

**COLLECTION POINT
SUBLICENSE AND SERVICES AGREEMENT**

This Agreement ("Agreement") is entered into as of _____, _____ (the "Effective Date") between **Gibson Publishing Connections**, ("GPC") and [_____] ("**Publisher**").

SYNOPSIS

codeMantra, LLC ("codeMantra") has granted GPC a license to use and sublicense the use of **Collection Point**: a system that allows customers to store, manage and deploy digital assets through web-based interfaces ("**the CP System**").

Subject to the terms and conditions of this Agreement, GPC grants a sublicense to Publisher to use the CP System.

NOW, THEREFORE, GPC and Publisher agree as follows:

1. DEFINITIONS

Defined terms used in this Agreement shall have the meanings set forth below:

1.1 "**Confidential Information**" shall mean confidential or other proprietary information that is disclosed by one Party to another under this Agreement. Confidential Information shall not include information which: (i) is or becomes public knowledge without any action by, or involvement of, the receiving Party; or (ii) is disclosed by the receiving Party with the prior written approval of the disclosing Party.

1.2 "**CP Services**" shall mean services related to the CP System. Generally these including secure archiving, distribution and delivery, as well as optional file conversion services.

1.3 "**Effective Date**" shall mean the date identified in the preamble to this Agreement as the Effective Date.

1.4 "**Intellectual Property Rights**" shall mean all forms of legal rights and protections in any country of the world, including all right, title and interest arising under common and statutory law to all: (i) letters patents, provisional patents, design patents, PCT filings and other rights to inventions or designs; (ii) trade secret and equivalent rights in confidential or proprietary information and know-how; (iii) copyrights, mask works, moral rights or other literary property or authors rights; (iv) rights regarding trade names, logos, domain names, URLs, trademarks, service marks and other proprietary indicia or addresses and all goodwill associated therewith; (v) any similar, corresponding or equivalent rights relating to intangible intellectual property; and (vi) all applications, registrations, issuances, divisions, continuations, renewals, reissuances and extensions of the foregoing.

1.5 "**Marks**" shall mean all proprietary indicia, trademarks, trade names, symbols, logos and/or brand names adopted from time to time to identify a party, product or service.

1.6 "**Parties**" shall mean GPC and Publisher.

1.7 "**Term**" shall mean the period beginning on the Effective Date and terminating on the date this Agreement is terminated under Article 5.

2. **SUBLICENSE**

2.1 **Grant of Sublicense.** Subject to the terms and conditions set forth herein, GPC hereby grants Publisher the right to access and use the CP System solely for purposes of uploading, archiving, accessing, organizing and deploying Publisher's digital content files.

2.2 **Restrictions.** No right or license is granted by this Agreement to Publisher to use the CP System except as expressly set forth in this Article 2. Publisher acknowledges that it shall not have the right to sublicense or otherwise provide access to or use of the CP System to any third party.

2.3 **Title.** codeMantra owns all proprietary and Intellectual Property Rights in and to the CP System. Publisher acknowledges that the sublicense granted under this Agreement does not provide Publisher with any right, title or interest in or to ownership of the CP System and that the sublicense granted under this agreement only provides the Publisher a right of use under the terms and conditions of this Agreement.

2.4 **License Fee.** In consideration for the sublicense granted by GPC pursuant to this Article 2, Publisher shall pay GPC an annual license fee ("License Fee"), payable at the commencement of each year of the Term. This fee is described in Appendix 1.

3. **SERVICES**

3.1 **CP Services.** GPC shall provide CP Services pursuant to this Agreement as outlined in Appendix 1.

3.2 **Conversion Services.** GPC shall provide conversion services as required by Publisher in connection with use of the CP System in accordance with Appendix 2.

3.3 **Prices.** The prices for the CP Services to be provided by GPC hereunder shall be those stated in the Appendices attached to this agreement. (Appendix 1—Access and Hosting on Collection Point and Appendix 2—Digital File Conversion Services and Prices.) GPC reserves the right to alter or adjust these prices with each annual contract renewal.

3.4 **Subcontractors.** Publisher agrees and acknowledges that GPC may use subcontractors to provide the CP Services hereunder.

