

LAST UPDATED: July 2024

SOFTWARE AS-A-SERVICES AGREEMENT

This Software As-A-Services Agreement is entered into and made effective as of ____ (the "Effective Date"), by and between EBSCO Publishing, Inc. dba EBSCO Information Services, an Alabama corporation (EBSCO"), and [_____, a _____][the customer identified on the relevant Order] ("Customer").

ARTICLE I. DEFINITIONS

The following terms used herein shall have the meanings set forth below throughout this Agreement, except as expressly indicated to the contrary herein.

- 1.1 "Agreement" means this Software As-A-Service Agreement together with any addendums, any Order Forms, and the EBSCO Privacy Policy located at <https://more.ebsco.com/privacy-policy>.
- 1.2 "Authorized User" means Customer's employees, students, registered patrons, walk-in patrons, or other persons affiliated with Customer or otherwise permitted to use Customer's facilities (a) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the Services has been purchased hereunder.
- 1.3 "Confidential Information" means any business, financial, operational or technical information provided by one party hereunder to the other party that is marked or otherwise identified as confidential or proprietary or that the receiving party knows or should know is confidential or proprietary. In addition, the parties acknowledge and agree that: (a) the proprietary information of Customer as to which EBSCO may have access in connection with performing its obligations hereunder constitute Confidential Information of Customer; and (b) the Services, Documentation and other deliverables furnished by EBSCO under this Agreement (including, but not limited to the material provided in training classes) and the terms of and pricing under this Agreement constitute Confidential Information of EBSCO. The disclosure of all information, data, analysis, developed software or reports shall be subject to the provisions of Nevada Revised Statutes, Chapter 239 and other applicable law.
- 1.4 "Documentation" means EBSCO' online help, including user guides, implementation support and other materials made available by EBSCO as part of the Services, whether in electronic and/or printed media.
- 1.5 "Effective Date" means the date that this Agreement is effective as set forth in the opening paragraph. As to any addendum, it is the date listed on such addendum.
- 1.6 "Intellectual Property Rights" means an effective copyright, trademark or patent, in each case existing under the laws of the United States of America.
- 1.7 "Order": means any of EBSCO's generated service order forms executed or approved by Customer with respect to its subscription to a Service.
- 1.8 "Customer Data" means the data provided by Customer or its Authorized Users to EBSCO in connection with the Services.
- 1.9 "Third Party Materials" means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to EBSCO or licensed by EBSCO for inclusion in the Services.
- 1.10 "Term" means the period during which Customer has agreed to subscribe to a Service as set out in the Order.
- 1.11 "Services" means the software-as-a-service offering described in the Order.

ARTICLE II. SERVICES

- 2.1 Access and Use. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, EBSCO hereby grants Customer a non-exclusive, non-sublicensable, non-transferable (except in compliance with Section 8.2) right to access and use the Services and Documentation during the Term, solely for use by Customer and its Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use.
- 2.2 Reservation of Rights. Nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Services, Documentation, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Services, Documentation, and the Third-Party Materials are and will remain with EBSCO and the respective rights holders in the Third-Party Materials.
- 2.3 Use of Services. Customer shall not, and shall not permit any other person or entity to, access or use the Services except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. As between Customer and EBSCO, Customer is responsible for compliance with the provisions of this Agreement by its Authorized Users and for any and all activities that occur under its account.
- 2.4 Suspension or Termination of Services. EBSCO reserves the right, in its reasonable discretion, to temporarily suspend Customer's access to and use of a Service if (a) EBSCO suspects or detects Customer or any Authorized User (i) has failed to comply with any term of this Agreement; or (ii) is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (b) this Agreement expires or is terminated.
- 2.5 Delivery. The Service shall be made available for Customer to access via the Internet. A high-speed Internet connection is required for proper transmission of the Services. Customer is responsible for procuring and maintaining the network connections that connect Customer's network to the Services, including, but not limited to, "browser" software that supports protocols used by EBSCO. EBSCO assume no responsibility for the reliability or performance of any connections as described in this section.
- 2.6 Information Security. EBSCO will maintain reasonable administrative, physical, and technical safeguards designed to protect the confidentiality, integrity, and availability of Customer Data in accordance with our Privacy Policy located at <https://www.ebsco.com/company/privacy-policy>.
- 2.7 [Personal Data]. To the extent Customer Data constitutes personal data, the Data Processing Addendum attached as Addendum will apply.]
- 2.8 [Service Levels]. EBSCO's provision of the Services will be in compliance with the Services Levels described in Addendum.]
- 2.9 [Professional Services]. EBSCO shall render the professional services specified in Addendum]
- 2.10 [Health Related Information]. EBSCO's provision of the Services will be subject to the specifications described in Addendum.]

ARTICLE III. PAYMENT

- 3.1 Payment and Invoices. Customer will pay EBSCO the fees in accordance with the relevant Order.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES

- 4.1 Mutual Representations & Warranties. Each party represents and warrants that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict

with or cause a material default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which it is a party or by which it or any of its property is or may become subject or bound.

- 4.2 WARRANTY DISCLAIMER. ALL SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS." EBSCO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, EBSCO MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR EBSCO MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
- 4.3 Third Party Materials. All Third-Party Materials are provided "as is" and any representation or warranty of or concerning any Third-Party Materials is strictly between customer and the third-party owner or distributor of the Third-Party Materials. Customer further agrees that it is responsible for acquiring and maintaining all licenses for Third-Party Materials it elects to integrate into the Services, and its use will be subject to the pertinent purchase or license agreement between Customer and the relevant third-party. Any amounts payable to third-parties under such agreements are the sole responsibility of Customer and shall be paid directly by Customer to such third-party.

