

Appendix B
SUBSCRIPTION TERMS AND CONDITIONS

**Addendum to British Columbia Electronic Library Network
Electronic Products License Agreement**

This Library eContent Addendum dated January 2013 hereby supplements the attached License Agreement dated July 2008 between EBSCO Publishing and BC Electronic Library Network.

Licensed Material: EBSCO eBook Academic Subscription Collection

Commencement Date: July 1, 2012 to June 30, 2013

Total Fee (excluding sales tax): As evidenced by a Product Order Form, which is incorporated in this Agreement by reference.

Access Details: Unrestricted, concurrent, multi-user, institution-wide access, including remote access with IP authentication

Members of the Consortium Participating In the Agreement:

This Addendum and License Agreement, taken together, grant to Members of the Consortium, the non-exclusive right to permit Authorized Users to access and use the eContent at the sites of Members or remotely, through secure authentication, subject to and in accordance with the terms of the attached License Agreement.

Whereas, EBSCO has acquired certain rights to convert various electronic books, audio books and other works to electronic format and to market and distribute the works as converted as eContent, and EBSCO operates an electronic library service for hosting and managing eContent and other materials over the Internet.

Whereas, the Consortium desires to purchase a license to certain eContent, subject to the terms and conditions described in this Addendum and the attached License Agreement.

In consideration of the mutual covenants and obligations set forth below, the parties agree as follows.

1. Definitions

“Audio Book(s)” mean EBSCO's electronic versions of certain audio books and other works in which EBSCO has acquired certain rights.

“eBook(s)” mean EBSCO's electronic versions of certain electronic books and other works in which EBSCO has acquired certain rights.

“EBSCOhost” means the Website operated by EBSCO and open to the general public in order to provide information about EBSCO's products and services.

"eContent" means Audio Books, eBooks, or both, as applicable, depending on the context and the Library's purchases.

“eContent Collection(s)” means a collection of eContent that EBSCO has grouped together for Purchase or Subscription sales.

“eContent License” means a license to use the relevant eContent.

"Library's EBSCOhost" means the Website operated by EBSCO and open to Library and Authorized Users in order to access and use eContent licensed to Library.

“MARC Record” means an electronic record containing metadata and other relevant information about the corresponding eContent.

“Platform Services” mean EBSCO's services related to Library's ongoing access to and use of purchased eContent or eContent Collections, or both, via the Internet and Library's EBSCOhost.

2. Limiting Access Measures

Members of the Consortium will be solely responsible for determining which Authorized Users will have access to Library’s EBSCOhost under this Agreement. Members of the Consortium agree to implement appropriate measures to limit the use of eContent through access by Patrons (“Limiting Access Measures”) within a reasonable time frame. Limiting Access Measures may change from time to time and include, but are not limited to, remote patron authentication applications, authentication through protected IP addresses, a patterned identification check and privileged user accounts. EBSCO, in its sole discretion, may discontinue a Member of the Consortium’s access to Library’s EBSCOhost if Participant fails to implement Limiting Access Measures within a reasonable timeframe. Except for standard fees charged by Members of the Consortium to Authorized Users, Members of the Consortium will not charge any Authorized User for use of Library’s EBSCOhost.

3. Copyrighted Works

- 3.1 Library acknowledges and agrees that the copyright to the eContent is owned by or licensed to EBSCO and the respective publisher thereof. All Rights Reserved. By purchasing a license to eContent, Library obtains certain rights to access and use a copy of the eContent under this Agreement, but Library does not obtain or own any rights in the copyrights or any other intellectual property rights that may be associated with the eContent. Library agrees that any use of eContent by Library and its Authorized Users is governed by and will comply with applicable laws. Notwithstanding any other provisions of this Agreement, nothing shall in any way restrict or limit the ability of the Library, Authorized Users or Walk-in Users to engage in or conduct any activity that is otherwise permitted under copyright laws, including without limitation pursuant to any fair dealing exceptions. Library acknowledges that it and its Patrons have no right to make copies of any eContent, or any portions thereof, except to the extent permitted by applicable copyright laws. Library may print or download limited portions of eContent, where such functionality is available, for the purposes of fulfilling

interlibrary loan requests as long as those actions comply with applicable copyright laws.

