



Service Agreement Between EBSCO Information Services, LLC and The City of Irvine

This document represents an Agreement between The City of Irvine and EBSCO Information Services, LLC (hereinafter called EBSCO). EBSCO is a serials subscription agency offering discovery and management solutions for print and electronic resources. The City of Irvine is a library that requires the services routinely offered by a subscription agency in the discovery and management of its print and electronic resources.

The terms and conditions under which EBSCO will provide such services are listed below.

1. The term of this Agreement shall be defined as the subscription period beginning July 1, 2025 and extending through June 30, 2026. Unless written notification of intent to cancel is given to either party 60 days prior to the expiration of this Agreement, this Agreement will be considered renewed by mutual consent of both parties for the following subscription year thereafter.
2. It shall be the exclusive right of The City of Irvine to select the resources for ordering each year. Automatic renewal notices will be sent to the City of Irvine 6 months prior to the end of the term for subscription renewal consideration
3. For each year of this Agreement, EBSCO will order subscriptions as directed by The City of Irvine. The City of Irvine will designate a person (or persons) who is empowered (signature authority) to act on behalf of The City of Irvine for order placement and renewal; and other such routine activities associated with subscription management for The City of Irvine.
4. For services provided hereunder, EBSCO will invoice subscriptions at a discount equal to 4% of the publishers' subscription list price for libraries, not to exceed the amount set forth in supplied purchase orders annually. EBSCO reserves the right to re-visit the pricing structure for your account and initiate discussions with you if The City of Irvine's spend changes dramatically (greater than 10%) or EBSCO's agreed-upon publisher terms and arrangements are significantly altered during the contract period.
5. EBSCO will always use the publisher's retail list or quoted price, which is clearly shown on each invoice. The only exceptions are titles for which a publisher does not offer a sufficient discount to EBSCO. These titles will incur a surcharge, currently of up to \$15.00, which will be added to the list price. This surcharge is subject to change based on market conditions and our agreements with publishers.
6. Cancellations will be accepted at any time during the subscription, except when publisher policy prevents this. Your account will be credited an amount equal to what we are refunded by the publisher, less a processing fee of \$30.00 per title. This fee applies only if you elect to cancel the title before the term ends, not if the publisher ceases publication of a title or if you choose to cancel at the time of renewal. Should the publisher instead offer credits for publications or other provisions in place of a refund, EBSCO will pass said credit on to The City of Irvine.
7. Both parties understand that EBSCO, as a serials agency, has no control over publishers' subscription prices. In this connection, EBSCO also has limited influence over the commissions (discounting below retail subscription prices) given to agencies by certain publishers. Therefore, the parties retain the right to renegotiate the service fees stated above should publishers change or alter the commission payment structure to EBSCO.
8. Both parties understand that EBSCO, as a serials agency, has no control over publisher's terms and conditions governing The City of Irvine's use of the subscribed content. The City of Irvine's use of any subscribed electronic content is subject to the terms of the license agreements between The City of Irvine and the relevant publisher, which may be agreed to by browsewrap/clickwrap means or by an executed agreement between the customer and publisher (as determined by the publisher).

- 9. If The City of Irvine determines, in its sole judgment, that EBSCO is not performing to reasonably accepted standards for a subscription agency, EBSCO will be notified of its performance deficiencies and be given a reasonable period in which to correct such deficiencies. If EBSCO fails to correct such performance deficiencies, The City of Irvine shall have the right to terminate this Agreement. EBSCO shall have the right to terminate this Agreement if The City of Irvine fails to pay its invoices in a timely manner or materially changes its ordering of serials to the point where, in EBSCO's sole judgment, the financial incentive to perform is no longer present. Termination of this Agreement will become effective at the end of the subscription period for the serials which are then currently under term with publisher(s).
- 10. Either party may terminate this Agreement, provided all contracted services are paid in full, with at least 30 days prior written notice to the other party stating such party's intention to terminate this Agreement.
- 11. EBSCO prefers payment via check and ACH. If paying with a credit card, a surcharge may apply.
- 12. EBSCO's standard payment terms are net due upon receipt of invoice. A finance charge of 1.0 percent per 30 days will be charged beginning on the 60th day for unpaid balances.

