

## JLG Digital User License Agreement

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### I. DEFINITIONS

“**Affiliate**” of any specified entity means any other entity directly or indirectly “controlling,” “controlled by,” or “under common control with” (within the meaning of the Securities Act) on and after the Effective Date, such specified entity. For purposes of this definition, “control” means direct or indirect (*e.g.*, through any number of successive tiers) ownership of: (a) more than fifty percent (50%) of the outstanding shares having the right to vote for the election of directors or other managing authority of the subject entity; or (b) in the case of an entity which does not have outstanding shares (*e.g.*, a partnership, joint venture or unincorporated association), more than fifty percent (50%) of the ownership interests having the right to make decisions for the subject entity.

“**Authorized Users**” means those users that the Licensee identifies as authorized to access and use the Licensed Materials and JLG Platform. For School Districts, Academic Libraries, Public Libraries, Library Consortiums and Schools, “Licensee” shall mean the Educational Service, District, School or Library licensing the use of and access to the JLG Platform and Licensed Materials. Authorized Users include that Licensee’s administration, faculty, staff and students who have access to that institution’s network from either within the institution or via authenticated remote access. For Public Libraries, Authorized Users include that institution’s staff, residents of the locality that funds the library, and any authorized persons who have access to the Library’s network from either within the institution’s building or via authenticated remote access.

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“**Effective Date**” shall mean the date when you acknowledge your acceptance of this Agreement, either by handwritten signature, electronic signature, or other acknowledgement accomplished by electronic means.

“**Intellectual Property**” shall mean all tradenames, works of authorship, inventions (whether patentable or not), designs, emblems and logos, trade secrets, manufacturing formulae, technical information, product designs, product packaging, trade dress, improvements, processes, specifications, technology, methodologies, computer software (including all source code and object code), firmware, development tools, flow charts, annotations, manufacturing, engineering and technical drawings, know-how, all documents, disks, records, files and other media on which any of the foregoing is stored, all trademarks, service marks, industrial models, industrial designs, utility models, certificates of invention, patents, mask work registrations, copyrights, and/or domain names, along with any and all pending applications for registration of the same, all forms of legal rights in and to any of the foregoing under the laws of any governmental authority of any country or jurisdiction, and all other intellectual property rights of any character or description.

“**Licensed Materials**” means the eBooks, Audiobooks and/or other licensed content purchased by the Licensee. The Licensed Materials will be hosted on the secure JLG Platform.

“**Licensee**” shall mean the Educational Service, District, School or Library licensing the use of and access to the JLG Platform and Licensed Materials.

“**Party**” shall mean you or JLG, with you and JLG being referred to collectively as the “**Parties**.”

## **II. LIMITED LICENSE**

2.1 Upon your access of the Licensed Materials and payment of any applicable fees (including applicable taxes), which are partially specified below in Section 3 of this Agreement, JLG hereby grants you a limited, non-exclusive, and non-transferrable, right to view, use and display the Licensed Materials, to utilize the JLG Platform, and to provide limited access to the Licensed Materials to Authorized Users (the “**License**”). Unless specifically indicated otherwise, you may not sell, rent, lease, distribute, broadcast, sublicense, or otherwise assign any of your rights in and to the License, the Licensed Materials and the JLG Platform, or any portion thereof, to any third party, and you may not remove or modify any proprietary notices or labels on the Licensed Materials. In addition, you may not bypass, modify, defeat, or circumvent security features that protect the Licensed Materials.

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2.10 You are not permitted to modify or adapt the JLG Platform software in any manner, without the express prior written authorization of JLG. You hereby expressly acknowledge and agree that all right, title and interest in and to the JLG Platform software (including any modifications made by you, with or without JLG’s authorization) are the property of JLG, and you hereby assign any Intellectual Property rights you now have, or may acquire in the future, relating to the JLG software to JLG.

2.11 JLG shall have no responsibility for the content of the Licensed Materials. Unless expressly noted by JLG, the eBooks, or Audiobook, and other content included within the Licensed Materials are being provided by JLG as they are received from the respective publisher, content provider and/or licensor.

2.12 JLG specifically reserves the right to change the operation and/or layout of the JLG Platform at any time, without notice to you, such as if JLG decides (in its sole discretion) to develop or select a new software program for the distribution of Licensed Materials. In the event JLG does change the operation and/or layout of the JLG Platform, JLG has your express permission to migrate your Licensed Materials and Authorized Users to the revised platform.

2.13 In connection with your License, you may setup individual login accounts for Authorized Users. If you do so, you agree that you are solely responsible for complying with all applicable state and federal laws regarding privacy, including the federal Family Education and Privacy Act (FERPA). JLG warrants that it will not use any personally identifiable information you provide from Authorized Users' accounts for any purpose other than servicing your License, and that it will not disclose such information to any third party unless required by law.

2.14 As required under the Children's Online Privacy Protection Act ("COPPA"), JLG DOES NOT KNOWINGLY COLLECT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT CHILDREN UNDER THE AGE OF 13 THROUGH THE JLG PLATFORM.

