

JSTOR® ARCHIVE LICENSE AGREEMENT

(Please type or print clearly)

Licensee (Institution) Name: College Center for Library Automation
Licensee Address: 1753 West Paul Dirac Drive, Tallahassee, FL 32310
Agreement Date:

Contact Information: Please ensure this information remains current by providing regular updates.

Licensee Primary Contact: (responsible for overseeing participation)
Attn: Lucy Harrison
Address: 1753 West Paul Dirac Drive
Tallahassee, FL 32310

Licensee Technical Contact: (responsible for providing IP information for access)
Attn: Melvin Davis
Address: 1753 West Paul Dirac Drive
Tallahassee, FL 32310

Telephone: (850) 922-6044
Facsimile:
E-Mail: LHarrison@cclaflorida.org

Telephone: (850) 922-6044
Facsimile: (850) 922-4869
E-Mail: MDavis@cclaflorida.org

Licensee Legal Notice Contact: (responsible for administering legal material)
Attn: Glendon Forgey
Address: Tallahassee Community College
444 Appleyard Drive
Tallahassee, FL 32304
Telephone: (850) 201-8590
Facsimile:
E-Mail: forgevg@tcc.fl.edu

JSTOR Legal Notice Contact:
Attn: Nancy Kopans, General Counsel
JSTOR
149 Fifth Avenue, 8th Floor
New York, New York 10010
Telephone: (212) 358-6400
Facsimile: (212) 358-6499
E-Mail: nk@jstor.org

If this license is to cover multiple campuses, please list the campuses below:

Note: JSTOR may consider certain Campuses to be separate institutions, and fees and license terms will be determined accordingly.

See Attached Schedules A-1 through A-28

Campus IP Information (addresses or domain ranges for computers on your campus(es)):

Note: If IP information is not available upon completing this Agreement, JSTOR User Services staff will contact the Technical Contact listed above to obtain the information and initiate access. JSTOR reserves the right to delay access or cancel this Agreement if adequate IP information is not provided.

Access provided via logon script hosted by CCLA

Are you currently using a proxy server to provide access to restricted resources? Yes No

If yes, please provide the IP Information of the proxy server:

If yes, please also provide the URL of the webpage that offers information about how to use the proxy:

Do you have plans to do so in the future? Yes No

Do you provide to users any other means of access to restricted resources from machines outside of your campus IP domain? Yes No

The parties agree to be bound by the terms and conditions of the JSTOR Archive License Agreement attached hereto, in witness whereof the parties have set their hands as of the Agreement date above.

LICENSEE BY: [Signature]
NAME: Glendon Forgey
TITLE: VP for Admin

JSTOR BY: [Signature]
NAME: Michael P. Spinella
TITLE: Executive Director

## **JSTOR ARCHIVE LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (this “Agreement”) is entered into by and between JSTOR, a not-for-profit corporation formed under the laws of the State of New York (“JSTOR”), and the Licensee specified above as of the Agreement Date.

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### 1. DEFINITIONS

“Agreement Date” means the date first above written.

“Archive” means the electronic archive of journals provided by JSTOR according to the terms of this Agreement, as well as portions thereof or Materials (as hereafter defined) contained therein.

“Authorized Users” means persons who are authorized to use Licensee’s library facilities who (a) are affiliated with Licensee as students, faculty or employees, or (b) are physically present in the Library (as hereafter defined).

“Derivative Work” means a work based upon one or more preexisting works such as a modification, enhancement, adaptation, translation, abridgment or any other form in which such preexisting work may be transformed or incorporated and which, if prepared without authorization of the owner of the copyright or other intellectual property right in such preexisting work, would constitute an infringement of such right.

“Intellectual Property” means any trademarks, issued patents and patent applications, copyrights and copyright registrations and applications, rights in ideas, designs, works of authorship, Derivative Works, and all other intellectual property rights relating to the Archive.

“Library” means Licensee’s library building(s).

“Materials” means any portion or portions of journal content in, or printed from, the Archive.

“User Rules” means those terms and conditions for use of the Archive that appear on certain screen displays in the Archive as such may be amended from time to time, or that are otherwise provided to Licensee or to Authorized Users by JSTOR. The User Rules shall include, but not be limited to, the right to make one printed copy, and one electronic copy for storage purposes, of an article or articles from the Archive, solely for an Authorized User’s personal, noncommercial use.

