

American Dental Association
INSTITUTIONAL SITE LICENSE AGREEMENT TO JADA ONLINE
AGREEMENT COVER PAGE

EFFECTIVE DATE: Sept. 2007
(To be completed by ADA)

CUSTOMER ID #: (See below)
(To be completed by ADA)

Please complete section B below, as well as the authorized signatory information at page 9 of the attached agreement, and have the Agreement signed by an authorized representative of your institution. Please do not alter or modify the terms or it will be rejected by ADA. Please return the signed Agreement, along with your payment to Ms. Jill Philbin, Publishing Division, American Dental Association, 211 East Chicago Avenue, Chicago, IL 60611 (USA). Upon ADA's receipt of your payment and the signed Agreement, ADA will complete section A and countersign the Agreement, then return a fully executed copy to you. The Agreement will begin on the Effective Date established by ADA. Advanced payment is required.

SECTION A: To Be Completed By ADA

ANNUAL LICENSE FEE: US\$ [REDACTED]

SPECIAL TERMS: Non-standard Agreement (attached).
Multi-Site License:

N00038933 Carlson Health Sciences Library, University of California-Davis, 1 Shields Ave.,
Davis, CA 95616

N00043897 UCLA Biomedical Library/Monographs, 12-077 Center for Health Sciences, Box
951798, Los Angeles, CA 90095-1798

N00032291 University of California San Francisco, Library & Center for Knowledge
Management, 530 Parnassus Avenue, Room 106,
San Francisco, CA 94143-0840

N00063985 University of California Office of the President, California Digital Library, 415
20th Street, 4th Floor, Oakland, CA 94612 (Administrative Purposes Only, Non-
Fee Bearing)

SECTION B: LICENSEE INFORMATION (To be completed by Licensee)

Institution/Company
Name ("Licensee") The Regents of the University of California

The California Digital Library, University of California Office of the President

Street Address 415 20th Street, 4th Floor, Oakland, CA 94612

City/State/Zip/

Country (if not USA) Oakland, CA 94612

Contact Person Name [REDACTED]

Title Licensing Manager

Telephone [REDACTED] Fax 510.287.0243

Email [REDACTED]

1) **Average number of Authorized Users** at the Institution during the 12-month period prior to the
Commencement Date of this Agreement:

See Agreement Appendix B

IP Ranges: See Agreement Appendix B

INSTITUTIONAL SITE LICENSE AGREEMENT TO JADA ONLINE

AMERICAN DENTAL ASSOCIATION AND THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

This License Agreement (this "Agreement") is made effective as of August __, 2007 (the "Effective Date") between American Dental Association, an Illinois not-for profit corporation, with its principal offices at 211 East Chicago Avenue, Chicago, Illinois 60611, USA ("ADA") 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, CA 94612, USA ("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 the database of content from the online edition of THE JOURNAL OF THE AMERICAN DENTAL ASSOCIATION ("JADA"), accessible through the JADA Online website, currently located at URL <http://jada.ada.org> (hereinafter referred to as the "Licensed Materials"). Licensed Materials includes the most recently published electronic edition of JADA available at the time of access, plus archive materials, such content including but not limited to tables of content, abstracts and full text of articles.

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 ADA. Neither Licensee nor its Authorized Users shall have right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

ADA hereby grants to Licensee a non-exclusive license to use the Licensed Materials and to provide the Licensed Materials to Authorized Users in accordance with this Agreement.

II. DELIVERY/ACCESS OF LICENSED MATERIALS TO LICENSEE

ADA will provide the Licensed Materials to the Licensee in the following manner:

Network Access. The Licensed Materials will be stored at one or more ADA locations in digital form accessible by telecommunications links between such locations and authorized locations of Licensee.

III. FEES

The amount of the annual license fee is as set forth on the cover page of this Agreement, which is hereby incorporated into this Agreement by reference as if fully set forth again. The annual license fee shall be remitted by Licensee to ADA with the execution copy of this Agreement.

IV. AUTHORIZED USE OF LICENSED MATERIALS

Authorized Users. "Authorized Users" are:

Persons Affiliated with the University of California. Full and part time employees (including faculty, staff, and independent contractors) and students of Licensee and the institution of which it is a part, regardless of the physical location of such persons. For campus locations see Appendix A.

Walk-ins. Patrons not affiliated with Licensee who are physically present at Licensee's site(s) ("walk-ins").

Access by and Authentication of Authorized Users. Licensee and its Authorized Users shall be granted access to the Licensed Materials pursuant to the following:

IP Addresses. Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by Licensee to ADA as Appendix B, which shall also include Licensee's best estimate of the average number of Authorized Users using such address within the preceding twelve (12) months for each IP address listed therein. The use of proxy servers is permitted as long as any proxy server IP addresses provided limit remote or off-campus access to persons affiliated with the University of California.

Authorized Uses. Licensee and Authorized Users may make all use of the Licensed Materials as is consistent with the Fair Use Provisions of United States and international copyright laws. In addition, the Licensed Materials may be used for purposes of research, education or other non-commercial use as follows:

Display. Licensee and Authorized Users shall have the right to electronically display the Licensed Materials.