ARTICLE V. CONFIDENTIALITY

- 5.1 Confidential Information. Each party receiving or having access to Confidential Information of the other party agrees to maintain the confidentiality of such Confidential Information. Each party will protect the Confidential Information of the other party with the same degree of care it exercises relative to its own Confidential Information, but not less than reasonable care. Each party receiving Confidential Information of the other party agrees that it shall not sublicense, assign, transfer or otherwise display or disclose such Confidential Information to any third party and shall not reproduce, perform, display, prepare derivative works of, or distribute the Confidential Information except as expressly permitted in this Agreement. Each party shall make commercially reasonable efforts to prevent the theft of any Confidential Information of the other party and/or the disclosure, copying, reproduction, performance, display, distribution and preparation of derivative works of the Confidential Information except as expressly authorized herein. Both parties agree to restrict access to the Confidential Information of the other only to employees and consultants who require access in the course of their assigned duties and responsibilities in connection with this Agreement.
- 5.2 Exceptions. The obligations of the parties in respect of the Confidential Information of the other party shall not apply to any material or information that:
- (a) is or becomes a part of the public domain through no act or omission by the receiving party, (b) is independently developed by employees or consultants of the receiving party without use or reference to the Confidential Information of the other party as documented by competent written evidence; (c) is disclosed to the receiving party by a third party that, to the receiving party's knowledge, was not bound by a confidentiality obligation to the other party, or (d) is demanded by a lawful order from any court or any body empowered to issue such an order. Each party agrees to notify the other promptly of the receipt of any such order, provide the other with a copy of such order and to provide reasonable assistance to the disclosing party (at the disclosing party's expense in the case of reasonable out-of-pocket expenses) to object to such disclosure.

The disclosure of all information, data, analysis, developed software or reports shall be subject to the

provisions of Nevada Revised Statutes, Chapter 239 and other applicable law.

- 5.3 Enforcement. Each party agrees that in the event of a breach or threatened breach by it (including its employees, subcontractors, consultants or agents) of the provisions of this Article V, the other party shall have no adequate remedy in money or damages and, accordingly, will be entitled to injunctive and other equitable relief for such breach in addition to and not in limitation of any other legal or equitable remedies to which it would otherwise be entitled.

ARTICLE VI. INDEMNITY

- 6.1 EBSCO Indemnity. EBSCO will defend or settle any suit brought by a third party against Customer alleging that the Services infringe any Intellectual Property Right of any third party and EBSCO shall indemnify Customer for damages awarded as a result of such infringement claim, provided that EBSCO is given prompt notice of any such claim and sole control of the defense of such claim, including negotiations, appeals, and settlements. Customer agrees to provide reasonable information and assistance to EBSCO in defending any claim. Notwithstanding the foregoing, EBSCO will not have liability for any claim to the extent that such claim results from: (a) any modification of the Services made by any party other than EBSCO; (b) a modification or enhancement to the Services pursuant to designs provided by Customer; (c) the combination, operation or use by Customer of any software, equipment or devices not supplied by EBSCO to the extent the claim would have been avoided if the Services were not used in such combination; or (d) Third-Party Materials.
- 6.2 Customer Indemnity. Customer will indemnify and defend EBSCO and its affiliates from and against any and all losses, damages, liabilities, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including professional fees and reasonable attorneys' fees, that are incurred by EBSCO and its affiliates arising out of any third party claim related to the Customer Data and any other materials or information provided by or on behalf of Customer or any Authorized User.
- 6.3 Mitigation. If the Service is held to infringe, or in EBSCO' opinion the Service is likely to be held to infringe any Intellectual Property Rights of a third party, EBSCO may at its discretion and expense, either: (a) secure the right for Customer to continue use of the infringing Service; (b) replace or modify the infringing Service to make it noninfringing, provided such Service contains substantially similar functionality; or (c) terminate the access to the infringing Service granted hereunder. If EBSCO elects to terminate Service access under the foregoing provision, it shall credit to Customer pro- rata, unamortized portion of any prepaid subscription fees for the infringing Service following the date of termination.
- 6.4 Sole Remedy. SECTION 6.1 SETS FORTH CUSTOMER'S SOLE REMEDIES AND EBSCO'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND EBSCO MATERIALS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY
- 6.5 LIMITATION OF LIABILITY. EBSCO SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER OR ANY THIRD PARTY UNDER THIS AGREEMENT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES ARISING OUT OF OR RESULTING IN ANY MALFUNCTIONS, DELAYS, LOSS OF DATA, LOSS OF PROFIT, INTERRUPTION OF SERVICE, OR LOSS OF BUSINESS OR ANTICIPATORY PROFITS. THE PARTIES AGREE THAT EBSCO' MAXIMUM AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT SHALL BE AN AMOUNT EQUAL TO THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT FOR THE TWELVE-MONTH PERIOD PRECEDING THE CLAIM.

ARTICLE VII. TERM; TERMINATION

- 7.1 Term. The term of this Agreement (the “Term”) shall commence upon the Effective Date and, subject to EBSCO’s timely receipt of all licensing fees owed herein, shall continue until the expiration of the last applicable Service subscription period granted under the Order, unless terminated pursuant to the terms of this Agreement. The term of any particular subscription to Services hereunder shall be extended on successive annual basis unless either EBSCO or Customer gives notice to the other at least sixty (60) days prior to the expiration date of the then current Term. [The Fee for the Services shall increase 10% upon the renewal of the Term.]
- 7.2 Termination. If either party breaches a provision of this Agreement, the other party shall give the breaching party written notice of such breach. If the breaching party fails to cure the breach (other than failure to pay) within thirty (30) days, the non-breaching shall have the right to terminate this Agreement; provided that if the breach is a failure of Customer to pay any amount when due, EBSCO shall have the right to terminate this Agreement upon written notice to Customer. Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- 7.3 Effect of Termination; Survival. Upon termination or expiration of this Agreement, all rights, licenses, consents, and authorizations granted by either party to the other hereunder will immediately terminate. Obligations relating to Confidential Information and to pay amounts owing as of the termination or expiration date shall survive termination. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section 4.2, Section 5.1, Article VI, Section 7.3, and Article VIII.

