EBSCO PUBLISHING LICENSE AGREEMENT

By using the services available at this site or by making the services available to Authorized Users, the Authorized Users and the Licensee agree to comply with the following terms and conditions (the "Agreement"). For purposes of this Agreement, "EBSCO" is EBSCO Industries, Inc.; the "Licensee" is the entity or institution that makes available databases and services offered by EBSCO; the "Sites" are the Internet websites offered or operated by Licensee from which Authorized Users can obtain access to EBSCO's databases and services; and the "Authorized User(s)" are employees, students, registered patrons, walk-in patrons, or other persons affiliated with Licensee or otherwise permitted to use Licensee's facilities and authorized by Licensee to access Databases.

I. LICENSE

A. EBSCO hereby grants to the Licensee a nontransferable and non-exclusive right to use the databases made available by EBSCO (the "Databases") according to the terms and conditions of this Agreement. The Databases made available to Authorized User are the subject of copyright protection, and the original copyright owner (EBSCO or its licensors) retains the ownership of the Database(s) and all portions thereof. EBSCO does not transfer any ownership, and the Licensee and Sites may not reproduce, distribute, display, modify, transfer or transmit, in any form, or by any means, any Database or any portion thereof without the prior written consent of EBSCO, except as specifically authorized in this Agreement.

B. The Licensee is authorized to provide on-site access through the Sites to the Databases to any Authorized User. The Licensee and Sites are authorized to provide remote access to the Databases only to their patrons as long as security procedures are undertaken that will prevent remote access by institutions, employees at non-subscribing institutions or individuals, that are not parties to this Agreement who are not expressly and specifically granted access by EBSCO. Remote access to the Databases is permitted to patrons of subscribing institutions accessing from remote locations for personal, non-commercial use. However, remote access to the Databases from non-subscribing institutions is not allowed if the purpose of the use is for commercial gain through cost reduction or avoidance for a non-subscribing institution. Remote access for personal use from these institutions is permissible.

C. Licensee and Authorized Users agree to abide by the Copyright Act of 1976 as well as any contractual restrictions, copyright restrictions, or other restrictions provided by publishers and specified in the Databases. Pursuant to these terms and conditions, the Licensee and Authorized Users may download or print limited copies of citations, abstracts, full text or portions thereof provided the information is used solely for personal, non-commercial use. Licensee and Authorized Users may not publish the information. Licensee and Authorized Users shall not use the Database as a component of or the basis of any other publication prepared for sale and will neither duplicate nor alter the Databases or any of the content therein in any manner nor use same for sale or distribution. Licensee and Authorized Users may create printouts of materials retrieved through the Databases via on-line printing, off-line printing, facsimile or electronic mail. All reproduction and distribution of such printouts, and all downloading and electronic storage of materials retrieved through the Products shall be for internal or personal use. Downloading all or parts of the Databases in a systematic or regular manner so as to create a collection of materials comprising all or part of the Databases is strictly prohibited whether or not such collection is in electronic or print form. Notwithstanding the above restrictions, this paragraph shall not restrict the use of the materials under the doctrine of "fair use" as defined under the laws of the United States. Publishers may impose their own conditions of use applicable only to their content. Such conditions of use shall be displayed on the computer screen displays associated with such content. The Licensee shall take all reasonable precautions to limit the usage of the Databases(s) to those specifically authorized by this Agreement.

D. Authorized Sites may be added or deleted from this Agreement as mutually agreed upon by EBSCO and Licensee

E. Licensee agrees to comply with the Copyright Act of 1976, as provided by the Berne Convention for Protection of Literary and Artistic Works, and agrees to indemnify EBSCO against any actions by Licensee that are not consistent with the Copyright Act of 1976 or the Berne Convention.
F. The computer software utilized via EBSCO's service(s) is protected by copyright law and international treaties. Unauthorized reproduction or distribution of this software, or any portion of it, is not allowed. User shall not reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the software, or create derivative works from the software.

II. LIMITED WARRANTY AND LIMITATION OF LIABILITY

A. EBSCO disclaims all warranties, express or implied, including, but not limited to, warranties of merchantability, noninfringement, or fitness for a particular purpose. EBSCO neither assumes nor authorizes any other party to assume for EBSCO any other liability in connection with the licensing of the Database(s) under this Agreement and/or its use thereof by the Licensee and/or Authorized Users.

