# American Psychological Association (APA) Electronic Databases Consortium License Agreement

Licensee (Consortium)					
Contact Name			Contact Institution		
Address					
City/State/Province/Zip Email			Country		
Email			Website		
Telephone			Fax		
Products (LP):		Туре	<u>):</u>	Access:	
☐ APA PsycInfo®			Consortium	☐ APA PsycNet®	
☐ APA PsycArticles®				□ Vendor:	
☐ APA PsycBooks®					
☐ APA PsycExtra®				1	
☐ APA PsycTests®					
User Community  ☐ Faculty ☐ Professional ☐ Librarian ☐ Student ☐ Practitioner ☐ Other ☐ Walk-ins when physically present			ff		
Authorization by Licensee			Authorization by APA		
Authorized Signature:			Authorized Signature:		
Name:			Name: Keith Allen		
Title:			Title: Sr. Director Sales & Marketing -		
Data			Academic &	Irade	
Date:			Date:		

THE ABOVE SIGNATURE CONSTITUTES A FULL UNDERSTANDING AND ACCEPTANCE OF THE AGREEMENT IN WHOLE TO INCLUDE ALL PAGES AND SCHEDULES ATTACHED HERETO.

Return to: American Psychological Association, Sales Support & Licensing Department 750 First Street, NE, Washington, DC 20002-4242

Fax: 202-336-6160; Telephone: 202-336-5648; TDD/TYY: 202-336-6123

# American Psychological Association (APA) E-Product License Agreement

**THIS LICENSE AGREEMENT** by and between, the American Psychological Association, a not-for-profit, tax-exempt association with its principal office at 750 First Street, NE, Washington, DC 20002-4242 ("APA"), and [name]

\_\_\_\_\_

[address]

("Licensee") (the two entities collectively referred to as "the Parties"), has been executed as of the latest date set forth on the Cover Sheet attached hereto.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

#### 1. License Grant

- 1.1 <u>Use and Access</u>. Subject to all terms and restrictions hereinafter set forth, including the APA E-License Standard Terms and Conditions set forth at <a href="https://www.apa.org/about/termsofuse.aspx">https://www.apa.org/about/termsofuse.aspx</a>, the APA hereby grants to Licensee the non-exclusive and non-transferable right to give Authorized Users access to the subscribed Licensed Materials via a secure network for the purposes of research, teaching and private study, but not for Prohibited Uses. This license grant shall include the following:
  - 1.1.1 Print; Download; Extraction. Consistent with the Fair Use provisions of Section 107 of the U.S. Copyright Act, Licensee, its Member Sites and Authorized Users may display, print, download, extract or use a reasonable amount of content 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.
  - 1.1.2 <u>Electronic Links</u>. Licensee and its Member Sites may provide secure electronic links to the Licensed Materials from Licensee's and Member Sites' web page(s) to increase the usefulness of the Licensed Materials to Authorized Users. Upon request, the APA will assist Licensee and its Member Sites in creating such links and Licensee shall make changes to the appearance of such links and/or in statements accompanying such links as requested by the APA.

#### 1.2 Interlibrary Loan.

- 1.2.1 <u>Interlibrary Loan</u>: Licensee and its Member Sites may use the Licensed Materials for Interlibrary Lending with the following restrictions:
  - i) Licensee and its Member Sites may use the Licensed Materials to fulfill print or image interlibrary loan requests from institutions that do not have access to the Licensed Materials, provided that such fulfillment is in accordance with the interlibrary loan provisions of Section 108 of the U.S. Copyright Act and the CONTU Guidelines.
  - ii) Such requests may be fulfilled only by Licensee and Member Site printing a copy of the item and providing that print copy or a photocopy or facsimile transmission thereof to the requesting party or by using an automated Inter-Library Loan system providing that supplies images only and not digital content.
- 1.3 <u>Course Packs</u>. Consistent with the Fair Use provisions of Section 107 of the U.S. Copyright Act, Licensee and its Member Sites may incorporate parts of the Licensed Materials in electronic Course Packs, Courseware and/or Electronic Reserve Collection for the use by Authorized Users in a particular course of instruction offered by Licensee and its Member Sites under the following conditions:

