



**Beneficent Technology, Inc.  
Publisher's Letter of Consent for Bookshare®**

Beneficent Technology, Inc. d/b/a Benetech® is the nonprofit developer and operator of its Bookshare service, an Internet-based book and document access service (the "Bookshare Service") which operates under the provisions of certain exceptions to the U.S. Copyright Act of 1976, as amended, such as 17 U.S.C. §121. These exceptions to the Copyright Act permit Benetech and other non-profit organizations to acquire, process and distribute copyrighted works, when distributed in accessible formats, for use only by persons with qualifying disabilities, who are unable to read unassisted, such as members of Bookshare, or its participating customers or organizations who offer services to those with qualifying disabilities ("Members").

Benetech is a California charitable nonprofit corporation, which is tax-exempt under IRC §501(c)(3) and qualifies as an Authorized Entity under 17 U.S.C. §121 of the U.S. Copyright Act and under the Marrakesh Treaty. Benetech operates, maintains and continues to develop its internet-based global library (hereinafter referred to as "Bookshare"). Bookshare will immediately advise the undersigned publisher should it cease to qualify as an Authorized Entity. Copyrighted materials in accessible formats and with accessible features are made available to Members under a digital rights management plan intended to restrict the use of such materials only to qualified persons, and to discourage abuse of the copyright owner's rights.

Under copyright law exceptions, Bookshare does not need permission from copyright owners to make copyrighted materials available to persons with qualifying disabilities in the United States and in other countries with comparable copyright exceptions (such as those implemented under the provisions of the Marrakesh Treaty). Publishers and other copyright holders provide books and documents to the Bookshare Service, which Bookshare then makes available to Members in accessible formats and/or with accessible features.

The undersigned publisher or holder of relevant intellectual property rights (herein called "Publisher") is hereby voluntarily agreeing to assist Bookshare in its mission of enabling access to Publisher's copyrighted works, including books, magazines and other materials (collectively called "Works"). Bookshare wishes to cooperate with the Publisher in order to add accessible digital versions of the Works from Publisher to the Bookshare collection.

To serve these goals, Publisher hereby grants permission to Bookshare to:

1. Provide accessible Works to qualifying persons, either directly or in conjunction with other nonprofit or government agencies that serve such persons, all over the world; provided, however, (a) that this right to use those Works does not extend to any country outside the U.S. as to which Publisher advises Bookshare that Publisher does not control rights and where Bookshare does not have permission under the provisions of the Marrakesh Treaty and (b) that if Bookshare does make Works accessible in conjunction with other agencies, such Works will be made accessible

only from the Bookshare website and subject always to the terms and conditions of use posted on the Bookshare website.

2. Use Publisher's Works in digital form available from whatever legitimate sources they can be obtained, in addition to any files provided directly to Bookshare by Publisher.
3. Improve and adapt the format and presentation of the Works, for example by adding structure markup, figure descriptions, Braille formatting and correcting transcription errors, in order to make the accessible reading experience more like the print reading experience; it being agreed that Bookshare shall not in the process, intentionally, change the content of any Work except as to the format of presentation and that Bookshare will, if so requested by Publisher, rectify any changes in content inadvertently made by Bookshare that the Publisher identifies.

Publisher represents and warrants that Publisher is the copyright holder or is otherwise acting within the scope of its contractual rights to provide to Bookshare the permissions herein concerning the Works. Works of Publisher shall be made available only to Members, using the definition of "beneficiary persons" as set forth in the Marrakesh Treaty, and only to Members who have agreed to terms of use substantially the same as the terms currently included in the Membership Agreements posted on the Bookshare website or similar agreement with a participating customer or organization, all of which terms forbid violation of copyright law restrictions on redistribution and use of copyrighted material. The Works will be protected by Bookshare with the same or better digital rights management system as other copyrighted Works that are now accessible through the Bookshare Service.