- 3.2 Library acknowledges and agrees that repeated violations by Library or Authorized Users of copyright or other intellectual property right of EBSCO or any third party that are not cured 30 days from receipt of notice of violation will give EBSCO the right to terminate this Agreement for cause.

4. Terms of Use

The use of Library's EBSCOhost by Members of the Consortium and Authorized Users will be governed by the "License Agreement between the Parties as it may be amended from time to time by the parties in writing, which are incorporated in this Agreement by reference. If a Member of the Consortium or Authorized User violates the License Agreement, EBSCO reserves the right, in its sole discretion, to suspend the Member of the Consortium's or Authorized User's access to and use of Library's EBSCOhost. Licensee acknowledges and agrees that, in the case of repeated or persistent violations, EBSCO may terminate this Agreement. The terms of this Agreement will prevail over any inconsistent provision of the License Agreement, and no change in the License Agreement will be applied to materially adversely affect Licensee's rights under this Agreement. If a Member of the Consortium purchases an annual license to Adobe Content Server then Participant agrees to abide by the Adobe Content Server terms of use.

5. Permitted Uses

Authorized Users at the Participating Members' institutions may use the eContent for purposes of research, education or other non-commercial use as follows (to the extent such functionality is available for the eContent to be used), to the extent such uses are permissible under copyright law:

- 5.1 Display. Library and Authorized Users shall have the right to electronically display the eContent.
- 5.2 Digitally Copy. Library and Authorized Users may download and digitally copy a limited portion of the eContent.
- 5.3 Print Copy. Library and Authorized Users may download and print one copy of a chapter of eContent for personal use and archive the same on their own personal computers.
- 5.4 Recover Copying Costs. Library may charge a reasonable fee to cover costs of copying or printing portions of eContent for Authorized Users. Such cost recovery fees shall not constitute commercial use.
- 5.5 Collections of Information. Library and Authorized Users shall be permitted to extract or use limited amounts of information contained in the eContent for educational, scientific, or research purposes, including citing the information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.
- 5.6 Electronic Reserve. Library and Authorized Users may incorporate links to a reasonable portion of the eContent in Electronic Reserve collections for the use of Authorized Users in the course of instruction, but not for Commercial Use. Each such item shall carry

appropriate acknowledgement of the source, listing title and author of the extract, title and author of the work, and the publisher.

- 5.7 Electronic Learning Environments. Library and Authorized Users may incorporate links to the eContent to be used in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments, library environments, and courseware technologies) hosted on a Secure Network. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner.
- 5.8 Use in Academic Research. Members and Authorized Users may incorporate limited portions of the eContent in printed or electronic form in assignments, portfolios, theses and dissertations, including reproductions of the eContent for library deposit and other non-commercial uses.
- 5.9 Electronic Links. EBSCO agrees to use reasonable efforts to comply with the Open URL standard. Library may provide electronic links to the eContent from Library's web page(s) and is encouraged to do so in ways that will increase the usefulness of the eContent to Authorized Users. EBSCO will assist the Library upon request in creating such links effectively, and will use the OpenURL standard for such links whenever feasible. Library may make changes in the appearance of such links and/or statements accompanying such links as reasonably requested by EBSCO.
- 5.10 Interlibrary Loan. Using electronic, paper, or intermediated means, Library at its discretion may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan for limited portions of the eContent. Library agrees to fulfill such requests in compliance with applicable copyright laws.
- 5.11 Scholarly Sharing. Authorized Users may transmit to a third party colleague in hard copy or electronically, minimal, insubstantial amounts of the eContent for personal use or scholarly, educational, or scientific research or professional use provided that in no case any such sharing is done in a manner or magnitude as to act as a replacement for the recipient's or recipient institution's own subscription to either the eContent or the purchase of the underlying Work.
- 5.12 Alter or Modify the eContent. Library or Authorized Users may alter or modify the EContent as necessary to make them perceptible on a computer screen or as otherwise permitted in this Agreement to provide an equivalent level of service to Authorized Users with appropriately documented print or other disabilities. Any Materials altered in this manner will include the wording of any copyright notice, or other notices or disclaimers, as provided on the original. For the avoidance of doubt, a brief note to the effect that usage of the Materials is limited according to Copyright law and this Agreement, with a link to the full notice, is acceptable.
- 5.13 Federated Search. Library and Authorized Users may include the eContent in federated or metasearch services provided that such searching does not impede EBSCO's systems or servers.

