

DISTRIBUTION LICENSE AGREEMENT

THIS AGREEMENT is made and entered into this on date _____, 20__ by and between

Central and Eastern European Online Library and
GmbH

whose principal place of business is at

whose principal place of business is at

Offenbacher Landstrasse 368
D – 60599 Frankfurt am Main
GERMANY

hereinafter: „CEEOL“ or “Distributor”

hereinafter „Licensor“

PREAMBLE

The CEEOL shall maintain an online-repository providing Authorized Users access to content from journals, periodicals, books and/or other works, which have been or will be published and supplied to the repository by the Licensor. CEEOL acts as Distributor of such content to institutional and private users worldwide providing them access to the documents via the Internet. Licensor may supply publications for distribution in Open Access.

The object of this Agreement is the settlement of mutual rights and duties between Licensor and Distributor, allowing Licensor to use Distributor’s repository for global distribution of his content by uploading and storing this content to the repository database; allowing, vice versa, Distributor to provide Authorized Users access to this content by data transmission from his repository web-site.

Both parties agree that the CEEOL-database and the repository Cloud-Application constitute a software product as defined in section 4 sub-sec. 2, 87a sub-sec. 1 German Copyright Act (Urhebergesetz) that is protected by law, based on CEEOL’s selection and arrangement of the Publications and Content and the CEEOL’s investment in the construction and maintenance of the CEEOL-database. Both parties agree that CEEOL is the owner of all rights of this software product.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, CEEOL and Licensor hereby agree as follows:

1. DEFINITIONS

The following terms shall be used in this Agreement as defined in this Section 1:

- 1.1. **“Adapt”**: CEEOL shall make no change to the editorial content of the Publication(s) licensed hereunder. Notwithstanding the above, CEEOL shall be entitled to insert into each file transmitted to Authorized Users a separate reference-page providing the users with bibliographic and other information about the source of the transmitted document.
- 1.2. **“Publications”**: are the titles uploaded by the Licensor to the CEEOL on-line database or otherwise provided by the Licensor to CEEOL for integration into the database under the terms of this agreement.
- 1.3. **“eBooks”** are Publications registered in international registers with at least one ISBN-number.
- 1.4. **“Journals”** are Publications registered in international registers with at least one ISSN-number.
- 1.5. **“Gray Literature”** are Publications without neither ISBN nor ISSN numbers and provided for download by Licensor and CEEOL in Open Access.
- 1.6. **“Open Access Publications”** (“OAP”) means publication provided by Licensor through CEEOL at no commercial interests.

- 1.7. **"Content"** is any text, image and other elements contained within the Publications.
- 1.8. **"Prospective Content"** means all future titles to be published as OAP (Open Access Publications) by Licensor. Prospective Content shall be automatically added to this Agreement as soon as it is uploaded by Licensor or otherwise provided to CEEOL by Licensor to be integrated into the online-database in accordance with clauses 3.1 to 3.7 herein.
- 1.9. **"Metadata"** is any kind of bibliographical information describing the publications in the repository and stored as structured data in the repository database. Metadata include information about the authors of the publications.
- 1.10. **"Logo"** shall mean the marks or trademarked banner graphics owned by Licensor which are used on the cover of the Publications and/or in the Licensor's basic record in the database for visibility on the CEEOL web-site.
- 1.11. **"CEEOL-Cloud"** means the overall Internet-Platform maintained by CEEOL and split into a **"Public Cloud"** (accessible for content users) and a non-public **"Admin Cloud"** (accessible for Licensor by Licensor's content-administrators to administrate and upload Publications and Metadata).
- 1.12. **"Authorized-User"** shall mean third persons („**Private Users**") or organizations („**Institutional Users** „with their authorized users, students, patrons and scholars as „**Institutional Users**") that have entered into agreements with CEEOL.