This agreement incorporates the terms and conditions in ATTACHMENT I, attached hereto, provided that in the event of conflict this agreement will prevail EBSCO's liability shall be limited to those of an agency representing The City of Irvine to publishers. EBSCO is not an agent for the publisher(s) in this Agreement and as such does not assume any performance or financial responsibility for the publisher(s). Within the limits of its authority as an agent representing The City of Irvine, EBSCO will exercise every reasonable effort to ensure performance of the publishers to deliver the subscriptions ordered under this Agreement.

Accepted on behalf of
EBSCO Information Services, LLC:

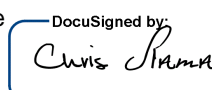
Accepted on behalf of
City of Irvine:

Signature  Signed by:
3452D5C0BFB540F...

Name: Bowen Thagard

Title: Senior Vice President

Date: 5/27/2025

Signature  DocuSigned by:
3294FF52A9CE497...

Name: Chris Slama

Title: Director of Community Services

Date: 5/27/2025

Attest:

By:  Signed by:
0FCAD91E02E547D...
Carl Petersen

Its: City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By:  Signed by:
E04AA49F95474A7...
Jeffrey Melching

ATTACHMENT I

EBSCO

Information Services

EBSCO Journals and Subscriptions Terms & Conditions

Effective May 1, 2025

These EBSCO Journals and Subscription Terms and Conditions (these “Terms”) govern our customers’ (“Customer”, “You” or “Your”) use of EBSCONET (the “Website”) and the purchase and/or use of EBSCO Information Services’ (“EBSCO”) subscription agent services (the “Services”). EBSCO Information Services includes EBSCO International and its branches and subsidiaries.

A. AGREEMENT TO TERMS

1. Customers with written contracts. If You have a written, executed agreement with EBSCO for Services that incorporates these Terms, then these Terms are subject to and superseded by any conflicting terms in your agreement, and will only be changed by written amendment to your agreement.
2. Customers without written contracts. If You are accessing the Website or using the Services without a written, executed agreement with EBSCO, then you agree to these Terms by accessing EBSCONET and utilizing our Services. YOU REPRESENT AND WARRANT THAT: (I) YOU ARE 18 YEARS OF AGE OR OLDER; AND (II) IF CUSTOMER IS A CORPORATION, GOVERNMENTAL ORGANIZATION, OR OTHER LEGAL ENTITY, YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO AGREE TO THESE TERMS ON BEHALF OF CUSTOMER AND BIND THE CUSTOMER TO THESE TERMS. If you do not agree to these terms and conditions, then you are not authorized to make use of this Website or the Services.

EBSCO reserves the right, in its sole discretion, to change, modify, add, or remove all or any part of these Terms and Conditions, including but not limited to any term, applicable fee, policy, or guideline at any time without notice or acceptance by You. Regardless of whether EBSCO has provided You notice, Your continued use of the Website or Services provided by EBSCO shall constitute Your acceptance of this notice and any subsequent changes. It is Your responsibility to check regularly for changes to these Terms on our Website, and the version on the Website shall prevail without further notice to You over all versions and shall apply to agreements entered into after the date of such posting.

B. EBSCONET® ACCESS TERMS

1. Provision of Access. Subject to these Terms, EBSCO hereby grants Customer a non-exclusive, non-transferable right to access and use the Website, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer’s internal use. EBSCO shall provide Customer the necessary passwords and network links or connections to allow Customer to access the Website. “Authorized User” means Customer’s employees, consultants, contractors, and agents who are authorized by Customer to access and use the Website under the rights granted to Customer pursuant to these Terms.
2. Website Content. Subject to the terms and conditions contained in these Terms, EBSCO hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the

extracts, reports and other content made available on the Website (collectively, the “Content”) solely for Customer’s internal business purposes in connection with its use of the Services.