### 2. CONTENT OF ARCHIVE; GRANT OF LICENSE

2.1 The Archive shall consist of the non-current issues of scholarly journals contained in the Collections selected by Licensee in Schedule A. For purposes of this Agreement, “non-current issues” shall begin with the earliest published issue of each journal, and, depending on the journal, continue until a date no more recent than one year prior to the most current published issue. A list of all journals currently available in the JSTOR Collections is provided at <<http://www.jstor.org/about/collection.list.html>> or upon request to JSTOR.

2.2 JSTOR hereby grants to Licensee a non-exclusive license to use the Archive and to provide the Archive to Authorized Users as permitted herein (the “License”).

### 3. USE OF ARCHIVE

3.1 Licensee shall not permit anyone other than Authorized Users to use the Archive, or display or otherwise make available the Archive to anyone other than Authorized Users.

3.2 No use that exceeds the User Rules may be made of the Archive other than as provided herein. It is understood that the purpose of JSTOR is to provide effective preservation of scholarly journals, and facilitate access to such journals by Authorized Users. Accordingly, Licensee may not utilize the Archive for commercial purposes, including but not limited to the sale of Materials, fee-for-service use of the Archive, or bulk reproduction or distribution of Materials in any form; nor may Licensee impose special charges on Authorized Users for use of the Archive beyond reasonable printing or administrative costs. Furthermore, under no circumstances may Licensee (a) remove, obscure or modify any copyright or other notices included in the Archive or the Materials; (b) use Materials in a manner that would infringe the copyright therein; or (c) copy, download, or attempt to download an entire issue or issues of a journal from the Archive or substantial portions of the Archive. Licensee shall contact the publisher of a journal in order to obtain a printed copy of one or more entire issues of such journal.

3.3 Licensee shall use all reasonable efforts to protect the Archive from any use that is not permitted under this Agreement, and shall notify JSTOR of any such use of which it learns or is notified. In the event of violation of the User Rules, Licensee agrees to consider the imposition of further restrictions on access to, and downloading and printing from, the Archive. JSTOR and Licensee shall from time to time consult on the establishment of further measures to inform Authorized Users of the availability of the Archive and of the User Rules.

3.4 In the event of any unauthorized use of the Archive by an Authorized User, (a) JSTOR may suspend or terminate such Authorized User's access to the Archive, (b) upon notice to Licensee except in exigent circumstances, JSTOR may suspend or terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred, and/or (c) Licensee shall suspend or terminate such Authorized User's access to the Archive upon JSTOR's request.

3.5 It is understood that Licensee may wish to use the Archive for the purpose of fulfilling occasional requests from other collections, a practice commonly called Interlibrary Loan. Licensee may use Materials that have been printed from the Archive in Interlibrary Loan in accordance with the Copyright Act of the U.S. Only printed Materials, and not electronic copies of such Materials, may be used in Interlibrary Loan. JSTOR shall provide, in a publicly accessible area of the Archive, information to facilitate direct contacts with publishers for the provision of Materials or for other permissions.

3.6 The parties shall cooperate in gathering data on usage of the Archive, and shall provide such data to each other upon request. Notwithstanding the foregoing, the parties shall not provide data from which an individual user could be identified, unless such disclosure is reasonably necessary for pursuing a claim or investigation concerning alleged violation(s) of the User Rules or is in response to a subpoena, court order, or other legal proceeding.

3.7 Staff at libraries that are not affiliated with Licensee and who are participating in collaborative digital reference services known as "Ask a Librarian" may access the Archive in order to assist Authorized Users (as defined above). Such access shall occur only contemporaneously with assisting Authorized Users in the context of "Ask a Librarian." Staff at Licensee libraries may access the Materials in the Archive in connection with "Ask a Librarian" in order to respond to occasional reference questions from individuals participating in "Ask a Librarian" who are not Authorized Users. Notwithstanding the foregoing, and subject to Section 3.5 herein, such individuals shall not have access to or be provided the Materials from Licensee in paper, electronic, or any other medium. Licensee represents and warrants that unauthorized users will not have access to the JSTOR Archive through "Ask a Librarian."

### 4. DELIVERY; SUPPORT

4.1 The Archive will be stored at one or more locations in digital form accessible by telecommunications links between such locations and Licensee's or Authorized Users' workstations. JSTOR shall make the Archive available online in digital form to Licensee and Authorized Users within ten (10) days of when this

Agreement is signed and received by JSTOR and the Collection(s) selected are publicly available, provided, however, that IP addresses or passwords shall have been provided to JSTOR pursuant to Section 4.2 herein.