- Course Packs shall be used only in electronic form. Course Packs appearing in print, CD-ROM, DVD, or any other physical medium (including screenshots or screen captures) shall be prohibited.
- ii) Course Packs, Courseware and/or Electronic Reserve Collections shall include attribution to the appropriate source, listing title and author of the extract, title and author of the work, and the name of the publisher.
- iii) Access to Course Packs, Courseware and/or Electronic Reserve Collections is to be controlled by security measures, such as IP authentication or the use of authorized passwords that are only to be provided to registered students of that particular course, and which must always include registered students' acceptance of the disclaimer regarding the terms and restrictions of use of the Licensed Materials that appears whenever the user accesses the Licensed Materials. Licensee and its Member Sites may provide URLs in Course Packs, Courseware and/or Electronic Reserve Collections but may not use transcripts, transcript excerpts, images, or audio from any of the Licensed Materials.
- iv) Licensee and its Member Sites shall permanently delete all copies of Course Packs, Courseware and Electronic Reserve Collections when they are no longer used for a particular course.
- v) Course Packs, Courseware and/or Electronic Reserve Collections in non-electronic non-print perceptible form, such as audio or Braille, may be offered to Authorized Users when necessary.
- 1.3.1 Permission for other reproduction should be sought from the APA, via the APA Permissions Office.
- 1.3.2 This clause, 1.3, does not apply to APA PsycInfo® and APA PsycTests®. Material obtained from APA PsycInfo® and APA PsycTests® shall not be reproduced in a Course Pack, Courseware, or Electronic Reserve Collection.

### 2. Obligations and Representations and Warranties

#### 2.1 APA.

- 2.1.1 The APA represents and warrants that to the best of the APA's knowledge, the Licensed Materials used as contemplated by this License Agreement do not infringe the copyright or any other proprietary or intellectual property rights of any third party. The APA shall indemnify and hold Licensee and its Member Sites harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and professional fees) arising out of legal action taken against Licensee and/or a Member Site due to an actual or alleged infringement of such rights. This indemnity shall not apply to any Course Pack, Courseware, Electronic Reserve Collection or other derivative work created by the Licensee or Authorized User or if Licensee, Licensed Member Site and/or Authorized User has modified or used the Licensed Materials in any way not permitted by this License Agreement.
- 2.1.2 The APA reserves the right to withdraw from the Licensed Materials any material which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable.

- 2.1.3 The APA shall comply with the American with Disabilities Act (ADA) by supporting assistive software or devices such as large print interfaces, voice-activated input, and alternate keyboard or pointer interfaces in a manner consistent with generally accepted best practices.
- 2.1.4 The APA shall make statistics regarding the usage of the Licensed Materials by Licensee and/or its Member Sites and Authorized Users available to Licensee and/or its Member Sites in a manner consistent with generally accepted best practices. The APA will provide ongoing access to usage statistics on a password-protected site.
- 2.1.5 The APA shall use reasonable efforts to provide continuous access to the Licensed Materials. Unavailability may occur related to failure of equipment or services beyond the control of the APA. Reasonable effort will be made to minimize any downtime and to restore services in the event of a failure beyond the control of the APA.
- 2.1.6 No computer software is delivered as a part of this License Agreement and this License Agreement is not conditional upon Licensee's and/or Member Sites' ability to provide its own software or the ability to use the Licensed Materials provided under this License Agreement.

