

Site License Agreement between Thieme Medical Publishers, Inc. and the University of California

1. License

Thieme Medical Publishers, Inc., 333 Seventh Ave., NY 10001, NY (hereinafter: the Publisher) hereby grants to the University of California (hereinafter: the Subscriber) and their Authorized Users the non-exclusive and non-transferable right and license to access, retrieve, display and make copies from the online form of the Publications, for which an institutional subscription has been paid, solely for their scholarly, research, educational and personal use in accordance with the terms of this Agreement. Use of the online Publications constitutes User's agreement with these terms.

2. Appendices

The following Appendices are attached to this Agreement and are part of this Agreement:

- A. List of IP addresses of all Sites covered under this Agreement
- B. List of all books covered under this Agreement
- C. Pricing for online access to the books covered under this Agreement

3. Definitions

Definition of Authorized Users:

Authorized Users include all current employees, permanent and visiting faculty, and students of Subscriber Sites as listed in Appendix A.

Definition of Publications:

All titles listed in Appendix B of this Agreement.

Definition of Sites:

A site is a single campus community as listed in appendix A, and defined by Internet Protocol ("IP") addresses administered centrally by the campus and provided by the Subscriber to Thieme. The use of proxy servers is permitted as long as any proxy server IP addresses provided limit remote or off-campus access to Authorized Users.

Definition of Third Party:

Any individual or organization which is not an Authorized User.

4. IP Address Registration

Access to the Publications shall be controlled through the use of Internet Protocol (IP) addresses. Subscriber is responsible for providing valid IP addresses to Publisher for their Sites listed in Appendix A.

5. Copying; Transmission

Publisher warrants that it is the owner of the exclusive copyright in the licensed material or that it has been granted the right to enter into this Agreement on behalf of the copyright holder. The Subscriber acknowledges and agrees that the licensed material under this Agreement is copyright protected and that the exclusive copyright to the licensed material shall remain with the copyright holders.

Authorized Uses. Subscriber 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. Subscriber and Authorized Users shall have the right to electronically display the Licensed Materials.

Digitally Copy. Subscriber and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.

Print Copy. Subscriber and Authorized Users may print a reasonable portion of the Licensed Materials.

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

Course Packs. Subscriber 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). Subscriber 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.

Electronic Links. The University of California is committed to the use of the emerging OpenURL standard to allow linking to related materials in other locations. If Publisher does not use the OpenURL standard, Publisher staff will provide information to Subscriber upon request to assist the Subscriber in creating links directly from UC's library catalogs and licensed resources to the content at the journal, issue and article levels.

Authorized users may copy items from the online form of the Publications into other applications. Portions of a page can be used but the original page should be cited. Authorized users may not delete or modify the Thieme copyright notices in the Publications. These copied items may be used for educational, scientific or research purposes.

Scholarly Sharing. Authorized Users may transmit to a third party in hard copy 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.

6. Library Access

Subscribers' libraries which provide public access may provide access to and permit copying from the online form of the Publications by members of the public for their scholarly, research, educational and personal use by means of workstations located at the library facility.

7. Usage Restrictions, Interlibrary Lending

Except as permitted in Section 5, the online version of the Publications may not be used for any (i) fee-for-service use including providing access to or selling copies of items, (ii) systematic supply or distribution of portions of, or items from, the online version of the Publications in any form to anyone other than an Authorized User whether or not such service is done for compensation, or (iii) any similar commercial or marketing activity. Subscriber may not distribute any part of the Publications via group-wide email, news groups, file or discussion areas, web pages or otherwise.

Single copies of the electronic version of articles of the Publications listed in Appendix B can be printed out and the print copies may be used by Subscriber and their Authorized Users in accordance with their usual and customary policies and practices and applicable copyright laws. Electronic copies of the Publications or portions of the Publications shall not be transmitted to others than Authorized Users.

INTERLIBRARY LOAN OF THE PUBLICATIONS LISTED IN APPENDIX B OR ADDENDA IS NOT PERMITTED.

Subscriber is not entitled to change or alter any element of the online version of the Publications or to create any derivative works therefrom. The right of use granted to Subscriber is nontransferable.

Subscriber is not authorized to carry out systematic duplication of the online version of the Publications or to integrate any part of the Publications into information systems with separate search engine software which makes it accessible to third parties.

Subscriber may not modify, translate, reverse assemble or reverse engineer in whole or in part the online version of the Publications. Subscriber shall not tamper with, bypass or alter any security, time out or deactivation features of the online version of the Publications.

Subscriber shall use reasonable efforts to inform the Authorized Users of the terms and conditions of this Agreement.