### III. FEES

3.1 For first-time users of the JLG Platform, JLG will charge a \$99.00 setup fee (the "**Initial Setup Fee**"). JLG reserves the right to change Initial Setup Fee at any time prior to your execution of this Agreement. JLG also reserves the right to waive the Initial Setup Fee. JLG's waiver of the Initial Setup Fee shall not obligate JLG to waive any other fees, such as the Platform Usage Fee (described below).

3.2 Your use of the JLG Platform will be at a rate of \$99.00 per year (the "**Platform Usage Fee**"). You will incur the Platform Usage Fee on the one-year anniversary of the date on which JLG first provided you access to any eBook or Audiobook, and every year thereafter on the same date unless you terminate this Agreement earlier pursuant to Section 5.2 below. You will incur the Platform Usage Fee regardless of whether you purchase any eBooks or Audiobooks or subscribe to a subscription stream in a relevant year. JLG reserves the right to change Platform Usage Fee at any time, without notice to you. JLG also reserves the right to waive or reduce the Platform Usage Fee for any specific Licensee, or group of Licensees. JLG's waiver of the Platform Usage Fee for any specific Licensee or group of Licensees in any particular year shall not obligate JLG to provide the same waiver to such Licensee(s) in a subsequent years, and also shall not obligate JLG to provide a waiver of the Platform Usage Fee to other Licensee(s) who may consider themselves similarly situated to the Licensee(s) that received a waiver.

3.3 Fees for individual eBooks or Audiobooks purchased by you will be charged on either a per title basis, or as part of a subscription plan.

### IV. COVENANTS, REPRESENTATIONS AND WARRANTIES

4.1 JLG represents and warrants that it has the right, power and authority to enter into this Agreement, to grant the rights granted herein (including but not limited to the License), and to

perform its obligations hereunder, and to do so will not violate or conflict with any material term or provision of any agreement, instrument, statute, rule, regulation, order or decree to which JLG is a party, or by which JLG is bound.

4.2 JLG represents and warrants that it owns or controls all rights necessary and, has the authority to grant you access to the JLG Platform.

4.3 You represent and warrant that you have the right, power and authority to enter into this Agreement, to grant the rights granted herein, and to perform your obligations hereunder, and to do so will not violate or conflict with any material term or provision of any agreement, instrument, statute, rule, regulation, order or decree to which you are a party, or by which you are bound.

## **V. TERMINATION, INDEMNIFICATION AND LIMITATION OF LIABILITY**

5.1 This Agreement will commence on the Effective Date and continue in perpetuity unless earlier terminated pursuant to Section 5.2 below.

5.2 You may terminate this Agreement without cause upon providing at least thirty (30) days written notice to JLG. JLG may terminate this Agreement with ninety (90) days written notice to you, or, in the event of a material breach (including but not limited to a failure to remit the fees set forth in Section 3), by providing thirty (30) days written notice, and an opportunity to cure such breach. If such material breach is not cured within the 30-day period, JLG will immediately suspend your access to the JLG Platform and Licensed Materials, and consider this Agreement terminated.

5.3 Upon termination, all rights and licenses granted to you pursuant to this Agreement will automatically terminate. After termination, you agree that you will not attempt to access, or permit any Authorized User to access or use, the JLG Platform or any portion of Licensed Materials.

5.4 Upon termination of this Agreement, JLG's sole responsibilities to you will be: (i) to confirm the Licensed Materials you had access to as of the date immediately preceding such termination date, and (ii) to submit on your behalf to JLG's publishers, content providers and/or licensors a request for a license to allow you to receive access to such Licensed Materials, at no additional charge, on the digital content management system of a third party vendor selected by you to provide such services. **JLG MAKES NO REPRESENTATIONS OR WARRANTIES AS TO WHETHER JLG'S PUBLISHERS, CONTENT PROVIDERS AND/OR LICENSORS WOULD ALLOW ANY SUCH LICENSE FOLLOWING TERMINATION OF THIS AGREEMENT.**

5.5 You will, at your own expense, defend, indemnify and hold harmless JLG and its Affiliates, and their respective directors, officers, employees, agents or attorneys, for any claim relating to a breach of any warranty, representation or obligation made by you hereunder, and any costs and fees (including without limitation, attorneys' fees) reasonably incurred by JLG that are attributable to such a claim. JLG will (i) provide you reasonably prompt notice of any such claim or action and permit you to answer and defend such claim or action; and (ii) provide you with such information, assistance and authority as may be necessary or appropriate to enable you to defend such claim or action. JLG has the right, at its expense, to employ separate counsel and participate in the defense of any claim or action that you are defending.