3.5 **Delivery and Risk of Loss.** The method of delivery of input data and converted data will be specified in the applicable Work Order. Risk of loss of the data shall be with Publisher until the data arrives at GPC. Publisher is not responsible for loss or damage to Publisher's data while on GPC's premises. Publisher shall maintain copies of all data given to GPC.

3.6 **GPC Warranties and Disclaimers.** GPC warrants that its and its subcontractors' personnel possess the skill and experience necessary to perform the services offered in this Agreement. Except as otherwise expressly provided herein, GPC disclaims all express and implied warranties. Notwithstanding anything to the contrary herein, GPC covenants that no services or systems to be provided to the Publisher under this Agreement will infringe upon or violate the rights of any third parties, including such parties' intellectual property rights, patents, trade marks, trade secrets or copyrights registered or recognized in Canada or elsewhere with respect to the intended use of the services by the Publisher. Also, GPC agrees to indemnify and hold the Publisher harmless from and against any and all damages, costs, and expenses (including court costs and reasonable legal fees) incurred by the Publisher as a result of the infringement or alleged infringement of any third party intellectual property rights, and further agrees to defend and participate in the defence of any claim or suit alleging that the Publisher has a liability in this regard.

3.7 **Publisher Warranties; Indemnification.** Publisher warrants (i) that it is the owner of the data provided to GPC hereunder or that Publisher is otherwise authorized to permit GPC to perform the CP Services requested by Publisher hereunder, and (ii) that the performance of the CP Services hereunder shall not infringe upon the Intellectual Property Rights or other proprietary right of any third party with respect to the data. Publisher agrees to indemnify, defend and hold harmless GPC from Publisher's breach of the foregoing representations and warranties.

4. ADDITIONAL OBLIGATIONS OF GPC

4.1 **Support Services.** Online Help desk support for the CP System shall be available to Publisher 24 hours, 7 days per week. The required response time shall be one day.

4.2 **Training.** At the request of Publisher, GPC and/or codeMantra may provide training for Publisher employees at the Publisher's main office. Costs for travel, meals and accommodation incurred by GPC and/or codeMantra personnel in conjunction with the training session shall be reimbursed by Publisher.

4.3 **Additional Services.** Publisher may request GPC to perform consulting, training and support services in addition to the services set forth in this Article. GPC may, at its sole option, agree to provide such services at its prevailing rates then in effect for such services, plus reimbursement for all reasonable out-of-pocket expenses.

5. TERM AND TERMINATION

5.1 **Term.** This Agreement shall continue in force for an initial term of one year from the Effective Date unless terminated earlier under the provisions of this Article 5. The term of this Agreement, or any renewal thereof, may be extended upon the mutual written consent of the Parties.

5.2 **Termination for Convenience.** Either Party may terminate this Agreement at any time by giving ninety (90) days' prior written notice to the other Party

5.3 **Termination for Cause.** In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement by giving thirty (30) **days' prior written** notice to the other Party; provided, however, that this Agreement shall not terminate if the other Party has cured the breach prior to the expiration of such thirty (30) day period.

5.4 **Termination for Insolvency.** This Agreement shall terminate, without notice, (i) upon the institution by or against either Party of insolvency, receivership or bankruptcy proceedings, (ii) upon either Party's making an assignment for the benefit of creditors, or (iii) upon either Party's dissolution or ceasing to do business.

5.5 **Termination for Intellectual Property Challenge.** GPC may terminate this Agreement on notice with immediate effect in the event that the Publisher challenges or assists a third party to challenge codeMantra's Intellectual Property Rights in the CP System, codeMantra's Marks or the registration thereof.

5.6 **Return of Materials.** Within thirty (30) days of termination of this Agreement for any reason, (i) GPC shall deliver to Publisher all of Publisher's titles archived by GPC by tape backup or by DVD, and (ii) Publisher shall return to GPC any Confidential Information and all other tangible materials related to the CP System and the CP Services. If termination is triggered by Publisher, a fee for delivery of assets may be charged by GPC.

5.7 **Survival.** The provisions of Sections 2.3, 3.5, 3.6 and 3.7, 5.6, and 5.7 shall survive the termination of this Agreement.

