

# Subscription Agreement

## Terms of Use of the YOMIDAS REKISHIKAN Service

### **The YOMIDAS REKISHIKAN Service**

The YOMIDAS REKISHIKAN Service (hereafter called "Service") is a database of Yomiuri Shimbun and Daily Yomiuri articles provided under the name "YOMIDAS REKISHIKAN" by The Yomiuri Shimbun Tokyo (hereafter called "Licensor").

Licensor will provide corporations and institutions (hereafter called "Licensee") with Service after they have agreed to the Terms of Use of the YOMIDAS REKISHIKAN Service (hereafter called "Subscription Agreement") and have completed an application form that has been accepted by Licensor following necessary registration procedures.

### **Article 1. Terms of Use**

Terms of Use described here apply to Licensor, marketing agencies and any Licensee pertaining to matters regarding use of Service.

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. 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.

### **Article 2. Copyright and other rights**

The copyright of the Service and the database that constitutes Service belong to Licensor. Copyright and other rights of data, such as articles, pictures, images, dictionaries and glossaries contained in Service and the database belong to the rightful claimant of the respective data.

### **Article 3. Forms of Service**

Service is available in the following two forms:

1. Fixed Terminal Type: Service charges are determined by the number of terminals designated by Licensee to access Service.
2. Simultaneous Access Type: Service can be accessed simultaneously by a stipulated number of users through the IP address of Licensee's designated server. The use of the Service by Simultaneous Access Type includes remote access through an authentication server of the Licensee, and such remote access is allowed only to authorized members of the Licensee (the "Authorized

Members”). Remote Access is permitted only to educational institutions, and Authorized Members are educational institution’s faculty, staff, affiliated researchers, visiting scholars, currently enrolled graduate students, full or part-time students, walk-in users, and distance learners.

#### **Article 4. Licensee**

1. Service is, in principle, provided for educational institutions, public libraries, private corporations and governmental organizations.
2. Parties not mentioned above may sign a contract for Service if they agree to Terms of Use and pay fees as stipulated in a separate document and in accordance with the procedure set by Licensor.

#### **Article 5. Period of contract**

The contract period is one year, and will automatically be extended by one year unless Licensee notifies Licensor in writing no later than 30-days prior to the expiration of the contract period that it wishes to terminate the contract.

#### **Article 6. Contract for use of Service**

1. A contract becomes valid after the applicant receives notification from Licensor following submission of a completed Service application form to either Licensor or the marketing agent.
2. Application to use Service can also be made online (<http://www.yomiuri.co.jp/rekishikan/>) with the contract coming into effect after Licensor issues notification of completion of Licensee’s contract.
3. Licensee must immediately notify Licensor or the marketing agent, through a designated procedure, when any change is made to details given in Licensee’s registration application, such as name or address. Notification of changes in Licensee’s registration application can also be made online (<http://www.yomiuri.co.jp/rekishikan/>).

#### **Article 7. Acceptance of application**

Licensor reserves the right to refuse Licensee’s registration application, or nullify Licensee’s registration if the application has already been accepted, for the following reasons:

1. Licensee has had a previous registration nullified due to such reasons as violation of Terms of Use.
2. Licensee has provided false information, made significant errors and/or failed to complete items in the application form.
3. Licensee fails to make timely payment of Service charges.

### **Article 8. Provision of Service**

1. Licensee understands that from time to time the Licensed Materials may be added modified or deleted by Licensor and/or that portions of the Licensed Materials may migrate to other formats. Marketing agent for Licensor shall give prompt notice of any such changes to Licensee. Failure by Licensor to provide such reasonable notice shall be grounds for immediate termination of the Agreement by Licensee. If any modifications render the Licensed Materials less useful to the Licensee, the Licensee may treat such modifications as a material breach subject to the Termination of Contract provisions of this Agreement below. Further, marketing agent for Licensor shall provide advance notice to Licensee when the URLs and server domain names that affect Participating Member Institution's access are modified.

2. Licensor shall use reasonable efforts to ensure that the their server or servers have sufficient capacity and rate of connectivity to provide the Licensee with a quality of service comparable to current standards in the on-line information industry in the Licensee's locale.

Licensor shall use reasonable efforts to provide continuous service with an average of 97% up-time per month. The 3% down-time includes periodic 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 Licensor, including but not limited to public or private telecommunications services or internet nodes or facilities. Scheduled down-time will be performed at a time to minimize inconvenience to Licensee.

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.

### **Article 9. Fees for Service**

1. Fees are stipulated in a separate document.

2. Licensor reserves the right to amend fees at any time after giving prior notification to Licensee. Any increase in fees, including subscription fees, may become effective only upon at least ninety (90) days prior notice from Licensor to the Licensee. Such notice shall set forth the new fees and effective date(s) thereof. Increases in the Licensee's subscription fees shall become effective only upon renewal of this Agreement for the applicable database.

3. In the event Service is used for less than one (1) month, payment will be charged for one (1) full month.

4. Licensee must pay for Service in accordance with the procedure set by Licensor or by the marketing agent. Licensee can select either monthly payments or lump sum annual payment for one (1) year.



