



**Ovid Technologies, Inc.  
Online License Agreement**

Before you access Ovid's electronic products, you will need to understand fully and agree to this Online License Agreement that governs your use of it. After reading the Agreement, your signature signifies your acceptance of it. If you have questions, please call Ovid at (800) 343-0064, ext. 744. Please retain a copy of the Agreement for your files. INITIAL(S) \_\_\_\_\_

This Agreement, dated this \_\_\_\_2\_\_ day of \_\_November\_\_, 2006\_, between Ovid Technologies, Inc., a Delaware corporation having offices at 333 Seventh Avenue, New York, NY 10001 (hereinafter referred to as "**Ovid**") and Community College League of California having offices at \_ **2017 O Street, Sacramento, CA 95814**\_\_\_\_\_. (hereinafter referred to as "**Subscriber**"; collectively with Ovid, referred to as the "**Parties**") provides for use by Subscriber of the Products, as defined below, through Ovid's remote database access service for a fixed fee, as described in Ovid's Proposal, dated \_2 November 2006\_\_\_\_\_, attached as the Appendix, subject to the terms and conditions set forth in this agreement (the "**Agreement**").

**1. DEFINITIONS.**

**1.1. "Authorized Site(s)"** means a Subscriber site composed of (i) single or multiple institutions, (ii) single or multiple geographic locations or (iii) a combination of the aforementioned for which Subscriber requests designation by Ovid as sites authorized to access the Products. A list of Authorized Site(s) for purposes of this Agreement is set forth in Schedule D. In the event that Subscriber acquires or merges with another related or affiliated entity during the term of this Agreement, such acquired or merged entity may be deemed a separate additional site subject to additional access fees and subscription fees, at Ovid's discretion.

**1.2. "Authorized Users"** mean: (i) Subscriber; (ii) employees of Subscriber, if Subscriber is a corporation or other organization; provided however, that employees of an entity which is acquired by or merged with the Subscriber during the term of this Agreement will not be deemed Authorized Users for purposes of this Agreement; (iii) students, faculty, staff and walk-in users authorized by, and on premises of Subscriber, if Subscriber is an academic institution; and (iv) patrons of Subscriber, if Subscriber is a public library offering access to the Products. The designated number of concurrent Authorized Users accessing the Product(s) at the Authorized Site(s) is set forth in Schedule(s) B and/or C. For purposes of this Agreement, any institutions, associations or organizations related or affiliated with Subscriber will not be deemed "Authorized Users" without Ovid's express consent.

**1.3. "Permitted Use"** means use of the Product(s) by Authorized Users only for internal or personal research or training therein. Authorized Users may;

**1.3.1.** view the content and data contained therein on terminals,

**1.3.2.** print data obtained from searches and make limited copies of such printed search results,

**1.3.3.** download data obtained from searches,

**1.3.4.** for interlibrary loan (ILL) purposes, print data obtained from searches and transmit the printed document through Subscriber's traditional ILL policies and procedures, and

**1.3.5.** for pay-per-view (PPV) deposit account journal article access, Subscriber may only retain one print copy of the accessed article. The retained printed copy is for single use only and may not be redistributed for any purpose other than its original use, or if needed as support documentation for a FDA

filing or other such use. The original e-format may not be downloaded and/or saved to any tangible medium. Any request other than for the original use would be deemed a separate use occasion and Subscriber will need to access any additional copy or copies from the PPV-deposit website.

**NOTE:** The Permitted Use expressly precludes (i) copying, duplication, redistribution, retransmission, publication, transfer or commercial or other exploitation of the Product(s), in whole or in part, where such acts are contrary to the Permitted Use; (ii) preparation of derivative works or incorporation of the Products, in whole or in part, in any other work or system; (iii) reverse engineering, decompiling or modification of the Products, in whole or in part; (iv) incorporating any part of the Licensed Material in printed or electronic Course or Study Packs for the use of Authorized Users in the course of instruction; and (v) uploading, downloading, copying or redistributing the content in their entirety or lengthy sequence.

