LICENSCE AGREEMENT

S. Karger AG
AND
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

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Confidentiality of User Data. Licensor and Licensee agree to maintain the confidentiality of Authorized Users relating to the usage of the Licensed Materials. 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 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 Licensor shall cooperate in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.

VII. LICENSOR PERFORMANCE OBLIGATIONS

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

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

Training and Support. Licensor will offer installation support, including assisting with the implementation of any Licensor software. Licensor will provide appropriate training to Licensee staff relating to the use of the Licensed Materials and any Licensor software. Licensor will offer reasonable levels of continuing support to assist Licensee and Authorized Users in use of the Licensed Materials. Licensor will make its personnel available by email, phone or fax during regular business hours, Monday through Friday 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 online information provision industry in the Licensee’s locale.

Licensor shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-time includes periodic unavailability due to maintenance of the server(s), the installation or testing of software, and the loading of additional Licensed Materials as they become available. Scheduled down-time will be performed at a time to minimize inconvenience to Licensee and its Authorized Users.

If the Licensed Materials fail to operate in conformance with the terms of this Agreement, Licensee shall immediately notify Licensor, and Licensor shall promptly use reasonable efforts to restore access to the Licensed Materials as soon as possible. In the event that Licensor fails to repair the nonconformity in a reasonable time, Licensor shall reimburse Licensee in an amount that the nonconformity is proportional to the total Fees owed by Licensee under this Agreement.

Completeness of Content. Licensor 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.

Continued Training. Licensor will provide regular system and project updates to Licensee as they become available. Licensor will provide additional training to Licensee staff made necessary by any updates or modifications to the Licensed Materials or any Licensor software.

Notice of Terms of “Click-Through” License Terms. In the event that Licensor requires Authorized Users to agree to terms relating to the use of the Licensed Materials before permitting Authorized Users to gain access to the Licensed Materials (commonly referred to as “click-through” licenses), Licensor shall provide Licensee with notice of and an opportunity to comment on such terms prior to their implementation. In no event shall the terms of such “click-through” licenses materially differ from the provisions of this Agreement. In the event of any conflict between the terms of such “click-through” licenses and this Agreement, the terms of this Agreement shall prevail.

Usage Statistics. Licensor must provide both composite use data for the system-wide CDL and itemized data for individual campuses, on a monthly basis. Use data should be at the level of detail required for objective evaluation of both product performance and satisfaction of user needs, including title-by-title use of journals. Providers should follow the International Coalition of Library Consortia (ICOLC) “Guidelines for Statistical Measures of Usage of Web-Based Information Resources” or provide information in compliance with COUNTER or other recognized international standard.

Compliance with Americans with Disabilities Act. Licensor shall make reasonable efforts to comply with the Americans with Disabilities Act (ADA) requirements, Section 508 of the Rehabilitation Act Amendments, and provide Licensee current completed Voluntary Product Accessibility Template (VPAT).

Institutional Branding. Licensor will support and assist Licensee in the creation of institutional branding features at the campus and/or aggregate level.

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IX. TERM

This Agreement shall continue in effect for three years commencing on the Effective Date.

X. RENEWAL

This agreement shall be renewable at the end of the current term for a successive one year term unless either party gives written notice of its intention not to renew thirty (30) days before expiration of the 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 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 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 pursuant to such events as specified above and in case Licensee is the breaching party. Licensor shall be entitled to immediately remove all of the Licensed Materials without any rebate of the Fee, in addition to any other rights and remedies to which it may be entitled, at law or in equity. Licensee shall immediately cease to distribute or make available the Licensed Materials to Authorized Users. Upon termination of this Agreement due to breach of any material term thereof by Licensor, Licensor shall forthwith repay to Licensee that portion of the Fee attributable to the unused portion of the Licensed Materials.

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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. 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.

XVI. 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.

XVII. GOVERNING LAW

Any legal action brought by either party against the other shall be brought in the jurisdiction of the registered principal office of the party against whom the action is brought and the laws of that jurisdiction shall apply.