2. PURPOSE OF THE CONTRACT

- 2.1 Distributor intends to distribute the Publications provided by Licensor to Authorized-User via CEEOL's repository database and web-site.
- 2.2 Therefor Distributor shall offer the provided Content to different Authorized-User and in different categories:
 - 2.2.1 **Institutional Users**

Appropriate to the character of the publication(s) provided by the Licensor the Distributor may provide access-rights to repository content for Institutional Users and their patrons in the following way(s):

 - 2.2.1.1 **Journals under Open Access**

Institutional Users have unlimited access to content from OA-Journals without any need to explicitly subscribe. Distributor, however, may restrict the right to download Metadata of this category of content to the annual renewal of the Institutional Customers License Agreement.
 - 2.2.1.2 **Open Access eBooks**

Distributor provides Institutional users access to Open Access eBooks under the same conditions as defined in 2.2.1.1.for "Journals under Open Access".
 - 2.2.1.3 **Gray Literature**

Distributor provides Institutional Users access to Gray Literature under the same conditions as defined in 2.2.1.1.for "Journals under Open Access".
 - 2.2.2 **Private Users**

Distributor provides access for Private Users to content from the CEEOL-repository under the following conditions:

 - 2.2.2.1 **Open Access Content:**

Besides registration of a user account on the CEEOL-Repository web-site, no

restrictions are defined for the access to any content stored by licensors under Open Access.

3. GRANT OF LICENSE

- 3.1 Licensor grants Distributor a non-exclusive right, to store and integrate the Content together with the related bibliographic Metadata as native pdf-documents in the CEEOL-repository-database
- 3.2 Licensor also grants Distributor a non-exclusive right to distribute the Content to its Authorized-Users. Licensor grants Distributor in particular a non-exclusive right to distribute the Content by data remote transfer to its Authorized-Users upon request, and to permit such Authorized-Users to download and print out the works for their personal use.
- 3.3 Nothing in this Section is intended to restrict Licensor's right to promote its own print or electronic subscriptions or products which include the Publications, nor to limit its ability to reach agreements with other subscription agents or distributors.
- 3.4 Licensor shall retain all right, title, copyright, and other intellectual or proprietary rights in the Publications. CEEOL does not acquire any intellectual property or other rights in the Publications except as specifically acknowledged in this Agreement.
- 3.5 The use of the Licensor's trademark(s) is subject to review and approval of the Licensor. To promote Licensor's brand recognition, Distributor may display the Licensor's Logo in conjunction with display of Licensor's products. Distributor may also use the Publication's cover images in marketing and promotional materials.
- 3.6 Licensor authorizes CEEOL to share and exchange Metadata with other database operators within the global scientific community, if such exchange is promising enhancement of the global visibility of the publications and their authors and an increase of accessibility and usage of the repository. Exchange will be limited to metadata. Exchange of content files with other database-operators requires prior approval by the Licensor.
- 3.7 In case of Journals with fragmentary or incomplete collections Distributor may, at its option, undertake own efforts to achieve completeness by re-digitization or similar means.

4. DEVELOPMENT AND DELIVERY OF CONTENT

- 4.1 CEEOL provides Licensor a licensor's user account to access the non-public area of the CEEOL-Cloud. Licensor, if not otherwise agreed, will appoint **Content-Administrator(s)** who take responsibility for Licensor's content and metadata (including authors' data) published in the public area of the CEEOL-Cloud. Content-Admins act as contact persons for CEEOL in all content-related issues.
- 4.2 **Content Delivery:** Content, if not otherwise agreed, is delivered by Licensor's content-administrator(s) through online cataloguing of the metadata and upload of the content files to the CEEOL-Cloud. Licensor agrees to make best efforts to include all information required, including cover pictures, sample-files, tables of content, authors' contact-data etc. in the appropriate file-formats.
 - 4.2.1 **Journals:** Licensor will deliver the Content of its Journal-Publications to CEEOL in a timely manner and in a mutually agreed upon format and medium, as stated in Schedule 1. New issues of **OA Journals** will be delivered not later than 4 weeks after the first publication of the issue in whatever service or medium other than CEEOL.
 - 4.2.2 For **eBooks and Gray Literature** date of delivery remains up to Licensor's decision. For the avoidance of competitive disadvantages for CEEOL Licensor, if cooperating with multiple distributors, agrees to synchronize delivery to CEEOL with the other distributors.

