
(LICENSEE)

**LICENSE AGREEMENT FOR ACCESS TO ACCESSIBLE
ARCHIVES ELECTRONIC RESOURCES**

This License Agreement (this "Agreement") is made effective as of _____ (the "Effective Date") between Accessible Archives Inc., a corporation organized under the laws of the state of Pennsylvania ("Licensor") and _____, ("Licensee").

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

I. CONTENT OF LICENSED MATERIALS; GRANT OF LICENSE

The materials that are the subject of this Agreement shall consist of electronic information published or otherwise made available by Licensor as described in Appendix A attached hereto (hereinafter referred to as the "Licensed Materials").

Licensee and its Authorized Users acknowledge that the copyright and title to the Licensed Materials and any trademarks or service marks relating thereto remain with Licensor and/or its suppliers. Neither Licensee nor its Authorized Users shall have any right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

Licensor hereby grants to Licensee non-exclusive and non-transferable use of the Licensed Materials and the right to provide the Licensed Materials to Authorized Users in accordance with this Agreement.

II. FEES

Licensee shall make payment to Licensor for use of the Licensed Materials pursuant to the terms set forth in Appendix B, attached hereto.

Licensor shall notify Licensee within ninety (90) days of any increase in fee for any licensed material covered by this Agreement. The notification shall include when fee payments are due.

III. AUTHORIZED USE OF LICENSED MATERIALS

Authorized Users. "Authorized Users" are:

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be controlled by Licensor through the use of IP addresses (listed In Appendix C) and/or passwords.

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V. LICENSOR PERFORMANCE OBLIGATIONS

Availability of Licensed Materials. Within two (2) weeks of the Effective Date of this Agreement, Licensor shall make the Licensed Materials available to Licensee and Authorized Users. The Database 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.

Documentation. Licensor will provide and maintain help files and other appropriate user documentation.

Support. Licensor will offer activation or installation support, including assisting with the implementation of any Licensor software. Licensor will offer reasonable levels of continuing support to assist Licensee in use of the Licensed Materials. Licensor will make its personnel available by email, phone or fax for feedback, problem-solving, or general questions.

Quality of Service. Licensor shall use reasonable efforts to ensure that the Licensor's server or servers have sufficient capacity and rate of connectivity to provide the Licensee and its Authorized Users with a quality of service comparable to current standards in the

scholarly information provision industry in the Licensee's locale.

Usage Data. Licensor shall provide to Licensee statistics regarding the usage of the Licensed Materials by Licensee and/or its Authorized Users in conformance with the Codes of Practice for Project COUNTER located at:
http://www.projectcounter.org/code_practice.html

VI. LICENSEE PERFORMANCE OBLIGATIONS

Provision of Notice of License Terms to Authorized Users. Licensee shall make reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement including, in particular, any limitations on access or use of the Licensed Materials as set forth in this Agreement.

Protection from Unauthorized Use. Licensee shall implement reasonable procedures to restrict access to the Licensed Materials to Authorized Users. If Licensee makes use of a proxy server to provide access to the Database, it is understood that use of such proxy server shall be in accordance with the definition of "Authorized Users" in Section III of this agreement.

Maintaining Confidentiality of Access Passwords. Licensee shall maintain the confidentiality of any institutional passwords provided by Licensor.

The Licensee is responsible for establishing and maintaining hardware and Internet access to provide access to, and to transmit, the Database to Authorized Users.

VII. MUTUAL PERFORMANCE OBLIGATIONS

Cure Activities. In the event of any unauthorized use of the Licensed Materials by an Authorized User, Licensee shall cooperate with Licensor in the investigation of any unauthorized use of the Licensed Materials of which it is made aware and shall use reasonable efforts to remedy such unauthorized use and prevent its recurrence. Licensor may terminate such Authorized User's access to the Licensed Materials after first providing reasonable notice to Licensee (in no event less than two (2) weeks) and cooperating with the Licensee to avoid recurrence of any unauthorized use.