Subscriber shall use adequate technical measures to ensure that the use of or access to the online version of the Publications is limited to Authorized Users. Further, Subscriber shall use reasonable efforts to ensure that the online version of the Publications is protected from unauthorized outside access, through the internet or otherwise, by adequate technical and security measures.

8. Alteration, Notices

Subscriber and their Authorized Users may not modify, adapt, transform, translate or create any derivative work based on any materials included in the Publications, or otherwise use any such materials, in a manner that would infringe the copyright therein. Any copyright notices, other notices or disclaimers included by the Publisher in the online form of the Publications or any accompanying screen displays may not be removed, obscured or modified in any way.

9. Unauthorized Use

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

Protection from Unauthorized Use. Subscriber 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) Publisher may terminate such Authorized User's access to the Licensed Materials, (b) Publisher may terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred, and/or (c) Subscriber shall terminate such Authorized User's access to the Licensed Materials upon Publisher's request. Publisher shall take none of the steps described in this paragraph without first providing notice to Subscriber and cooperation with the Subscriber to avoid recurrence of any unauthorized use.

Subscriber shall not be liable to Publisher for breach of the terms of this Agreement by any Authorized User so long as Subscriber did not intentionally assist in or encourage such breach or permit such breach to continue after having actual notice thereof.

10. Warranties

WARRANTIES: Subject to the Limitations set forth elsewhere in this Agreement:

Licensor 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.

Licensor warrants that the physical medium, if any, on which the Licensed Materials is provided to Licensee will be free from defects for a period of ninety (90) days from delivery.

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.

Licensor 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 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.

Scientific knowledge is ever-changing. The editors and authors of the Publications have consulted sources believed to be reliable in their efforts to provide information that is complete and in accord with the standards accepted at the time of the publication. However, in view of the possibility of human error by the authors, editors, or publisher of the work herein, or changes in scientific knowledge, neither the editors or Publisher, nor any other party who has been involved in the preparation of this work, warrants that the information contained herein is in every respect accurate or complete, and they are not responsible for any errors or omissions or for the results obtained from use of such information.

Medicine is an ever-changing science undergoing continual development. Research and clinical experience are continually expanding knowledge of proper treatment and drug therapy. Insofar as a book mentions any dosage or application, authors, editors, and the Publisher have made every effort to ensure that such references are in accordance with the state of knowledge at the time of production of a book. Nevertheless this does not involve, imply, or express any guarantee or responsibility on the part of the Publisher in respect of any dosage instructions and forms of application stated in a book. Authorized Users are requested to examine carefully the manufacturers' leaflets accompanying each drug and to check, if necessary in consultation with a physician or specialist, whether the dosage schedules mentioned therein or the contraindications stated by the manufacturers differ from the statements made in a present book. Such examination is particularly important with drugs that are either rarely used or have been newly released on the market. Every dosage schedule or every form of application used is entirely at the user's own risk and responsibility. The Publisher requests Authorized Users to report to the publishers any discrepancies or inaccuracies noticed.

The type and extent of the online access service offered by Publisher are based on the currently prevailing technical, legal, and commercial umbrella conditions of the networks used. The place of transfer of the data is the interface between the Publisher's server and the Internet or other networks. The responsibility of Publisher for data transmission ends at this point.

Either party's failure to perform any term or condition of this Agreement, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunication or Internet failures or damage to or destruction of any network facilities) shall not be deemed to be, or to give rise to, a breach of this Agreement.

INDEMNITIES: 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.

11. Term and Termination

This Agreement is signed for a period to conclude no sooner than December 31 2010. In the effect neither party terminates the agreement it will continue to be in effect on an annual basis for an indefinite period of time and may be terminated by both contractual parties with 90 days written notice to the end of the calendar year given by one of the parties.

A 3% price increase per year is in place for 2008-2010. Renewals for a period of 3 years will continue to receive the 15% pricing discount. Renewals for a period of 1 year will convert to the 5% consortia pricing discount.

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if Publisher believes that Subscriber 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.

The University of California reasonably believes that funds can be obtained sufficient to pay all monies due during the term of this Agreement and hereby covenants that it will do all things lawfully within its power to obtain, maintain, and properly request and pursue funds from which payments for this transaction may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative review and appeals in the event such portion of the budget is not approved. It is the University of California's intent to make payments for the full term of this transaction. The University of California represents that the use of the materials under this transaction are essential to its proper, efficient and economic operation.

