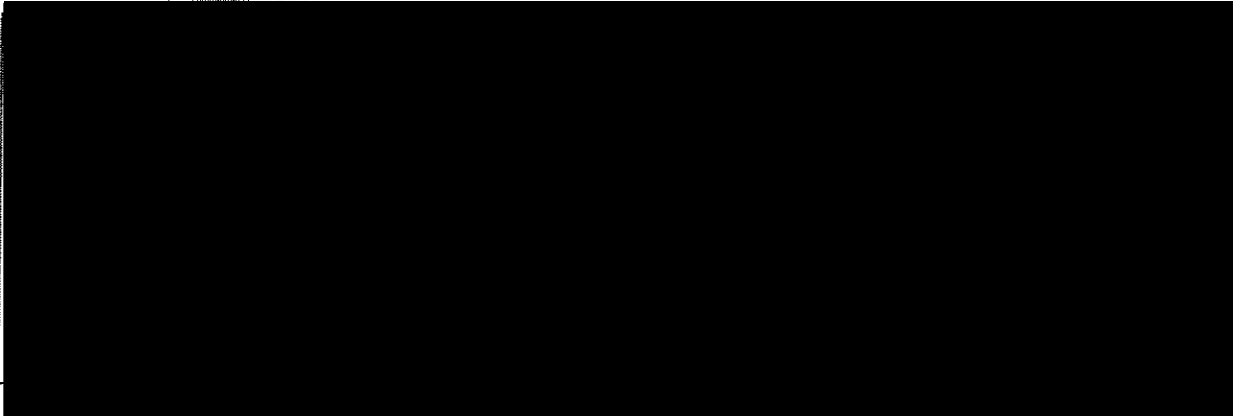
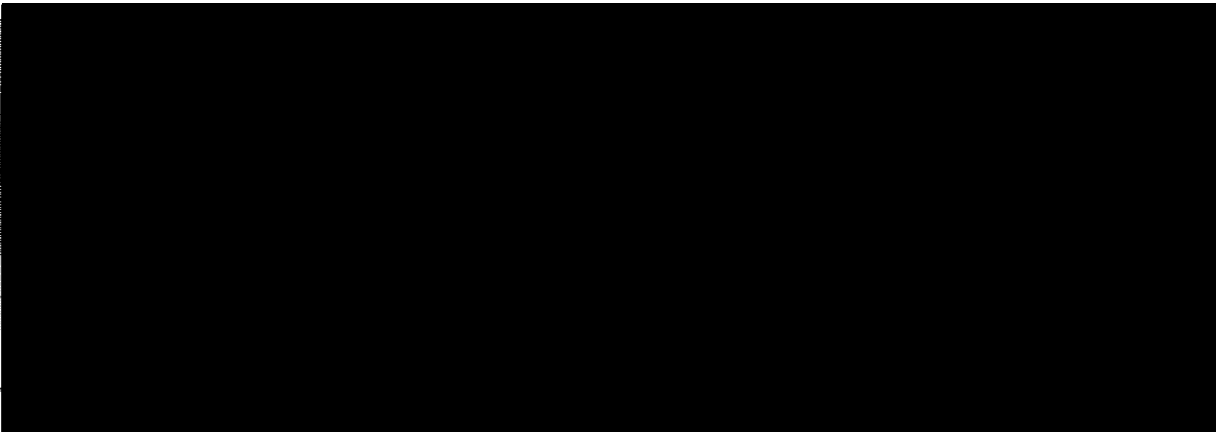
Consortia is authorized to act for and sign this Agreement on behalf of Institution. Rights and responsibilities referenced in this Agreement apply to all the Institutions covered under this Agreement; however, Consortia is responsible only for fulfillment of its individual responsibilities under this Agreement. Neither Consortia nor any other Institution shall be liable for any breach or default of another Institution.