ARTICLE VIII. GENERAL PROVISIONS

- 8.1 Export. Customer acknowledges that the Services and all Documentation and other technical information delivered by EBSCO pursuant to this Agreement are subject to export controls under United States laws including but not limited to the Export Administration Act and the regulations promulgated hereunder. Customer agrees to: (a) comply strictly with all legal requirements established under these controls; (b) cooperate fully with EBSCO in any official or unofficial audit or inspection that relates to these controls; and (c) not export, re-export, divert, transfer, or disclose directly or indirectly, any Services or Documentation to any country, or to the nationals of any such country, which the United States government determines is a country to which such export, re-export, diversion, transfer, or disclosure is restricted, without obtaining the prior written authorization of EBSCO and the applicable United States government agency. Any breach of this provision shall be considered a material breach of this Agreement.
- 8.2 Assignment. Neither party may assign this Agreement without the prior express written consent of the other party, which shall not be unreasonably withheld.
- 8.3 Force Majeure. Neither party will be responsible for any failure or delay in its performance (other than failure to pay) under this Agreement due to causes beyond its reasonable control which makes performance commercially impractical, including but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, Internet access, raw materials or supplies, war, riot, or act of God.
- 8.4 Notices. In the case of any required notice to EBSCO under this Agreement, such notice shall be in writing and will be deemed to have been duly given when: (a) delivered by hand (with written confirmation); or

(b) when sent by a party if sent by nationally recognized overnight delivery service or First Class U.S. Mail (receipt requested). Notice to EBSCO shall be sent to: 10 Estes Street, Ipswich, MA 01938, Attention: Chief Legal Officer; and any notice to Customer hereunder shall be sent to the address set forth on the Order form (or to such other address and contact as a party may indicate in a notice to the other).

Entire Agreement. This Agreement and any addenda to this Agreement executed by both parties or incorporated herein by reference constitute the entire understanding between the parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings, whether oral or written. There are no representations, promises, warranties or understandings relied upon by Customer which are not contained herein. Any modifications to this Agreement must be in writing and signed by both parties. The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not constitute a waiver of such right.

- 8.5 Partial Invalidity. If any provision of this Agreement is held to be unenforceable, such decision shall not affect the validity or enforceability of all the remaining provisions.
- 8.6 Choice of Law. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of Nevada. The parties hereby agree that venue for any and all disputes related to this Agreement shall be in the Fifth Judicial District Court of the State of Nevada, in and for the County of Nye.
- 8.7 Legal Fees. In any collection action or litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's and para-professional fees from the non-prevailing party.
- 8.8 Counterparts. This Agreement may be signed in one or more original, electronic or facsimile counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement.

[IN WITNESS WHEREOF, the parties acknowledge that they have read, understand and agree to the terms and conditions of this Agreement.

[CUSTOMER]

EBSCO PUBLISHING, INC.

By: _____
Signature

By: _____
Signature

Printed Name and Title

Printed Name and Title

Date

Date

PROFESSIONAL SERVICES ADDENDUM

This Professional Services Addendum (this “PSA”) supplements the terms and conditions of the Software -As-A-Service Agreement (the “Agreement”), entered into by and between EBSCO Publishing, Inc. (“EBSCO”), and the Customer identified on the Agreement to which this PSA is attached. The terms of this PSA shall be deemed incorporated into and made a part of the terms of the Agreement and in each Statement of Work into which the parties enter pursuant to this PSA. If there is a conflict between the terms and conditions of this PSA, the terms of the Agreement, or a Statement of Work, the precedence will be resolved in the following order: (a) the terms of the Agreement, (2) the terms of this PSA, and (3) the terms of any applicable Statement of Work. Capitalized terms used but not defined herein shall have the same meaning such terms are given in the Agreement.

1. DEFINITIONS

- 1.1 “Deliverable” means any tangible or intangible materials or other items EBSCO provides to Customer while providing Professional Services.
- 1.2 “Professional Services” means the Professional Services to be provided by EBSCO described in any SOW issued hereunder.
- 1.3 “Statement of Work” or “SOW” means a document that describes the tasks and responsibilities of each party in relation to the Professional Services.