Confidentiality of User Data. Licensor agrees to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its Authorized Users. Licensee agrees to maintain the confidentiality of any data relating to the usage of the Licensed Materials by individual Authorized Users. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party. Licensor may terminate such Authorized User's access to the Licensed Materials immediately through the blocking of a specific IP address if Licensor detects excessive

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Licensor shall indemnify and hold licensee harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by a third party of an alleged infringement of copyright arising out of the use of the Licensed Materials by Licensee or any Authorized User. No Limitation of liability set forth elsewhere in this agreement is applicable to this indemnification.

Should Licensee wish to invoke the indemnity, Licensee must promptly notify Licensor of any such claims. Licensor shall have the right to defend such claims at its own expense. The other party shall provide assistance in investigating and defending such claims as the Licensor may reasonably request and have the right to participate in the defense at its own expense, subject to following all reasonable instructions of Licensor.

Annual Subscribers Only:

VIII. TERM

This Agreement shall continue in effect for one (1) year- commencing on the Effective Date.

IX. RENEWAL

This agreement shall be renewable at the end of the current and future terms for up to five successive terms under the same terms and conditions herein unless Licensee gives written notice of its intention not to renew sixty (60) days before expiration of the current term.

_____ Licensee Initials

_____ Licensor Initials

X. EARLY TERMINATION

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if Licensor 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 thirty (30) 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 thirty (30) day period, the non-breaching party shall have the right to terminate the Agreement without further notice.

Upon Termination of this Agreement for cause, online access to the Licensed Materials by Licensee and Authorized Users and all licenses granted hereunder shall be terminated. Authorized copies of Licensed Materials may be retained by Licensee or Authorized Users and used subject to the terms of this Agreement.

In the event of early termination permitted by this Agreement, Licensor shall not have any obligation to refund any monies to Licensee.

Termination of this Agreement (however rising) shall be without prejudice to the rights of either party against the other arising or accrued prior to the date of termination and without prejudice to the rights of either party against the other under sections of this Agreement that shall survive termination.

Permanent Access Only

XI. PERPETUAL LICENSE

Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that were accessible during the term of this Agreement. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement. Except in the case of termination for cause, Licensor shall provide the Licensee with access to the Licensed Materials in a manner and form substantially equivalent to the means by which access is provided under this Agreement.

Upon termination of this Agreement at Licensee's behest, Licensor shall provide Licensee with an archival copy of the database at a minimal cost. If Licensor terminates the agreement in the event Licensee fails to perform its obligations, Licensor will not be required to provide an archival copy of the database to the Licensee.

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_____ Licensee initials

_____ Licensor initials

XII. WARRANTIES

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Licensor warrants that it has the right to license the rights granted under this Agreement to use Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party. The Licensor shall indemnify and hold Licensee and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Licensee or any Authorized User in accordance with the terms of this Agreement. This indemnity shall survive the termination of this agreement. **NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.**

XIII. LIMITATIONS ON WARRANTIES

Notwithstanding anything else in this Agreement:

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, arising out of the use of or the inability to use the Licensed Materials.

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XIV. 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, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

XV. ENTIRE AGREEMENT

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. In the event Licensee issues a purchase order or other document, Licensee agrees that the document shall be for its internal purposes only and shall in no way modify or affect any of the terms or conditions of this Agreement.

XVI. AMENDMENT

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of Licensor and Licensee.

XVII. SEVERABILITY

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.

XVIII. WAIVER OF CONTRACTUAL RIGHT

Waiver of any provision herein shall not be deemed 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.

This Agreement shall be governed by, and construed and interpreted in accordance with the laws of Pennsylvania.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

LICENSOR:

BY: _____
Signature of Authorized Signatory of Licensor

DATE: _____

Print Name:
Title:
Address:
Telephone:
Facsimile:
E-mail:

LICENSEE :

BY: _____
Signature of Authorized Signatory of Licensee

DATE: _____

Print Name:
Title:
Address:
Telephone:
Facsimile:
E-mail:

Appendix A: Description of Licensed Materials

Accessible Archives has provided a mandatory update to the original license for the addition of images. This mandatory update will become part of the original license fee. Accessible Archives does not anticipate any further upgrades to the base license going forward.