3. Use Restrictions. Customer shall not use the Website for any purposes beyond the scope of the access granted in these Terms. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Website or the Website Content, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Website or information provided on the Website; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Website, in whole or in part; (iv) remove any proprietary notices from the Website or Website Content; or (v) use the Website or Website Content in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
4. Reservation of Rights. EBSCO reserves all rights not expressly granted to Customer in these Terms. Except for the limited rights and licenses expressly granted under these Terms, nothing in these Terms grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Website or the content provided thereon.
5. Suspension. Notwithstanding anything to the contrary in these Terms, EBSCO may temporarily suspend Customer’s and any Authorized User’s access to any portion or all of the Website (an “Access Suspension”) if: (i) EBSCO reasonably determines that (A) there is a threat or attack on any of the Website or its content; (B) Customer’s or any Authorized User’s use of the Website disrupts or poses a security risk to the Website or to any other customer or vendor of EBSCO; (C) Customer, or any Authorized User, is using the Website for fraudulent or illegal activities; or (D) EBSCO’s provision of the Services to Customer or any Authorized User is prohibited by applicable law; or (ii) any vendor of EBSCO has suspended or terminated EBSCO’s access to or use of any third-party services or products required to enable Customer to access the Website. EBSCO shall use reasonable efforts to provide written notice of any Access Suspension to Customer and to provide updates regarding resumption of access to the Website following any Access Suspension. EBSCO shall use commercially reasonable efforts to resume providing access to the Website as soon as reasonably possible after the event giving rise to the Access Suspension is cured. EBSCO will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of an Access Suspension.
6. Third-Party Products. EBSCO may from time to time make third-party products or links to third-party websites (“Third-Party Products”) available to Customer. For purposes of these Terms, such Third-Party Products are subject to their own terms and conditions. If Customer does not agree to abide by the applicable terms for any such Third-Party Products, then Customer should not purchase or use such Third-Party Products.
7. Warranty Disclaimer. This Website and the Website Content are provided on “as is” and “as available” basis. EBSCO does not warrant that its Website will be uninterrupted or error-free. EBSCO reserves the right to revise the Website or withdraw access to it at any time. NO

WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR NON- INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE IN RELATION TO THE AVAILABILITY, ACCURACY, RELIABILITY OR CONTENT CONTAINED WITHIN THE WEBSITE. EBSCO SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR FOR BUSINESS INTERRUPTION ARISING OUT OF THE USE OF OR INABILITY TO USE THIS SERVICE, EVEN IF EBSCO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

C. Use of Services

1. Services. EBSCO Services include entering Customer's orders for Customer-selected subscriptions in a timely fashion, promptly paying the publisher for those orders, following up on any problems reported by the Customer, and providing one invoice to the Customer for all of its orders.
 - a. You can order content through *EBSCONET*[®], EBSCO's information and e-resource management system, or with the support of Your customer service representative.
 - b. EBSCO will place Your orders correctly and on time and ensure the publisher receives payment according to payment terms mutually agreed upon between the publisher and EBSCO.
 - c. Customer represents that it will provide EBSCO any information on organizational characteristics, size, subscription usage or other criteria necessary for EBSCO to obtain accurate price quotations and that such information will be true, correct and complete. EBSCO shall not be liable to Customer for any additional charges required by the publisher or publisher's denial of service resulting from inaccurate information provided by Customer to EBSCO.
2. Delivery and Use of Purchased Content.
 - a. Customer's use of any subscribed electronic content is subject to the terms of the license agreements between the Customer and the relevant publisher (including, electronic content published by EBSCO's affiliates, EBSCO Publishing, Inc. and its subsidiaries), which may be agreed to by browwrap/clickwrap means or by an executed license agreement between the customer and publisher (as determined by the publisher). Access to any electronic subscription shall be delivered by the relevant publisher.
 - b. The publisher is responsible for delivering any print content to You, unless You have selected to use EBSCO JETS consolidation services, in which case the publisher will deliver the content to EBSCO and EBSCO will deliver it to You.
3. Cancellations or Changes in Orders.
 - a. If You notify EBSCO of an order cancellation prior to expiration, EBSCO will notify the publisher and process the cancellation for You, unless a publisher has identified the title

as non-cancelable. If an eligible order is canceled, EBSCO will credit Your account in an amount equal to what EBSCO is refunded by the publisher, less a processing fee.