4.2 Access to the Archive shall be controlled by JSTOR through the use of IP addresses and/or, at JSTOR's sole discretion and with JSTOR's prior permission, other secure methods. Licensee shall be responsible for issuing and terminating passwords, verifying the status of Authorized Users, providing lists of valid passwords or sets of IP addresses to JSTOR if applicable, and updating such lists on a regular basis. The terms and conditions of this Agreement shall apply to any such updates. Licensee shall cooperate with JSTOR in the implementation of additional security procedures as they are developed.

4.3 Licensee shall inform JSTOR if it makes use of a proxy server to provide access to the Archive, or if it becomes aware of a proxy server that is providing such access.

4.4 JSTOR shall provide support to Licensee and to Authorized Users in accordance with the terms set forth on Schedule B attached hereto and incorporated herein.

4.5 Licensee is responsible for establishing and maintaining hardware and Internet access to provide access to, and to transmit, the Archive to Authorized Users. Licensee understands that Internet browser software is required to access the Archive. Schedule C attached hereto and incorporated herein sets forth hardware platforms and browsing software required and/or recommended for accessing the Archive. Licensee understands that from time to time the Archive may be added to or modified by JSTOR, that portions of the Archive may migrate to other formats, and that the terms of Schedule C may be updated. JSTOR shall give reasonable prior notice of any material changes to Licensee.

## 5. FEES

5.1 Licensee shall make payment to JSTOR for the License granted herein pursuant to the payment terms set forth on Schedule A.

5.2 Licensee shall be responsible for all costs associated with establishing access to the Archive as set forth in Section 4.5 above, including but not limited to any telecommunications or other charges imposed by carriers, proprietary network operators and Internet access providers, or licenses for browser software, if any, as well as for all costs associated with printing from the Archive. Licensee shall further be responsible for all costs, fees, and taxes relating to Licensee's or Authorized Users' use of the Archive.

## 6. TERM AND TERMINATION

6.1 This Agreement shall continue in effect for one (1) year from the first day of the calendar year that follows the Agreement Date, and will renew for successive one (1) year terms unless earlier terminated by either party by written notice not less than ninety (90) days prior to the end of the then-current term.

6.2 In the event that either party believes that the other materially has breached any obligations under this Agreement, or if JSTOR believes that Licensee has exceeded the scope of the License, such party shall so notify the breaching party in writing. The breaching party shall have sixty (60) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the sixty (60) day period, the non-breaching party shall have the right to terminate the Agreement without further notice. In addition, JSTOR may terminate this Agreement on sixty (60) days' written notice if, in JSTOR's reasonable opinion, the cumulative effect of violations of User Rules by Authorized Users justifies such termination.

6.3 Upon termination of this Agreement all online access to the Archive by Licensee and Authorized Users shall be terminated. Print copies of Materials may be retained by Licensee or Authorized Users and used subject to the terms of Section 3 of this Agreement, which terms shall survive any termination of this Agreement.

## 7. PROPRIETARY RIGHTS

7.1 Licensee hereby recognizes and agrees that the Archive and all Intellectual Property are proprietary to JSTOR, subject to the rights of third parties therein. Licensee hereby warrants that it will not, during the term of

this Agreement or any time thereafter, attach, dispute or contest, directly or indirectly, JSTOR's right and title in and to the Archive, nor assist or aid others to do so.

7.2 Neither party may use the other's name or trademark(s) in a way likely to cause confusion as to the origin of goods or services, or to endorse or show affiliation with the other, except as specifically approved. Notwithstanding the foregoing, (i) JSTOR may use Licensee's name and/or the name of the Library in brochures or other materials to identify Licensee as a participant in JSTOR, and (ii) Licensee is encouraged to use JSTOR's name to announce its participation to Authorized Users, provided that Licensee supplies JSTOR with a copy of such announcements upon JSTOR's request.

7.3 Licensee may provide electronic links to the Archive from Licensee's web page(s), and is encouraged to do so in ways that will increase the usefulness of the Archive to Authorized Users. JSTOR will provide assistance to Licensee in creating such links effectively through supplemental online instructions. Linking guidelines shall be provided in connection with the supplemental instructions and shall provide that, among other things, Licensee agrees to cooperate in testing the links and to make changes in the appearance of such links and/or in statements accompanying such links as reasonably requested by JSTOR. JSTOR may request notification of the URL(s) of Licensee's web page(s) containing such links. Other than the creation of such links, Licensee shall not modify, manipulate, or create a Derivative Work of the Archive without the prior written permission of JSTOR.