Initial those subscribing to in this license

- _____ Godey's Lady's Book
- _____ Part I
- _____ Part II
- _____ Part III
- _____ Part IV
- _____ Part V
- _____ Part VI
- _____ Part VII
- _____ Part VIII
- _____ Part IX

- _____ The Liberator:
- _____ Part I January, 1831 – December, 1835
- _____ Part II January, 1835 – December, 1840
- _____ Part III January, 1841 – December, 1845
- _____ Part IV January, 1846 – December, 1850
- _____ Part V January, 1851 – December, 1855
- _____ Part VI January, 1856 – December, 1860
- _____ Part VII January, 1861 – December, 1865

- _____ The Pennsylvania Gazette:
- _____ Folio I - (1728 - 1750) "Benjamin Franklin's Newspaper"
- _____ Folio II - (1751 - 1765) "The French & Indian War"
- _____ Folio III - (1766 - 1783) "The American Revolution"
- _____ Folio IV - (1784 - 1800) "The New Republic"

- _____ The Civil War Part I: A Newspaper perspective
- _____ The Civil War Part II: The Soldiers Perspective
- _____ The Civil War Part III: The Generals Perspective
- _____ The Civil War Part IV: A Midwestern PerspectivePerspective

African American Newspapers:

- _____ Part I: *Freedom's Journal*, New York, 1827-Mar. 1829; *Colored American*, New York, 1837-Mar. 1840; *The North Star*, Rochester, NY, 1847-July 1849; *National Era*, Washington, DC, 1847-Dec. 1848.
- _____ Part II: *Colored American*, 1840-41; *The North Star*, July 1849-1851; *Frederick Douglass Paper* (continuation of *The North Star*), 1851-May 1852; *National Era*, 1847-Dec. 1850; *Provincial Freeman*, Toronto, ON, 1854-Dec. 18, 1855.
- _____ Part III: *Frederick Douglass Paper*, May 1852-Dec. 1852; *National Era*, Dec. 1850-Dec. 1853; *Provincial Freeman*, Dec. 1855-57; *The Christian Recorder*, Toronto, ON, 1861-April 1862.
- _____ Part IV: *The Christian Recorder*, May 1862-Dec. 1864; *National Era*, Jan. 1854-Dec. 1855; *Frederick Douglass Paper*, Jan. 1853-Dec. 1854.
- _____ Part V: *The Christian Recorder*, Jan. 1865-June 1868; *National Era*, Jan. 1856-Dec. 1857; *Frederick Douglass Paper*, Jan. 1855-Dec. 1856.
- _____ Part VI: *National Era*, Jan. 1858-Mar. 1860; *The Christian Recorder*, July 1868-Dec. 1870.
- _____ Part VII: *The Christian Recorder*, Jan. 1872-Dec. 1876.
- _____ Part VIII: *The Christian Recorder*, Jan. 1877-Dec. 1882.
- _____ Part IX: *The Christian Recorder*, Jan. 1883-Dec. 1887.
- _____ Part X: *The Christian Recorder*, Jan. 1888-Dec. 1893 (excluding 1892)
- _____ Part XI: *The Christian Recorder*, Jan. 1894-Dec. 1898
- _____ Part XII: *The Christian Recorder*, Jan. 1899 – 1902
- _____ Part XII:Supplement: *The Frederick Douglass Paper*, Jan. 1859 – Dec. 1863

American County Histories

- _____ Delaware
- _____ New York, Part I
- _____ New York, Part II
- _____ New York, Part III
- _____ New York, Part IV
- _____ Maryland
- _____ New Jersey
- _____ Pennsylvania, Part I
- _____ Pennsylvania, Part II
- _____ Pennsylvania, Part III
- _____ Pennsylvania, Part IV

