

# *The Bibliography of Asian Studies Online*

## **Subscription Agreement**

Return **TWO SIGNED COPIES** of this agreement with your completed order form.

By this agreement, the Association for Asian Studies (AAS) grants the Subscriber a non-exclusive license to subscribe to the *Bibliography of Asian Studies (BAS)* on the Internet, subject to the terms and conditions set forth in paragraphs 1–8 below, all of which are hereby agreed to between the AAS and the subscriber.

Please read the *Terms and Conditions*. By signing below you certify that you have read and agree to abide by all such Terms and Conditions listed below, and that you are authorized to sign this form on behalf of your institution.

Subscribing institution: The Regents of the University of California

Authorized signature: \_\_\_\_\_

Name:

Title: Associate Director for Shared Collections and Services

Address: The California Digital Library

300 Lakeside Drive, 6<sup>th</sup> Floor

Oakland, CA 94612-3550

Telephone:

Fax:

E-Mail:

### **Terms and Conditions:**

#### **1. Definitions**

(a) "The BAS" means the Internet version of the *Bibliography of Asian Studies*, which includes the full contents of the printed *Bibliography of Asian Studies* from the 1971 to the 1991 editions, plus additional and more recent citations. The AAS reserves the right to add or delete BAS content at any time.

(b) "Authorized User" means an employee, faculty member, staff member, or student officially affiliated with the Subscriber, or an authorized client of the Subscriber's library facilities.

(c) "Subscriber" means a single non-profit educational institution or a member of a consortium of such institutions that has signed this Agreement and has remitted the appropriate subscription fee to the AAS.

## **2. Scope of License**

The subscription includes authorization of access by means of one or more IP addresses at the institution for authorized users via multiple connections. Authorized Users must be employees, faculty, staff or students officially affiliated with the Subscriber, or authorized clients of the subscriber's library facilities. If the Subscriber has one or more remote sites or campuses which do not have their own central administrative staff, but are instead administered by the subscriber's site or campus, persons affiliated with those remote sites or campus will also be considered Authorized Users.

This subscription entitles the authorized users to access the BAS by multiple connection to:

(a) make searches of the BAS,

(b) make one or more copies in hard copy form of the output of any search; such copies may not be sold; and

(c) download search results to hard disk or diskette, provided that such data are not made available to anyone who is not an Authorized User.

An Authorized User may not make the BAS available to anyone other than another Authorized User, whether by telephone link or by permitting access through his or her terminal or computer; or by other similar or dissimilar means or arrangements.

The Subscriber is solely responsible for all security, and all use (including unauthorized use) of the BAS provided to its IP address(es), and will undertake reasonable and appropriate methods to enforce the terms of access.

The Subscriber may not utilize the BAS database for commercial purposes, including, but not limited to the sale of materials, fee-for-service use of the database, or bulk reproduction or distribution of materials in any form; nor may the Subscriber impose special charges on Authorized Users for use of the database beyond reasonable printing or administrative costs. Furthermore, under no circumstances may the Subscriber (a) remove, obscure, or modify any copyright or other notices included in the materials; or (b) use materials in a manner that would infringe the copyright therein.

The Subscriber shall use reasonable efforts to protect the database from any use that is not permitted under this Agreement, and shall notify the AAS of any such use of which it learns or is

notified. In the event of violation of the User Rules, the Subscriber agrees to consider the imposition of further restrictions on access to, and downloading and printing from, the database. The AAS and the Subscriber shall from time to time consult on the establishment of further measures to inform Authorized Users of the availability of the database and of the user rules.

The Subscriber is responsible for establishing and maintaining hardware and Internet access to provide access to, and to transmit the BAS database to Authorized Users. The Subscriber understands that Internet browser software is required to access the database.

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### **3. Terms and Fees**

A new subscription will become effective on the first day of the month following receipt of the order form, this agreement, and the subscription payment, and will be in effect for twelve months as of that date. The subscription and this agreement will remain in effect thereafter for successive years so long as annual subscription fees are paid. Either party may terminate this agreement, effective on the next renewal date, by at least 30 days written notice to the other party.

The annual fee for this subscription will vary by the size of the institution, participation in consortia, and other criteria established by the AAS, as published in the current Subscription Fee Schedule. Fees may be raised or lowered by written notice to the subscriber, given at least three months before the renewal date. Subscription renewals must be paid on or before the renewal date or the subscription will be cancelled.