5.6 IN NO EVENT WILL JLG OR ANY OF THE PUBLISHERS, CONTENT PROVIDER OR LICENSORS OF THE LICENSED CONTENT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, REVENUES OR PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE, OPERATION OR PERFORMANCE OF THE GOODS OR SERVICES PROVIDED HEREUNDER, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY FOR ANY CLAIM RELATING TO THE PERFORMANCE OF THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF LICENSE FEES PAID DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

5.7 EXCEPT AS SET FORTH ABOVE, THE EBOOKS, AUDIOBOOKS, AND JLG PLATFORM ARE PROVIDED ON AN "AS IS" BASIS. YOU ASSUME ALL RESPONSIBILITIES FOR SELECTION OF THE JLG PLATFORM AND CONTENT TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE INSTALLATION OF, USE OF, AND RESULTS OBTAINED FROM THE JLG PLATFORM AND THE EBOOKS OR AUDIOBOOKS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, JLG AND ITS LICENSORS (INCLUDING PUBLISHERS OF CONTENT) DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE JLG PLATFORM AND THE ACCOMPANYING WRITTEN MATERIALS.

## **VI. OTHER PROVISIONS**

6.1 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio, without regard to its conflict of laws. For any and all disputes arising out of this Agreement, you hereby submit to the jurisdiction of the State Courts of Ohio and the Federal District Court of the Southern District of Ohio, and agree not to challenge such jurisdiction on any grounds.

6.2 **Entire Agreement.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes and cancels all previous agreements, negotiations, and commitments, whether oral or in writing, with respect to the subject matter of this Agreement. No material term of this Agreement may be released, discharged, abandoned, changed, or modified in any manner, oral or otherwise, except by a written instrument duly signed by an authorized officer of each of the Parties.

6.3 **Severability.** The illegality, invalidity, or unenforceability of any provisions of this Agreement shall not operate to invalidate the whole Agreement and shall in no way affect the validity or enforceability of any other provisions of this Agreement and they will remain in full force and effect. If any provision of this Agreement is found by an arbitrator or a court of competent jurisdiction to be invalid or unenforceable the affected provision shall be modified to the minimum extent necessary to be valid and enforceable and shall be enforced as modified.

6.4 **Acceptance and Counterparts.** This Agreement will commence upon acceptance by Licensee. This Agreement shall be accepted by a duly authorized representative of Licensee by providing a user ID, password and/or any other required information and "clicking through" the acceptance button on the JLG website. The designation of an authorized representative's user ID

or name for “clicking through” on the JLG website shall be conclusive as to authority to accept this Agreement on behalf of Licensee. The Parties agree that this Agreement may be executed in counterparts or duplicate originals, both of which shall be regarded as one and the same instrument, and which shall be the official and governing version in the interpretation of this Agreement.

6.5 Amendment. This Agreement may be amended or modified by JLG at any time, with any such amendments or modifications being effective immediately upon: (1) their being posted to the area of our website where this Agreement is accessible by you, or (2) their being distributed to you via electronic mail. Your continued use of the JLG Platform and/or the Licensed Materials following any such amendment or modification shall be conclusively deemed an acceptance of all such amendment (s) or modification(s).

6.6 Confidential Nature. This Agreement, and all the terms thereof, shall be considered confidential. The Parties hereby agree to use all available commercially reasonable efforts to keep the existence and terms of this Agreement confidential (such as they would apply to their own confidential information), and agree that they will not intentionally publicize the existence of this Agreement, or any of the terms, except to their agents and professional advisors (such as attorneys, accountants, etc.) who need to know the information to perform services for the party, where required in a court proceeding, or where required by law. If any such disclosure of this Agreement is required by law or in a court proceeding, the party so disclosing it shall provide at least five (5) days advance written notice to the other party of such disclosure.

6.7 Assignability JLG may assign this Agreement in whole as part for any reason, including but not limited to, a corporate reorganization, consolidation, spin off, merger, or sale of substantially all of its assets to its parent, or any subsidiary or Affiliate. This Agreement will bind and inure to the benefit of each Party’s successors and permitted assigns.

6.8 Attorneys’ Fees The prevailing party in any dispute arising under this Agreement will be entitled to recover reasonable attorneys’ fees and costs, including expert witness fees.

6.9 Notices Any notice required or permitted to be given under this Agreement shall be: (1) in writing and hand-delivered or sent by United States First Class mail, or (2) by email.

6.10 Force Majeure You acknowledge that the Internet is an unregulated, unorganized, unreliable, unstable, insecure and ever-changing environment. The ability of each Party to comply with this Agreement may be dependent on the Internet and equipment, software, systems, data, content and services provided by third parties, among other things. Neither Party shall have any liability for any failure of performance due to events beyond its reasonable control. Lack of funds shall not be excused under this section.

IN WITNESS WHEREOF, the Parties hereto have allowed this agreement to be duly executed in their individual or representative corporate capacity by their duly authorized officers.

**MT LIBRARY SERVICES, INC.  
d/b/a JUNIOR LIBRARY GUILD**

By: 

**Name: Sean Lockwood**

**Title: SVP, Sales & Publisher Partnerships**

**Date: September 1, 2018**

**LICENSEE**

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

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

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

Date: \_\_\_\_\_