## 8. REPRESENTATIONS AND WARRANTIES

8.1 Each party hereby represents and warrants that it is duly organized and validly subsisting and has full authority to enter into this Agreement and to bind the party to the terms and conditions herein. Each party further represents and warrants that it has caused this Agreement to be executed by a duly authorized representative.

8.2 Licensee represents and warrants that (a) the list of IP addresses and/or passwords provided to JSTOR in accordance with Section 4.2 above is accurate and valid, and (b) Licensee shall exert reasonable efforts to maintain sufficient security with respect to such IP addresses and/or passwords such that no one other than Authorized Users is or will be able to access the Archive.

8.3 Licensee represents and warrants that it is providing no IP addresses to JSTOR that pertain to any campus other than those listed or indicated on page one of this Agreement, or for which access has otherwise been agreed in writing by JSTOR. JSTOR reserves the right to assess additional fees and require additional license terms or separate license agreements in the event that Licensee provides IP addresses pertaining to campuses other than those listed or indicated on page one of this Agreement. Licensee represents and warrants that it is not providing access to the JSTOR Archive to campuses other than those listed or indicated on page one of this Agreement, or for which access has otherwise been agreed to in writing by JSTOR. JSTOR reserves the right to assess additional fees and require additional license terms or separate license agreements in the event that campuses other than those listed or indicated on page one of this Agreement, or distance education programs, are sought to be added in the future.

8.4 The Archive has been developed and is maintained with reasonable professional care. JSTOR shall use reasonable efforts to provide continuous availability of the Archive online subject to periodic unavailability due to maintenance of the server(s), the installation or testing of software, the loading of journals as they become available, and downtime related to equipment or services outside the control of JSTOR including public or private telecommunications services or internet nodes or facilities.

8.5 JSTOR represents and warrants that use of the Archive by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party. The foregoing shall not apply, however, to modifications or Derivative Works of the Archive created by Licensee or by any third party, nor to improper usage of the Archive by Authorized Users. Subject to constraints imposed by or in agreement with journal publishers, JSTOR shall use reasonable efforts to ensure that the journals contained in the Archive are complete and faithful replications of the print versions of such journals. JSTOR makes no representation or warranty, however, and expressly disclaims any liability with respect to the content of any Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information. Notwithstanding the foregoing, Licensee agrees to notify JSTOR of any infringement, libel, or other claim pertaining to any Materials of which Licensee becomes aware. Upon such

notification or if JSTOR learns of such a claim from another source, JSTOR may remove such Materials from the Archive pending the resolution of such claim.

**8.6 OTHER THAN THE EXPRESS WARRANTIES STATED IN THIS SECTION 8, THE ARCHIVE IS PROVIDED ON AN “AS IS” BASIS, AND JSTOR DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS, IMPLIED, ORAL OR WRITTEN), RELATING TO THE ARCHIVE OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF QUALITY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. JSTOR MAKES NO WARRANTIES RESPECTING ANY HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, TIME BOMB, LOGIC BOMB OR OTHER SUCH COMPUTER PROGRAM. JSTOR FURTHER EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO AUTHORIZED USERS, OR TO ANY THIRD PARTY.**

8.7 JSTOR shall not be liable for any loss, injury, claim, liability or damage of any kind resulting from the unavailability of the Archive, interruption of the services provided hereunder, or arising out of or in connection with Licensee’s use of Materials. If the Archive fails to operate in conformance with the terms of this Agreement, Licensee shall immediately notify JSTOR, and JSTOR’s sole obligation shall be to repair the nonconformity. In no event shall JSTOR’s liability exceed the fees paid to JSTOR by Licensee. Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, even if advised of the possibility of a claim.

8.8 JSTOR expressly disclaims all representations and warranties set forth in this Section 8 to the extent invoked in connection with a claim based upon or arising out of usage in any country other than the United States. Access to the Archive by Authorized Users outside of the United States may be terminated by JSTOR if warranted, in JSTOR's sole opinion, by applicable laws or regulations.

## 9. NOTICES

All notices given pursuant to this Agreement shall be in writing and may be delivered by hand or by overnight carrier, or shall be deemed received within five (5) business days after mailing if sent by registered or certified mail, return receipt requested. If any notice is sent by facsimile, confirmation copies must be sent as specified above. Either party may from time to time change its Notice Address by written notice to the other party.

## 10. MISCELLANEOUS

10.1 This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written. No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of JSTOR and Licensee.

10.2 This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement.

10.3 Nothing contained herein shall be deemed to create an agency, joint venture, or partnership relationship between the parties.

10.4 Waiver of any provision herein shall not be deemed to be a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

10.5 If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.6 Neither party may assign or transfer, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.