2. PROFESSIONAL SERVICES

- 2.1 Services. EBSCO shall perform the Professional Services described in each SOW entered into by the parties and attached to this PSA, in accordance with the terms and conditions of this Agreement. The Professional Services will be completed in a timely manner in accordance with the SOW. Any changes to the scope or performance of the Professional Services must be made in writing and executed by authorized representatives of both parties (a “Change Order”).
- 2.2 SOWs. Each SOW shall remain in effect until EBSCO has completed all Professional Services described in the SOW and Customer has paid EBSCO all related fees and expenses. Each SOW shall incorporate this PSA by reference and this PSA shall govern all terms of each SOW both parties agree upon and sign.
- 2.3 Acceptance. Any language in the SOW addressing the method of Customer’s acceptance of Deliverables shall control, otherwise the following will apply: Upon completion of any Deliverable, EBSCO shall submit the Deliverable to Customer. At Customer’s request, EBSCO will demonstrate to Customer the functionality of the Deliverable. Customer shall be responsible for any additional review and testing of such Deliverable in accordance with any applicable acceptance criteria in the SOW. If Customer reasonably determines that any submitted Deliverable does not perform the functional requirements specified for such Deliverable in the applicable SOW, Customer must give written notice thereof to EBSCO specifying the deficiencies in detail within five (5) calendar days after EBSCO’s submission of the Deliverable (“Acceptance Period”). EBSCO shall use reasonable efforts to promptly cure any such deficiencies. After completing any such cure, EBSCO shall resubmit the Deliverable for review and testing as set forth above. If Customer fails to reject any Deliverable within the Acceptance Period in the manner described above, such Deliverable shall be deemed accepted at the end of the Acceptance Period. In the event any Deliverable is not accepted by Customer as specified above after the third submission and Acceptance Period, either party may terminate the applicable **Statement of Work without further liability to the other party, provided however, that Customer shall not be relieved of its payment obligations with respect to the accepted Professional Services delivered prior to any such termination.**

3. COMPENSATION

- 3.1 Professional Service Fees. In consideration of EBSCO's provision of Professional Services under an SOW, Customer will pay EBSCO the fees specified in the applicable Order and the reimbursable expenses described below.
- 3.2 Reimbursable Expenses. Customer will reimburse EBSCO for the actual and reasonable travel and out-of-pocket expenses incurred by EBSCO in the course of providing Professional Services under an SOW that have been approved in advance in writing by Customer.

4. OWNERSHIP RIGHTS.

- 4.1 License. Subject to the terms and conditions of this Agreement, including payment of all fees due and payable, we grant you a worldwide, nonexclusive, non-transferable, fully-paid license to use, install, display, perform, reproduce a reasonable number of copies of, and distribute internally any Deliverables we provide in the course of performing Professional Services under this Agreement, solely for your own internal business operations and solely in connection with your authorized use of a Hosted Solution or a Licensed Software Product.
- 4.2 Ownership and Retention of Rights. Except for the license granted under Section 4.1 of this PSA, EBSCO retains ownership of and the right to use and apply in the performance of Professional Services for third parties, the templates, generalized knowledge, experience, skills, methods, techniques, and know-how of its personnel used in the performance of the Professional Services and the preparation of any Deliverables, as well all rights in any materials or other Deliverables EBSCO provides to Customer under this Agreement; except that, any Customer Data, or Customer Confidential Information or Customer's pre-existing materials that are included in any Deliverables shall remain Customer's sole property.

5. WARRANTY

- 5.1 Limited Warranty for Services. EBSCO warrants for a period of thirty (30) days after the completion of such services ("Services Warranty Period"), that the Professional Services shall be performed in a good, timely and workmanlike manner consistent with industry standards for similar services. Any claim relating to a breach of the warranty for any such services must be made in writing within such Services Warranty Period. If EBSCO cannot provide the Professional Services or Deliverables as warranted in this Section, within a reasonable time after receiving Customer's notification of a deficiency, Customer may, as its sole and exclusive remedy for a breach of such warranty, terminate the applicable SOW and receive a refund of any fees paid for the nonconforming Professional Services or Deliverables.
- 5.2 Disclaimer. EXCEPT AS EXPRESSLY STATED IN SECTION 5.1, EBSCO HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PROFESSIONAL SERVICES AND THE DELIVERABLES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, AND NON-INFRINGEMENT.

SERVICE LEVEL ADDENDUM

DATA PROCESSING ADDENDUM

This Data Processing Addendum (the “**Addendum**”) supplements the EBSCO License Agreement (the “**Agreement**”) between the Customer (“**Customer**”) and EBSCO Publishing, Inc. (“**EBSCO**”).

1. Definitions

- 1.1 For the purpose of this Addendum the terms, “**Controller**,” “**Processor**,” “**Data Subject**,” “**Personal Data**,” “**Personal Data Breach**,” “**Processing**,” “**Subprocessor**,” and “**Supervisory Authority**” shall have the same meanings as in applicable Data Protection Legislation, and their related terms shall be construed accordingly.
- 1.2 “**Appropriate technical and organizational measures**” shall be interpreted in accordance with applicable Data Protection Legislation.
- 1.3 “**Customer Personal Data**” means the Personal Data that is provided by Customer to EBSCO or that is processed by EBSCO on Customer’s behalf in connection with the Agreement.
- 1.4 “**Data Protection Legislation**” means all applicable data protection and privacy legislation in force from time to time where EBSCO does business, including the General Data Protection Regulation, Regulation (EU) 2016/679 of the European Parliament and of the Council (the “**GDPR**”), the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC), the California Consumer Privacy Act of 2018, Cal. Civ. Code § 1798.100, *et seq.* (the “**CCPA**”), and all other applicable laws and regulations relating to the Processing of Personal Data, including any legislation that implements or supplements, replaces, repeals and/or supersedes any of the foregoing.
- 1.5 “**International Data Transfer**” means the transfer (either directly or via onward transfer) of Personal Data from within the European Economic Area/United Kingdom (as applicable) to a country not recognized by the European Commission as providing an adequate level of protection for Personal Data (as described in the GDPR).
- 1.6 “**User Personal Data**” means the Personal Data provided directly by Customer’s end users to EBSCO through the products and services purchased by Customer.