Consortia: Council of Prairie and Pacific University Libraries (COPPUL)	Primary & Financial Contact: Carol Stephenson Contact Phone: 519-501-5358 Contact Email: carol@coppul.ca
COPPUL Consortia Address: Room 219 Koerner Library University of British Columbia 1958 Main Mall Vancouver, British Columbia V6T 1Z2	Technical Contact: Corey Davis Contact Phone: 250-472-5024 Contact Email: corey@coppul.ca
Consortia: Ontario Council of University Libraries (OCUL)	Primary & Financial Contact: Jacqueline Cato Contact Phone: 416-978-0672 Contact Email: jacqueline.cato@ocul.on.ca
OCUL Consortia Address: 130 St. George St. 7th fl Toronto, ON Canada M5S 1A5	Technical Contact: Alan Darnell Contact Phone: 416-910-4016 Contact Email: alan@scholarsportal.info
Institution and Subscription Details Outlined in Exhibit A	

Subject to the terms of this Agreement, Internet Archive provides the Service to Institution (as described and defined in the Terms and Conditions and Exhibits attached hereto).

This Agreement, including the Terms and Conditions and Exhibits attached hereto, constitutes the entire agreement between the parties pertaining to the subject matter hereof, and any and all written or oral agreements previously existing between the parties are expressly superseded. Any modifications of this Agreement must be in writing and agreed to by both parties.

In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.



TERMS AND CONDITIONS FOR ARCHIVE-IT

1. **Use of Service.** Subject to the terms and conditions of this Agreement, Internet Archive hereby grants to Institution during the Term a non-exclusive, non-transferable right to access and use the Service to create and use Collections, as further described and defined in **Exhibit A**, solely for Institution's own internal purposes. Institution acknowledges and agrees that Internet Archive retains all right, title and interest in and to the Service and all intellectual property rights contained therein. All rights not expressly granted to Institution under this Agreement are expressly reserved to Internet Archive.

2. **Access of Service by Users.** Institution may authorize up to ten (10) individuals to access the Service ("Users"). Users must be employed faculty, researchers, and/or staff at the Institution or officially affiliated researchers. Internet Archive will provide Institution with a unique username and password to enable Institution to access the administrator account for the Service. Institution is responsible for establishing usernames and passwords for its Users and for maintaining the confidentiality of all usernames and passwords, and is solely responsible for all activities that occur under any username, including, but not limited to, the username for the administrator account. Institution agrees (a) not to allow a third party to use its administrator username or password at any time; and (b) notify Internet Archive promptly of any actual or suspected unauthorized use of any usernames or passwords, or any other breach or suspected breach of this Agreement. Internet Archive reserves the right to terminate any username and password, which Internet Archive reasonably determines may have been used by an unauthorized third party or by any User or individual other than the User to whom such username and password was originally assigned.

3. **Creation of Collections.** Institution will be solely responsible for creating, reviewing, editing, and otherwise controlling any Collections. Institution acknowledges that Internet Archive has complete discretion over the Collections made available by Internet Archive on the Website that is described and defined in **Exhibit A**, and that Internet Archive has no obligation to Institution or any third party, and undertakes no responsibility, to review the Collections to determine whether the Collections may incur liability to third parties. Notwithstanding anything to the contrary in this Agreement, if Internet Archive believes in its sole discretion that any materials in the Collections may create liability for Internet Archive or Institution, Internet Archive has the right to take any actions with respect to the Website and the Collections to minimize or eliminate this liability, including, but not limited to, removing any or all Collections from the Website. Internet Archive will inform Institution of such actions, but will not be required to get any approval from Institution or any third party, neither before, nor after taking such actions. Some of the data collected and made available in Collections through the Service may be governed by local, national, and/or international laws and regulations, and the use of such content by Institution is solely at Institution's own risk.

4. **Availability of Service and Website.** Internet Archive will use reasonable commercial efforts to make the Service available to Institution and to host the Website on Internet Archive's or its contractor's servers and to make any Collections created under this Agreement publicly available to anyone on the Website. Internet Archive will use reasonable commercial efforts to inform Institution and User if the Website and/or Service is not available. Internet Archive will provide electronic Help Desk support to Users via a dedicated e-mail address.

