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- (A) Order any subscription in the name of an individual when your customer, the ultimate recipient of the subscription, is an institution.
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- (C) Order any subscription under an assumed name, or otherwise without disclosing your role in the transaction.
- (D) Resell or otherwise transfer to any institution any subscription (or the issues related thereto) obtained at the individual rate.
- (E) Order any subscription at any rate other than the institutional rate. As stated in the price list, all agency orders for individual subscriptions must be at the institutional rate.
- (F) Use or allow anyone else to use any IP address, user name, password, or other access control mechanism that has been identified to us as attributable to a particular subscriber, other than for such subscriber. The only exception to this is you may on a trial basis, with full disclosure to us, act as administrator for a potential consortial client and allow the members of the potential consortium to access our content through an IP address, user name, and/or password belonging to you.
- (G) Distribute any discounted copies, such as discounted print copies, to any institution other than the customer in whose name it has been ordered.
- (H) Order discounted copies under the account of one customer for another customer.
- (I) Claim “missing” or “damaged” copies on the account of one customer, and provide them to another customer.
- (J) Photocopy or otherwise reproduce in print, digital, or other form, any issue of any journal, or distribute copies unlawfully reproduced in any form by others.

**5 No Past Improper Conduct**

You represent that to prior to accepting these terms and conditions you have not engaged in any conduct that would have violated these Terms and Conditions had they been in effect at the applicable time. If this representation is not correct, you will promptly disclose all facts related to your prior conduct and enter into settlement negotiations with us in good faith.

**Terms and Conditions for Subscription Agents (continued)****6 Damages**

You agree that any copies obtained in violation of this Agreement are not subject to the “first sale” provisions of Section 109(a) of the U.S. Copyright Act, and that any violation of this Agreement is an infringement of copyright for which you are liable as a direct or contributory infringer. You agree to pay statutory damages equal to three times the difference between the full price that each institution having improper access to the journal should have paid, and the price actually paid (the “price differential”). If for any reason a court should determine that such violation is not an infringement of copyright you agree that it is a violation of Chapter 93A of the Massachusetts General laws, and that we are entitled to damages equal to three times the price differential.

**7 Actions in the Event of Breach**

In the event that we in good faith determine there has been a violation of this Agreement, we may take any or all of the following actions, without limitation of our rights at law or in equity:

- Suspend or terminate the subscription(s) involved in the violation, and retain any portion of the fee(s) attributable to remaining issues in partial satisfaction of our damages.
- Share information concerning the circumstances, including your name(s), with other publishers, who may take similar action on the basis of this information.
- Share information concerning the circumstances with your customers and potential customers.

In any action brought to enforce this Agreement, you agree to pay our reasonable attorneys’ fees.

**8 Right to Accept or Reject Business**

We reserve the right in our sole discretion to accept or reject business from any subscription agent. You acknowledge that any suspected breach of this Agreement may result in immediate suspension of your business with us.

**9 Indemnification**

In the event that any subscriber brings claims against us based on any failure by you to perform your duties as its subscription agent, or based upon any suspension or termination of a subscription pursuant to the above terms, you will indemnify us against all liability or loss, including reasonable attorneys’ fees, arising out of or sustained in connection with such claims.

**10 Miscellaneous**

This Agreement is deemed to be entered into and performed wholly in Massachusetts, and will be governed by the domestic laws of the Commonwealth of Massachusetts and the copyright and other applicable laws of the United States. No action or failure to act by The MIT Press will be deemed an amendment, or a waiver in any instance, of any of the foregoing unless specifically so identified by us in writing.