2. Data Processing: EBSCO as Processor for Customer

- 2.1 Where Customer Personal Data is processed by EBSCO, EBSCO will act as the Processor and the Customer will act as the Controller.
 - 2.1.1 Subject Matter. The subject matter of the Processing is the Customer Personal Data.
 - 2.1.2 Duration. The Processing will be carried out for the duration set forth in the Agreement.
 - 2.1.3 Nature and Purpose. The purpose of the Processing is the provision of products and services to the Customer purchased by the Customer from time to time.
 - 2.1.4 Type of Customer Personal Data and Data Subjects. Customer Personal Data consists of the following categories of information relevant to the following categories of Data Subjects:

- (a) Representatives of Customer: name, address; email address; billing information; login credentials; geolocation data; and professional affiliation.
 - (b) Customer's end users of the EBSCO products and services purchased by Customer (where personalized account information is provided to EBSCO by Customer): name; address; and email address.
- 2.2 EBSCO shall not Process Customer Personal Data other than on the Customer's documented instructions (as set forth in this Addendum or the Agreement or as otherwise directed by Customer in writing). EBSCO will not Process Customer Personal Data for any purpose, including for any commercial purpose, other than for the specific purpose of performing the services specified in the Agreement. If Processing of Customer Personal Data inconsistent with the foregoing provisions of this section is ever required by applicable Data Protection Legislation to which EBSCO is subject, EBSCO shall, to the extent permitted by applicable Data Protection Legislation, inform the Customer of that legal requirement before proceeding with the relevant Processing of that Customer Personal Data.
- 2.3 EBSCO will notify Customer promptly if, in EBSCO's opinion, an instruction for the Processing of Customer Personal Data infringes applicable Data Protection Legislation.
- 2.4 EBSCO shall ensure that all personnel who have access to and/or Process the Customer Personal Data are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.
- 2.5 EBSCO shall, in relation to the Customer Personal Data, implement appropriate technical and organizational measures to protect against unauthorized or unlawful Processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data. When considering what measure is appropriate, each party shall have regard to the state of good practice, technical development and the cost of implementing any measures to ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful Processing or accidental loss or destruction, and to the nature of the data to be protected.
- 2.6 EBSCO shall assist Customer, taking into account the nature of the Processing, (A) by appropriate technical and organizational measures and where possible, in fulfilling Customer's obligations to respond to requests from data subjects exercising their rights under Applicable Data Protection Legislation; (B) in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR, taking into account the nature of the Processing and the information available to EBSCO; and (C) by making available to Customer all information reasonably requested by Customer for the purpose of demonstrating that Customer's obligations relating to the appointment of processors as set out in Article 28 of the GDPR have been met.
- 2.7 EBSCO shall promptly notify Customer upon becoming aware of any confirmed Personal Data Breach affecting the Customer Personal Data.
- 2.8 Upon termination of the Agreement, EBSCO shall, at Customer's election, securely delete or return Customer Personal Data and destroy existing copies unless preservation or retention of such Customer Personal Data is required by any applicable law to which EBSCO is subject.
- 2.9 EBSCO shall allow Customer and Customer's authorized representatives to access and review up-to-date attestations, reports, or extracts thereof from independent bodies (e.g., external auditors, data protection auditors) or suitable certifications, or allow its procedures and documentation to be

inspected or audited by Customer (or its designee) to ensure compliance with the terms of this Addendum. Any audit or inspection must be conducted during EBSCO's regular business hours without interrupting EBSCO's business operations, with reasonable advance notice (at least 45 days) to EBSCO and subject to reasonable confidentiality procedures. In addition, audits or inspections shall be limited to once per year. The scope of such audit shall be limited to documents and records allowing the verification of EBSCO's compliance with the obligations set forth in this Addendum and shall not include financial records of EBSCO or any records concerning EBSCO's other customers. Remote audits shall be utilized where possible, with on-site audits occurring only where a walkthrough of the premises is required.

EBSCO shall, in the event of third-party subprocessors that is subject to Data Protection Legislation, (A) inform Customer and obtain its prior written consent (execution of this Addendum shall be deemed as Customer's prior written consent to such third-party subprocessors); (B) provide a list of third-party Subprocessors upon Customer's request; and (C) inform Customer of any intended changes to third-party Subprocessors, and give Customer a reasonable opportunity to object to such changes. If EBSCO provides Personal Data to third-party Subprocessors, EBSCO will include in its agreement with any such third-party Subprocessor terms which offer at least the same level of protection for the Customer Personal Data as those contained herein and as are required by applicable Data Protection Legislation.

3. Data Processing: EBSCO as Joint Controller With Customer

- 3.1 EBSCO and Customer shall act as joint Controllers with respect to User Personal Data.
- 3.2 EBSCO shall be responsible for providing Customer's end user Data Subjects with the information required under GDPR Articles 13 and 14 (including by identifying a contact point for Data Subjects) before processing User Personal Data, and with informing Customer's end users of the essence of EBSCO's arrangement with Customer.
- 3.3 EBSCO shall provide Customer's end user Data Subjects with the ability to exercise their individual rights with respect to User Personal Data within a self-service portal.

4. International Data Transfer

- 4.1 To the extent that any Customer Personal Data is subject to any International Data Transfer, the parties agree to be bound by, and all terms and provisions of the Controller to Processor Standard Contractual Clauses adopted by the European Commission ("**Processor Model Clauses**") shall be incorporated by reference to this Addendum with the same force and effect as though fully set forth in this Addendum, wherein:
 - 4.1.1 Customer is the "data exporter" and EBSCO International, Inc. is the "data importer;" and
 - 4.1.2 The provisions of Module Two are incorporated; the provisions under Modules One, Three, and Four, the footnotes, and Clauses 9, 11(a) Option and 17 Option 1 are omitted; the clauses shall be governed by the law of Ireland; and the competent supervisory authority is Ireland.
- 4.2 To the extent that any User Personal Data is subject to any International Data Transfer, the parties agree to be bound by, and all terms and provisions of the Controller to Controller Standard Contractual Clauses adopted by the European Commission ("**Controller Model Clauses**") shall be incorporated by

reference to this Addendum with the same force and effect as though fully set forth in this Addendum, wherein:

- 4.2.1 Customer is the “data exporter” and EBSCO is the “data importer;” and
- 4.2.2 The provisions of Module One are incorporated; the provisions under Modules Two, Three and Four, the footnotes, and Clauses 9, 11(a) Option and 17 Option 1 are omitted; the clauses shall be governed by the law of Ireland; and the competent supervisory authority is Ireland.