XVIII. 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. The parties shall, without delay, continue to perform their respective obligations under this Agreement which are not affected by the dispute.

XIX. 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.
XX. 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.

XXI. 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.

XXII. 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.

XXIII. 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.

XXIV. NOTICES

Any notices to be served on either of the Parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this Agreement or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within fourteen (14) days of posting.

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California Digital Library
415 20th Street, 4th Floor
Oakland, CA 94612
USA
Attn: Licensing Dept.
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- the number of articles published under the open access option by all authors, listed by journal title.

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At Licensee’s request, Licensor will provide to Licensee a single print archival copy of the titles selected from the Licensed Materials, on a mutually agreed upon schedule, shipped to a single ship-to address at no additional cost. This term does not apply if Licensor ceases to produce paper editions of such titles.
IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

LICENSEE:

BY: [Signature of Authorized Signatory of Licensee]

Print Name: [Redacted]
Title: Interim Executive Director
Address: 415 20th Street, 4th Floor, Oakland, CA 94612, USA
Telephone No.: [Redacted]
E-mail: [Redacted]

DATE: __/__/__

LICENSEE:

BY: [Signature of Authorized Signatory of Licensee]

Print Name: [Redacted]
Title: Interim Executive Director
Address: [Redacted], Switzerland
Telephone No.: [Redacted]
E-mail: [Redacted]

DATE: __/__/__

Print Name: [Redacted]
Title: [Redacted]
Address: [Redacted]
Telephone No.: [Redacted]
E-mail: [Redacted]
Appendix A

Business Terms


Included: Journals with archive, ebooks with archive

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Total

Notes on Journal Terms

Annual increases in Years 2 and 3.

Notes on Journal Archive Terms

The Archive (1893-1998) covers 64 journals and about 187,000 articles. Number of pages would be 6-10 pages per article.

CDL payment to Karger: Prior campus purchases: Total Karger revenue:

Notes on Ebook Purchase Terms

Perpetual access

All ebooks, 1997-2015 (series and non-series)

MARC records available at Karger website

Historic duplicate factor for Karger ebooks is 1.37

Pricing is based on 1997-2012 and 2013-2015

602 titles for 1997-2012

Minimum title count 120 for 2013-2015 (approx. 40 titles per year)

Value of historic ebook collections:

- Non-series eBooks 1997-2012: 73 titles, retail $12,790
- Series eBooks 2012: min. 40 titles, retail $10,000
- Series eBooks 2012: 41 titles, retail $9,337
- Series eBooks 2011: 39 titles, retail $10,212
- Series eBooks 2011-2013: min. 120 titles, retail $30,000
- Series eBooks 1997-2010: 456 titles, retail $116,000

Not included titles:

- Food Science and Technology Research: available only in print
- Developments in Biologicals: available only in print
- Theilheimer's Synthetic Methods of Organic Chemistry: not included
Appendix B

Campuses of the University of California

University of California, Berkeley (including Lawrence Berkeley Lab)

University of California, Davis

University of California, Irvine

University of California, Los Angeles

University of California, Merced

University of California, Riverside

University of California, San Diego

University of California, San Francisco

University of California, Santa Barbara

University of California, Santa Cruz

University of California Office of the President
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San Francisco (UCSF)
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Range End

Santa Barbara (UCSB)
Range Start

Range End

Santa Cruz (UCSC)
Range Start

Range End
Appendix D.
Journal Archive Title List as of 10/13/2015

Journal Archive Collection

www.karger.com/archivecollection

Comprises all Karger-digitized Karger journals issued from 1997 back to each title’s first year of publication. Structured in 5 subject packages. The collection consists of 64 titles.

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| 57 | Ophthalmic Research | 1970 | Package 5 | 9 |
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| 62 | Psychotherapy and Psychosomatics | 1953 | Package 5 | 14 |
| 63 | Urologia Internationalis | 1955 | Package 5 | 15 |
| 64 | Verhaltenstherapie | 1991 | Package 5 | 16 |

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