- b. The processing fee does not apply if you elect to cancel the title at the time of renewal or if the publisher ceases publication.
 - c. When a publication ceases during the term of an order, EBSCO will attempt to obtain a refund from the publisher for You. Upon receipt of refund from the publisher (if any), EBSCO will credit Your account in an amount equal to the amount received from the publisher.
4. Renewals. EBSCO's renewal lists are provided to You for Your review, approval, and submission to EBSCO to ensure timely renewal of Your content. EBSCO works within a timetable for renewals that assures You have time to make buying decisions and enables EBSCO to send the orders and payments to publishers in a timely manner.
5. Relationship of Parties. EBSCO's liability for the Services shall be limited to those of an agent representing the Customer to publishers. EBSCO does not assume any performance or financial responsibility for publishers. Within the limits of its authority as an agent representing the Customer, EBSCO will exercise commercially reasonable efforts to ensure that the publishers deliver the information ordered by the Customer. EBSCO does not accept responsibility for government mail delivery, internet connectivity, publisher performance (including publisher bankruptcy), or other non-agent responsibilities.
6. Pricing. EBSCO is not responsible for and has no control over publisher pricing of its content. Subscriptions are invoiced at current publisher prices. Prices are subject to change without notice, based solely on the publisher's discretion, and such price changes may occur prior to the publisher's acceptance of the order EBSCO places on Your behalf.
7. Surcharges and Taxes. Titles for which a publisher does not offer a sufficient discount to EBSCO and titles designated by the publisher as "Open Access" or "Free on Request," incur a surcharge of up to 15 USD, GBP, EUR, AUD, NZD, or CAD depending on Your invoicing currency. In cases where Your invoicing currency is not one of these six currencies, the surcharge is the approximate equivalent in Your invoicing currency. You are responsible for paying all taxes related to Your order, including, without limitation, all applicable sales, use, consumption, and value-added taxes.
8. Suspension for Breach. EBSCO shall have the right to suspend the provision of Services and/or terminate access to the Website if Customer fails to pay its invoices according to EBSCO's payment terms or if You materially change its ordering of content to the point where, in EBSCO's sole judgment, the financial incentive to perform is no longer present.
9. Claims Process.
 - a. If you would like to make a claim or notify EBSCO of other service issues, you may do so using *EBSCONET*[®], contacting Your customer service representative, or via Electronic Data Interchange (EDI) through Your integrated library system.

- b. Claims for print content should be submitted in a timely manner, as many publishers have a time limit during which they will replace the missing or damaged issue with no additional fee. Some publishers refuse to replace issues for late claims. EBSCO shall not be responsible for missing or damaged issues.
- c. For print content, please allow four to six weeks for weekly publications and six to eight weeks for monthly publications for the publisher to adjust or fulfill a claim. If the problem has not been corrected in that length of time, You should initiate a follow-up request with Your customer service representative or via *EBSCONET*[®].
- d. Please note that issues are mailed directly from the publisher to You. In most cases, EBSCO does not know if a missing issue has been sent or if a subscription that initially failed to start has started, but Your EBSCO customer service representative is available to assist with claim follow-ups as necessary.

D. Payment for Services

- 1. Service Charges. Service charges may be assessed on Your subscription account. Such charges can vary by title and/or by the mix of titles on Your subscription list. EBSCO reserves the right to re-visit the pricing structure and initiate discussions if spend changes dramatically (greater than 10%) or EBSCO's agreed-upon publisher terms and arrangements are significantly altered during the contract period.
- 2. Postal Charges. EBSCO does not assess any postal charges beyond what the publisher charges, and all postal and delivery charges from the publisher will be included in Your invoices from EBSCO. However, EBSCO's Journal Expediting Service (JETS) for consolidated journal deliveries will incur additional charges.
- 3. Currency Exchanges. For orders requiring an exchange of currencies, EBSCO will use the currency trading rates obtained by its internal financial team and its internal currency pricing systems to process and price Your orders for titles not available in Your billing currency. EBSCO is not responsible for changes in pricing that result from fluctuations in currency.
- 4. Payment Terms. Net payment is due upon receipt of invoice on the payment terms specified in the invoice. Late payment incurs a charge of 1 percent per 30 days on unpaid balances, subject to restrictions of applicable law.
- 5. Credits. Overpayments will be credited to Your account and reflected on Your next account balance. Credits will remain on Your account until You advise EBSCO to apply the credit to outstanding invoices. You may request reimbursement in cases where Your account has a credit balance and there are no outstanding invoices.
- 6. Statements. EBSCO provides monthly statements for Your account management.