- 4.3 The Processor Model Clauses and Controller Model Clauses shall be collectively, the “Standard Contractual Clauses.” The applicable version of the Standard Contractual Clauses is those which were approved by the European Commission on June 4, 2021. In the event that the Standard Contractual Clauses are updated, replaced, amended or re-issued by the European Commission (with the updated Standard Contractual Clauses being the “**New Contractual Clauses**”) during the term of this Addendum, the New Contractual Clauses shall be deemed to replace the Standard Contractual Clauses and the parties undertake to be bound by the terms of the New Contractual Clauses effective as of the date of the update (unless either party objects to such change) and the parties shall execute a form of the New Contractual Clauses.

- 4.4 The descriptions required by the Annexes of the Standard Contractual Clauses are replaced by the information in Schedule I, Schedule II, and Schedule III of this Addendum.

- 4.5 To the extent that the UK Information Commissioner’s Office issues any standard contractual clauses for the purpose of making lawful International Data Transfers during the term of this Addendum that will impact the transfers of Customer Personal Data or User Personal Data (with such clauses being the “**UK Standard Contractual Clauses**”), to the extent possible, the UK Standard Contractual Clauses shall be deemed to be incorporated into this Addendum and the parties undertake to be bound by the terms of the UK Standard Contractual Clauses effective as of the date of their issuance (unless either party objects to such change) and the parties shall execute a form of the UK Standard Contractual Clauses.

Schedule I

List of Parties and Description of Data Transfers

A. LIST OF PARTIES

Data exporter(s): *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. **Name:**
Address:
Contact person’s name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor): Controller and Joint Controller

2. **Additional Information:** EBSCO and Customer shall act as Joint Controllers with respect to User Personal Data (as defined in the Agreement). The Joint Controllers shall perform the following responsibilities accordingly:

Customer	EBSCO
<ul style="list-style-type: none"> - Personalization: Customer decides whether to enable features of personalized accounts in product - Authorize the processing of end user data by EBSCO via the Agreement between parties <ul style="list-style-type: none"> o Provide legal basis for processing end user data o Establish the purposes and scope of processing - Implementation of technical and organizational measures to ensure security of network <ul style="list-style-type: none"> o Access controls – provide guidelines to EBSCO for authorizing who may access the product under the customer’s subscription - Data Subject Access Requests <ul style="list-style-type: none"> o As needed, provides details of requests to EBSCO if request is received by Customer from end users (in the event that an end user submits a request through Customer rather than through EBSCO) 	<ul style="list-style-type: none"> - Implementation of organizational and technical measures <ul style="list-style-type: none"> o See Schedule II for details - Maintenance and support of product <ul style="list-style-type: none"> o Security patches o Feature updates o Technical support o Availability and up-time - Data storage, including backups - Establish the purposes and scope of processing via the Agreement between Parties - Data Subject Access Requests <ul style="list-style-type: none"> o Receives and processes Data Subject Access Requests and honors the data subject rights of information, access, rectification, erasure, restricted processing, data portability, right to object, and the right to avoid automated decision-making o Manages the contact form, email address, and phone number for intake of privacy requests

Customer	EBSCO
	<ul style="list-style-type: none"> ○ Upon request, notifies customer of data subject request - Provide legal basis for processing end user data <ul style="list-style-type: none"> ○ Agreement between parties establishes contract to provide services ○ Collection of individual consent and acceptance of terms of use, privacy policy, etc. from end users - Incident response <ul style="list-style-type: none"> ○ Implementation of process ○ Notification of customer - Subprocessors - vetting and notifying customer of new subprocessors - Privacy Risk Assessments – conduct PRA/DPIA as needed for vendors, features, products, etc. which process personal information

Data importer(s):

For Customer Personal Data:

1. **Name:** EBSCO International, Inc.
Address: 10 Estes Street, Ipswich, MA 01938
Contact person’s name, position and contact details:
Activities relevant to the data transferred under these Clauses: Academic and scholastic research
Signature and date:
Role (controller/processor): Processor

2. **Additional Information:** Customer will act as the Controller of Customer Personal Data where Customer Personal Data is processed by EBSCO. EBSCO will act as the Processor of Customer Personal Data.

“**Customer Personal Data**” means the Personal Data that is provided by Customer to EBSCO or that is processed by EBSCO on Customer’s behalf in connection with the Agreement.

For User Personal Data:

1. **Name:** EBSCO International, Inc.
Address: 10 Estes Street, Ipswich, MA 01938
Contact person’s name, position and contact details:
Activities relevant to the data transferred under these Clauses: Academic and scholastic research, creation of user profiles
Signature and date:
Role (controller/processor): Joint Controller and Processor

2. **Additional Information:** Customer will act as the Controller of User Personal Data where User Personal Data is processed by EBSCO. EBSCO will act as the Joint Controller of User Personal Data.

“User Personal Data” means the Personal Data provided directly by Customer’s end users to EBSCO through the products and services purchased by Customer.

