

R.R. BOWKER-LICENSE AGREEMENT

This Agreement, including Appendix A (this "Agreement") is between R.R. Bowker LLC, a Delaware limited liability company with its principal offices at 630 Central Avenue, New Providence, New Jersey 07974 ("Bowker") and the Regents of the University of California, a non-profit academic institution with its principal offices at the California Digital Library, University of California Office of the President, 415 20th Street, 4th Floor, Oakland, California 94612 ("University of California") and supersedes and replaces the agreement between Bowker and University of California effective January 1, 2001.

RECITALS

WHEREAS Bowker has developed valuable and proprietary Databases (as defined herein) containing information regarding bibliographic and other reference materials; and

WHEREAS Bowker has designed and developed valuable and proprietary computer programs, including search and retrieval Software (as defined herein); and

WHEREAS Bowker makes such Databases and Software available as Booksinprint.com™ (as defined herein), Globalbooksinprint.com® (as defined herein), Ulrichsweb.com™ (as defined herein) and Ulrich's™ Serials Analysis System (as defined herein) (collectively, the "Online Databases") to its customers; and

WHEREAS University of California desires to obtain rights under this Agreement to use the Online Databases listed in Appendix A under the terms and conditions of this Agreement; and

WHEREAS Bowker desires to make the Online Databases listed in Appendix A available to University of California under this Agreement.

NOW, THEREFORE, in consideration of the above premises, and the mutual covenants set forth below and for other good and valuable consideration, Bowker and University of California agree as follows:

DEFINITIONS. As used in this Agreement, these terms shall have the following meanings.

- a) "Appendix A" means the order form customized by Bowker for University of California and used for subscribing to the Online Databases which is attached hereto as Appendix A and incorporated herein by this reference.
- b) "Authorized Users" means employees, students, faculty, staff, and patrons of University of California who are authorized by University of California in accordance with this Agreement to use any or all of Booksinprint.com, Globalbooksinprint.com and Ulrichsweb.com (as specified in Appendix A) either from the Licensed Locations (as defined herein) or remotely via a protected referral URL and/or a protected proxy server of a University of California.
- c) "USAS Users" means those librarians and library employees and staff of University of California who are authorized by University of California in accordance with this Agreement to use Ulrich's Serials Analysis System via password protected access.
- d) "Databases" means the valuable and proprietary data products developed by Bowker, its licensors, or both, known as (i) Books In Print® that includes without limitation information on bibliographic reference sources, (ii) Global Books In Print® that includes without limitation information on bibliographic reference sources and (iii) Ulrich's™ Periodicals Directory that includes without limitation information on serials reference sources.

- e) "Booksinprint.com™" means the Database known as Books In Print®, Software, and any other materials, including any documentation, delivered or displayed to Authorized Users by Bowker under this Agreement.
 - f) "Globalbooksinprint.com®" means the Database known as Global Books In Print®, Software, and any other materials, including any documentation, delivered or displayed to Authorized Users by Bowker under this Agreement.
 - g) "Ulrichsweb.com™" means the Database known as Ulrich's™ Periodicals Directory, Software, and any other materials, including any documentation, delivered or displayed to Authorized Users by Bowker under this Agreement.
 - h) "Ulrich's™ Serials Analysis System" means the valuable and proprietary electronic research product developed by Bowker that allows its users to compare the scope of their library holdings against the periodicals information available from the Ulrich's™ Periodicals Directory Database and Ulrichsweb.com
 - i) "Licensed Locations" means the sites and/or Internet server addresses specified by University of California in Appendix A and any subsequent renewals, additions or deletions to the Licensed Locations as agreed to by Bowker and University of California.
 - j) "License Fees" means the fees payable by University of California to Bowker for use by University of California of the Online Databases as specified in Appendix A and any fees payable for subsequent renewals of the License granted herein.
 - k) "Software" means the valuable and proprietary computer instruction set developed or licensed by Bowker to access and display the Databases in the Online Databases.
2. **LICENSE.** Upon University of California's acceptance of this Agreement and payment to Bowker of the License Fees shown in Appendix A, Bowker grants to University of California a limited, non-exclusive, non-transferable license worldwide ("License") to use the Online Databases listed in Appendix A solely as specified herein during the Term of this Agreement. Bowker expressly reserves all rights not expressly granted herein to University of California.
3. **PERMITTED USES.** Subscribing Members may:
- a) ~~allow Authorized Users to access the Online Databases listed in Appendix A and that are subscribed to by the individual Subscribing Members from the IP Addresses of the Licensed Locations specified in Appendix A;~~
 - b) allow Authorized Users to perform discrete searches of the Databases;
 - c) allow Authorized Users to print or download limited portions of the Databases which are the results of discrete searches for Authorized Users' research purposes only, provided that University of California does not remove from any hardcopy or electronic copies created or distributed as a result of such printing or downloading any proprietary notice(s) placed upon the Databases by Bowker.
 - d) allow USAS Users to display, download, reformat, distribute, print, and otherwise use and save the lists and reports generated from the Ulrich's Serials Analysis System for their own internal library research and analysis purposes only. USAS Users may not use the Ulrich's Serials Analysis System to create derivative or competitive works or use or provide access to Ulrich's Serials Analysis System for commercial purposes.
4. **PROHIBITED USES.** Without the prior express written permission of Bowker, University of California and its Authorized Users and USAS Users may not:

