

Custom Terms and Conditions

• COS • CSA • Chadwyck-Healey • Culture Grams • eLibrary • Micromedia ProQuest • ProQuest • SIRS •

By accessing the Product(s), you, the Institution listed on the Order Form, agree that you and your Authorized Users are bound as follows:

1. **License Grant.** Subject to the terms of this Agreement, ProQuest LLC ("ProQuest") hereby grants you a non-exclusive, non-transferable license to access and use the products listed on your approved Order Form, invoice or purchase order (the "Products") at your principal location (and those on any Additional Sites/Member Libraries Schedule). Any remote access rights and/or limits on simultaneous users are specified on the Order Form. Except as expressly set forth in this Agreement, you do not acquire any intellectual property rights in the Products or any associated software, systems, documentation or other materials. All such rights and interests remain in ProQuest and its licensors.
2. **Authorized Users.** By "Authorized User" we mean only: (1) For public libraries: library staff, individual residents of your reasonably defined geographic area served and walk-in patrons while they are on-site; (2) For schools and other academic institutions: currently enrolled students, faculty, staff, visiting scholars and walk-in patrons while they are on-site; and (3) For other types of organizations: your employees, independent contractors and other temporary workers while they are performing duties within the scope of their employment or assignment.
3. **Remote Access.** If your subscription allows you to provide remote access to a Product, you will strictly limit such access to Authorized Users through the use of passwords, IP addresses or other secure method of user verification. You will not share access with other institutions or third parties either directly or indirectly. You will immediately notify us if you believe your security has been compromised.
4. **No redistribution.** ProQuest endorses the Interlibrary Loan and Scholarly Sharing provisions below. Beyond these uses, you may not redistribute any material retrieved from the Products nor allow any use that will infringe the copyright or other proprietary right of ProQuest or its licensors. You may not use the Products to create products or perform services which compete or interfere with those of ProQuest or its licensors.
5. **Permitted Uses.** The Products may be used for your internal research or educational purposes, as follows:
 - a. **Research and Analysis.** You and your Authorized Users are permitted to display and use information contained in the Products for educational, scientific, or research purposes, including illustration, explanation, example, comment, criticism, teaching, research or analysis, provided that in doing so you or your Authorized Users do not violate an express provision of this Agreement.
 - b. **Digital and Print copies.** You and your Authorized Users may download or create printouts of a reasonable portion of the articles or other works contained in the Products so long as each work is retrieved directly from the on-line database system in a manner that causes a "hit" to be registered on the on-line system for each and every print or digital copy. All reproduction and distribution of such printouts, and all downloading and electronic storage of materials retrieved through the Products shall be for your own internal or personal use as allowed under the doctrines of "fair use" and "fair dealing". Downloading of all or parts of a Product in a systematic or regular manner or so as to create a collection of materials comprising all or a material subset of a Product is strictly prohibited whether such collection is in electronic or print form.
 - c. **Electronic Reserves.** Articles or other works contained in a Product may be included in your electronic reserves systems so long as such use employs durable links to the Products so that a "hit" is registered on ProQuest's on-line platform each time a student views the work on reserve.
 - d. **Fair Use/Fair Dealing.** Nothing in this agreement restricts your use of the materials contained within the Products under the doctrines of "fair use" or "fair dealing" as defined under the laws of the United States or England, respectively.
 - e. **Interlibrary Loan (ILL).** Interlibrary Loan of materials retrieved from the Products is allowed provided that the loan is not done in a manner or magnitude that would replace the recipient library's own subscription to either the Products or the purchase of the underlying Work (e.g., newspaper, magazine or book), and that you comply with any special terms imposed by specific content providers or licensors as required under Section 6(c). With respect to our ProQuest® Dissertations & Theses product and other electronic archives such as Early English Books Online, Interlibrary Loan is restricted to one *printed* copy of the specifically requested dissertation, book or pamphlet loaned out at any one time.
 - f. **Scholarly Sharing.** You and your Authorized Users may provide to a third party colleague minimal, insubstantial amounts of materials retrieved from the Products for personal use or scholarly, educational or scientific research use in hard copy or electronically, 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 Products or the purchase of the underlying Work.
 - g. **MARC Records.** You may load ProQuest's MARC record Products into your Online Public Access Catalog (OPAC) containing your library holdings provided such records are not loaded into a shared online catalog system such as WorldCat without ProQuest's prior written consent.