**1.4. “Products”** made subject to this Agreement consist of: (i) the **“Database(s),” “Journals”** and/or **“Books”** ordered by the Subscriber pursuant to Schedule(s) B and/or C, attached hereto; (ii) the **“Software,”** ordered by the Subscriber pursuant to Schedule B, consisting of the search and retrieval application software and any modifications, enhancements, updates, upgrades or new releases produced by Ovid during the term of the Agreement; provided however, that certain enhancements may constitute separate and distinct products for which Ovid reserves the right to charge an additional fee; (iii) the **“Documentation”** consisting of any instructional materials produced and owned by Ovid relating to the Products as provided in hardcopy or electronic form during the term of the Agreement; (iv) computer capacity to support the number of concurrent users authorized by Subscriber pursuant to Schedule(s) B and/or C, ; and (v) subscriber support services, via telephone, facsimile transmission or Internet E-mail.

## **2. USE OF THE PRODUCTS.**

**2.1.** Ovid hereby grants to Subscriber the non-transferable, nonexclusive limited right to gain computerized access using the Software to the Product(s), subject to the terms and conditions of this Agreement. Authorized Users will use the Product(s) only in accordance with the Permitted Use.

**2.2.** Ovid will issue Subscriber one or more identification password(s), such number to be determined at Ovid’s discretion, to gain access to the Products. Where applicable, Subscriber agrees that the identification password(s) is valid only in the country in which it is issued and may be restricted from accessing certain data on the Products. Except as provided in Section 5.3 of this Agreement, Subscriber is responsible for all charges against Subscriber’s identification password(s). Ovid reserves the right, at its sole discretion, to alter or change Subscriber’s identification password(s) as circumstances may warrant.

**2.3.** The terms and conditions of this Agreement may be changed from time to time, upon written or electronic notice to Subscriber; provided, however, that such changes or modifications do not materially diminish the use and value of the Products to Subscriber.

**2.4.** Archival Rights. Solely for journals subscribed to during the term of this Agreement, Subscriber shall be entitled to the archive rights related to those journals. Such right are subject to change without notification to Subscriber. The current archive policy can be found at: [Ovid Archival Policy](#)

## **3. PROPRIETARY RIGHTS AND USE RESTRICTIONS FOR THE PRODUCT(S).**

**3.1.** The Software is produced and owned by Ovid; the content is licensed to Ovid under separate agreements between Ovid and certain information providers (the **“Information Providers”**) and are proprietary to such Information Providers. No provision of this Agreement conveys any ownership interest in or to the Products, in whole or in part. Title, as well as applicable copyrights, patents, trademarks, trade secrets or other intellectual property rights in and to the materials in the Products are, and remain the property of Ovid, Information Providers or individual copyright claimants, as applicable.

**3.2.** No rights to use the Product(s) are conveyed to the Authorized Users except as permitted by this Agreement and, if applicable, pursuant to the user guidelines produced by the Information Providers, as made available by Ovid, from time to time, in electronic or print form.

