

ANA PDF Site License Agreement

This Agreement is made effective as of this _____ day of _____, _____ (the "Effective Date") between the American Nurses Association, a District of Columbia corporation with principal offices located at 8515 Georgia Ave., Suite 400, Silver Spring, MD 20910 (hereinafter "Licensor") and _____ located at _____ (hereinafter "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:

1. **Content.** As used in this Agreement, the following terms shall have the meaning indicated: "Licensed Materials" means the PDF files of ANA's publications (books) purchased by the Licensee. The Licensed Materials will be delivered to the Licensee in electronic files for the Licensee to host according to the terms of this Agreement.

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Licensor hereby grants to Licensee a non-exclusive and nontransferable use of the Licensed Materials and the right to provide the Licensed Materials to Authorized Users in accordance with this Agreement.

2. **Authorized Use.** The parties agree that the term Authorized Users shall mean persons affiliated with Licensee. Such persons shall include full- and part-time students and employees (including faculty, staff, affiliated researchers and independent contractors) of Licensee and the institution of which it is a part, regardless of the physical location of such persons.

3. **Access.** Licensor will provide the Licensed Materials to the Licensee in the following manner: The Licensed Material will be stored at one or more Licensee locations in digital form accessible by Authorized Users of Licensee's networks.

4. **Fees.** In consideration of said license Licensee shall pay Licensor for use of the Licensed Materials. Access to the ANA PDF(s) will be provided after Licensor receives payment of _____ from Licensee. This allows use of the Licensed Materials as per Section 6 of this Agreement.

The Licensed Materials may only be used for personal, non-commercial, educational, and research purposes. Licensee and Authorized Users shall not have the right to sell, transfer, publish, disclose, display, or otherwise make available or download, copy, print,

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Licensee and its Authorized Users shall be granted access to the Licensed Materials over the Internet by the transmittal of the ANA PDF(s) from the Licensor to the Licensee. Access to this material on the Licensee's intranet will be password protected. Licensee shall be responsible for issuance and termination of passwords and verifying the status of the Authorized Users.

Licensee shall use reasonable care to protect the copyright of the Licensor. Violation of this provision shall be the basis for termination of this Agreement.

5. Restrictions on Use. Except as specifically provided elsewhere in this agreement, Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials. Licensee shall not modify or create a derivative work of the Licensed Materials without the prior written permission of Licensor. Licensee may not remove, obscure or modify any copyright or other notices included in the Licensed Materials. Other than as specifically permitted in this Agreement, Licensee may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials or bulk reproduction or distribution of the Licensed Materials in any form.

6. Licensor's Obligations. Licensor shall make the Licensed Materials available to Licensee and Authorized Users commencing _____ through _____.

7. Licensee's Obligations. 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.

Licensee shall use reasonable efforts to inform Authorized Users of the restrictions on use of the Licensed Materials. In the event of any unauthorized use of the Licensed Materials by an Authorized User, (a) Licensor may terminate such Authorized User's access to the Licensed Materials, (b) Licensee may terminate such Authorized User's access to the Licensed Materials upon Licensor's request, and/or (c) Licensor may terminate this Agreement. Licensor shall take none of the steps described in this paragraph without first providing reasonable notice to Licensee (in no event less than 15 days) and cooperating with the Licensee to avoid recurrence of any unauthorized use.

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.

8. License Term. This Agreement shall remain in effect from _____ - until _____. At the end of the licensing period, the Agreement will automatically

renew for an additional 12 months, unless ANA is notified 60 days prior to the Agreement expiration date. Upon renewal, Licensee will be invoiced _____ (insert amount) for the additional 12 months.

9. **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 15 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 15 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.

Licensee may also terminate this Agreement without cause, by giving 30 days written notice to Licensor that it no longer wishes to use said Licensed Materials. Licensee understands that it will not be entitled to any pro-ration or return of fees upon termination of this Agreement.

10. **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

11. **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.

12. **Mutual Indemnification.** Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, 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 sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request. This indemnity shall survive the termination of this Agreement.

13. **Assignment.** 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.

14. **Governing Law.** This Agreement shall be interpreted and construed according to, and governed by, the laws of the state of Maryland.

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.

15. **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 and/or any other cause beyond the reasonable control of the party whose performance is affected.

16. **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.

17. **Modification.** 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.

18. **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.

19. **Waiver of 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.

20. **Confidentiality.** Licensee agrees that the terms and conditions of this Agreement will be kept confidential and in no event disclosed to any third party.

21. **Notices.** All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be deemed received within 15 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 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 Licensor:

American Nurses Association

Attn: Publishing Dept.

8515 Georgia Ave.

Suite 400

Silver Spring, MD 20910

If to Licensee:

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

LICENSOR:

BY: _____ DATE: _____

LICENSEE:

BY: _____ DATE: _____