

DATE, 20__

NAME OF GRANTEE
ADDRESS OF GRANTEE

Dear GRANTEE:

The Council on Library and Information Resources (“CLIR”) acknowledges receipt of the proposal that you submitted to CLIR on DATE (the “Proposal”). The Proposal requests an appropriation of \$AMOUNT to the FULL NAME OF INSTITUTION (“SHORTENED NAME OF INSTITUTION”) to support digitization of DESCRIPTION OF MATERIALS, as further described in the Proposal (the “Project”). If the Proposal is approved by CLIR, the funds would be used by SHORTENED NAME OF INSTITUTION solely to support the Project.

This agreement (the “Agreement”) between CLIR and SHORTENED NAME OF INSTITUTION (the “Parties”) sets forth the terms that will govern the intellectual property to be created or developed in connection with or otherwise incorporated into the Project in the event CLIR approves the Proposal. While CLIR will not obtain ownership rights in such intellectual property, it requires SHORTENED NAME OF INSTITUTION to agree to these terms as a condition of funding, in furtherance of the goal of CLIR and The Andrew W. Mellon Foundation (the “Foundation”) that these funds be used for the greatest possible educational, scholarly, and/or charitable benefit. The Foundation has provided funds to CLIR to support grants for the digitization of library and archival materials.

For the purposes of this Agreement, “Content” is defined as any or all of the images, text, and/or other works of authorship created or developed in connection with or otherwise incorporated into the Project. “Digital Copies” is defined as any or all of the digital copies of any of the Content. “Grant Term” is defined as the period set forth in CLIR’s grant award letter and any subsequent written amendments to the grant period authorized by CLIR, provided that CLIR approves the Proposal.

In consideration of CLIR’s support of the Project in the event CLIR approves the Proposal, the Parties agree as follows:

Publicity

1. **SHORTENED NAME OF INSTITUTION** shall publish, distribute, and/or otherwise make available the Digital Copies for noncommercial educational, scholarly, and/or charitable purposes as specified in the Proposal.

SHORTENED NAME OF INSTITUTION shall dedicate all metadata associated with the Digital Copies to the public domain according to the terms of a Creative Commons-0 (CC0) Public Domain Dedication.

Right, Title, and Interest

2. **SHORTENED NAME OF INSTITUTION** represents and warrants that all Digital Copies created or developed by or for **SHORTENED NAME OF INSTITUTION** will either be: (a) created by employees of **SHORTENED NAME OF INSTITUTION** acting within the scope of their employment as a “work made for hire” under 17 U.S.C. § 101 and who have entered into a signed, written contract assigning all other present and future right, title, and interest in such work to **SHORTENED NAME OF INSTITUTION**, or (b) created by contractors, consultants, advisors, students, or other collaborators with whom **SHORTENED NAME OF INSTITUTION** has entered into a signed, written contract, assigning all present and future right, title, and interest in such work to **SHORTENED NAME OF INSTITUTION**.

Infringement

3. **SHORTENED NAME OF INSTITUTION** represents and warrants that use of the Content and the Digital Copies (in conformance with any terms and conditions of use imposed by **SHORTENED NAME OF INSTITUTION**) does not and will not infringe on or misappropriate the copyright, patent, trade secret, or other rights of any person or entity. Without limiting the foregoing, **SHORTENED NAME OF INSTITUTION** represents and warrants that it has obtained all necessary permissions and/or licenses such that use of the Content in connection with the Project does not and will not violate the publicity or privacy rights of any person.

License to Digital Copies

4. **SHORTENED NAME OF INSTITUTION** hereby grants CLIR and/or a CLIR-designated nonprofit entity, a worldwide, perpetual, irrevocable, nonexclusive, royalty-free license to exercise all of its intellectual property rights (including sublicense rights through multiple tiers of sublicensees) in each of the Digital Copies for the purposes set forth herein; provided however that CLIR shall exercise their rights pursuant to the foregoing license only in the circumstances specified in paragraph 5. In the event that CLIR exercises its license rights, the license permits CLIR and/or a CLIR-designated nonprofit entity to (a) digitally and electronically transmit, perform, display, aggregate, link, and distribute any and all of the Digital

Copies to users for noncommercial educational, scholarly, and/or charitable purposes, subject to agreements between CLIR and/or a CLIR-designated nonprofit entity, and such users concerning the noncommercial educational, scholarly, and/or charitable uses thereof; (b) reproduce and modify any of the Digital Copies in association with any of the rights licensed pursuant to (a); (c) permit noncommercial educational, scholarly, and/or charitable users to use, reproduce, perform, transmit, distribute, or display all or part of any of the Digital Copies for teaching or scholarly purposes; and (d) exercise any of **SHORTENED NAME OF INSTITUTION**'s intellectual property rights necessary to give effect to any of the rights licensed pursuant to any of (a)–(c) in all media now known or in the future developed. For purposes of clarification, the license granted to CLIR in this paragraph 4 does not include a license to the Content.