#### 2.2 Licensee.

- 2.2.1 Licensee agrees to indemnify and hold harmless the APA, its directors, its officers, employees, successors and assigns from and against any claims, actions or demands arising from a breach of this License Agreement or from a third-party claim of infringement due to derivative work created by Licensee, a Member Site and/or Authorized User or due to an unauthorized use or Prohibited Use of the Licensed Materials by Licensee, a Member Site or Authorized User.
- 2.2.2 Licensee agrees to designate a single person to be the administrator of this License Agreement. The name, address, phone number, and e-mail address of the License Agreement administrator shall be listed on the first page of the License Agreement. Licensee shall notify the APA of any changes to the assigned administrator or contact information.
- 2.2.3 Licensee represents and warrants that it will use reasonable efforts to notify its Member Sites and Authorized Users of the terms and conditions of this License Agreement and use best efforts to protect the Licensed Materials from unauthorized use, Prohibited Use, or other breach of this License Agreement.
- 2.2.4 Licensee represents and warrants that it will only provide access to the Licensed Materials on a Secure Network. Licensee, Member Sites, and their Authorized Users shall be granted access pursuant to IP ("Internet Protocol") addresses, passwords, public keys or certificates, or other security protocols developed and accepted during the term of this License Agreement. Licensee shall provide via separate electronic delivery to the APA a complete set of Licensee's valid IP addresses for each Member Site included in Schedule C to enable the APA to authenticate users and to supply accurate statistics. The form of these IP addresses must be acceptable to the APA. Only those IP addresses submitted by the Licensee will have access to the Licensed Materials, and Licensee is responsible for promptly notifying the APA of any changes in the IP addresses.
- 2.2.5 Licensee will use best efforts to ensure that no external, unauthorized users will have access to the Licensed Materials.

- 2.2.6 Licensee and Member Sites agree to inform the APA, immediately upon becoming aware of any unauthorized use or other breach, and to use best efforts to ensure that such activity ceases and to prevent any recurrence.
- 2.2.7 If the APA identifies any unauthorized use of the Licensed Materials in breach of this License Agreement, the APA has the right to immediately terminate access under this License Agreement for the offending IP Address until the breach is corrected. APA and Licensee agree that they will work together to correct the breach as soon as possible so that access can be restored.

#### 3. Term and Termination

3.1 <u>Term.</u> The term of this License Agreement shall begin on \_\_\_\_\_ and end on \_\_\_\_\_. This License Agreement may be renewed for additional one-year terms by mutual agreement between the APA and the Licensee and on payment of annual License Fees by the Licensee as set by the APA and agreed to by the Licensee.

### 3.2 Termination.

- 3.2.1 The APA may terminate if Licensee does not pay the fee(s) set forth in Section 4 or breaches this License Agreement. Termination shall be effective upon thirty (30) days notice to Licensee. In the event of termination pursuant to this Section, no refund or partial refund of the License Fees will be given.
- 3.3 Effect of Termination.
  - 3.3.1 Upon termination, Licensee is entitled to the archival rights outlined in Schedule A.

#### 4. Payment

Licensee agrees to pay the License Fees within 30 days of invoice.

**IN WITNESS WHEREOF**, the Parties have executed this License Agreement as of the latest date set forth on the attached Cover Sheet.

## Schedule A

## APA Archiving and Access Policy for APA PsycArticles®

#### Archiving by APA

APA is committed to preserving the knowledge base in psychology and to serving user and customer needs. To ensure preservation of the knowledge base, APA maintains a digital archive of all databases and will convert that archive as technology changes. APA also deposits all relevant journal and book content with Portico for perpetual archiving.

#### Access to Customer-Licensed Data Following Site License Non-Renewal

APA recognizes the business needs of libraries and other institutional customers to retain potential access to content for which they have purchased access.

APA's annual data fees entitle a subscribing institution to access the full range of content included in the subscribed-to database during their subscription period.

If, at a later date, an APA PsycArticles customer does not renew the site license then, without paying additional data fees to APA, the customer has perpetual use rights to the historical content of the database during the year/s of their subscription. Historical content includes content in the database at the time of the subscription and does not include later added or certain back file content.

#### **Delivery of Customer-Licensed Data**

APA has arrangements with Portico archiving solutions. Customers may work with Portico to arrange access to the materials they have perpetual rights to after their subscription has lapsed.