- h. Collaborative Digital Reference Services. Staff at Licensee libraries may access the licensed materials to fulfill occasional requests from non-affiliated patrons asking reference questions, provided that all document delivery and scholarly sharing shall conform to Sections 5(d) and 5(f) of this Agreement. Staff at non-affiliated libraries who are participating in collaborative digital reference services may access the licensed materials in order to assist Authorized Users (as defined above) who are legitimately allowed access to the licensed materials.

6. **Supplemental Terms.**

- a. Updates. ProQuest will announce any substantial additions, deletions or modifications of information, databases, materials, capabilities or services within the Products on its electronic mailing list service. These shall be subject to the terms and conditions of this Agreement at the time they are added to the Products, but shall not materially alter your use of the Products.
- b. Systems Usage. To protect the Products for the research and educational use of Authorized Users, automated searches against ProQuest's systems are not permitted with the exception of nonburdensome federated search services. Data mining is prohibited.
- c. Content Provider Supplemental Terms. Individual content licensors occasionally have conditions of use applicable solely to their content. Links to such content-specific conditions are clearly displayed with the associated content and will not materially alter your use of the Products. With respect to third-party databases delivered through the Illumina platform, any supplemental terms and conditions are clearly hypertext linked on each search screen.

7. **Fees and Payments.** You agree pay the fees for the Products as shown on the order form, attached invoice, or accepted purchase order within thirty (30) days of your receipt of ProQuest's invoice. Firm U.S. Government orders require a valid purchase order and advance payment or payment in accordance with FAR 52.213.2.

8. **Term and Termination.**

- a. Term. For subscription-based Products, the term of your rights and access shall continue from the Start Date until the Expiration Date as those are listed on the Order Form or an accepted purchase order for each such Product, plus any renewal term(s) agreed to. For CD-ROM and FTP databases, you are granted a perpetual license to the most current version purchased, subject to the continued application of Acceptable Use Provisions of this Agreement (Section 1-6, above). This Agreement shall continue in force for so long as you are within the term of at least one ProQuest Product.
- b. Termination for Breach. If a party breaches any material term of this Agreement and does not cure after 30 days written notice, the Agreement may immediately be terminated in whole or as to the affected Product. In the event the license granted under this agreement is terminated you shall disable all Products in your possession. This includes the destruction of any CD-ROMs, FTP databases or any software as well as any downloaded copies retrieved from the Products. In addition, ProQuest reserves the right to pursue any other legal remedy available to it.
- c. Remedial Action. Without limiting the above, ProQuest may suspend delivery of Product(s) to you if it reasonably determines that your failure to comply with the Acceptable Use Provisions may cause irreparable harm to it or its licensors under the specific circumstances. If delivery is suspended, ProQuest will work with you in good faith to restore your access as soon as possible.

9. **Privacy.** The Products do not require the entering or capture of personally identifiable user information. ProQuest makes no representation as to whether any federal, state or local laws may regulate your administration of Authorized Users' access to the Products or require you to obtain consent from any Authorized User (or, in the case of minors, the parent or guardian of such user).

10. **Access and Use.**

- a. ProQuest® CD-ROM Products may include software to be used in connection with the Products. It may not be reverse engineered or used for any other purpose.
- b. You are responsible for local telecommunication connections if they are needed and any related third party charges.
- c. ProQuest may seek to assist you from time to time regarding hardware and software compatibility with the Products, however PROQUEST SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR DETERMINING THE COMPATIBILITY OF ANY HARDWARE OR SOFTWARE NOT SUPPLIED BY PROQUEST WITH THE PRODUCTS AND PROVIDES NO WARRANTY WITH RESPECT TO THE OPERATION OF SUCH HARDWARE OR SOFTWARE WITH THE PRODUCTS.

11. **U.S. Government Restricted Rights.**

The Products include materials that are commercial technical data and/or computer databases and/or commercial computer software, as applicable, which were developed exclusively at private expense by ProQuest LLC (f/k/a ProQuest Information and Learning Company and/or Cambridge Scientific Abstracts LP and/or ProQuest-CSA LLC) 789 E. Eisenhower Parkway, Ann Arbor, MI 48108. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer databases and/or computer software are subject to the limited rights restrictions of DFARS 252.227-7202-3 (June 2005) Rights in Computer Software and Computer Software Documentation and/or subject to the restrictions of DFARS 252.227-7019 (June 1995) Validation of Asserted Restrictions – Computer Software, as applicable for U.S. Department of Defense procurements and the limited rights

restrictions of FAR 52.227-14 (June 1987) Rights in Data-General, FAR 52-227-20(c)(2-3)) (March 1994) Rights in Data-SBIR Program and/or subject to the restricted rights provisions of FAR 52.227-15 (May 1999) Representation of Limited Rights Data and Restricted Computer Software and FAR 52.227-19 (June 1987) Commercial Computer Software-Restricted Rights, as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal procurement.