5. **Fees and Payment.** Institution will pay to Internet Archive the annual subscription fees set forth in **Exhibit A**. Except as otherwise provided in **Exhibit A**, all fees and other charges are due and payable to Internet Archive within sixty (60) days after the date of Internet Archive's invoice. If exempt from sales tax, Institution shall provide Internet Archive with a copy of its exemption certificate. If Institution is not able to prove exemption to Internet Archive, Institution shall be responsible for payment of any sales, use, value-added and other taxes, and all fees or assessments levied by any governmental body to which Institution's payments with respect to the Services may be subject.

TERMS AND CONDITIONS FOR ARCHIVE-IT

6. Term and Termination. This Agreement commences on the Effective Date and remains in effect for a period of twelve (12) months (the "Initial Term") unless earlier terminated as set forth below. Internet Archive may adjust the fees to be paid by Institution for a renewal upon issuing an updated Exhibit A to Institution at least sixty (60) days before the beginning of such renewal. The Initial Term and any renewals thereof shall be collectively referred to as the "Term". Either party may terminate this Agreement (a) for convenience upon thirty (30) days written notice to the other party; or (b) immediately upon written notice to the other party if the other party materially breaches this Agreement, and such breach remains uncured more than thirty (30) days after receipt of written notice of such breach. Internet Archive may suspend or terminate Institution's access to the Service at any time without prior notice in order to: (a) prevent damages to, or degradation of, Internet Archive's Internet network integrity; (b) comply with any law, regulation, court order, or other governmental liability resulting from Institution's use of or access to the Service. Upon suspension, termination or expiration of this Agreement for any reason all rights and obligations of both parties, including all rights granted hereunder, shall immediately terminate. Sections 3, 6, 7, 8, and 9 and any payment obligations incurred prior to the suspension, termination or expiration shall survive such suspension, termination or expiration of this Agreement.

7. Disclaimer of Warranties. THE SERVICES DESCRIBED IN THIS AGREEMENT ARE PROVIDED TO INSTITUTION ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND. WITHOUT LIMITING THE FOREGOING, INTERNET ARCHIVE DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. INTERNET ARCHIVE DOES NOT WARRANT THAT THE OPERATION OF THE SERVICE AND/OR THE WEBSITE SHALL BE UNINTERRUPTED. IN THE EVENT OF AN INTERRUPTION OF THE OPERATION OF THE SERVICE AND/OR THE WEBSITE, INTERNET ARCHIVE'S SOLE OBLIGATION SHALL BE TO RESTORE OPERATION AS SOON AS REASONABLE POSSIBLE.

8. Limitation of Liability. EXCEPT FOR ANY INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 (INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, SPECIAL OR OTHER CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN AN ACTION IN CONTRACT, TORT, OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ANY INDEMNIFICATION OBLIGATIONS UNDER SECTION 9. (INDEMNIFICATION), NEITHER PARTY'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL EXCEED THE AGGREGATE AMOUNT PAID TO INTERNET ARCHIVE BY INSTITUTION PURSUANT TO SECTION 5 (FEES AND PAYMENT) IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FIRST GIVING RISE TO LIABILITY. THIS LIMITATION IS CUMULATIVE AND WILL NOT BE INCREASED BY THE EXISTENCE OF MORE THAN ONE INCIDENT OR CLAIM. THE FOREGOING LIMITATION SHALL NOT APPLY TO INSTITUTION'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT. The parties agree that the limitations of liability set forth in this Section 8 shall survive and continue in full force and effect despite any failure of consideration or of any exclusive remedy. The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

9. Indemnification. Institution shall, upon request, indemnify and hold harmless Internet Archive and its affiliates, and each of their respective employees, directors and representatives, from and against any and

TERMS AND CONDITIONS FOR ARCHIVE-IT

all claims, costs, losses, damages, liabilities, judgments, penalties and expenses (including reasonable fees of attorneys and other professionals), arising out of or related to (a) Institution's and its Users' use of and access to the Service, including any Collections generated from the use of the Service; or (b) any improper or unauthorized use of the Service by Institution or its Users.