6. Prohibited Uses

Authorized Users at Participating Members' institutions may not:

- 6.1 Disseminate eContent outside the campus or institution by any means, except as noted above.
- 6.2 Systematically download eContent by robots or other automatic processes without explicit approval from EBSCO.
- 6.3 Burden server(s) with activities, such as computer programs, that automatically downloads content, commonly known as web robots, spiders, crawlers, wanderers, or accelerators. If there is evidence that such unauthorized activities have taken place, the Library will be contacted, and access to the offending IP address (es) may be blocked if a prompt resolution is not achieved.
- 6.4 Remove, cover, overlay, obscure, block, or change any copyright notices, legends, or terms of use; or modify or create a derivative work of any ebook content without the prior written permission of the copyright holder.
- 6.5 Re-use content for commercial use without prior written permission of the copyright holder.
- 6.6 Make agreements for access to eContent content with individuals, organizations, vendors, affiliates, or partners, who are not Authorized Users.

Regarding sections 5.2 and 5.3 above, if the Library becomes aware of unauthorized access to eContent, it will notify EBSCO immediately and cooperate in locating and attempting to stop the specific individuals who are abusing the service. If the specific abuser(s) cannot be identified or stopped, EBSCO has the right to withhold, suspend, or terminate access to any or all subscribed content, without liability.

7. Posted Terms of Service

This Addendum and attached License Agreement signed by EBSCO and Consortium shall comprise the complete terms and conditions of use and shall prevail over any Terms of Use that EBSCO may post on its website, and no change in the web-posted Terms of Use will be applied to materially adversely affect Consortium and Member Library's rights under this Agreement.

8. MARC Records

EBSCO will provide Library with one copy of the MARC Record that corresponds to each piece of eContent included in the Collection(s) purchased by Library. EBSCO and Library agree that MARC Records that are the property of OCLC: Library may use these OCLC MARC Records for its own internal purposes as further described in Exhibit C.

9. Purchase of Subscriptions to eContent Collection(s)

During the Term of the Agreement, Library may select and purchase Subscriptions to eContent Collection(s) in accordance with EBSCO's then current ordering practices. Each

final order of Subscriptions to eContent Collection(s), as evidenced by a Product Order Form, is incorporated in this Agreement by reference.

As EBSCO adds additional eContent Collection(s) or changes the terms and/or prices for existing eContent Collection(s), the EBSCO Subscription Prices are subject to change. However, in no case will changes to the EBSCO Subscription Prices be applied retroactively to existing Subscriptions.

Payment of the Subscription Fee allows Library to access the eContent Collection on Library's EBSCOhost Web-site and receive Platform Services for such eContent for the term of the subscription.

10. Removing and Reinstating Purchased eContent

Library may elect to have any purchased eContent removed from Library's EBSCOhost, by providing EBSCO with written notice of the election.

Library may elect to have any purchased eContent reinstated to Library's EBSCOhost, by providing EBSCO with written notice of the election.

11. Post Termination Access

At the expiry of the agreement, the Licensee will not keep in his possession any data of the eContent Subscription Database for further use or for archival reasons, nor give further access to the Database unless explicitly agreed with the Publisher.