Other arrangements for delivery of materials customers have perpetual rights to after their subscription has lapsed may be made on a case-by-case basis at the sole discretion of the APA.

Note: No archival and access rights are available to customers who cancel their APA PsycInfo®, APA PsycTests®, APA PsycBooks®, APA PsycExtra® and/or APA PsycTherapy® site license. By signing this agreement, Licensee agrees that this archival policy supersedes any archival policies in prior agreements between Licensee and the APA.

Revised 3/7/2019

# Schedule B

## List of All Consortium Member Sites Covered by This Agreement

Consortium License Administrator		
•		
Address	-	
Addiess		
Tolonhono	Fax	
Telephone	гах	
Email		

Please list the name of each institution, name of contact, address, phone number, and email address for each Member Site.

# <u>Appendix</u>

### American Psychological Association E-License **Standard Terms and Conditions**

#### 1. Definitions

Access Fee Annual payment for maintenance and provision of access to the Licensed Materials on APA PsycNet.

**APA** American Psychological Association, a non-profit corporation with offices at 750 First Street, NE, Washington DC 20002-4242 USA

**Authorized Users** Those types of users indicated on the Cover Sheet as being affiliated with the Licensee and its Member Sites and who are permitted access to the Licensed Materials. See Cover Sheet of this License Agreement for specific categories of users. Authorized Users may be remote users so long as they are affiliated with the Licensee and/or its Member Sites. Walk-ins (patrons who are not affiliated with the Licensee or its Member Sites) may be considered Authorized Users only if they are physically present at the Licensee's site or its Member

Sites. Alumni are excluded as Authorized users.

**Content Fee** A one-time payment for a limited nonexclusive license to the Licensed Materials, subject to the terms and conditions of the signed License Agreement. Content Fee is required in addition to the payment of an annual Access Fee.

entities.

A Consortium is a group of academic educational institutions or companies with multiple sites and their libraries that have authorized a single administrative organization to negotiate this License Agreement on their behalf. A Consortium may consist of units of a single legal entity (for example. different branches of a state university), or institutions that are separate legal

A collection or compilation of materials incorporating portions of the Licensed Materials (for example, book chapters) assembled by members of staff of the Licensee and/or Member Sites for use by students in a class at that institution for the purposes of instruction.

A Web-service based software package for educational use that enables faculty to post course materials, calendars, and guizzes on a secure network server.

Reserved readings (for example, journal articles) compiled by faculty and made available digitally to students or other Authorized Users at Licensee's or a Member Site's institution for a specific course of instruction.

Consortium

**Course Packs** 

Courseware

**Electronic Reserve** Collection

 Learning Management System An integrated software system that facilitates the development, delivery, assessment, and administration of courses in traditional face-to-face, blended, or online learning environments. It is also referred to as a course management system, learning content management system, virtual learning environment, virtual learning system, learning portal, or e-learning platform.

• License Agreement

The agreement between the APA and the Licensee, which defines the scope of use of Licensed Materials by the Licensee and, if applicable, each of its Member Sites.

License Fees

Collectively, the Content Fee and/or Access Fee.

Licensed Materials

The product(s) indicated on the Cover Page of this License Agreement.

Licensee

The Customer/Institution as indicated on the Cover Sheet of this License Agreement and, if applicable, its Member Sites.

Member Sites

Individual entities listed in Schedule (B) of this License Agreement which are members of the Consortium (Licensee) which is a Party to this License Agreement. Individual Member Sites may purchase access to products under this License Agreement. Consortium may consist of units of a single legal entity (for example, different branches of a state university) or institutions that are separate legal entities. Each Member Site is regarded as a single organization for the purposes of this License Agreement even though it may be spread over a number of locations. Individual Member Sites may be added to or withdrawn from inclusion in this License Agreement by mutual agreement of APA and Licensee.