- 3.3. Some materials in the Product(s) are from copyrighted publications of the respective copyright claimants. Authorized Users are referred to the publication data appearing in the bibliographic citations, as well as copyright notices appearing in the original publication. Authorized Users are advised that consultation with legal counsel regarding copyright laws prior to the use of certain material contained in the Product(s) may be appropriate.
- 3.4. Information Providers may modify or assign additional terms and conditions, as made available to Subscriber by Ovid, from time to time, which affect the Authorized Users' use of the Product(s), including without limitation, changes in subscription rates, use restrictions or guidelines. Those terms and conditions will prevail and control use of the relevant content. Subscriber hereby grants to Ovid and/or Information Providers the right to enforce or assert on their own behalf the provisions of this Agreement to the extent they pertain to the content contained in the Product(s).
4. **RESTRICTED RIGHTS OF THE UNITED STATES GOVERNMENT.** The Products are provided with certain restricted rights applicable to the United States government or its agents only. The use, duplication, modification, display or disclosure by the United States government or its agents is subject to restrictions as set forth in DFARS 252.227-7015(b)(2), DFARS 227.7202-1(a), DFARS 227.7202-3(a), FAR 52.227-14 and FAR 52.227-19, as applicable, and any applicable agency FAR supplements.
5. **SUBSCRIBER'S OBLIGATIONS.** Subscriber agrees to the following:
- 5.1. to be responsible for installation, costs and maintenance of a communications link and equipment;
  - 5.2. to be responsible for communication costs incurred by any Authorized User connecting to the Product with a valid password;
  - 5.3. to be responsible for the confidentiality and security of the identification password(s) issued to Subscriber by Ovid. Subscriber will not be responsible for charges against any identification password(s) that are lost or stolen; provided Ovid has received prompt notice to such effect;
  - 5.4. to use its best efforts to ensure that Authorized Users comply with the terms and conditions of this Agreement and any and all user guidelines or restrictions provided by Ovid, from time to time; and
  - 5.5. to designate in writing a staff member to be "System Administrator" (project manager) for the purpose of resolving implementation questions, such person to be available to Ovid on a routine and expedited basis when necessary.
6. **LIMITED WARRANTIES AND LIMITED LIABILITIES.**
- 6.1. Ovid represents and warrants that it has the complete right and authority to enter into this Agreement and to deliver the Products "AS IS".
  - 6.2. Ovid will use its best efforts to provide the Product(s) in accordance with the Documentation existing at the date of initial access.
  - 6.3. As a consequence of factors affecting the transmission of the Products which are beyond Ovid's control, Ovid will not guarantee performance of the Products through the Internet or other transmission modes. In the event that Subscriber requires greater surety of access, Ovid may arrange for Subscriber to have dedicated circuit access to the Products through a leading telecommunications carrier for an additional charge to be determined.
  - 6.4. **OID AND INFORMATION PROVIDERS EXPRESSLY DISCLAIM AND EXCLUDE ALL WARRANTIES (INCLUDING WITHOUT LIMITATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN RELATION TO THE PRODUCTS, THE CONTENT CONTAINED THEREIN AND THEIR PROVISION UNDER THIS AGREEMENT. ALTHOUGH DUE CARE IS USED IN PREPARING THE PRODUCTS, OVID AND INFORMATION PROVIDERS MAKE NO WARRANTIES THAT ACCESS TO THE PRODUCT(S) WILL BE UNINTERRUPTED OR THAT THE PRODUCTS WILL MEET SUBSCRIBER'S REQUIREMENTS, OR THAT THE CONTENT IS ACCURATE OR COMPLETE OR THAT**

**THE RESULTS OBTAINED BY ANY AUTHORIZED USERS WILL BE ERROR FREE. NO OVID EMPLOYEE OR AGENT IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS AGREEMENT.**

**6.5. EXCEPT AS PROVIDED UNDER THE INDEMNITY OF SECTION 7.0 OF THIS AGREEMENT, NEITHER OVID NOR INFORMATION PROVIDERS WILL BE LIABLE TO SUBSCRIBER, AUTHORIZED USERS OR ANY THIRD PARTY FOR LOSS OF PROFITS, LOSS OF USE OR FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, EVEN IF THEY ARE AWARE OF THE POSSIBILITY THEREOF. SUBSCRIBER AGREES THAT THE ENTIRE LIABILITY OF OVID AND INFORMATION PROVIDERS, AND THE EXCLUSIVE REMEDY OF THE SUBSCRIBER OR ANY THIRD PARTY, WILL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE FEE PAID FOR THE USE OF THE PRODUCTS.**

**6.6.** Neither Ovid nor its employees and agents will be liable for assistance provided to Authorized Users in performing research using the Products and any such assistance received from Ovid employees or agents will be solely at Authorized Users' risk.

**6.7.** Authorized Users, including physicians, health care workers and other professional persons using the Products MAY NOT rely on the information contained in the Products. Alternatively, they must rely on their clinical discretion, judgment and expertise in diagnosis and treatment.

**6.8.** Any cause of action whether brought by Ovid, Authorized Users or any third party concerning the Products must be commenced within one (1) year after such cause of action has accrued.

## **7. INDEMNIFICATION.**

**7.1.** Excluding any claims arising out of or related to the violation by Ovid or Information Providers of any third party copyrights, patents, trademarks or trade secrets, Subscriber agrees to indemnify Ovid from and defend, at its own expense (including reasonable attorney's fees) against any and all claims of third parties (including without limitation, copyright infringement) arising out of or related to Authorized Users' use of the Products or any materials provided hereunder, regardless of whether such claims were foreseeable by Ovid; provided that Ovid promptly notify Subscriber of the claim and provides all information and cooperation necessary to negotiate and defend the claim. At its discretion, Ovid may participate in the defense, settlement or negotiation of any claims.

