



ELSEVIER

**License Agreement for
Delivery and Use of Data
and Full Text Articles**

AGREEMENT made as of this June 4, 2015 by and between:

**OPEN LIBRARY SOCIETY
INC.** , with offices at

34-20 78th Street #3D
Jackson Heights NY 11372-2572

"Licensee", of the one part.

AND

ELSEVIER B.V., a corporation
organised and existing under the laws
of The Netherlands, with offices at

Radarweg 29
1043 NX Amsterdam
The Netherlands

including its affiliates, hereinafter
together referred to as "Licensor", of
the other part,

WITNESSETH

- a) Whereas, Licensor agrees to provide Content to Licensee, allowing Licensee access to pre-published or published information from the journals and books of Licensor and enabling Licensee to excerpt, abstract, index and extract Data to be included in its Products as set forth hereunder;
- b) Whereas, Licensee wishes to obtain specific rights in respect of Content, delivered by Licensor to Licensee in electronic files, as set forth hereunder.

Now, therefore, in consideration of the promises and agreements contained herein, the parties agree as follows:

ARTICLE 1 GRANT OF LICENCE

1.1 *Definitions*

- a) "Authorised Users" as used in this Agreement, means the individuals affiliated with Licensee who are directly involved in the processing of Content solely for the purpose of creating the Product(s).
- b) "Content" as used in this Agreement, means the Data and in XML format from the journals and books owned and/or published by Licensor.
- c) "Data" as used in this Agreement, means the index terms, bibliographic information, references, digital object identifiers, keywords, and abstracts, or any other data when included.
- d) "License" as used in this Agreement, means a non-exclusive, non-transferable (except as expressly set forth herein), worldwide license.
- e) "Product(s)" as used in this Agreement, means Products listed in Annex 1 of this agreement, produced and published by Licensee and Licensee partners, containing Data along with similar data obtained from other sources.
- f) "ScienceDirect" as used in this Agreement, means Licensor's platform called ScienceDirect which provides access to certain of the Content.
- g) "Snippets" as used in this Agreement, means short contextually relevant query-dependent text or data which may include bibliographic metadata as well as a maximum of 120 words of query-dependent text from individual Full Text Articles.
- h) "Term" as used in this Agreement, means the term as further set forth in Article 6.1 hereunder.
- i) "Users" as used in this Agreement, mean users of the Product(s).

1.2 *Grant and Undertaking*

For the Term of this Agreement and subject to the terms and conditions set forth herein, Licensor grants to Licensee a License to do the following.

- a) To load the Content on the secured servers of Licensee and to assign index terms to and create indexes based upon the Content. Such indexes may include the Data but besides the Data no other parts of the Full Text Articles may be stored in the indexes.
- b) To manipulate and to adapt the Data in order to conform to the format(s) of Licensee.
- c) To display Data in the user interface of the Products or in the user interface of a non-commercial third party product. Licensee shall inform Licensor in writing within 30 days from the effective date access to the Data has been given to such a third party product by providing an update to Annex 1.

- d) To include the indexes created under subparagraph (a) in the Product(s) of Licensee.

In exercising its rights under the License granted above, Licensee shall have the following obligations -

- e) To ensure that the Data are stored only on secured servers for the Term and to ensure that access to these Data is only permitted to Authorised Users and is limited to the use as permitted in this Agreement. Any third party access to the Data requires permission in writing from the Licensor.
- f) To provide in the Product direct (DOI or PII) links to the article on ScienceDirect next to all instances where Data obtained from Licensor are displayed.
- g) In the event Licensee indexes multiple instances of the Full Text Article, Licensee shall ensure that the link to ScienceDirect is displayed more prominently than the links to the other versions of the article (i.e. higher page ranking and with at least the same size button and text) and that the link to ScienceDirect is clearly recognizable as the final, published version.
- h) To indicate in displayed results whether a user has access to the full text on ScienceDirect, by integrating with Licensor's entitlements API.
- i) To remove from its index, upon Licensor's request, links to illicit versions of Full Text Articles published by Licensor.
- j) To communicate new key features to Licensor prior to the release. If user testing shows that the new key feature directs users away from the Licensor Full Text Article copy in favour of other versions of the same Full Text Article, Licensee will agree to not release such feature.
- k) To allow Licensor to review the implementation of the Data in the Product, to provide Licensor with the right to suggest improvements to the display and ranking of the search results for Content that is available in ScienceDirect and with the right to refuse the launch and termination of this Agreement with immediate effect in the event Licensor determines at its sole discretion the conditions described above have insufficiently been implemented.

1.3 *Restrictions*

- a) Except as expressly permitted under Article 1.2, Licensee shall not use, copy, reproduce, redistribute or make available to third parties any of the Content as provided by Licensor to Licensee.

1.4 *Ownership*

- a) Licensee acknowledges that Licensor owns all right, title and interest in the Content of Licensor.