Prohibited Uses

I Includes: a) systematically reproducing, retaining, publishing, republishing or redistributing Licensed Materials; b) altering or recompiling Licensed Materials; c) systematically downloading Licensed Materials; c) providing Licensed Materials to anyone other than an Authorized User, except as provided in Section 1.2 (Interlibrary Loan) of License Agreement.

• Secure Network

A network (whether a standalone network or a virtual network on the Internet), which is accessible only to Authorized Users approved by the Licensee and/or its Member Sites, requiring the identity of a user to be authenticated at the time of log-in and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Licensee and/or its Member Sites. A proxy server may be included in the network.

Vendor

Third-party software distributor of Licensed Materials.

#### 2. Ownership of Intellectual Property

- 2.1 All right, title and interest in the Licensed Materials and all intellectual property rights related thereto, including but not limited to content, data, trademarks, copyrights, and any derivative works derived therefrom, shall be and remain with the APA. Neither Licensee, its Member Sites, nor Authorized Users shall have any right, title or interest in the Licensed Materials nor in any related intellectual property rights except as expressly set forth herein.
- 2.2 <u>Removal of Copyright Notice</u>. Licensee, its Member Sites, and Authorized Users shall not remove, obscure or modify any copyright or other notices in the Licensed Materials.

- 2.3 <u>Modification</u>. Other than as set forth herein, Licensee, its Member Sites, and Authorized Users shall not modify or create a derivative work of the Licensed Materials, in whole or in part, without prior express written permission of the APA.
- 2.4 <u>Academic Writer Content</u>. Licensee, Member Sites, or Authorized Users shall own all right, title, and interest in the content Authorized Users create and store using the Licensed Materials in Academic Writer.

### 3. Mutual Representations and Warranties

Both Parties represent and warrant that a) it has the legal authority to enter into this License Agreement; b) this License Agreement will not conflict with any other contract, agreement or law; c) this License Agreement, executed and delivered, will constitute a binding obligation; and d) it shall adhere to Section 5 herein and all applicable privacy and data protection laws applicable to the gathering, processing, storing and transmitting of all confidential information, such as identifiable user information and other similar usage data.

### 4. Disclaimer of Warranties / Limitation of Liability

- 4.1 THE LICENSED MATERIALS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE APA EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE LICENSED MATERIALS, EXCEPT AS MAY BE EXPLICITLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. THE APA MAKES NO WARRANTY THAT ACCESS TO LICENSED MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, CURRENT, ACCURATE, COMPLETE OR ERROR-FREE.
  - THE APA MAKES NO WARRANTY REGARDING THE LOSS OF AUTHORIZED USERS' INFORMATION OR ACADEMIC WRITER CONTENT. AUTHORIZED USERS BEAR THE ENTIRE RISK FROM USING THE LICENSED MATERIALS. LICENSEE AGREES THAT AUTHORIZED USERS ARE RESPONSIBLE FOR MAINTAINING AND BACKING UP ANY DATA THEY PROVIDE TO THE APA.
- 4.2 Although care has been used in the accuracy, completeness, or functioning of the Licensed Materials, the APA assumes no responsibility for the Licensee's, Member Sites' or Authorized Users' use thereof and shall not be liable for loss of profits, loss of use, or incidental, consequential, or exemplary damages as a result of such use, even if aware of the possibility thereof.
- 4.3 In no event may the Licensee, its Member Sites or Authorized Users bring any action arising out of the Agreement more than three (3) years after the claim or cause of action arises. The APA shall in no event be liable for more than the License Fees paid by Licensee and/or its Member Sites under this License Agreement (whether in contract or in tort, including negligence and strict liability).

#### 5. Confidential Information

5.1 Each Party acknowledges that, in connection with the performance of this License Agreement, it may receive certain confidential or proprietary technical, business or financial information and materials of the other Party or data related to the usage of the Licensed Materials by Licensee, its Member Sites and Authorized Users ("Confidential Information"). Confidential Information shall include the disclosing Party's service offerings, methodologies, software, product documentation, data, legal strategies and work product, and any other business, financial or technical information that is marked or otherwise identified as confidential or proprietary. For the avoidance of doubt, Confidential Information does not include the License Fees charged by the APA for the Licensed Materials or the terms of this License Agreement as signed to by the APA and the Licensee's designated representative authorized to bind the Licensee and its Member Sites to this License Agreement.