- a) copy, reproduce, modify, download, distribute or otherwise make the Online Databases, their individual components, or data retrieved by using the Online Databases available in any medium or in any way, in whole or in part, to anyone except as specifically authorized herein;
 - b) sell, license or otherwise distribute the Online Databases, their component parts, or data retrieved by using the Online Databases, in any form whatsoever, to third parties, including University of California's subsidiaries or affiliates, if any;
 - c) provide access to any part or parts of the Online Databases to any person other than Authorized Users or USAS Users;
 - d) use or provide access to any part or parts of the Online Databases: (i) via other than the IP Addresses specified in Appendix A; or (ii) by more than the number of simultaneous Authorized Users specified in Appendix A;
 - e) use or provide access to any part or parts of the Online Databases at any location other than at the Licensed Locations specified in Appendix A with the exception of Authorized Users or USAS Users who are accessing the Online Databases remotely via a protected referral URL and/or a protected proxy server of University of California;
 - f) transfer the Online Databases or any of their component parts from the Licensed Locations to any other location without the prior written consent of Bowker;
 - g) alter, modify, or adapt the Databases in any way;
 - h) decompile, disassemble, or reverse engineer the Software;
 - i) use the Online Databases to create derivative or competitive works;
 - j) use or provide access to the Online Databases for commercial purposes.
5. **UNIVERSITY OF CALIFORNIA'S RESPONSIBILITIES.** University of California agrees to use reasonable efforts to inform Authorized Users and USAS Users of their rights and responsibilities under this Agreement and to ensure that Authorized Users and USAS Users adhere to the terms and conditions of this Agreement.
6. **TERM AND RENEWAL.** This Agreement will remain in effect during the Subscription Period specified in Appendix A, provided the License Fees specified in Appendix A are paid in full. This Agreement may then be renewed with written authorization by both parties for successive one (1) year terms at the License Fees in effect as of the Renewal date.
7. **PAYMENT.** University of California agrees to make payment of the License Fees specified in Appendix A to Bowker no later than thirty (30) days following delivery to University of California of Bowker's invoice. Bowker reserves the right to suspend University of California's access to the Online Databases if payment in full is not received from University of California within sixty (60) days following delivery of Bowker's initial invoice to University of California.
8. **OWNERSHIP.** University of California acknowledges that the Online Databases are proprietary to Bowker and/or its affiliates, suppliers, and licensors, who retain exclusive title to and ownership of the copyrights, trademarks, trade secrets and other intellectual property rights in the Online Databases. University of California further acknowledges that this Agreement grants no right of ownership to University of California, its Authorized Users or its USAS Users. University of California, its Authorized Users or its USAS Users may not alter, remove, obscure or obstruct the display of any copyright, trademark or other proprietary notice placed upon the Online Databases by Bowker.