- 4.2.3 Content Delivery includes delivery of **Authors' Data** allowing Distributor (i) to enter into email-communication with the author where it is needed to ensure correctness and integrity of author's data in the repository, and (ii) to avoid duplicate records of authors in the database. This pertains, beside an email address, to information about the author's institutional affiliation as well as birth-year and -place.
Licensor will provide this data in accordance to its national Law on personal data protection and its internal regulations and acts.
- 4.3 Licensor will instruct its Content-Admins to deliver the best available data for the Content of the Publications and the Metadata, without charge to the Distributor, according to the schedule stated in Schedule 1. Licensor agrees to authorize the Distributor to download Content of Journal-Publications from any third party providers.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 Licensor represents and warrants that:
- it is the owner of all provided Content delivered to CEEOL under this Agreement and that Licensor further has the right to license its Content and has all lawful rights and powers necessary to enter into this Agreement and to grant the licenses and rights granted there under;
 - there will be no claims of Licensor's personnel (including Affiliate personnel) or any other third parties appointed by Licensor under Sections 12 et seq., 32 et seq. of the German Copyright Act (Urheberrechtsgesetz – UrhG) and Licensor will indemnify CEEOL against all such claims;
 - it is not aware of any claim or threatened claim of infringement against the rights granted under Clause 4 hereof.
- 5.2 Licensor hereby agrees to indemnify and hold harmless CEEOL (incl. its employees, officers, directors, shareholders, contractors and agents; collectively "Defendants") from and against any damages, costs and expenses (including reasonable legal costs and disbursements) or other liability (collectively "Liabilities") arising out of or related to any action or claim brought by a third party against CEEOL (or any Defendant) to the extent such Liabilities result from the infringement of the provided Content upon any third party's Intellectual Property Rights, unless such infringement is not attributable to Licensor's fault.
- 5.3 Licensor shall direct and conduct the defense, litigation and/or settlement of such claims, actions and lawsuits to the extent permitted by law. Licensor shall always direct and conduct such defense, litigation and/or settlement:
- with due diligence and in such a way as not to bring the reputation or good name of the Distributor into disrepute;
 - so as to take into account any reasonable comments made by Licensor in relation to the conduct and/or settlement of the defense and/or litigation;
 - so as to not make any admissions or otherwise take or fail to take any action which would be unfairly prejudicial to CEEOL.
- 5.4 In case that the conduct of the defense, litigation and/or settlement of such claims, actions and lawsuits by Licensor is not permitted by law or in case that Licensor does not conduct such defense, litigation and/or settlement in accordance with Clause 5.3, CEEOL shall be entitled to conduct the defense, litigation and/or settlement of such claims, actions and lawsuits and Licensor shall reimburse CEEOL all costs and expenses incurred by or arising out of the conduct of such defense, litigation and/or settlement. However, before CEEOL makes any admissions or concludes any settlement, it shall be obliged ask the Licensor for its consent, such consent not to be unreasonably withheld or delayed.

- 5.5 CEEOL shall (i) promptly notify Licensor of any such Liabilities after it becomes aware of it, (ii) give Licensor the right to control and direct the preparation of a defence at Licensor's sole cost and expense and any such claim if permitted by applicable law, (iii) give reasonable cooperation to Licensor for the defence of such Liabilities at Licensor's sole cost and expense (with the understanding that Licensor's reasonable cooperation shall be free of charges for Licensor if and to the extent CEEOL has contributed to such alleged infringement by breaching applicable contractual obligations).
- 5.6 Clause 5.2 to 5.4 shall not apply to the extent that an infringement arises out of an alteration or modification of the provided Content insofar as such alteration or modification is not covered by this Agreement.