Digitally Copy. Licensee and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials, consistent with the fair use provisions of the copyright laws of the United States, Title 17, § 107 of the U.S. Code.

Print Copy. Licensee and Authorized Users may print a reasonable portion of the Licensed Materials, consistent with the fair use provisions of the copyright laws of the United States, Title 17, § 107 of the U.S. Code.

Recover Copying Costs. Licensee may charge a reasonable fee to cover costs of copying or printing portions of Licensed Materials for Authorized Users.

Caching. Licensee and Authorized Users may make local digital copies of the Licensed Materials in order to ensure efficient use by Authorized Users by appropriate browser or other software.

Collections of Information. Licensee and Authorized Users shall be permitted to extract or use information contained in the Licensed Materials for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis, consistent with the fair use provisions of the copyright laws of the United States, Title 17, § 107 of the U.S. Code.

Course Packs. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials.

Course Reserves (Print and Electronic). Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by the University of California.

Scholarly Sharing. Authorized Users may transmit to a third party in hard copy or electronically, minimal, insubstantial amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for resale or commercial purposes.

Interlibrary Loan. Using secure electronic, paper, or intermediated means such as Ariel, Licensee may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan. Licensee agrees to fulfill such requests in compliance with Section 108 of the United States Copyright Law (17 USC §108, "Limitations on exclusive rights: Reproduction by libraries and archives") and the Guidelines for the Proviso of Subsection 108(2g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works.

Amount of Authorized Use.

Unlimited Access. Subject to the terms of this Agreement, Licensee and its Authorized Users shall have unlimited access to the Licensed Materials.

V. SPECIFIC RESTRICTIONS ON USE OF LICENSED MATERIALS

Unauthorized Use. Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials.

Modification of Licensed Materials. Licensee shall not modify, manipulate, or create a derivative work of the Licensed Materials without the prior written permission of ADA.

Removal of Copyright Notice. Licensee may not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

Commercial Purposes. Licensee may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials, fee-for-service use of the

Licensed Materials, or bulk reproduction or distribution of the Licensed Materials in any form; nor may Licensee impose special charges on Authorized Users for use of the Licensed Materials beyond reasonable printing or administrative costs.

VI. MUTUAL PERFORMANCE OBLIGATIONS

Confidentiality of User Data. ADA and Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its 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.

Implementation of Developing Security Protocols. Licensee and ADA shall cooperate in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.

VII. ADA PERFORMANCE OBLIGATIONS

Availability of Licensed Materials. Upon the Effective Date of this Agreement, ADA shall make the Licensed Materials available to Licensee and Authorized Users.

Quality of Service. ADA shall use reasonable efforts to ensure that the ADA'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 on-line information provision industry in the Licensee's locale.

ADA shall use reasonable efforts to provide continuous service seven (7) days a week, excluding unavailability due to maintenance of the server(s), the installation or testing of software, the loading of additional Licensed Materials as they become available, and downtime related to the failure of equipment or services outside the control of ADA, including but not limited to public or private telecommunications services or internet nodes or facilities. ADA shall use reasonable efforts to limit interruptions in continuous service as defined above, to five percent (5%) downtime.

Completeness of Content. ADA shall use reasonable efforts to ensure that the online content is at least equivalent to print versions of the Licensed Materials, represents complete, faithful and timely replications of the print versions of such Materials, and will cooperate with Licensee to identify and correct errors or omissions.

Compliance with Americans with Disabilities Act. ADA shall make reasonable efforts to comply with the Americans with Disabilities Act (ADA).

VIII. 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.

Provision of Notice of Intellectual Property Right to Authorized Users. Licensee shall make reasonable efforts to provide Authorized Users with notice of any applicable Intellectual Property or other rights applicable to the Licensed Materials. Licensee shall make reasonable efforts to prevent the infringement of any Intellectual Property or other rights of the ADA in the Licensed Materials. Licensee shall promptly notify ADA of any infringement that comes to Licensee's attention, and take appropriate steps to avoid its recurrence.

Protection from Unauthorized Use. Licensee shall use reasonable efforts to protect the Licensed Materials from any use that is not permitted under this Agreement. In the event of any unauthorized use of the Licensed Materials by an Authorized User, (a) ADA may terminate such Authorized User's access to the Licensed Materials, (b) ADA may terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred, and/or (c) Licensee shall terminate such Authorized User's access to the Licensed Materials upon ADA's request. ADA shall take none of the steps described in this paragraph without first providing a sixty (60) day notice to Licensee and cooperation with the Licensee to avoid recurrence of any unauthorized use.

Maintaining Confidentiality of Access Passwords. Where access to the Licensed Materials is to be controlled by use of passwords, Licensee shall issue log-on identification numbers and passwords to each Authorized User and use reasonable efforts to ensure that Authorized Users do not divulge their numbers and passwords to any third party.

IX. TERM

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

X. RENEWAL AND LICENSE FEE INCREASES

This agreement shall be renewable at the end of the current term for successive terms of one (1) year unless either party gives written notice of its intention not to renew thirty (30) days before expiration of the then-current term. ADA may give written notice to Licensee of its intent to increase its annual license fee applicable to any renewal term of this agreement sixty (60) days prior to the expiration of the then-current term.