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9. **PERMISSION TO AGGREGATE INFORMATION.** Bowker acknowledges that University of California and its Licensed Locations own and retain all right, title and interest in and to their library serials holdings information. Notwithstanding the foregoing, University of California hereby grants to Bowker permission to include University of California's library serials holdings information in aggregated lists and reports as part of the "Peer Group Reporting" feature of Ulrich's Serials Analysis System. This feature allows USAS Users to compare their own serials holdings against the aggregated serials holdings information of a group of libraries, grouped together by FTE, Carnegie Classification or other criteria. University of California's Licensed Locations serials holdings information will be aggregated with the serials holdings information of their peer libraries. Libraries and institutions in the peer groups will not be identified by name, nor will any institution-specific information such as contact names or emails, Library-Defined Usage Statistics, or local Notes be provided.
10. **WARRANTIES AND DISCLAIMERS.** BOWKER REPRESENTS AND WARRANTS THAT IT HAS THE FULL RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND GRANT ALL RIGHTS AND INTERESTS AS CONTEMPLATED HEREUNDER, AND THAT THE ONLINE DATABASES, THE DATABASES (WITH THE EXCEPTION OF THE BOOK REVIEWS PUBLISHED BY PUBLISHERS WEEKLY, LIBRARY JOURNAL, SCHOOL LIBRARY JOURNAL, AND CRITICAS), AND THE SOFTWARE AND THEIR USE IN ACCORDANCE WITH THE TERMS HEREIN DO NOT AND WILL NOT INFRINGE UPON, VIOLATE OR MISAPPROPRIATE ANY U.S. PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, OR ANY OTHER PROPRIETARY RIGHT, CONTRACT OR OTHER RIGHT OR INTEREST OF ANY THIRD PARTY. UNIVERSITY OF CALIFORNIA UNDERSTANDS THAT BOWKER, ITS AFFILIATES, LICENSORS, SUPPLIERS AND AGENTS, MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE ONLINE DATABASES, INCLUDING WITHOUT LIMITATION THE SOFTWARE AND THE DATABASES, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER BOWKER NOR ITS LICENSORS MAKES ANY REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY, ADEQUACY, OR COMPLETENESS OF THE INFORMATION CONTAINED WITHIN THE DATABASES, OR THAT THE INFORMATION CONTAINED IN THE ONLINE DATABASES IS COMPLETE OR FREE FROM ERROR. NEITHER BOWKER NOR ITS LICENSORS ASSUME, AND ALL EXPRESSLY DISCLAIM, ANY LIABILITY TO ANY PERSON FOR ANY LOSS OR DAMAGE CAUSED BY ERRORS OR OMISSIONS IN THE DATABASES, WHETHER SUCH ERRORS OR OMISSIONS RESULT FROM NEGLIGENCE, ACCIDENT, OR ANY OTHER CAUSE. NEITHER BOWKER NOR ITS LICENSORS MAKE ANY REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE PERFORMANCE OF UNIVERSITY OF CALIFORNIA'S NETWORKS OR COMPUTER SYSTEMS WHEN USED IN CONJUNCTION WITH THE ONLINE DATABASES. IN NO EVENT WILL BOWKER, ITS AFFILIATES, LICENSORS, SUPPLIERS OR AGENTS, BE LIABLE TO UNIVERSITY OF CALIFORNIA FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF UNIVERSITY OF CALIFORNIA'S USE OR INABILITY TO USE THE ONLINE DATABASES REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE OR WHETHER SUCH DAMAGES ARE DEEMED TO RESULT FROM THE FAILURE OR INADEQUACY OF ANY EXCLUSIVE OR OTHER REMEDY. EXCEPT WITH RESPECT TO THE COMPUTATION OF DAMAGES FOR THE UNAUTHORIZED USE, DISCLOSURE, MISAPPROPRIATION OR INFRINGEMENT OF INTANGIBLE PROPERTY SUBJECT TO COPYRIGHT, PATENT RIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHTS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE OR WHETHER SUCH DAMAGES ARE DEEMED TO RESULT FROM THE FAILURE OR INADEQUACY OF ANY EXCLUSIVE OR OTHER REMEDY.