The Subscriber shall be responsible for all costs associated with establishing access to the BAS database, 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. The Subscriber shall also be responsible for all costs associated with printing from the database, and for any taxes relating to the Subscriber's or authorized Users' use of the database.

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### **4. Copyright**

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## **5. Access to the Database**

Access to the BAS database shall be controlled by AAS through the use of IP addresses and/or passwords. The Subscriber 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 AAS if applicable, and updating such lists on a regular basis. The parties shall cooperate in the implementation of additional security procedures as they are developed.

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## **6. Suspension or Termination of Access**

If either party materially breaches a term of this Agreement, the other may send written notice of the breach, including a reasonable cure period of not less than thirty (30) business days. If the breach is not cured within that time, or if the parties do not reach a satisfactory Agreement on extending the cure period, then the non-breaching party may terminate this Agreement effective immediately upon written notice. In the event that AAS permanently ceases to supply the BAS, this Agreement shall terminate and the AAS will supply to Subscriber(s) a complete copy of the BAS database as of the date of termination, in a format to be agreed upon by the parties. In this event, AAS grants to Subscriber(s) a nonexclusive, royalty-free, perpetual license to use said copy of the BAS database in accordance with the terms of this Agreement, which terms shall survive the termination of the Agreement.

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## **7. Representations and Warranties**

(a) The AAS has made and will make good faith efforts to ensure that the BAS is complete and accurate. However, the AAS does not warrant completeness or accuracy, and does not warrant that the Subscriber's use of the BAS will be uninterrupted or error-free, or that the results obtained will be useful or will satisfy the user's requirements.

(b) The AAS warrants that it is entitled to grant the licenses outlined in this agreement, but makes no other warranties or representations of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose.

(c) The subscriber will be permitted to access the BAS at any time. The AAS will not be liable for any delay, down time, or other failure of performance, but will use reasonable efforts to correct any performance problem brought to its attention.

(d) The AAS will not be responsible for incidental, consequential, or any other damages arising out of or in connection with the service or materials provided hereunder.

(e) The AAS 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. The AAS further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

(f) The Subscriber shall be responsible for all claims, costs, demands, expenses, and liabilities, including reasonable attorney's fees, resulting from: (i) breach of this Agreement by the Subscriber; and (ii) the Subscriber's negligent use of the Database, if directed by a Court of Law.

(g) The Subscriber represents and warrants that it is providing no IP addresses to the AAS that pertain to any campus other than those listed or indicated in this Agreement, or for which access has otherwise been agreed in writing by the AAS.

(h) The BAS database is provided on an "as is" basis, and the AAS disclaims any and all other warranties, conditions, or representations (express, implied, oral, or written), relating to the database or any part thereof, including, without limitation, any and all implied warranties of quality, performance, compatibility, merchantability or fitness for a particular purpose.

(i) AAS certifies that the product being provided to the Subscriber is Year 2000 compliant, that is, it will operate properly in the Year 2000 and beyond and in situations where dates of the year 2000 are used.

(j) Notwithstanding the foregoing, AAS will defend, indemnify and hold harmless Subscriber and the Institutions, their officers, agents and employees, from all damages, liabilities, costs and fees, including reasonable attorneys' fees, resulting from any judgment or settlement agreement arising out of any claim by a third party that AAS's sale of subscriptions to the Database or Subscriber's use of said Database constitutes an infringement of any patent, trademark, trade name, trade secret or other proprietary or contractual right of any third party. Subscriber shall give prompt notice of any infringement claim to AAS, provide such cooperation and assistance to AAS as is reasonably necessary to defend the claim, and shall allow AAS to have sole control of the defense thereof; provided, however, that Subscriber retains the right to participate in the defense at its own cost and expense.

## **8. Miscellaneous**

(a) This agreement constitutes the entire agreement of the parties and supercedes any prior communication between the parties with respect to the subject matter hereof. It may be amended only by a written instrument signed by both parties.

(b) Neither party may assign or transfer its rights under this agreement.

(c) 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.

### 9. Signatures

The Parties certify that they have read and agree to be bound by all terms and conditions of the BAS Online Subscription Agreement and that they are authorized to sign this form on behalf of their respective institutions:

**Subscribing Institution:** The Regents of the University of California

#### *Subscriber*

Authorized Signature \_\_\_\_\_

Name (print clearly or type): \_\_\_\_\_

Title: Associate Director for Shared Collections and Services

Date: \_\_\_\_\_

#### *For AAS:*

Authorized Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Publications Manager

Date: 4/1/99

— END OF CONTRACT —