- b) Except for those rights specifically provided for in the License, Licensor retains all right, title and interest in and to the Content, and all other material and property provided by Licensor to Licensee.

ARTICLE 2 SUPPLY OF CONTENT

- 2.1 Licensor shall make available to Licensee, subject to the terms and conditions set forth herein, the Content in accordance with the publishing schedule of Licensor. The Content will be made available in XML format via Licensor's on licensor's FTP server.

At the start of the agreement Licensor will provide a script to RePEc to support licensee to convert the Content to licensee's format. Any changes to the script required due to changes in Licensee or Licensor's format will be for the responsibility and cost of Licensee.

Licensor shall notify Licensee in a timely fashion but no later than 30 days prior to the implementation of significant changes to its technical implementation methodology or content formats.

ARTICLE 3 FEES

- 3.1 Licensor agrees to provide the Content to Licensee at no cost and Licensee agrees to process the Content at no cost.

ARTICLE 4 INDEMNITY BY LICENSEE

- 4.1 Licensee shall indemnify, defend and hold harmless, within the rules of applicable law, Licensor for any direct loss or liability arising from gross negligence and acts of wilful misconduct by Licensee.

ARTICLE 5 REPRESENTATION AND WARRANTIES OF LICENSOR

- 5.1 Licensor hereby represents and warrants that to the best of its knowledge and belief: (i) Licensor has all authority and rights necessary to enter into and to fulfil the terms of this Agreement and to grant the rights and to consummate the obligations described herein, (ii) Licensor owns or has the right to license all intellectual property rights subsisting in the Content and necessary to enable Licensee to exercise the rights granted hereunder, (iii) the Content or portions thereof do not infringe the intellectual property rights of any third parties.
- 5.2 If any claim is asserted against the Licensor alleging that the Content or portions thereof infringes upon a third party's intellectual property rights, then the Licensor shall promptly notify Licensee of such infringement claim. Licensor does not warrant the scientific accuracy or completeness of information contained in the Full Text Articles, nor does it warrant the suitability of this information for any particular use or application, including but not limited to implied warranty of merchantability and fitness for a particular purpose.
- 5.3 Except as expressly stated in this Agreement, each party disclaims all liability to the other party in connection with the parties' performance of this Agreement and in no event will the infringing party be liable to the other party for special, indirect or consequential damages including but not limited to loss of profits or unfitness for user purposes. The parties do not

exclude or limit liability for direct physical injury or death, caused solely by the negligence of their employees acting within the course of their employment and the scope of their authority.

- 5.4 Licensors will indemnify, defend and hold Licensee harmless from all actual liabilities, damages and losses incurred by Licensee, its parent and subsidiary organizations, and their respective officers, directors, employees and agents (including all reasonable costs and expenses, including reasonable lawyers' fees) to the extent arising out of any legal action based on any claim by a third party that the Content as delivered by Licensor to Licensee infringes or otherwise violates a copyright or trademark of a third party. This indemnity shall only apply provided Licensee gives Licensor prompt notice of the claim, allows Licensor conduct of the claim, provides full assistance and information in connection with the claim, and does not compromise or settle the claim without the written consent of Licensor.
- 5.5 Licensor reserves the right to withdraw from the Content any material that it no longer retains the right to provide or that it has reasonable grounds to believe is unlawful, harmful, false or infringing and upon Licensor's request Licensee shall promptly remove all portions of such withdrawn Content from its Products.

ARTICLE 6 TERM

- 6.1 This Agreement shall become effective as of the latest day of signature and, subject to earlier termination under Article 7, shall terminate on the first anniversary thereof, with an automatic renewal for subsequent 1 [one] year periods, except if either party to this Agreement gives notice in writing to the other party at least 60 [sixty] days prior to the expiration of the then current term.

ARTICLE 7 TERMINATION

- 7.1 Either party shall be entitled to terminate this Agreement for cause by giving notice in writing by registered mail to the other party, at the address first mentioned above, that the other party has failed to meet or is apparently unable or unwilling to meet one or more of the obligations of this Agreement. In such a case, the other party will have 60 [sixty] days to meet the stated obligation[s] and, if it does not do so, this Agreement will be terminated effective the last day of the 60 [sixty] day period, at the option of the non-infringing party. Either party shall be entitled to terminate this Agreement for convenience by giving ninety (90) days notice in writing by registered mail to the other party, at the address first mentioned above.
- 7.2 Upon termination of this Agreement, all obligations and rights under this Agreement will end on the effective date of the termination. After termination of this Agreement, Licensee will abstain from using the Content supplied to it. Licensee will erase or destroy from magnetic computer tapes and disks and make unsuitable for the uses licensed under this Agreement, all Content received from Licensor and Licensee shall provide a notice of destruction upon request of the Licensor.