UNIVERSITY OF CALIFORNIA UNDERSTANDS AND ACKNOWLEDGE THAT IT IS SOLELY RESPONSIBLE FOR LOADING, USING, DOWNLOADING INTO OR DELETING FROM ITS COMPUTER SYSTEMS ANY LISTS OR REPORTS PROVIDED BY THE ULRICH'S SERIALS ANALYSIS SYSTEM, AND UNIVERSITY OF CALIFORNIA ASSUMES ALL RISK AND RESPONSIBILITY RELATED TO SAME. IN NO EVENT SHALL BOWKER BE LIABLE FOR ANY

DAMAGES WHATSOEVER ARISING FROM UNIVERSITY OF CALIFORNIA'S LOADING, USE, DOWNLOADING OR DELETION OF SUCH REPORTS.

- 11. INDEMNIFICATION.** Subject to Section 10 herein, Bowker shall indemnify and hold University of California and Authorized Users and USAS 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 Online Databases by the University of California or any Authorized User or USAS User.

Subject to Section 10 herein, each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims.

The indemnifying party 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 indemnifying party may reasonably request and have the right to participate in the defense at its own expense

- 12. ENFORCEABILITY.** In the event that any part of this Agreement shall be held unenforceable or invalid under the laws of an applicable jurisdiction, the remaining parts thereof shall nevertheless continue to be valid and enforceable as though the offending portions had not been a part hereof. In addition, if the limitations of Warranty or Liability hereunder are held to be unenforceable under the law of an applicable jurisdiction, such limitations shall, for purposes of this Agreement, be adjusted such that the liability of Bowker shall not exceed the amount of License Fees for the Online Databases paid or owed to Bowker by University of California for the twelve months preceding the filing of the relevant claim.

- 13. TERMINATION.** This Agreement may be terminated by either party if either of the following events shall occur: (i) by the terminating party if the other party shall breach any material term or covenant of this Agreement, and such material breach shall continue uncured for sixty (60) days after written notice thereof from the non-breaching party detailing such material breach; or (ii) by the terminating party if a petition in bankruptcy shall be filed either voluntarily or involuntarily in connection with the other party, or if the other party shall be adjudicated insolvent by any court, or if a trustee or a receiver of a substantial portion of any property of the other party shall be appointed in any suit or proceeding by or against such party, or if the other party shall make an assignment for the benefit of creditors or shall seek or obtain the benefit of any bankruptcy or insolvency act.

- 14. PERFORMANCE.** Bowker shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month, exclusive of periods of scheduled maintenance activities, which if they occur, shall only occur between 10:00 PM Saturday and 2:00 AM Sunday, EST; interruptions in third party networks that prevent Internet users from accessing the Internet; interruptions caused by Force Majeure; or periods of outage resulting from a customer's lack of availability to respond to incidents that require a customer's participation for resolution. If the Online Databases fail to operate in conformance with the terms of this Agreement, Bowker shall immediately notify the University of California, and Bowker shall promptly use reasonable efforts to restore access to the Online Databases as soon as possible.

- 15. CONFIDENTIALITY.** Subject to Section 9 herein, Bowker and University of California agree to maintain the confidentiality of any data relating to the usage of the Online Databases by University of California, its Authorized Users and USAS Users. Such data may be used solely for purposes directly related to the Online Databases 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, except as required by law.

16. MISCELLANEOUS.

- a) **Notices.** All notices and other communications under this Agreement, including without limitation any amendments, shall be in writing and shall be addressed to such party at the address or applicable facsimile number set forth below or such other address or facsimile number as may hereafter be designated in writing by the addressee to the addressor, and shall be deemed sufficient if sent by United States Registered Mail, postage prepaid, return receipt requested, generally recognized overnight courier service or by facsimile transmission with confirmed answerback to the facsimile numbers as set forth below.