6. CONFIDENTIALITY

6.1 The Parties agree that neither will, without authority, make use of, disseminate or in any way disclose any of the other Party's Confidential Information to any person, firm or business. The Parties shall take all reasonable precautions at all times (and in any event, efforts that are no less than those used to protect its own confidential information) to protect Confidential Information from disclosure, unauthorized use, dissemination or publication, except as expressly authorized by this Agreement. The Parties will immediately give notice to the other Party of any unauthorized use or disclosure of the other Party's Confidential Information.

7. LIMITATION OF LIABILITY

7.1 Except for claims relating to infringement of intellectual property rights and breach of confidentiality, in no event shall either party be liable for any lost or anticipated profits, or any special, consequential, incidental or indirect damages, however caused, on any theory of liability, and whether or not such party has been advised of the possibility of such damages. These limitations are independent of each other and any limited remedy and shall apply notwithstanding any failure of essential purpose of any limited remedy.

7.2 Each party's liability for damages arising out of this agreement, whether arising in contract, tort (including negligence and strict liability), breach of warranty or any other legal theory, shall be limited to the amount paid by publisher to GPC hereunder for the CP Services. The foregoing limitations do not apply to claims relating to the infringement of intellectual property rights.

8. GENERAL PROVISIONS

8.1 **Independent Contractors.** The relationship of GPC and Publisher established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to (i) give either Party the power to direct and control the day-to-day activities of the other, (ii) constitute the Parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow Publisher to create or assume any obligation on behalf of GPC for any purpose whatsoever.

8.2 **Governing Law and Dispute Resolution.** This agreement shall be governed by the laws of the Province of Ontario. All disputes arising under or related to this Agreement will be adjudicated exclusively in the Province of Ontario, and each party consents to personal jurisdiction and service of process in Ontario in connection with such disputes.

8.3 **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed effective when delivered by hand or by facsimile transmission, or upon receipt when sent by overnight courier or mailed by registered or certified mail (return receipt requested), postage prepaid, to the Parties at the addresses listed below.

8.4 **Severability.** If any of the provisions of this Agreement are held to be invalid under any applicable statute or rule of law, the remaining provisions hereof shall remain in full force and effect.


8.5 **No Third Party Rights.** A person who is not a party to this Agreement shall have no rights to enforce any term of this Agreement, provided that a person who is the lawful successor or permitted assignee of the rights of a Party is considered to be a party to this Agreement.

8.6 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

IN WITNESS WHEREOF the Parties have entered into this Agreement as of the Effective Date.

Gibson Publishing Connections

Publisher



Name _____

Address _____

City _____

Phone _____

Name: Robert Gibson
Title: President

Signature:

Name:

Title:

Gibson Publishing Connections
18 Lynwood Ave
Toronto, ON M4V 1K2
450-458-0677

Appendix 1

Collection Point Digital Asset Management Services

This document forms Appendix 1 of the Collection Point Sublicense and Services Agreement.

Digital Asset Management System (CP) Access

The codeMantra Digital Asset Management System (CP) provides a complete remote asset management and archiving system coupled with a suite of configurable web-based tools providing a secure and robust file archive and distribution systems for digital assets.

Operating under an exclusive license from codeMantra, GPC will

- provide a secure work area for Publisher, providing for one administrator, and an unlimited number of users. The administrator may assign four different levels of system access based on internal requirements.
- customize the CP interface with Publisher logo.
- assist Publisher in populating the system with metadata and designated titles.

Digital Archive Hosting

The remote hosting and storage service is hosted at codeMantra's co-location facility in Ashburn, VA. The service provides 24-hour support and 99.9995% uptime guarantee.

The archive is backed up every 24 hours to provide redundancy and disaster recovery safeguards. In addition, codeMantra has a duplicate back-up facility in Chennai, India.

Pricing

The system is priced for ongoing usage. Customers are invoiced annually at the prices below.

Storage Fee:

Prices are based on the number of titles² stored and managed by the system, based on the following chart:

Titles	Standard Price	
	Per Title ²	Minimum
1-50	\$20.00	\$1,000.00 ¹
50-100	\$19.00	\$1,900.00
101-200	\$18.00	\$3,600.00
201-300	\$17.00	\$5,100.00
301-400	\$16.00	\$6,400.00
401-500	\$15.00	\$7,500.00
501-750	\$14.00	\$10,500.00
751-1000	\$13.50	\$12,000.00
Over 1000	\$13.00	\$13,000.00

¹This is the minimum annual price of the system.