**7.2.** Ovid agrees to indemnify Subscriber, its directors and officers, from and against any and all liability, damages, loss or expense arising from any claim, action or proceeding based upon or arising out of any actual or alleged infringement upon, violation or misappropriation by Ovid of any third party proprietary rights, including copyright, patent, trademark and trade secret, in consequence of the authorized use or possession of the Software or Documentation supplied by Ovid under this Agreement.

**8. PAYMENT.** The Net amount of all invoices are due thirty (30) days from the initial date of access to the Product(s), unless otherwise stated in Schedule(s) B and/or C or in a separate Purchase Order between the Subscriber and Ovid, and the Subscriber agrees to make payments in full for all amounts due according to their invoice(s). In the event that Subscriber fails to make prompt payment, Ovid reserves the right to deny access to the Products until such time as Subscriber's account is made current. Subscriber will be responsible for the payment of all taxes, or other related fees incurred in connection with this Agreement. If Subscriber shall fail to make any required payment within ten (10) days from the date the same become due and payable, Ovid reserves the right to charge Subscriber on such unpaid amounts interest from the due date thereof to the date of payment at the rate not to exceed the highest rate permitted by applicable law.

## **9. TERM.**

- 9.1.** The initial term of this Agreement will be one (1) year from the date of initial access to the Products, unless otherwise stated in the Purchase Order between Subscriber and Ovid. This Agreement will be automatically renewed for successive one (1) year terms at the fees current on the renewal date, or as otherwise provided to Subscriber by Ovid, unless either Ovid, Subscriber, or Information Providers gives notice of its intention to cancel the Agreement at least sixty (60) days in advance of the expiration of the then current term.
- 9.2.** This Agreement applies to any use of a Product during authorized trial periods, during the period for which a fee has been paid, and at any time when updates and new Product are being received. When the Subscriber accepts an updated version of this Agreement, the updated version will replace this version. Ovid reserves the right to cease offering the Subscriber the opportunity to renew a subscription.
- 10. TERMINATION.** If Subscriber or Authorized User is in breach of the terms and conditions of this Agreement, they will have ten (10) business days in which to cure the breach. If they have not cured the breach, Ovid may terminate this Agreement, in addition to pursuing all other legal remedies. Upon any termination for breach, the Subscriber will, unless otherwise agreed to in writing by Ovid, forthwith return to Ovid Product and any and all documentation pertaining thereto, and all copies thereof, and will erase all electronic storage of copies of the Product and search outputs or other electronic storage. The provisions of this Agreement which protect the proprietary rights of Ovid and Information Providers will continue in force after termination. Any termination, whether or not for breach, will not affect any right, obligation or liability of a party arising prior to termination of the Agreement.
- 11. ENTIRE AGREEMENT.** This Agreement, use restrictions and other notices concerning the Product(s) as provided, from time to time by Ovid, will constitute the entire agreement of the Parties. It is expressly agreed that any terms of a purchase order or similar instrument issued by Subscriber with respect to this Agreement will not affect the terms and conditions of this Agreement. This Agreement may not be modified or amended except by written consent of the Parties or in accordance with the provisions set forth in Subsection 2.3 of this Agreement.
- 12. NOTICES.** All notices, consents or other communications referred to herein will be in writing and will be conveyed to the other party by First Class Mail or electronically at the appropriate addresses indicated in Schedule A by the Parties. Service of such notice, consent or other communication hereunder will be effective on the fifth day after the day of mailing or the same day as the day of transmission.
- 13. FORCE MAJEURE.** Ovid will not be liable for any delay, failure in performance or interruption of service due to any unforeseen circumstances or circumstances beyond its control, including, without limitation, war, strikes, civil disturbances and Acts of God.
- 14. SEVERABILITY.** If a term or condition of this Agreement is found by a court or administrative agency to be unenforceable, the remaining terms and conditions will remain in full force and effect.
- 15. GOVERNING LAW.** This Agreement will be governed by the laws of the State of California, without giving effect to the principles of conflict of law thereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ and hereby represent and warrant that their respective signatory below has been and is, on the date of this Agreement, duly authorized by all necessary corporate action to execute this Agreement.

**OVID TECHNOLOGIES, INC.**

**SUBSCRIBER NAME:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_