Conditions of License to Digital Copies

5. CLIR may exercise the license to any of the Digital Copies as specified in paragraph 4 only in the event that **SHORTENED NAME OF INSTITUTION** fails to publish, distribute, and/or make available such Digital Copies to users for noncommercial educational, scholarly, and/or charitable purposes by the end date of the Grant Term or at any time thereafter for any reason, including as a result of termination of the grant to **SHORTENED NAME OF INSTITUTION**. If CLIR elects to exercise its license to any of the Digital Copies, **SHORTENED NAME OF INSTITUTION** shall (a) inform CLIR, as appropriate, of any third party permissions and/or licenses that are necessary in order for CLIR to exercise any of the rights licensed pursuant to paragraph 4 with respect to such Digital Copies, and (b) cooperate with CLIR, both during and after the Grant Term, to facilitate the transfer to CLIR and/or a CLIR-designated nonprofit entity of such Digital Copies as CLIR may reasonably request in order for CLIR to enjoy the license granted to it.

Fees

6. With respect to Content and Digital Copies, to the extent that **SHORTENED NAME OF INSTITUTION**, or any vendor appointed by **SHORTENED NAME OF INSTITUTION**, charges any license or service fees to the nonprofit educational, scholarly, and/or charitable communities in conjunction with such Content and Digital Copies, **SHORTENED NAME OF INSTITUTION** agrees to obtain CLIR's approval for such pricing in advance of the initial for-fee distribution or servicing (whether during or after the Grant Term) and in advance of any subsequent changes in pricing that occur during the Grant Term. Without in any way limiting the foregoing, **SHORTENED NAME OF INSTITUTION** agrees that neither the intent nor the reasonable effect of charging fees for services would be inconsistent with **SHORTENED NAME OF INSTITUTION**'s commitment to publish, distribute, or otherwise make available the Content and Digital Copies in the manner described in the Proposal.

Transfer and Assignment

7. CLIR reserves the right to approve, or withhold approval, in advance of any proposed transfer or assignment of the Project (or any part thereof) or any of the Digital Copies, which approval will not be unreasonably withheld. **SHORTENED NAME OF INSTITUTION** represents and warrants that any permitted assignment or other transfer of the Project (or any part thereof) or any of the Digital Copies, shall be subject to its representations, warranties, and obligations under this Agreement, and any purported assignment or transfer to the contrary shall be null and void.

CLIR and Foundation Involvement

8. **SHORTENED NAME OF INSTITUTION** acknowledges and agrees that, to the best of its knowledge, neither CLIR nor the Foundation will derive any direct or indirect financial benefit from the Project, the Content, or the Digital Copies, and that CLIR and the Foundation have no right or ability to supervise or control the implementation and uses of the Project, the Content, or the Digital Copies (other than the right to approve pricing, transfer, and assignment as set forth in paragraphs 6 and 7). In no event shall CLIR, the Foundation, or their officers, trustees, employees, or agents be responsible for any representations or warranties made by **SHORTENED NAME OF INSTITUTION** regarding the Project, the Content, or the Digital Copies, nor shall CLIR or the Foundation be liable for any direct, indirect, special, consequential, punitive, incidental, or other damages related to the Project or use of the Content or any of the Digital Copies by any person or entity, either during the Grant Term or thereafter. **SHORTENED NAME OF INSTITUTION** shall be responsible for all damages arising out of the acts or omissions of **SHORTENED NAME OF INSTITUTION** or any of its employees, contractors, consultants, advisors, students or other collaborators. **SHORTENED NAME OF INSTITUTION** shall not make any statements, representations, or warranties, or accept any liabilities or responsibilities whatsoever, with regard to any person or entity that are inconsistent with any disclaimer or limitation specified in this paragraph 8.

Third Party Beneficiary

9. The Parties acknowledge that the Foundation is a third party beneficiary of this Agreement and has the right to enforce the terms of this Agreement.

Choice of Law and Jurisdiction

10. This Agreement shall be governed by the copyright laws of the United States and laws of Washington, DC, without giving effect to its conflict of law principles. The Parties agree to bring any suit with respect to this Agreement in Washington, DC, and the Parties consent to such jurisdiction.

Execution

- 11. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement.

Headings

- 12. The headings in this Agreement are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

Merger

- 13. This Agreement, together with the Proposal, constitute the entire agreement and supersede all prior communications, understandings, and agreements between the Parties, whether written or oral, relating to the subject matter herein.

We ask that **SHORTENED NAME OF INSTITUTION** indicates its consent to these terms by having an officer with corporate authority sign below, thus binding **SHORTENED NAME OF INSTITUTION**, and by returning one original signed copy of this letter to me as soon as possible.

Sincerely,

<<CLIR OFFICER>>
<<TITLE>>

FULL NAME OF INSTITUTION

By: _____

Name: _____

Title: _____

Date: _____