If to University of California: California Digital Library of the University of California
Geisel Library 0175A
9500 Gilman Drive
La Jolla, CA 92093-0175

If to Bowker: R.R. Bowker
630 Central Avenue
New Providence, NJ 07974

- b) **Force Majeure.** Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach (other than the payment of License Fees due hereunder) are delayed or prevented by reason of any act of God, fire, natural disaster, accident, act of government, labor difficulty, sabotage, failure of suppliers or subcontractors or unavailability of material or supplies or any other cause beyond the control of such party ("Force Majeure"), provided that such party gives the other party written notice thereof promptly and in any event, within fifteen (15) business days of discovery thereof. In the event of such a Force Majeure, the time for performance or cure shall be extended for the duration of the Force Majeure. Notwithstanding the foregoing, should any extension of the period of performance exceed ninety (90) days, either party may, upon notice to the other, terminate this Agreement, and such termination shall not constitute a breach herein.
- c) **Assignment.** This Agreement is binding upon and shall inure to the benefit of the parties and their respective permitted successors, trustees, and assigns. Neither party shall have the right to assign, transfer or sublicense any right, interest or obligation in or under this Agreement without the prior written consent of the other, except that either party may assign this Agreement in whole or in part to any entity under the common control of its ultimate parent company or to any entity which shall succeed to all or substantially all of the assets, liabilities and goodwill of that party. Notwithstanding the foregoing, this Agreement may be terminated by either party in the event that the other party either merges, transfers, or sells more than fifty percent (50%) of its assets or the assets of any successor entity or affiliate to any entity which such terminating party reasonably deems to be its competitor.
- d) **Entire Agreement.** This Agreement, including any Appendices attached hereto, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations and understandings, oral or written. Only an instrument in writing duly executed by both parties may modify this Agreement.
- e) **Waiver.** Any waiver of any right or default hereunder shall be effective only if in writing and only in the instance given and shall not operate as or imply a waiver of any similar right or default on any subsequent occasion.

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- f) **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of California of the United States of America, without reference to the principles of choice of laws thereof.

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

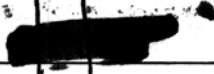
R.R. Bowker LLC


By: Boe Horton
Title: Sr. Vice President and
General Manager, Libraries


Date

Regents of the University of California


By: 
Title: 


Date



Appendix A: Bowker Web Subscription Form

Date: December 14, 2004	Bowker Representative: [REDACTED]
Subscriber Contact: [REDACTED]	Bowker ID#: [REDACTED]
Phone: (650) 394-1111	Bowker Phone: [REDACTED]
Fax: (650) 394-1111	Bowker Fax: [REDACTED]
Email: [REDACTED]	Institution Type: Academic

Bowker Account [REDACTED]	PO#: [REDACTED]
Subscriber: California Digital Library, University of California	
Bill To Address: U of CA - CA Digital Library ATTN: [REDACTED] Geisel Library 0175A-CDL ACQ 9500 Gilman Drive La Jolla, CA 92093-0175	
Number of Licensed Locations: 10	
List of Licensed Locations:	
University of California, Berkeley	University of California, Riverside
University of California, Davis	University of California, San Diego
University of California, Irvine	University of California, San Francisco
University of California, Los Angeles	University of California, Santa Barbara
University of California, Merced	University of California, Santa Cruz
Plus: University of California, Office of the President	
Includes authorized remote access. Academic bookstores, academic presses, companies, corporations or other commercial entities are not included.	

Subscription Period	Online Databases	# Simultaneous Users	Product Code	Price*
January 1 2004 to December 31, 2004	Globalbooksinprint.com with Reviews	Unlimited	WGR - MMA	[REDACTED]
	Ulrichsweb.com	8	WUA - MMA	[REDACTED]
			Total Price*	[REDACTED]
PAID IN FULL				
January 1 2005 to December 31, 2005	Globalbooksinprint.com with Reviews	Unlimited	WGR - MMA	[REDACTED]
	Ulrichsweb.com	8	WUA - MMA	[REDACTED]
			Total Price*	[REDACTED]
*Prices applicable in the U.S., its territories, and Canada. All invoices payable in U.S. dollars. Applicable sales tax will be added. GST and/or HST, if applicable will be added for Canadian customers. All orders will be charged applicable sales tax unless properly accompanied by a Tax-Exemption Certificate or Direct Pay Permit.				

Site Administrator: [REDACTED]
Phone: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]

Notes:
Renewal.
All IP Addresses, Usernames
and Passwords on file with
Bowker.

[Handwritten signature]