- 5.2 Both Parties agree (a) to use the other Party's Confidential Information only for the purposes described in this License Agreement; (b) not to reproduce the other Party's Confidential Information and will hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party; and (c) to restrict access to the other Party's Confidential Information to such of its personnel, agents, suppliers and/or consultants, if any, who have a need to have access and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this License Agreement. Both Parties agree that all Confidential Information is proprietary to the disclosing Party or such third party, as applicable, and shall remain the sole property of the disclosing Party or such third party.
- 5.3 Notwithstanding the foregoing, each Party may disclose Confidential Information (a) if expressly authorized in writing by the subject of that information; (b) in response to an order of a court or other governmental body; (c) as required by law or regulation to be disclosed; or (d) in order to establish a Party's rights under this License Agreement.
- 5.4 If either Party breaches this Section, the non-breaching Party will suffer irreparable harm, the total monetary damages for which will be impossible to calculate and therefore inadequate. Accordingly, the non-breaching Party may a) seek appropriate injunctive relief against the breaching Party or b) exercise any other rights and seek any other remedies to which the non-breaching Party may be entitled at law, in equity and under this License Agreement.

#### 6. Trial Subscriptions

- 6.1 The Licensee and its Member Sites may from time to time during the Term of this License Agreement desire access to additional APA products (identified on the Cover Sheet) to which the Licensee and/or its Member Sites have purchased access for a limited, trial period ("Trial Subscription") to determine their usefulness or suitability to the Licensee and/or its Member Sites. The APA agrees to offer the Licensee and/or its Member Sites the one-time option of obtaining pre-purchase free trial access to the Licensed Materials for a period of 30 days. This free trial is subject to availability.
- 6.2 The Licensee's and/or Member Sites' access to and use of all such APA products granted under a Trial Subscription shall be subject to and governed by all applicable Terms and Conditions of this License Agreement.

#### 7. General

- 7.1 <u>Entire Agreement.</u> This License Agreement incorporates the Cover Sheet and the attached Schedule(s) and sets forth the entire Agreement and understanding between the Parties with respect to the subject matter thereof and supersedes and merges all prior oral and written agreements, discussions and understandings between the Parties.
- 7.2 <u>Modification.</u> No modification or amendment of this License Agreement shall be binding upon either Party unless it shall be in writing and signed by persons authorized to bind the Parties to this License Agreement.
- 7.3 <u>Assignment.</u> This License Agreement is not assignable without the APA's prior written permission, and this License Agreement shall be binding upon heirs, successors, and assigns of the Parties hereto.
- 7.4 <u>Severability</u>. If any one or more of the provisions of the License Agreement shall for any reason be held to be invalid, illegal or unenforceable, the same shall not affect the validity or enforceability of any other provisions of the License Agreement.
- 7.5 <u>Force Majeure.</u> Neither Party's delay or failure to perform any provision of this License Agreement as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or give rise to, a breach of this License Agreement.
- 7.6 Good Faith Resolution. If there are any disputes or disagreements regarding the terms and conditions of this License Agreement, both Parties agree to work in good faith to resolve the issues.

- 7.7 <u>Governing Law; Venue.</u> This License Agreement shall be governed by and interpreted in accordance with the laws of the District of Columbia, without regard to its principles regarding conflicts of law. Each Party hereby irrevocably submits to, and waives any objection to, the exclusive personal jurisdiction of the state and federal courts located in the District of Columbia.
- 7.8 All notices shall be in writing and shall be sent to the other Party via registered or certified mail to the address set forth on the first page of this License Agreement.
- 7.9 The provisions of Sections 2, 3, 4, 5 and 7 herein shall survive the termination or expiration of this License Agreement.