12. **EEOC Statement.** ProQuest agrees to comply with all provisions of Executive Order 11246 of September 24, 1965, and all rules, regulations and relevant orders of the Secretary of Labor related to equality of employment opportunity which Executive Order, rules, regulations and orders are incorporated herein by reference.
13. **Limited Warranty and Disclaimer of Warranty.** ProQuest warrants that it has all rights necessary to enter into this Agreement and to provide the Products to you. EXCEPT AS PROVIDED IN THE PRECEDING SENTENCE, THE PRODUCTS AND ALL EQUIPMENT AND SOFTWARE PROVIDED BY PROQUEST TO YOU ARE PROVIDED "AS IS" AND "AS AVAILABLE." THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, NEITHER PROQUEST NOR ANY PROVIDER OF INFORMATION OR SOFTWARE IN THE PRODUCTS WARRANTS THE USE OF THE PRODUCTS OR THAT THE SOFTWARE OR SYSTEMS WILL BE UNINTERRUPTED OR ERROR-FREE OR MAKES ANY WARRANTY AS TO THE AVAILABILITY OF THE PRODUCTS, THE ACCURACY, TIMELINESS, CORRECTNESS, RELIABILITY, CURRENCY OR COMPLETENESS OF THE INFORMATION OR THE RESULTS OF YOUR USE OF THE PRODUCTS, THE SOFTWARE OR THE INFORMATION, EVEN IF ASSISTED BY PROQUEST.
14. **Limitation of Liability.** THE MAXIMUM LIABILITY OF PROQUEST AND ITS LICENSORS ARISING OUT OF ANY CLAIM RELATED TO THE PRODUCTS WHETHER IN CONTRACT, TORT OR OTHERWISE SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES RECEIVED BY PROQUEST FROM YOU FOR THE PRODUCT AT ISSUE UP TO THE TIME THE CAUSE OF ACTION GIVING RISE TO SUCH LIABILITY OCCURRED. IN NO EVENT SHALL PROQUEST OR ITS LICENSORS BE LIABLE TO YOU FOR ANY LOST PROFITS, OR ANY OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES RELATED TO THE USE OF THE PRODUCTS OR PROQUEST'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF WHETHER PROQUEST OR ITS LICENSORS ARE DEEMED NEGLIGENT, EVEN IF IT IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
15. **Miscellaneous.**
 - a. **Place.** ProQuest's principle place of business where this contract is formed and all services will be deemed performed is located at 789 E. Eisenhower Pkwy, Ann Arbor, MI 48108.
 - b. **Assignment.** You may not assign this Agreement or any right granted hereunder without the prior written consent of ProQuest, which consent shall not unreasonably be withheld.
 - c. **Taxes.** Except to the extent that you are tax-exempt as to the tax in question, you are responsible for any sales, use, VAT, personal property or other local taxes (except those based on ProQuest's income) or import duties imposed on the Products.
 - d. **Waiver.** Failure to enforce any provision of this Agreement shall not be construed to be a waiver of such provision.
 - e. **Force Majeure.** Neither Party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to acts of God, Government Restrictions (including the denial or cancellation of any export or other necessary license), wars, acts of terrorism and/or any other cause beyond the reasonable control of the party whose performance is affected.
 - f. **Interruption of On-line Products.** Neither ProQuest nor its licensors shall be liable or deemed in default of this Agreement for any failure or delay or interruption in the on-line Products or any failure of any equipment or telecommunications resulting from any cause or circumstance beyond the reasonable control of ProQuest.
 - g. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter and supersedes any and all previous and contemporaneous understandings or agreements between the parties with respect to the same subject matter and may not be amended, except in a writing signed by the parties. The terms of your Purchase Orders, if any, are for your convenience and do not supersede any term or condition of this Agreement.
 - h. **Severability.** If any provision of this Agreement is found invalid or unenforceable pursuant to a decree or decision of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable according to its terms.