These prices include the initial setup of all titles, with full metadata and complete preflight checking of all files loaded.

²The per-Title fee permits the Publisher to submit and store an unlimited number of files and formats for any given ISBN or title. Multiple elements (chapters, corrections, illustrations) may be stored in a title folder. Author videos, promotional material and other title-related files and formats may also be stored at Publisher's option.

Additional Charges:

File Delivery: Deliveries of digital assets to distribution partners ordered by Publisher will be charged at the rate of \$5/title per distribution. For this price, successful completed delivery is guaranteed by codeMantra. Invoices for delivery will be issued monthly.

Optional Widget Application Setup Fee: \$300. This includes 2 free widgets.
Additional Widgets: \$50 each

Optional Catalogue Application Setup Fee: \$300. This includes 1 free catalogue.
Additional Catalogues: \$125 each

New Title Setup Fee: As new titles are added during the contract period, each will be subject to a \$5 preflight charge, which will cover the setup of metadata and all assets associated with the title.

Online Training: WebEx user training is available for introductory purposes without charge. Should the need arise, additional formal training sessions will be available at \$50/hour.

Instructor-Led Training: In-person training is available at a per-student rate of \$350/student/day plus travel and living expenses for trainer.

Customization: Specific customization or changes to the cP interface, features or functionality will be done at \$50 per man-hour.

Renewal Billing

At the end of the first year of the contract period, if Publisher elects to renew, the renewal invoice rate will be set at the price level pertaining to the number of titles stored on the system as of the renewal date, less a credit for any unused capacity purchased by Publisher in the preceding year. In other words, if capacity for 200 titles is purchased in Year 1, but only 120 titles are lodged on the system at the end of Year 1, the invoice for Year 2 will be calculated at 120 x the per-title price for that tier less a credit for 80 (the unused capacity) x the Year 1 price. This credit will apply only to Year 2 billing, since in all future years renewal invoices will be based on the number of titles in the system at the beginning of the billing period. In no case though will the price to the Publisher be less than the minimum annual price of the system which is the minimum fee set for 50 titles, or \$1000.

Order

Item	Number	Price
Initial number of titles to be stored/managed		
Initial widget applications required		
Initial catalogue applications required		

Invoicing

An invoice is issued by codeMantra LLP in Canadian dollars upon Publisher acceptance of this Agreement. Invoice will include 5% GST. Payment is due upon receipt.

Appendix 2 Digital File Conversion Services and Prices

The following file conversion services and prices are available to Collection Point sublicensees.

codeMantra will convert Publisher content from virtually any source medium to any structured format required for digital distribution, print output, or archiving at the following prices:

Output Format	Standard Pricing (Volume Discounts Available ¹)		Collection Point or QuickStart Clients	
	Per page	Minimum	Per page	Minimum
All formats	\$1.50	\$ 450	\$ 1.25	\$ 375
XML + epub + uPDF	\$1.32	\$ 400	\$ 1.10	\$ 330
XML + epub + POD	\$1.32	\$ 400	\$ 1.10	\$ 330
XML + epub	\$1.20	\$ 360	\$ 1.00	\$ 300
XML Only	\$0.90	\$ 270	\$ 0.75	\$ 225
epub Only	\$0.60	\$ 180	\$ 0.50	\$ 150
uPDF Only	\$0.30	\$ 90	\$ 0.25	\$ 75
POD Only	\$0.30	\$ 90	\$ 0.25	\$ 75

¹Volume discounts apply as follows:

Where in a 12-month period conversion orders exceed the limits below, the discounts shown will be applied to subsequent orders within the 12-month period.

Cumulative Order Value	Discount
\$20,000	10%
\$40,000	15%
\$60,000	20%

Terms

These prices are effective November 1, 2010. All prices are shown in Canadian dollars. 5% GST is extra.

Minimum order for new epub clients: \$1000, payable in advance.

The above pricing for ePub and XML conversion is not applicable for Multi-columnar text or byte-intensive titles exceeding 4k bytes per page or for mathematical content. In these cases, pricing will be provided upon review of samples.