AS WITNESS the hands of the parties the day and year below first written

Accepted:

FOR EBSCO PUBLISHING:

FOR [NAME THE CONSORTIUM]:

Name:

Name:

Position:

Position:

Signature:

Signature:

Date:

Date:

EXHIBIT C TO LIBRARY ECONTENT AGREEMENT – GUIDELINES FOR THE USE AND TRANSFER OF OCLC-DERIVED RECORDS

REVISION OF NOVEMBER 16, 1987

I. GUIDELINES

(See Definitions in Part II below)

1. Each member and nonmember library may use records without restriction, and may transfer records of its own holdings without restriction to other libraries.
2. In addition to transfers to libraries, each member and nonmember library may transfer records of its own holdings without restriction, to (a) member networks, (b) state and multi-state library agencies and (c) all other noncommercial firms.
 - a. Member networks may produce and transfer to any member library, copies on magnetic tape of records used or inserted into the OCLC database by the library. Each member network also may process records of the holdings of any member or nonmember library which has employed and agreed to pay it for that service, provided the member network has first signed either an individual agreement with the library, or a general agreement with OCLC, containing measures agreed upon by OCLC and the member network for protection of the records it has been employed to process. Any other use and transfer of records by member networks will be as provided in separate understandings with OCLC.
 - b. The use and transfer of records by library systems or projects operated by or under the aegis of one or more state or national library agencies will be as provided in separate understandings with OCLC. Such understandings may include (i) arrangements to incorporate state or national bibliographic databases into the OCLC system, (ii) paid-up licenses to use records in state or national programs (e.g., by means of payments for OCLC multi-institution tapes) and/or (iii) any other understandings that will facilitate state or national programs as well as the maintenance and enhancement of the OCLC database.
 - c. The use and transfer of records by any other organizations to which transfers are made under this Guideline 2 will be as provided in separate understandings with OCLC.
3. In addition, each member and nonmember library may transfer records of its own holdings to commercial firms which the library has employed and agreed to pay to process such records, provided that each commercial firm has first signed an individual agreement with the library, or OCLC has advised the library that the commercial firm has signed a general agreement with OCLC, in either case containing measures agreed upon by OCLC and the commercial firm for protection of the records it has been employed to process. In addition, each member and nonmember library may make any other transfers of records to commercial firms, subject to prior written agreements with OCLC. However, there is no requirement for prior written agreements (a) for transfers made under Guideline 1 above to libraries operated by commercial firms or (b) for transfers to commercial firms by former OCLC member libraries of records of their holdings, so long as the libraries maintain no continuing user status with OCLC.
4. When a nonmember organization makes bibliographic information available to OCLC which is subject to usage or transfer restrictions imposed by such nonmember organization, and OCLC nevertheless elects to accept the information for addition to the OCLC database. OCLC will notify libraries to which it makes the information available, and rights to use and transfer records based on such information will be subject to the same restrictions.
5. When transfers under Guideline 1 above are made to machine-readable union catalogs accessible by nonmember libraries, it is requested that machine-readable copies of the records of such union catalogs be submitted to OCLC. OCLC, at its own expense, will have the right to add such records to its database for all uses consistent with its chartered purposes.
6. The Guidelines above apply to all uses and transfers of records except where a mutually acceptable agreement establishing broader or narrower rights is made with OCLC relating to a specific product or service.

II. DEFINITIONS

1. The term "member library" means a general member of OCLC as defined in its Code of Regulations.
2. The term "nonmember library" means any library other than a member library.
3. A "member network" is an OCLC-affiliated regional, state or multi-state library network organization which is in contract with OCLC to provide OCLC services and products, or to assist OCLC to provide such services and products, to general members of OCLC.
4. A "commercial firm" is any organization permitted, under applicable law, to operate on a for-profit basis.
5. The term "records" means bibliographic records and holdings data (including copies thereof) derived from the OCLC database, including derivative works made from such records, and either received in machine-readable form or converted by the transferee into machine-readable form. The term also includes such records when held only in eye-readable form, in the case of proposed transfers to commercial firms.

However, records do not include, as to any member or nonmember library (a) bibliographic records designated in the OCLC database as original cataloging by such member or nonmember library and (b) bibliographic records derived by such member or nonmember library from sources other than the OCLC database and to copies of which in the OCLC database its holdings symbol has been attached by tapeloading. Such excluded records are freely transferable and are not dealt with in these Guidelines. OCLC-derived records held only in eye-readable form are freely transferable except to commercial firms.

6. The terms "transfer" and "transfer of records" refer to all sales, exchanges, gifts, sharing and other transfers, and all online access except online access provided to end-user patrons of a library in authorized possession of the records.