10. General. This Agreement, and any and all actions arising from or in any manner affecting the interpretation of this Agreement, will be governed by, and construed solely in accordance with, the laws of the province of the Institution and the laws of Canada, without giving effect to any conflicts of laws principles that would require the application of the laws of a different state. If the Parties disagree over an interpretation of this Agreement or whether an Institution is in breach of any part of this Agreement, the Parties shall in good faith enter into negotiations to resolve the disagreement and discuss the feasibility of resolving the disagreement by mediation or other such means outside of litigation. Institution may not assign this Agreement to any third party without Internet Archive's prior written consent. Any purported assignment in derogation of the foregoing will be null and void. All notices provided under this Agreement will be in writing and will be delivered by email, personal delivery, private courier, or by certified or registered mail, return receipt requested, to the addresses set forth in this Agreement, and shall be deemed given upon receipt (or when delivery is refused). No waiver of any terms or conditions of this Agreement will be valid or binding on a party unless such party makes the waiver in writing. This Agreement may not be altered, amended, modified, or otherwise changed in any way except by a written instrument signed by the authorized representatives of each party. If any provision of this Agreement is found or held to be invalid or unenforceable, then the meaning of such provision will be construed so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement, which will remain in full force and effect. Neither party shall be considered in default of its performance under this Agreement to the extent such performance is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of such party. Institution's relationship to Internet Archive is that of an independent contractor, and neither party is an agent or partner of the other. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.



ARCHIVE-IT SERVICE AGREEMENT



EXHIBIT A

1. Description of Service.

1.1 **The "Archive-It Service".** Internet Archive has developed a web application to provide web archiving services to organizations. This service, named "Archive-It", is a web-based application designed for organizations interested in archiving, accessing and managing web content without needing specific technical expertise or resources (the "Service").

1.2 **Collections.** The Service allows Users to login and create web collections ("Collections"), catalogue the websites associated with a Collection, archive websites in the Collection, monitor the archiving process, search and browse the Collections when complete, and access these Collections. Internet Archive will host any and all Collections created under this Agreement.

1.3 **Website Access to Collections.** By default the Archive-It service will make the Collections publicly available under the following URL: <http://www.archive-it.org> (the "Website"). Each Collection will be accessible via a text search engine and a software tool to render archived webpages (i.e., the Wayback machine interface). Access to a collection (either part or all) can be restricted and/or made not publicly available.

1.4 **Management of collected Data.** All data and information collected through the Service will be stored at one of the Internet Archive's data centers. The Collections created through the Service and associated content from websites will be kept in a separate repository from Internet Archive's general web archive at www.archive.org. A primary and backup copy of this data will be made available online.

2. Annual Subscription Fees and Allotments.

New joiner small schools (under 10,000 FTE) can subscribe at the lowest TB level (.125) for 2 years for the subscription cost of 1 year.

Size	Archive-It List Price (USD)	20% discount; up to 15 schools	25% discount; 16 to 25 schools	30% discount; 26 to 35 schools	35% discount; >35 schools
.125TB (128GB) *	\$3,000	\$2,400	\$2,250	\$2,100	\$1,950
.25TB (256GB)	\$4,000	\$3,200	\$3,000	\$2,800	\$2,600
.5TB (512GB)	\$6,000	\$4,800	\$4,500	\$4,200	\$3,900
.75TB (768GB)	\$8,000	\$6,400	\$6,000	\$5,600	\$5,200
1TB (1024GB)	\$12,000	\$9,600	\$9,000	\$8,400	\$7,800
1.25TB	\$15,000	\$12,000	\$11,250	\$10,500	\$9,750
1.5TB	\$18,000	\$14,400	\$13,500	\$12,600	\$11,700