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred: Entity information required for handling the subscription and users of applications, including but not limited to students, teachers, employees, authors.

Categories of personal data transferred: First name, last name, email address, authentication information, search information, research notes.

Sensitive Data transferred (if applicable), and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved: Not Applicable.

The frequency of the transfer (e.g., whether the data is transferred on a one-off or continuous basis): Continuous.

Nature of the processing: Providing access to EBSCO databases; storing user information in customized profiles; facilitating the retrieval of user search history.

Purpose(s) of the data transfer and further processing: To perform the obligations between the parties, per the Agreement, to provide research tools, to personalize the experience and to prevent harvesting. The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period: As long as reasonably necessary, some personalization information will be held until deletion is requested by a customer or user.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing:

Subject Matter: First name, last name, email address, authentication information, search information, research notes

Nature of processing: The nature of processing includes the following: Data storage and software delivery, consent management, fulfilling data subject rights requests. Please also see Schedule III for the link to the Subprocessors for comprehensive information about how specific subprocessors process data.

Duration: Continuous

C. COMPETENT SUPERVISORY AUTHORITY

The competent supervisory authority, in accordance with Clause 13, is the Supervisory Authority of Ireland.

Schedule II

Technical and Organizational Measures Including Technical and Organizational Measures to Ensure the Security of Data

EBSCO shall maintain and use appropriate safeguards to prevent the unauthorized access to or use of Customer Personal Data and to implement administrative, physical and technical safeguards to protect Customer Personal Data. Such safeguards shall include:

1. Network and Application Security and Vulnerability Management:

- a. Measures of pseudonymization and encryption of personal data:
Personal data is encrypted at rest using the 256-bit Advanced Encryption Standard (AES-256), and in transit using Transport Layer Security (TLS) encryption. Cryptographic key management is in place as outlined in National Institute of Science and Technology (NIST) standard 800-57.
- b. Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services:
EBSCO has an ongoing commitment to certification against relevant International Organization for Standardization (ISO) standards, including ISO standards 27001, 27017, 27018 and 27701 both on-premise and at Amazon Web Services (AWS) managed data centers. EBSCO is hosted both within the Amazon Web Services platform and within legacy on premise data centers in Ipswich, MA and Boston, MA. Applications and data are distributed for purposes of high availability and resilience. Features such as automatic recovery and automatic scaling have been implemented. Applications together with their container configuration can be redeployed within minutes, if necessary.
- c. Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident:
All applications and data are distributed across multiple nodes and the nodes are distributed across multiple availability zones within Amazon Web Services to ensure high availability of the service. The use of a container-based architecture further helps to ensure high availability of the service. For example, applications automatically restart if they encounter issues and if a specific node fails, it is removed from service and traffic is directed to the remaining 'healthy' nodes. Where appropriate, nodes are set to automatically scale to handle unexpected spikes in traffic. Regular service management meetings review the performance and future capacity needs of the service. The infrastructure enables horizontal and vertical scaling to be implemented with significantly reduced lead times compared to a physical infrastructure. For our legacy on premise, EIS employs two concurrent data centers with failover capabilities in the event that one of the sites experiences an outage. EBSCO's on-premise data centers are protected with uninterruptable power supplies, fire suppression systems and limited access only to personnel necessary for the ongoing operation of the data centers. EBSCO continuously monitors service availability. The current status can be found here: <https://status.ebsco.com/>

- d. Processes for regularly testing, assessing, and evaluating the effectiveness of technical and organizational measures in order to ensure the security of the processing:

EBSCO contracts third party penetration testing on an annual basis. In addition, vulnerability scans are conducted through an automated code deployment pipeline. Our production environment is scanned continuously. We employ a managed 24/7 security operations team to continuously monitor our environment. EBSCO regularly applies security updates to our environment following our comprehensive vulnerability management process. These updates are done on a rolling basis using a Scaled Agile Framework for Enterprises (SAFe).

Organizational measures are reviewed twice annually, through an internal audit as well as an external audit conducted on an annual basis by accredited third party auditors. In addition, regular access reviews to sensitive data and systems are conducted on a regular basis.

EBSCO continually evaluates the security of its network and associated Services to determine whether additional or different security measures are required to respond to security risks or findings generated by periodic reviews.

- e. Measures for the protection of data during transmission:
All data is encrypted in transit using TLS, both from the users' browser to the applications as well as data in transit between EBSCO systems and subprocessors.
- f. Measures for the protection of data during storage:
Personal Data is encrypted at rest using the 256-bit Advanced Encryption Standard (AES-256). All data storage is isolated from the public internet by a dedicated firewall to ensure only EBSCO personnel can access the database.
- g. Measures for ensuring system configuration, including default configuration:
Standardized system configurations are enforced through automated code deployment pipelines where appropriate.
- h. Measures for internal IT and IT security governance and management:
EBSCO's Governance Risk and Compliance (GRC) Team maintains the EBSCO Information Security and Privacy Management system (ISPMS). The ISPMS is continuously monitored and improved to conform to or exceed the standards required by ISO 27001, ISO 27701, ISO 27017, and ISO 27108. The EBSCO ISPMS is comprised of the ISMS-Information Security Management System and PIMS-Privacy Information Management System. External and internal audits of the ISPMS are performed on an annual basis. Security logs are monitored continuously.
- i. Measures for certification/assurance of processes and products:
In addition to the measures for internal IT management and IT security governance above, regular, mandatory training is delivered through an online learning platform to ensure all staff are familiar with their responsibilities and up to date with policies and procedures. Clear processes are in place to manage security related incidents and to liaise with law enforcement if required.
- j. Measures for ensuring data minimization:
EBSCO follows best practices for minimizing data attributes to only those needed to perform required functions and allow its customers and user patrons the ability to extend the minimum

default data set if required.

k. Measures for ensuring data quality:

Institutions and end users have the ability to review and update their information through a self-service module, or through contacting EBSCO according to the Privacy Policy. Where applicable, data validation controls are implemented in our environment.