XI. EARLY TERMINATION

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if ADA 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 sixty (60) 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 sixty (60) 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 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.

Except where termination is as the result of Licensee's material breach of any of its obligations under this Agreement or because Licensee has exceeded the scope of the license granted by this Agreement, in the event of early termination permitted by this Agreement, Licensee shall be entitled to a refund of any fees or pro-rata portion thereof paid by Licensee for any remaining period of the Agreement from the date of termination.

XII. WARRANTIES

Subject to the Limitations set forth elsewhere in this Agreement:

ADA 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.

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.

ADA makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

Except for the express warranties stated herein, the Licensed Materials are provided on an "as is" basis, and ADA disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. ADA 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. ADA further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

XIV. INDEMNITIES

The ADA 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 arising out of the authorized uses of the Licensed Materials by the Licensee or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.

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.

XV. ASSIGNMENT AND TRANSFER

Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

XVI. DISPUTE RESOLUTION

In the event any dispute or controversy arising out of or relating to this Agreement, the parties agree to exercise their best efforts to resolve the dispute as soon as possible. In the event that the parties cannot resolve the dispute within thirty (30) calendar days after receipt of written notice of the existence of the dispute by exercise of their best efforts, the dispute shall be submitted to binding arbitration in accordance with the Arbitration provision of this Agreement. The parties shall, without delay, continue to perform their respective obligations under this Agreement that are not affected by the dispute.

Arbitration. Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. The parties shall endeavor to select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the arbitrators in turn shall select a third arbitrator. The arbitration shall take place at a location that is reasonably centrally located between the parties, or otherwise mutually agreed upon by the parties.

All documents, materials, and information in the possession of each party that are in any way relevant to the claim(s) or dispute(s) shall be made available to the other party for review and copying no later than sixty (60) days after the notice of arbitration is served.

The arbitrator(s) shall not have the authority, power, or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement or to award punitive damages. The arbitrator shall have the power to issue mandatory orders and restraining orders in connection with the arbitration. The award rendered by the arbitrator shall be final and binding on the parties, and judgment may be entered thereon in any court having jurisdiction. The agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. During the pendency of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Agreement.

XVII. 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, strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected.

XVIII. 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.

XIX. AMENDMENT

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

XX. 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.

XXI. 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.

XXII. NOTICES

All notices given pursuant to this Agreement shall be in writing and may be hand delivered, 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 by U.S. Mail or hand delivery to the specified address. Either party may from time to time change its Notice Address by written notice to the other party.

If to ADA:

Ms. [REDACTED]
Manager, Marketing/Circulation
Publishing Division
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611 USA

If to Licensee:

University of California Office of the President
California Digital Library
415 20th Street, 4th Floor
Oakland, CA 94612 USA

XXIII. Notice of the Use of Digital Rights Management Technology

In the event that ADA utilizes any type of digital rights management technology to control the access or the usage of Licensed Product, ADA agrees to notify Licensee of the name, contact information and any technical specifications for the digital rights management technology utilized.

XXIV. Notice of the Use of Digital Watermarking Technology

If ADA utilizes any type of digital watermarking technology for any element of the Licensed Product, ADA agrees that watermarks will not be visible to the human eye and will not degrade image quality. These watermarks shall not contain user-related information such as account number or IP address. If digital watermarking technology is used, ADA agrees to notify Licensee, in advance, of the name, contact information, and any technical specifications for the technology used.

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

ADA:

BY: _____

Signature of Authorized Signatory of Publisher

DATE: 8/24/07

Print Name: _____

Title: Executive Director

Address: 211 East Chicago Avenue, Chicago, Illinois 60611

Telephone No. _____

E-mail: _____

LICENSEE:

BY: _____

Signature of Authorized Signatory of Licensee

DATE: 8/21/07

Print Name: _____

Title: _____

Address: Director, Business Services
415 20th St., 4th Floor, Oakland CA 94612

Telephone No.: _____

E-mail: _____

Appendix A

Campuses / Administrative Facilities of the University of California

University of California, Davis:

Carlson Health Sciences Library
University of California-Davis
1 Shields Ave.
Davis, CA 95616

University of California, Los Angeles:

UCLA Biomedical Library/Monographs
12-077 Center for Health Sciences
Box 951798
Los Angeles, CA 90095-1798 USA

University of California, San Francisco:

University of California San Francisco
Library & Center for Knowledge Management
530 Parnassus Avenue
Room 106
San Francisco, CA 94143-0840

University of California Office of the President (Administrative Purposes Only, Non-Fee Bearing):

University of California Office of the President
California Digital Library
415 20th Street, 4th Floor
Oakland, CA 94612

Exhibit B

IP Addresses and Average Users

FACILITY	IP ADDRESSES	AVERAGE USERS
UC Davis	[REDACTED]	163
UC San Francisco	[REDACTED]	370
UCLA	[REDACTED]	394
Office of the President	[REDACTED]	Incidental administrative usage