1.75TB	\$21,000	\$16,800	\$15,750	\$14,700	\$13,650
2TB	\$24,000	\$19,200	\$18,000	\$16,800	\$15,600
2.5TB	\$27,000	\$21,600	\$20,250	\$18,900	\$17,550
3TB	\$30,000	\$24,000	\$22,500	\$21,000	\$19,500
4TB	\$36,000	\$28,800	\$27,000	\$25,200	\$23,400
5TB	\$42,000	\$33,600	\$31,500	\$29,400	\$27,300

Subscription cost:

- 22 Organizations, 25% discount.
- COPPUL: [REDACTED]
- OCUL: Tw [REDACTED]

Subscription period: July 1, 2017 to June 30, 2018

- July 1, 2017 to June 30, 2019 for Laurentian University, UOIT, Vancouver Island University
- Institutions may join the subscription period mid-term on a pro-rated cost basis
- Institutions may upgrade TB mid-term by paying the difference between their initial level and the level they'd like to increase to.

Breakdown of individual COPPUL organizations' levels and discounts:

British Columbia Institute of Technology

Subscription cost:

- [REDACTED] prepaid through June 30, 2018

Subscription allotments:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Vancouver Island University

Subscription cost:

- [REDACTED] paying in 2017 for 2 years (through June 30, 2019) for the price of one.

Subscription allotments:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Dalhousie University

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.25 terabyte(s) (256 GB) in data during subscription period.

CGI-PLN

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

Simon Fraser University

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

University of Manitoba

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

University of Winnipeg

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

University of Saskatchewan

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

University of Victoria

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.75 terabyte(s) (768 GB) in data during subscription period.

University of British Columbia

Subscription cost:

- [REDACTED]

Subscription amounts:

- Data budget not to exceed 1 terabyte(s) (1024 GB) in data during subscription period.

University of Alberta

Subscription cost:

- [REDACTED]

Subscription amounts:

- Data budget not to exceed 4 terabyte(s) (4096 GB) in data during subscription period.

Breakdown of individual OCUL organizations' levels and discounts:

Carleton University

Subscription cost:

- [REDACTED]

Subscription amounts:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Brock University

Subscription cost:

- [REDACTED]

Subscription amounts:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

University of Western Ontario

Subscription cost:

- [REDACTED]

Sub

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Wilfrid Laurier University

Subscription cost:

- [REDACTED]

Subscription amounts:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Laurentian University

Subscription cost:

- [REDACTED] total payment over 2 years (through June 30, 2019)

Subscription allotments:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

University of Ontario Institute of Technology

Subscription cost:

- Two Thousand Two Hundred Fifty U.S. Dollars (U.S. \$2,250)
 - \$2,250 [REDACTED] paying in 2017 for 2 years (through June 30, 2019) for the price of one.

Subscription allotments:

- Data budget not to exceed 0.125 terabyte(s) (128 GB) in data during subscription period.

Lakehead University

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.25 terabyte(s) (256 GB) in data during subscription period.

Scholar's Portal

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.25 terabyte(s) (256 GB) in data during subscription period.

University of Ottawa

Subscription cost:

- [REDACTED]

Subscription allotments:

- Data budget not to exceed 0.25 terabyte(s) (256 GB) in data during subscription period.

Queen's University

Subscription cost:

- [REDACTED]

[REDACTED]

Subscription allotments:

- Data budget not to exceed 0.5 terabyte(s) (512 GB) in data during subscription period.

University of Toronto

Subscription cost:

- [REDACTED]
 - Paid through February 7, 2018. Will pay a prorated amount for their chosen level for the period of February 8 - June 30, 2018.

Subscription allotments:

- Data budget not to exceed 2 terabyte(s) (2048 GB) in data during subscription period.

3. Web Archiving Terms.

“Collection” means a group of resources related by common ownership or a common theme, domain or subject matter.

“Crawls” means the content associated with a web capture that is conducted by a User.

“Seeds” means the initial starting point of a Crawl in the process of creating a Collection.

“Active” means a crawl is scheduled or running on the seed or collections.

“Inactive” Collection / Seeds are not scheduled for crawling.