#### **Article 10. Management of ID, password**

1. Licensee must take appropriate measures to ensure the ID and password issued by Licensor is secure.
2. The ID and password issued to Licensee can be used only by that Licensee. The ID and password must not be lent, transferred or revealed to a third party.
3. If Licensee discovers that the ID or password has been acquired by a third party, Licensee must notify Licensor immediately.

#### **Article 11. Use of Service at libraries**

If Licensee is a library, the use of Service permitted to a visitor to the library is stipulated as follows:

Licensee shall make reasonable efforts to provide Authorized Members with appropriate notice of the terms and conditions under which access to the Service is granted under this Agreement including, in particular, any limitations on access or use of the Licensed Materials as set forth in this Agreement.

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.

Digital Copy: Licensee and Authorized Users may digitally copy minimal and insubstantial amounts of the Licensed Materials for personal use or scholarly, education or scientific research but in no case for resale.

Print Copy. Licensee and Authorized Users may print a reasonable portion of the Licensed Materials as necessary for the particular non-commercial research or educational use of Licensee and Authorized Users

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

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.

Electronic Reserve. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by Licensee and/or its parent institution. Access will be available through folders authorized by Licensor.

Databases. If the Licensed Materials are a database, compilation, or collection of information,

Authorized Users shall be permitted to extract or use information contained in the database 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.

Indices. Licensee may use the Licensed Materials in connection with the preparation of or access to integrated indices to the Licensed Materials, including author, article, abstract and keyword indices.

Scholarly Sharing. Authorized Users may transmit to a third party colleague 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 re-sale. In addition, Authorized Users have the right to use, with appropriate credit, figures, tables and brief excerpts from the Licensed Materials in the Authorized User's own scientific, scholarly and educational works.

Interlibrary Loan: All Interlibrary loan requests of Licensed Materials will be limited to providing of hard copies (printed copies) of the requested Licensee documents. Only Printed documents or scanned version of printed documents may be provided to Interlibrary Loan patrons.

#### **Article 12. Prohibited activities**

1. User is prohibited from copying or storing data on a floppy disk, CD-ROM, DVD. User may scan a reasonable portion of printed Licensed Materials, but only as is necessary for personal use or scholarly, education or scientific research.
2. User is prohibited from selling Licensed Materials in any form.
3. User is also prohibited from conducting acts that:
  - could hamper operation of Service.
  - Violate copyrights and other rights of Licensor, the marketing agent and/or a third party.
  - Defame, slander, libel and/or obstruct the business of Licensor, the marketing agent and/or a third party.

#### **Article 13. Termination of contract**

1. When Licensee wishes to terminate the contract, Licensee must notify Licensor or the marketing agent in writing one month prior to expiration of the contract. IP address verification, ID and password will be invalidated upon expiration of the contract or at a date thereafter to be decided by Licensor.
2. 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 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 60 days, 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.

3. In the event of any unauthorized use of the Licensed Materials by an Authorized Member, Licensee shall cooperate with Licensor in the investigation of any unauthorized use of the Licensed Materials if requested to do so by Licensor and shall use reasonable efforts to remedy such unauthorized use and prevent its recurrence. Licensor may terminate such Authorized Member's access to the Licensed Materials after first providing reasonable notice to Licensee (in no event less than two months) and cooperating with the Licensee to avoid recurrence of any unauthorized use. In the case of unauthorized use which in the Licensor's judgment is causing serious material harm, Licensor may immediately temporarily suspend an individual Authorized Member's access to the Licensed Materials (e.g. by blocking an individual Authorized Member's IP address), provided that Licensor immediately notifies Licensee of any such suspension, including the reason for the block and any supporting details. Such temporary suspensions will be of the shortest duration possible sufficient to terminate the alleged unauthorized activity and prevent its resumption.

#### **Article 14. Exemption Clause**

1. 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.

2. Except for the express warranties stated herein, the Licensed Materials are provided on an "as is" basis, and Licensor 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. Licensor 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. Licensor further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

#### **Article 15. Confidentiality and No-disclosure**

Each party agrees to keep terms of this agreement strictly confidential and will not disclose the terms of this agreement to any third party without the prior written consent of the other party, provided, however, that either party may disclose such information as required by law or court order, but only to the extent of such required disclosure and provided that the non-disclosing party is first given notice of and an opportunity to contest such disclosure.

**Article 16. Principles of Good Will and Sincerity**

If an incident not stipulated above occurs, all parties will resolve the matter in a manner based on the principles of good will and sincerity.

**Signatures**

The parties certify that they have read and agree to be bound by all terms and conditions of the Yomidas Rekishikan Subscription Agreement and that they are authorized to sign this form on behalf of their respective institutions.

*Licensee* (Name of Institution)

Licensee **University of California**

[Text deleted]

Authorized Signature:

Name (print clearly or type)

Title: **Associate University Librarian for Collection Management/  
Scholarly Communication, UCLA**

Date: **7/1/2011**

*For The Yomiuri Shimbun*

[Text deleted]

Authorized Signature:

Name (print clearly or t

Title: **Manager, Database Department, Digital Media Bureau**

Date: **7/1 2011**

**End of Contract**

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