In the event no funds or insufficient funds are appropriated and budgeted and are not otherwise legally available by any means whatsoever in any fiscal period for payments due under this transaction, the University of

California will immediately notify Publisher of such occurrence and this transaction shall terminate on the last day of the subscription period for which payment has been made without penalty of expense to the University of California of any kind whatsoever, except as to the portions of payments herein agreed for which funds shall have been appropriated and budgeted or otherwise available

On termination of this Agreement, the Publisher shall terminate access for Subscriber to the Publications listed in Appendix B. Upon termination the Subscriber shall permanently delete any copies and/or partial copies of the electronic version of the Publications listed in Appendix B in the direct possession or direct control of the Subscriber. The Subscriber shall use commercially reasonable efforts to inform the Subscriber's employees, agents, consultants, students or Authorized Users that such copies of the Publications listed in Appendix B must be deleted.

After termination of this Agreement the same restriction with respect to the copyright as under paragraph 5 apply.

12. Payments

Subscriber shall pay to Publisher the prorated annual nonrefundable access fee as shown in Appendix C within 30 days of the effective date of this Addendum to the Agreement. Thereafter the Subscriber shall pay the yearly access fee by January 31 of each year, the first renewal payment due on January 31, 2008.

13. Notice

Subscriber will notify Publisher within thirty (30) days of any changes in registration data or IP addresses.

Publisher reserves the right to change the technical requirements and agrees to notify Subscriber by providing notice online or directly to Subscriber by electronic or conventional mail of such changes at least 30 days in advance. Publisher shall attempt to minimize technical changes. If in the individual case changes are unreasonable for Subscriber, Subscriber may terminate this Agreement as stated in Paragraph 11.

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.

Should there be a conflict between this agreement and any other vendor-generated, web accessible terms and conditions, whether now known or hereinafter generated, then this Agreement controls.

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

I accept the terms of the License Agreement

[Text Deleted]

9/24/07
Date

University of California San Diego
[Text]
Head of Library Acquisitions
University of California, San Diego
La Jolla, CA

[Text Deleted]

9/27/07
Date

President
Thieme Medical Publishers, Inc.
New York, NY

Appendix A

List of IP addresses of all Sites covered under this Agreement

UC Berkeley

[Text Deleted]

UC Davis

[Text Deleted]

UC Irvine

[Text Deleted]

UC Los Angeles

[Text Deleted]

Appendix B.

The FLEXIBOOK Atlases & Textbooks series is available online through the Thieme ElectronicBook Library

As of July 2007, the FLEXIBOOK Atlases & Textbooks series contains the following titles. The library will expand to include additional titles in the FLEXIBOOK Atlases & Textbooks series and new editions of the Publications listed below.

- A Pocket Guide to the Ear
- Clinical Tests for the Musculoskeletal System
- Color Atlas of Biochemistry
- Color Atlas of Cytology, Histology and Microscopic Anatomy, 4th edition
- Color Atlas of ENT Diagnosis
- Color Atlas of Genetics
- Color Atlas of Hematology
- Color Atlas of Human Anatomy, Vol. 3: Nervous System and Sensory Organs
- Color Atlas of Immunology
- Color Atlas of Neurology
- Color Atlas of Neuroscience
- Color Atlas of Pathology
- Color Atlas of Pathophysiology
- Color Atlas of Pharmacology
- Color Atlas of Physiology
- Color Atlas of Ultrasound Anatomy
- Differential Diagnosis in Neurology and Neurosurgery
- Duus' Topical Diagnosis in Neurology
- Fundamentals of Neurology

- Getting Started in Clinical Radiology
- Medical Microbiology
- MRI Parameters and Positioning
- Neurology
- Normal Findings in CT and MRI
- Ophthalmology
- Ophtho Notes - The Essential Guide
- Pocket Atlas of Echocardiography
- Pocket Atlas of Endodontics
- Pocket Atlas of Human Anatomy
- Pocket Atlas of Nutrition
- Pocket Atlas of Ophthalmology
- Pocket Atlas of Oral Diseases
- Pocket Atlas of Radiographic Anatomy
- Pocket Atlas of Sectional Anatomy, Vol. I: Head and Neck
- Pocket Atlas of Sectional Anatomy, Vol. II: Thorax, Heart, Abdomen, and Pelvis
- Pocket Atlas of Sectional Anatomy, Vol. III: Spine, Extremities, Joints
- The Human Body
- Thieme Clinical Companions Dermatology
- Thieme Clinical Companions Ultrasound

Appendix C.

Pricing

The annual price for online access for the Sites listed in Appendix A to the publications listed in Appendix B is US\$[Text] in 2007 as per the following site information:

Berkeley	[Text]
Davis	Deleted]
Irvine	
Riverside	
San Diego	
UCLA	
Total	

The fee for 2007 is [Text] prorated for October – December 2007 access.