6. COPYRIGHT AND INFRINGEMENT

- 6.1 CEEOL's users agree to abide by the Copyright Law as well as any contractual restrictions, copyright restrictions, or other restrictions provided by Licensor. Pursuant to these terms and conditions, the Authorized Users may download, email or print limited copies of citations, abstracts, full text or portions thereof provided the information is used solely for personal, non-commercial use. CEEOL instructs its users that they may not use the Publications or Content as a component of or the basis of any other publication prepared for sale and will neither duplicate nor alter the Publications or any of the content therein in any manner nor use same for sale or distribution. CEEOL informs the Authorized-User that it must take all reasonable precautions to limit the usage of the Publications to those specifically authorized.
- 6.2 Each party will use reasonable efforts to notify the other of any allegations of infringements of patent, copyright, trademark or other intellectual property rights in any Content or any Publication that come to such party's attention.
- 6.3 CEEOL acknowledges and agrees that Licensor may, with respect to any Content or any Publication, or a portion thereof, request CEEOL to remove or cease distributing any portion of the Content or the Publications which Licensor reasonably believes may be in violation of law or the proprietary or contractual rights of a third party, and CEEOL will reasonably cooperate with Licensor in that regard.
- 6.4 Licensor authorizes CEEOL to retain a copy of Publications which are removed from distribution upon Licensor's request. CEEOL may provide a copy of these Publications to Institutional-Users which, through previous subscriptions, have acquired perpetual access rights to these Publications.

7. TERM AND TERMINATION

- 7.1 This Agreement shall start at the time of signing the Agreement. If not otherwise agreed it may be terminated by each party with a 12-month period of notice to the end of every calendar year.
- 7.2 After termination, CEEOL will no longer have any license to include Prospective Content from Publications in its Products, but may continue to include Past Content from the Publications in its Products.

8. DOMICILEA

- 8.1 All notices by one party to the other shall be given in writing by pre-paid registered post, telefax, email or delivered by hand to -

Central and Eastern European Online Library GmbH (CEEOL) at -

Offenbacher Landstraße 368, 60599 Frankfurt am Main, Germany
Email: publisher.support@ceeol.com

_____ at -

Email: ...

9. FREEDOM TO ENTER INTO CONTRACTS

The parties declare that they each have the right, power and authority to perform their obligations under this agreement.

10. APPLICABLE LAW AND PLACE OF JURISDICTION

This Agreement as well as the general relationship between the Parties shall be governed by, and interpreted in accordance with German law, without the provisions on the conflict of laws. The UN Convention on the International Sale of Goods (CSIG) shall not apply. The courts of Frankfurt am Main, Germany, shall be the exclusive place of jurisdiction.

11. MISCELLANEOUS

11.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter. Notices require written form.

11.2 The official version of this Agreement is in English language.

Accepted and agreed to by the parties as of the date above written.

Licensors	CEEOL
by	by
(Signature)	(Signature)
Name:	Name: Bea Klotz
Position:	Position: Managing Director
Location:	Location: Frankfurt am Main
Date:	Date:
Stamp	Stamp

Schedule 1: Journals

By signing this contract Licensor agrees to contribute to Distributor's Repository the journal(s) specified below. During the term of this agreement and under rules defined herein licensor may at any time add new journal titles to the repository.

Title of Periodical					
Title in English					
Print ISSN-Nr.			eISSN-Nr.		
Availability in CEEOL	Open Access <input type="checkbox"/>				
Frequency of Publication	Monthly	Bi-Monthly	Quarterly	Annually	Other
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Upload beginning with	Year	Volume	Issue		

Title of Periodical					
Title in English					
Print ISSN-Nr.			eISSN-Nr.		
Availability in CEEOL	Open Access <input type="checkbox"/>				
Frequency of Publication	Monthly	Bi-Monthly	Quarterly	Annually	Other
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Upload beginning with	Year	Volume	Issue		

Place, Date

Frankfurt am Main, _____

Place, Date

On behalf of the Licensor

C.E.E.O.L. GmbH

On behalf of the Distributor

Schedule 2: Open Access eBooks

By signing this contract Licensor agrees to contribute to Distributor's Repository Open Access eBooks.

During the term of this agreement and under rules defined herein licensor may at any time add new OA eBooks to the repository.

Place, Date

Frankfurt am Main,_____
Place, Date

On behalf of the Licensor

C.E.E.O.L. GmbH
On behalf of the Distributor

Schedule 3: Gray Literature

By signing this contract Licensor agrees to contribute to Distributor’s Repository Gray Literature documents.

During the term of this agreement and under rules defined herein licensor may at any time add new Grey Literature documents to the repository.

Place, Date

Frankfurt am Main, _____
Place, Date

On behalf of the Licensor

C.E.E.O.L. GmbH
On behalf of the Distributor