B. THE MAXIMUM LIABILITY OF EBSCO AND ITS LICENSORS, IF ANY, UNDER THIS AGREEMENT, OR ARISING OUT OF ANY CLAIM RELATED TO THE PRODUCTS, FOR DIRECT DAMAGES, WHETHER IN CONTRACT, TORT OR OTHERWISE SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES RECEIVED BY EBSCO FROM LICENSEE HEREUNDER UP TO THE TIME THE CAUSE OF ACTION GIVING RISE TO SUCH LIABILITY OCCURRED. IN NO EVENT SHALL EBSCO OR ITS LICENSORS BE LIABLE TO LICENSEE OR ANY AUTHORIZED USER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES RELATED TO THE USE OF THE DATABASES OR SERVICES OR TO THESE TERMS AND CONDITIONS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

III. PRICE AND PAYMENT

A. License fees have been agreed upon by EBSCO and the Licensee, and includes all retrospective issues of the Product(s) as well as updates furnished during the term of this Agreement. The Licensee's obligations of payment shall be to EBSCO or its assignee. Payments are due upon receipt of invoice(s) and will be deemed delinquent if not received within thirty days of the invoice date(s). Delinquent invoices are subject to interest charges of eighteen percent per annum on the unpaid balance (or the maximum rate allowed by law if such rate is less than eighteen percent). The Licensee will be liable for all costs of collection. Failure or delay in rendering payments due EBSCO under this Agreement will, at EBSCO's option, constitute material breach of this Agreement. If changes are made resulting in amendments to the Listing of Authorized Sites, Product(s) and Pricing identified in this Agreement pro rata adjustments of the contracted price will be calculated by EBSCO and invoiced to the Licensee and/or Sites accordingly as of the date of any such changes. Payment will be due upon receipt of any additional pro rata invoices and will be deemed delinquent if not received within thirty days of the invoice dates.

B. Taxes, if any, are not included in the agreed upon price and may be invoiced separately. Any taxes applicable to the Database(s) under this Agreement, whether or not such taxes are invoiced by EBSCO, will be the exclusive responsibility of the Licensee and/or Sites.

IV. TERMINATION

A. In the event of a breach of any of its obligations under this Agreement, Licensee shall have the right to remedy the breach within thirty (30) days upon receipt of written notice from EBSCO. Within the period of such notice Licensee shall make every reasonable effort and document said effort to remedy such a breach and shall institute any reasonable procedures to prevent future occurrences of such breaches. If the Licensee fails to remedy such a breach within the period of thirty (30) days, EBSCO may (at its option) terminate this Agreement upon written notice to the Licensee.

B. If EBSCO becomes aware of a material breach of Licensee's obligations under this Agreement or a breach by Licensee or Authorized Users of the rights of EBSCO or its licensors or an infringement on the rights of EBSCO or its licensors, then EBSCO will notify the Licensee immediately in writing and shall have the right to temporarily suspend the Licensee's access to the Product(s). Licensee shall be given the opportunity to remedy the breach or infringement within thirty (30) days following receipt of written notice from EBSCO. Once the breach or infringement has been remedied or the offending activity halted, EBSCO shall reinstate access to the Databases. If the Licensee does not satisfactorily remedy the offending activity within thirty (30) days, EBSCO may terminate this Agreement upon written notice to the Licensee.
C. The provisions set forth in Sections I, II and V of this Agreement shall survive the term of this Agreement and shall continue in force into perpetuity.

V. NOTICES OF CLAIMED COPYRIGHT INFRINGEMENT

EBSCO has appointed an agent to receive notifications of claims of copyright infringement regarding materials available or accessible on, through, or in connection with our services. Any person authorized to act for a copyright owner may notify us of such claims by contacting the following agent: Kim Stam, EBSCO Publishing, 10 Estes Street, Ipswich, MA 01938, phone: 978-356-6500, fax: 978-356-5191, email: kstam@epnet.com. In contacting this agent, the contacting person must provide all relevant information, including the elements of notification set forth in 17 U.S.C. 512.

VI. GENERAL

A. Neither EBSCO nor its licensors will be liable or deemed to be in default for any delays or failure in performance resulting directly or indirectly from any cause or circumstance beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authority, rain, fire, flood, accidents, earthquake(s), strikes or labor shortages, transportation facilities shortages or failures of equipment, or failures of the Internet.

B. This Agreement and the license granted herein may not be assigned by the Licensee to any third party without written consent of EBSCO.

C. If any term or condition of this Agreement is found by a court of competent jurisdiction or administrative agency to be invalid or unenforceable, the remaining terms and conditions thereof shall remain in full force and effect so long as a valid Agreement is in effect.

D. If the Licensee and/or Sites use purchase orders in conjunction with this Agreement, then the Licensee and/or Sites agree that the following statement is hereby automatically made part of such purchase orders: “The terms and conditions set forth in the EBSCO Publishing EBSCOhost LICENSE Agreement are made part of this purchase order and are in lieu of all terms and conditions, express or implied, in this purchase order, including any renewals hereof.”