E. General Terms

- 1. Privacy. You agree that all information you provide to register with the Website or otherwise, including, but not limited to, through the use of the Services, is governed by our [Privacy](#)

[Policy](#), and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

2. Use of Marks. The EBSCO name, *EBSCONET*, the EBSCO logo, and all related names, logos, product and service names, designs, and slogans are trademarks of EBSCO or its affiliates or licensors. You must not use such marks without the prior written permission of EBSCO. All other names, logos, product and service names, designs, and slogans on the Website are the trademarks of their respective owners.
3. Public Statements. You agree that any and all press releases and other public announcements related to these Terms, and any transactions between EBSCO and You, including the method and timing of such announcements, must be approved in advance by EBSCO in writing. EBSCO reserves the right to withhold approval of any public announcement in its sole discretion. Without limitation, any breach of Your obligation regarding public announcements shall be a material breach of these Terms.
4. Confidential Information. From time to time You or EBSCO (as the “Disclosing Party”) may disclose or make available to the other party (as the “Receiving Party”), non-public, proprietary, and confidential information of Disclosing Party, including but not limited to products, services, compilations, pricing, business plans, financial information, and all other information that would be reasonably deemed confidential (“Confidential Information”); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than “as a result of Receiving” Party’s breach of this Section; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party’s possession prior to Disclosing Party’s disclosure hereunder; or (d) was or is independently developed by Receiving Party without using any Confidential Information. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party’s Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party’s Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under these Terms; and (z) not disclose any such Confidential Information to any person or entity, except to the Receiving Party’s Representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under these Terms. If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party’s sole cost and expense, a protective order or other remedy. For purposes of this Section, Receiving Party’s Representatives shall mean the Receiving Party’s affiliates and its or their employees, officers, partners, agents, independent contractors, service providers, subcontractors, attorneys, accountants, and financial advisors. Receiving Party is responsible for any actions of its Representatives in violation of this section.

5. Notice. Except where modified by written agreement between Customer and EBSCO, EBSCO will provide notice to You under these Terms by sending a message to the e-mail address or the mailing address You provide for your account. To give EBSCO notice under these Terms, please send it in writing to your local office at the address found at <https://www.ebsco.com/offices>. Notice will be deemed given: (i) when verified by written receipt if sent by personal courier, overnight courier, or when acknowledged as received if sent by mail without verification of receipt; or (ii) when verified by automated receipt or electronic logs if sent by email.
6. Assignment. Neither party may assign or transfer any part of these Terms without the written consent of the other party, except that EBSCO may assign its rights to an affiliate without consent. Any other attempt to transfer or assign these Terms is void.
7. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Customer to make payments to EBSCO hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, pandemics, epidemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and [(h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.
8. Waiver. Failure to enforce any provision of these Terms and Conditions will not constitute a waiver. The waiver of any right or election of any remedy in one instance, by either party, shall not affect any rights or remedies in another instance. A waiver shall be effective only if made in writing and signed by an authorized representative of both parties.
9. Severability. Should any provision of these Terms and Conditions be deemed illegal or otherwise unenforceable, that provision shall be severed and the remainder of these Terms and Conditions shall remain in full force and effect.
10. Governing Law.
 - a. For Services provided in the US: Except where modified by written agreement between Customer and EBSCO, these Terms are governed by the laws of the State of California, USA, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction, and with respect to any dispute arising out of or relating to these Terms or the Services, the parties consent to personal jurisdiction in, and the exclusive venue of, the state and federal courts in the State of California, USA

- b. For Services provided outside of the US: Except where modified by written agreement between Customer and EBSCO, these Terms are governed by the laws of the country where the EBSCO entity that invoices your orders is located.

11. LIMITATION OF LIABILITY. Except where modified by written agreement between Customer and EBSCO, the parties agree as follows:

- a. IN NO EVENT SHALL EBSCO BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. FURTHERMORE, EBSCO SHALL NOT BE LIABLE TO YOU BY REASON OF ANY IMPLIED WARRANTY, CONDITION, OR OTHER TERM, OR ANY DUTY AT COMMON LAW OR BREACH OF STATUTORY DUTY, WHETHER CAUSED BY THE NEGLIGENCE OF EBSCO, ITS EMPLOYEES, OR AGENTS, OR OTHERWISE, WHICH ARISE OUT OF OR IN CONNECTION WITH THE SERVICES PROVIDED BY EBSCO TO YOU.
- b. EBSCO'S LIABILITY TO YOU SHALL NOT, FOR ANY REASON, EXCEED THREE TIMES THE AGGREGATE SERVICE CHARGE PAYMENTS ACTUALLY MADE BY YOU TO EBSCO DURING THE PREVIOUS TWELVE (12) MONTHS. YOU ACKNOWLEDGE THAT EBSCO HAS SET ITS PRICES IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. YOU AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THESE TERMS WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED THEIR ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR LIABILITIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.