Turnaround Time: Ten business days from receipt of source materials at the codeMantra production facility in India.

These services are invoiced by codeMantra. Invoices are due and payable upon receipt of finished work.

Source formats: There is no charge for conversion from digital sources (PDF, Word, Indesign, etc.)

For conversion from hardcopy sources, there is a \$.10/page surcharge.

Non-destructive scanning of print books is available on request at a surcharge of \$.25/page. With this option, books are returned undamaged after production.

Delivery of Source Materials to GPC

Publisher will deliver source files to GPC on a secure ftp site established by GPC. Where printed books are supplied as source files, these must be delivered at Publisher expense to codeMantra's conversion facility in Chennai, India.

Delivery of Converted Files by GPC

Converted files will be lodged on designated Publisher sites on the Collection Point system. Publisher will be given access to the system without charge for a 30-day period following delivery for download to local storage as well as other uses, such as file distribution to retailers and distribution partners. No warranties are made for the Collection Point system other than as a means of conveyance of finished files. Publisher may alternatively request that converted files be delivered by mailed DVD at an extra charge of \$5/title, with a minimum charge of \$200.

Explanatory Notes

What is PubXML?

XML (Extensible Markup Language) is a general specification for creating custom markup languages. Having a work in XML gives a publisher the basis for creating a variety of outputs, including all those listed below as well as specialized formats like large-print. It also gives a publisher the basis for creating “chunks” or segmented renditions of content. As the ebook world develops, sales by chapter will become possible; the XML format supports this option. For more information on XML, see <http://en.wikipedia.org/wiki/XML>.

The DTD behind the XML (http://en.wikipedia.org/wiki/Document_Type_Definition) provides the schema (rules or “intelligence”) needed to use the XML. In this project, the DTD to be used will be PubXML, which is a simplified rendition of the DocBook DTD (<http://en.wikipedia.org/wiki/DocBook>) – a generalized DTD designed for books. More information on PubXML may be found at <http://www.codemantra.com/pubxml.htm>.

What is .ePUB?

The .ePUB container format is the new standard for digital books created by the International Digital Publishing Forum (<http://idpf.org/>) in 2007. Using .epub allows publishers to produce and send a single file to portable and retail distribution partners and offer consumers interoperability between software/hardware for digital books. In technical terms, ePUB is an extensible XML format for reflowable digital books and publications.

.ePUB is now the defacto standard for all portable devices as well as trade distributors like Indigo (Shortcovers) and Amazon. Further information may be found at <http://bookworm.oreilly.com/> and elsewhere.

ePUB provided by codeMantra will conform to the version of EpubCheck current as of the date of conversion. As of November 2010 this is version 1.05, which can be found at <http://code.google.com/p/epubcheck>.

.ePUB has now been adopted by the most portable device providers manufacturers, including Adobe, Sony and Mobipocket (Amazon) as well as many online vendors, such as Kobo. However, many vendors impose special requirements on standard ePUB, which means that it may not be acceptable by the vendor in its standard form. Before converting to ePUB only, publishers should verify that their intended distributor accepts it.

What is Universal PDF?

This is an enhanced form of PDF which is designed to meet all the requirements of online book distributors, and to provide navigational and other features normally lacking from Print PDFs to improve the online user experience.

Characteristics of the Universal PDF:

Properly embedded fonts	Cover page cleaned up and inserted
Cropped registration marks	Linked endnotes
Image and text disclaimers	Linked external URLs
Bookmarked table of contents	Images optimized for web delivery
Linked table of contents (to three levels)	Indices linked
Headings linked to table of contents (to 3 levels)	Complimentary file delivery to all distributors

There is more information on the Universal PDF at <http://www.codemantra.com/universalpdf.htm>.

Summary

Since the purpose of file conversion is to enhance distribution and generate new sources of revenue, it is important to consider the requirements of ebook distributors in determining which formats to create. On the next page is a list of ebook distributors, showing the formats they require.

Publishers seeking to maximize their revenues from online and ebook distribution channels need to select at least 2 formats: XML and uPDF. uPDF because it provides a high-quality PDF ready for use by many distributors, And XML because it is the “stem-cell” format. From XML, specialized formats, including ePUB customized to individual distributor requirements, can be rendered.