2. Logical access controls:

a. Measures for user identification and authorization:

A small number of the EBSCO Team with responsibilities for administering and supporting the system have access to the production environment and databases. This is strictly controlled by role and requires two-factor authentication to gain access.

Customer Administrator access to end user data is only possible through using an EBSCOadmin administrator account. Only personnel designated by the customer and a small number of EBSCO's privileged users have access to this information.

Customers have the ability to set up different authentication options. Options include, but are not limited to, integration through Single Sign On (SSO) using SAML 2.0, username and password, IP whitelist authentication, patron ID, Google Campus Activated Subscriber Access (CASA), Universal CASA and Cookies.

3. Secure media disposal controls:

a. Measures for ensuring limited data retention:

It is vital that personal data stored within EBSCO's systems meets the requirements for data privacy and protection and part of that is ensuring personal data is not retained beyond what is necessary for the defined purpose.

In many cases, EBSCO allows the ability for customers to anonymize end user data by pseudonymized SSO configuration or removing the option for User Patrons to personalize.

b. Measures for allowing data portability and ensuring erasure:

Upon request or through the self-service module, EBSCO customers can extract Database Usage Reports, Interface Usage Reports, Link Activity Reports, Login Usage Report and Title Usage Reports. This data can also be obtained upon request at contract termination, or at any time through EBSCOadmin.

4. Logging Controls:

a. Measures for ensuring events logging:

EBSCO allows customers to view database usage reports, interface usage reports, link activity reports, login usage reports and title usage reports through EBSCOadmin.

EBSCO employs Security Information and Event Management (SIEM) logs across our resources. These logs are monitored internally by our information security team and 24/7 managed security operations center (SOC). No customer action is required, and customers do not have access to these internal logs.

5. Personnel Controls:

Contracts for new staff and the onboarding process emphasize individual responsibilities for information security and the potential penalties for misuse. Staff resignations trigger an automated process to ensure access rights to EBSCO's systems are revoked in a timely fashion.

The IT Acceptable Use Agreement covers the acceptable use of EBSCO's information assets. It is issued to both permanent and contract staff and forms part of the induction for new starters.

Security awareness training is delivered through EBSCO's online training platform. It is delivered at least annually and is mandatory for all employees.

6. Physical security and environmental controls:

- a. Measures for ensuring physical security of locations at which personal data are processed: EBSCO is committed to ensuring the safety of its employees, contractors and assets and takes the issue of physical security very seriously. EBSCO has a comprehensive set of physical security controls which ensure that its data centers and offices are sufficiently protected. Access to data centers is limited only to necessary personnel, and all access is logged and reviewed for abnormalities.

EBSCO also contracts with AWS for the processing of customer data. AWS provides world class security within their hosted data centers. For more information on physical security in AWS hosted environments see: <https://aws.amazon.com/compliance/data-center/controls/>.

Schedule III

List of Subprocessors

MODULE TWO: Transfer controller to processor

The controller has been notified of the use of the subprocessors linked below may be utilized at the time of contract execution. For an updated list of subprocessors, please see www.ebsco.com/subprocessors.



Product Order Form

CustID: s9143261
 OrderID: WSR998964
 Date: 11/05/2025
 Page 1 of 1

10 Estes Street
 P.O. Box 682
 Ipswich, MA 01938
 USA
 www.ebsco.com

(978) 356-6500
 (800) 653-2726
 Fax: (978) 356-5640
 information@epnet.com

Purchasing Customer
 PAHRUMP COMMUNITY LIBRARY
 701 EAST ST
 PAHRUMP, NV, 89041-0578
 USA

Billing Address
 PAHRUMP CMTY LIBRARY
 701 EAST ST
 PAHRUMP, NV, 89048-0578
 USA

Contact:
 Shanna Gibbons
 775-727-5930 ext 105
 assistdir@pahrumplibrary.org

Your invoice will be sent to:
 Invoice and Billing Communication
 ap@pahrumplibrary.org

Product Name	Begin Date	Expire Date	Price
Stacks - Standard/Core	10/01/2025	09/30/2026	\$7,363.00

Total: \$7,363.00
 The above excludes all applicable tax
 Currency: US Dollar

Price represented is the cash discounted price for payments received by check or electronic payment. If paying by a method other than check or electronic payment, please inquire for non cash discounted pricing. Payment due upon receipt of invoice. Interest of 1 percent per month charged for payment received later than 30 days after invoice date. eBooks and eAudiobooks ordered are non-returnable and non-refundable.

Terms and Conditions

Customer agrees to terms and conditions of the appropriate license agreement for usage of purchased access or subscription to electronic databases, econtent and services. If ordering ebooks or audiobooks, customer also agrees to the terms and conditions of the Library eContent Agreement. We do not knowingly collect personal information from a child under the age of 13. Consistent with COPPA, the Customer is responsible for obtaining all required consents and authorizations for anyone under the age of 13 to use our Products and collect personal information.

Order Comments:

Customer and EBSCO will utilize the Terms and Condition / SaaS contract completed in May, 2025 for this renewal of Stacks.

Authorized Signature: _____

Date: _____

Print Name: _____

Title: _____

Please sign, scan and email this form to: LAUREN WEYBURN at lweyburn@ebsco.com

Thank you for your business!

If unable to scan, please fax to: 978 356-5640