- _____ The Pennsylvania Genealogical Catalogue

- _____ The Pennsylvania Newspaper Record

- The South Carolina Newspapers:
- _____ Part 1: 1732 – 1741 The South Carolina Gazette
 - _____ Part 2: 1742 – 1751
 - _____ Part 3: 1752 – 1761
 - _____ Part 4: 1762 – 1771
 - _____ Part 5: 1772 - 1780
 - _____ Part 6: 1765 – 1775 South Carolina Gazette and Country Journal
 - _____ Part 7: 1764 – 1775 South Carolina and American General Gazette

- The Virginia Gazette
- _____ Part I: 1736 – 1745
 - _____ Part II: 1746 – 1755
 - _____ Part III: 1756 – 1765
 - _____ Part IV: 1766 – 1775
 - _____ Part V: 1776 -1780

Appendix B: Fees

Payable no later than 45 days after Licensor provides the Licensed Materials to Licensee and Authorized Users.

Initials

Fees

Initial those subscribing to in this license

_____ Godey's Lady's Book	
_____ Part I	_____
_____ Part II	_____
_____ Part III	_____
_____ Part IV	_____
_____ Part V	_____
_____ Part VI	_____
_____ Part VII	_____
_____ Part VIII	_____
_____ Part IX	_____

_____ The Liberator:	
_____ Part I January, 1831 – December, 1835	_____
_____ Part II January, 1835 – December, 1840	_____
_____ Part III January, 1841 – December, 1845	_____
_____ Part IV January, 1846 – December, 1850	_____
_____ Part V January, 1851 – December, 1855	_____
_____ Part VI January, 1856 – December, 1860	_____
_____ Part VII January, 1861 – December, 1865	_____

_____ The Pennsylvania Gazette:	
_____ Folio I - (1728 - 1750)	_____
_____ Folio II - (1751 - 1765)	_____
_____ Folio III - (1766 - 1783)	_____
_____ Folio IV - (1784 - 1800)	_____

_____ The Civil War Part I	_____
_____ The Civil War Part II	_____
_____ The Civil War Part III	_____
_____ The Civil War Part IV	_____

_____ African American Newspapers:	
_____ Part I	_____
_____ Part II	_____
_____ Part III	_____

_____	Part IV	_____
_____	Part V	_____
_____	Part VI	_____
_____	Part VII	_____
_____	Part VIII	_____
_____	Part IX	_____
_____	Part X	_____
_____	Part XI	_____
_____	Part XII	_____
_____	Part XII (Supplement)	_____

_____	American County Histories	
_____	Delaware	_____
_____	New York, Part I	_____
_____	New York, Part II	_____
_____	New York, Part III	_____
_____	New York, Part IV	_____
_____	Maryland	_____
_____	New Jersey	_____
_____	Pennsylvania, Part I	_____
_____	Pennsylvania, Part II	_____
_____	Pennsylvania, Part III	_____
_____	Pennsylvania, Part IV	_____

_____	The Pennsylvania Genealogical Catalogue	_____
_____	The Pennsylvania Newspaper Record	_____

_____	The South Carolina Gazette:	
_____	Part 1: 1732 – 1741	_____
_____	Part 2: 1742 – 1751	_____
_____	Part 3: 1752 – 1761	_____
_____	Part 4: 1762 – 1771	_____
_____	Part 5: 1772 – 1780	_____
_____	Part 6: 1765 – 1775 SCGCJ ⁱ	_____
_____	Part 7: 1764 – 1775 SCAGG ⁱⁱ	_____

_____	The Virginia Gazette	
_____	Part I: 1736 – 1745	_____
_____	Part II: 1746 – 1755	_____
_____	Part III: 1756 – 1765	_____
_____	Part IV: 1766 – 1775	_____
_____	Part V: 1776 – 1780	_____

_____	Total Fees	_____
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Appendix C: Authorized IP Addresses

To be provided by Licensee

ⁱ South Carolina Gazette and Country Journal
ⁱⁱ South Carolina and American General Gazette