E. This Agreement represents the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior agreements and understandings, written and/or oral. There are no representations, warranties, promises, covenants or undertakings, except as described here.

F. This Agreement shall be governed by and construed in accordance with the laws of Germany.

G. The Addendum to the Product Order Form may contain language that varies from this Agreement. In that instance, the language from the Addendum shall be applicable.

Addendum to Product Order Form

Staatsbibliothek zu Berlin Preußischer Kulturbesitz - DFG National License for American Antiquarian Society & The Nation

Publisher : EBSC Publishing

Name of product : Historical Archive: American Antiquarian Society & The Nation

The Nation - Archive

Chief Negotiator : Staatsbibliothek zu Berlin, Preußischer Kulturbesitz

SSG-Library : Staatsbibliothek zu Berlin, Preußischer Kulturbesitz

Scope
Grant of a non-exclusive, non-transferable license to the licensee for use of the offered product.

**Access**

Via in-house network of licensee incl. wide area networks of all higher education institutions financed either by public or private funding, national, regional and state libraries, academic specialist libraries mainly financed by public funding, research institutions mainly financed by public funding, governmental institutions, including any of the above mentioned types of German institutions abroad (staff only).

Authorized users:

1. Higher Education Institutions: Students including guest students, Faculty including visiting lecturers, Staff and contractors, Walk-In-Users. Remote Access included.


Further licensee can make the product accessible to independent academic users residing in Germany without restrictions. This non-institutional access of individuals shall be permitted via individual usernames and passwords subject to a requirement of permanent residence in Germany.

Access can be granted via the licensor's server, local hosting of the licensee or third party servers. If access is possible exclusively via the licensor's server, technical access fees must be specified and included in the offer for the duration of access to the licensor's server.

Members of authorized institutions are allowed to give open access to all articles, they have published in the licensed product as author ("corresponding author") or co-author ("contributing author") by integrating them in a repository of their own choice. The articles have to be delivered by licensor in the published version / post print (PDF).

**Usage**

Only for academic and personal use, within the usual services of the library. No further distribution or commercial usage of the contents are permitted. Copies for personal or academic use are permitted. The incorporation of parts of the Licensed Material in printed and electronic course packs, study packs, resource lists and any other material (including but not limited to multi-media works) and/or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments) is permitted.

**Authentification**

Institutional users: Via IP-ranges, Username / Password, Shibboleth and comparable future developments to be agreed by the parties. Non-institutional users: Via individual registration by Username / Password, Shibboleth and comparable future developments to be agreed by the parties.

**Term/Termination**

The licence is for usage of the licensed material through the server of licensor and / or licensee and the relevant special collection field library and / or the server of a contractor of each of those institutions without restriction of concurrent use.

The Licensed Materials or parts thereof may be compiled, indexed and catalogued (including, without limitation, the Header Data and Abstracts) by Eligible Institutions. Anything thereby created or compiled may be integrated into the Products and Services of Eligible Institutions.

The license is for perpetual use of the product. Licensee is authorized to make necessary technical arrangements for long term preservation of the product.

If the product is accessible exclusively via the licensor's technical equipment, licensor warrants the long term unrestricted and non alleviated access. In the case that licensor cannot warrant this access, licensor is committed to deliver the database to the licensee. Requested standards:
- delivery complete and congruent with the licensed product

- standardised data formats

- standardised character sets (UTF 8)

- metadata and content connected by non-proprietary persistent identifier (e.g. DOI)

- content and applications disconnected

- content deliverable as logical units

- no digital rights management by licensor

- re-formatting / content migration for the purpose of long-term accessibility and preservation is permitted

**Metadata**

The license includes the metadata necessary for an appropriate usage of the product. The metadata shall be licensed and delivered at no extra costs for non-commercial use by local catalogues, union catalogues and any other library and information system (including but not limited to search machines). Requested standards:

- delivery complete and congruent with the licensed product

- standardised data formats

- standardised character sets (UTF 8)

Recovery of costs is not being deemed commercial use.

**Usage statistics**

Usage statistics shall be provided compliant to the COUNTER Code of Practice on a monthly basis, containing the usage of each title by each member, private users counted separately. Reports shall contain the purchased backfile years only and no usage of current content data shall be included. The reports shall be delivered no later than three weeks after the end of the previous quarter.

**Price**

The license with all its constituent parts and rights is acquired by conclusion of the license agreement by a single payment. All fees for perpetual access (including any maintenance fees) shall be included in the prices quoted. Local hosting (in order to give access to eligible institutions and authorized users) of the licensed material on the server of the licensee and the relevant special collection field library and / or a contractor of each of those institutions shall be offered as an option at no additional costs.