Publisher may, at its option, provide files for these digital Works directly to Bookshare, at no cost to Bookshare, and agrees that the costs (if any) incurred by Publisher in providing such digital Works to Bookshare will be paid by Publisher, unless compensation for these costs is agreed upon in writing by both parties prior to the expenditure. Similarly, Bookshare shall receive no compensation from Publisher for processing and making Publisher's digital Works available for download from the Bookshare Service. All rights not expressly granted herein to Bookshare are reserved to Publisher.

Bookshare represents and warrants that it has full power and authority to enter into and perform this Agreement; it shall perform in compliance with all applicable laws and regulations; and it shall use the Works solely as expressly authorized herein.

Bookshare will, at its own expense, make accessible versions of the Works available through the Bookshare Service. Prior to making them available, Bookshare will insert a "boilerplate" section in the front of the Works which outlines the legal limitations of the use of the digital Work, and states the copyright status of the Work as being available from the Bookshare Service only to persons with *bona fide* qualifying disabilities.

Bookshare reserves the right to include all, some, or none of the digital Works from Publisher in the Bookshare Service, depending upon the technical challenges of converting these files and the perceived needs of Bookshare's users.

Each party agrees to reimburse the other party for documented and itemized costs and expenses incurred, up to \$10,000, for rectifying and curing any damage sustained by such other party due to a breach of its representations and/or obligations hereunder. No

reimbursement is expected, and none shall be required of either party for anything other than actual documented damages sustained and documented, itemized costs incurred. Reimbursement may include reasonable itemized attorney fees incurred, plus other documented, itemized costs. This reimbursement covenant, however, shall not apply to third party infringement claims unless arising from an express warranty or representation made by a party for the benefit of the other party under the provisions of this Agreement.

This Agreement will remain in effect until terminated by either party on sixty (60) days prior written notice; however, notwithstanding termination of this Agreement, Bookshare shall continue to have the right to offer Works on its platform, if supplied by Publisher during the term of the Agreement, to the extent that utilization is permitted by the national copyright law exceptions such as section 17 U.S.C. §121 of the U.S. Copyright Act.

Neither party shall be liable to the other, under any circumstances, for any indirect incidental or consequential damages, including loss of business or profits. Except for Publisher's right to authorize the use and distribution of the Works as the copyright owner or authorized distributor, the Works and files to be supplied by Publisher will be supplied "as is", and Publisher makes no warranty with respect to the condition or accuracy of such Works and associated digital files provided to Bookshare. Bookshare shall have no liability for errors that might inadvertently be introduced during reformatting or processing the digital files for authorized Member users.

Once this Agreement is signed, Bookshare may include Publisher as one of its publishing partners when it provides lists of publishing partners in its literature, information materials, reports submitted to the U.S. Department of Education, Office of Special Education and on its website.

This Agreement may not be assigned by Bookshare or Publisher without the prior written consent of the other party; provided, however, that Bookshare may assign this Agreement without Publisher's prior written consent if Bookshare is acquired by or merged with a third party, or if Bookshare sells substantially all its assets to a third party *and* so long as the third party is a non-profit, tax-exempt organization with the same or similar mission of providing accessible reading materials to print-disabled persons. Publisher may also assign this Agreement without Benetech's prior written consent, so long as the entity to which this Agreement is assigned has also been assigned, or is being assigned, all of Publisher's right, title and interests in and to the copyrights to all of the Works in which Publisher now holds, and hereafter acquires.

This Agreement may be signed in two counterparts, each of which will be deemed an original, and both of which when taken together constitute one and the same instrument. A facsimile signature or scanned signature in PDF format on this Agreement, if identified, will be regarded as an original signature.

**SIGNATURE PAGE TO FOLLOW**

**SIGNATURE PAGE**  
To the Publisher's Letter of Consent For Bookshare

**SIGNED BY AND FOR THE PARTIES INDICATED BELOW ON THE DATES INDICATED:**

**Beneficent Technology, Inc.**

**Publisher**

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

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

Name: Michael F. Johnson

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

Position: Vice President, Content

Position: \_\_\_\_\_

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

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

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