ARTICLE 8 ENTIRE AGREEMENT, AMENDMENT, NO ASSIGNMENT, WAIVER

- 8.1 This Agreement sets forth the entire understanding of the parties on the subject matter hereof, and supersedes all previous oral or written representations or agreements relating to the rights and duties provided for herein, and this Agreement may not be modified or amended except by

written agreement of the parties. For clarity, nothing in this Agreement shall supersede, modify or otherwise affect any other agreement in effect between the parties or their affiliates, including, without limitation, other agreements for the provision or use of Data or Content, which Data or Content may also be subject to this Agreement.

8.2 This Agreement shall bind and inure to the benefit of Licensor, its successor and assigns.

8.3 All notices and other communications provided for in this Agreement (other than routine, in-the-course-of-business communications) shall be in writing and sent or delivered at the addresses set forth below or such other addresses as may be designated by either party in a written notice to the other party complying with the terms of this Article. All notices and communications will be effective, in the case of written notices, when delivered to the addressee.

Notices to Licensee shall be sent to:

Dr. Joanna P. Davies
34-20 78th Street #3D
Jackson Heights NY 11372-2572

Technical Contact:

Jose Manuel Barrueco
barrueco@uv.es

Notices to Licensor shall be sent to:

Alexandra de Lange
Elsevier B.V.
Radarweg 29
1043 NX, Amsterdam
The Netherlands
E-mail: a.lange@elsevier.com

Technical contact:

EWcontent@elsevier.com

ARTICLE 9 CONFIDENTIALITY

9.1 *Confidentiality*

Subject to the express rights granted to Licensee in respect of the Content under Article 1.2, the terms and provisions of this Agreement, and any and all other business information disclosed by either party (the "Disclosing Party") to the other (the "Receiving Party") in the course of its performance of this Agreement, which information is designated by the Disclosing Party as confidential or proprietary or which the Receiving Party should recognize from the facts and circumstances surrounding the disclosure of such information is confidential or proprietary to the Disclosing Party, shall constitute confidential information ("Confidential Information") of the Disclosing Party. The Receiving Party shall hold the Confidential Information of the Disclosing Party in confidence and will use such Confidential Information only for the purposes of fulfilling its obligations under this Agreement. Nothing in this Agreement will be interpreted to confer upon the Receiving Party any implied or express

license to use the confidential information of the Disclosing Party for any other purpose. The Receiving Party will not disclose, provide, disseminate or otherwise make available any Confidential information of the Disclosing Party or any part thereof in any form whatsoever to any third party without the express written permission of the Disclosing Party. The obligations shall not apply to any (a) information that is now or later becomes publicly available through no fault of the Receiving Party; (b) information that is obtained by the Receiving Party from a third party (other than in connection with this Agreement) who is not under any obligation of secrecy or confidentiality to the Disclosing Party with respect to such information; (c) information that is independently developed by the Receiving Party (e.g., without reference to any Confidential Information); (d) any disclosure required by applicable law, provided that the Receiving Party shall use reasonable efforts to give advance notice to and cooperate with the Disclosing Party in connection with any such disclosure; and (e) any disclosure with the consent of the Disclosing Party. The parties acknowledge that the covenants contained in this section 9.1 are reasonable and necessary to protect their legitimate interests, that the parties would not have entered into this Agreement in the absence of such covenants, that any breach or threatened breach of such covenants may result in irreparable injury to the Disclosing Party, and that the remedy at law for such breach or threatened breach may be inadequate. Accordingly, the parties agree that the Disclosing Party shall, in addition to any other rights or remedies which it may have, be entitled to seek such equitable and injunctive relief without the posting of any bond or security as may be available from any court of competent jurisdiction to restrain the Receiving Party from any breach or threatened breach of such covenants.

9.2 In its commercial communication, Licensee will not make use of any trade name or trademark belonging to Licensor. Any reference to Licensor's trade names/rights will be subject to prior approval of Licensor which Licensor will not unreasonably withhold, provided that once a particular statement or use has been approved, that same statement or use may be made again without further approval.

ARTICLE 10 GOVERNING LAW AND JURISDICTION

10.1 *Governing law*

This Agreement shall be governed and construed in accordance with the laws of The Netherlands.

10.2 *Jurisdiction*

Any dispute arising in connection with this Agreement or the breach thereof, shall, in the absence of an amicable solution by the parties, belong to the exclusive jurisdiction of the competent courts in Amsterdam, The Netherlands.

In witness whereof, the parties hereto have signed this Agreement

Open Library Society Inc.

Name: Joanna P. Davies

Title:

Date:

Elsevier B.V.

Name:

Title:

Date:



Annex 1 Products

RePEc Author Service

Munich Personal Archive

IDEAS

EconPapers

RePEc Genealogy

RePEc Biblio Hand-selected bibliography of articles and papers in economics.

EconAcademics.org.

New Economics Papers

EDIRC Directory of Economics institutions

RePEc Plagiarism Committee

LogEc

CitEc

CollEc

SPZ

Socionet