

ACADEMIC/CLINICAL SITE LICENSE AGREEMENT
for *JOURNAL WATCH*

This Agreement, between the Massachusetts Medical Society (“Society”), owner and publisher of the *Journal Watch* series (“Journal Watch”), and the institution identified below, sets forth the terms of usage and other provisions for online access to the Journal Watch website, www.jwatch.org (“Journal Watch Online”).

1. Definitions. For the purposes of this Agreement, the following terms shall have the meaning set forth herein:

Authorized User means (a) any employee, student, faculty, or staff member of Licensee (either at Licensee’s premises or remote from Licensee’s premises) who is approved by Licensee to use a Secure Network (as defined below) and (b) other individuals (while at Licensee’s premises) who are approved by Licensee to use the Secure Network.

Licensee means the institution identified below and the wholly owned affiliate companies of Licensee identified on Licensee’s order form.

Secure Network means a computer network controlled and operated by Licensee that is accessible only to Authorized Users who are (a) at Licensee’s premises or (b) whose identity is authenticated by Licensee at the time of login

2. Activation of Access. Access to Journal Watch Online for use in accordance with this Agreement shall be activated for Licensee and its Authorized Users based upon the following: (1) acceptance by the Society of a completed order form; (2) acceptance of this Agreement by Licensee and the Society; and (3) full payment of the applicable Journal Watch Online access fee (collectively referred to as “Activation Steps”). Upon completion of the Activation Steps, the Society shall promptly confirm Licensee’s order in writing and enable access to Journal Watch Online for Licensee and its Authorized Users. The Society’s written confirmation shall indicate the subscription start date and such date shall be the “Effective Date” of this Agreement.

3. Term of Agreement & Renewal. Subject to prior termination in accordance with this Agreement, the initial term of this Agreement shall commence on the Effective Date and shall remain in effect for one (1) year. Thereafter, the Society shall invoice Licensee for the annual access fee and Licensee may elect to renew the Agreement for additional one-year periods by paying the annual access fee when due. If Licensee’s payment is not received by the Society within sixty (60) days after expiration of the applicable subscription term, the Society will discontinue Licensee’s access to Journal Watch Online. The Society reserves the right to modify the Journal Watch Online access fee and the terms of this Agreement for any renewal period.

4. Authorized Access to Journal Watch Online. Access to Journal Watch Online is controlled by valid IP address(es) and is granted to Licensee and its Authorized Users via a Secure Network while this Agreement, or any successor or amended version, is in effect. Licensee is responsible for providing valid IP addresses for its Secure Network. Cache servers are not permitted. All

information submitted by Licensee to activate access to Journal Watch Online shall be complete and accurate.

5. Use of Journal Watch Online.

- 5a. Licensee, by its Authorized Users, may view, print, and display material from Journal Watch Online, and store such material for individual archival purposes only, for the personal, research, study, and reference purposes of Authorized Users. Authorized Users may also distribute a single copy of materials from Journal Watch Online in print or electronic form to other Authorized Users for use in accordance with this Agreement.
- 5b. Licensee may, on occasion, supply single copies of materials from Journal Watch Online to a noncommercial library located in the same country as Licensee in accordance with Licensee's interlibrary loan procedures, whether by post, facsimile, or digital transmission, provided that (1) a written notice stating that any electronic copy must be deleted immediately after printing and that the end user can only receive a single paper copy is sent to the borrowing library and (2) Licensee has a good faith belief that such notice is being complied with.
- 5c. Except for the uses specified above, no part of the materials available at Journal Watch Online may be copied, displayed, downloaded, stored in a retrieval system, further transmitted or otherwise reproduced or used without the written permission of the Society, except as permitted by United States fair use law. Distribution or transmission for commercial purposes is prohibited.

6. Copyright & Trademark Ownership. Unless otherwise stated, the materials available at Journal Watch Online are the property of the Society and are protected under United States and international copyright laws and conventions. *Journal Watch* and the *Journal Watch* logo design are trademarks of the Society.

7. Licensee Obligations. Licensee agrees to reasonably cooperate in preventing violations of this Agreement by Authorized Users and to notify the Society promptly upon discovering any such violation. Licensee also agrees to take such reasonable steps as the Society may require to ensure that such activity ceases. In addition to any other applicable remedies, access to Journal Watch Online may be limited or revoked in the event of a violation of this Agreement by an Authorized User. Licensee agrees not to frame, modify, obscure, or otherwise alter the appearance or display of any materials at Journal Watch Online.

8. Journal Watch Online Terms and Conditions. By using Journal Watch Online, Licensee and its Authorized Users agree to the Journal Watch Online Terms and Conditions for site use; provided, however, that in the event of any conflict between the terms of this Agreement and the Journal Watch Online Terms and Conditions, the terms of this Agreement shall prevail.

9. Website Modifications and Availability. The Society will make reasonable efforts to keep Journal Watch Online available twenty-four hours per day, seven days a week. However, owing

to technical failures, routine maintenance, or other unforeseen circumstances, availability may be limited and the Society will not be responsible for the non-availability of Journal Watch Online.

10. Disclaimer of Warranties and Liability. Journal Watch Online is intended for educational, research, and reference purposes only. The content of this publication should not be substituted for the advice of a qualified health care professional.

JOURNAL WATCH ONLINE IS PROVIDED “AS IS” ON AN “AS AVAILABLE BASIS” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. IN NO EVENT WILL THE SOCIETY, ITS EMPLOYEES, OFFICERS, MEMBERS, AGENTS, OR LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES RESULTING FROM THE INABILITY TO USE, OR THE USE OF, JOURNAL WATCH ONLINE, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ON ANY THEORY OF LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF JOURNAL WATCH ONLINE.

11. Termination. Either party may terminate this Agreement at any time by providing the other party with thirty (30) days written notice. In the event of such termination, Licensee shall receive a pro-rated refund of the access fee for the un-expired portion of the subscription term. The foregoing shall be Licensee’s sole and exclusive remedy with respect to any such termination. However, in the event of a breach of this Agreement by either party that is likely to cause substantial or irreparable harm to the other party, the thirty (30) day notice period shall be waived. On termination, or expiration, all rights and obligations of the parties shall automatically terminate unless otherwise provided herein.

12. Miscellaneous.

12a. This Agreement represents the entire understanding of the parties in relation to the subject matter hereof and supersedes all prior agreements, negotiations, understandings, representations, statements and writings between the parties relating thereto. The Society reserves the right to modify, suspend, or discontinue all or any part of Journal Watch Online at any time. Licensee may not assign or transfer, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the Society. The United Nations Convention on Contracts for the International Sale of Goods will not govern this Agreement. Facsimile copies of original signatures shall have the same force and effect as original signatures.

12b. Any purchase order or other instrument that Licensee may use for Journal Watch Online is for its internal purposes only and shall not amend any provision of this Agreement.

12c. This Agreement shall be deemed by the parties to be wholly entered into and wholly performed in the Commonwealth of Massachusetts, U.S.A.

12d. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, United States of America, without regard to its conflict of laws rules. Any controversy arising out of or relating to this Agreement shall be brought in the federal or state courts located in Massachusetts and the parties hereby consent to the jurisdiction of such courts. The foregoing choice of law and forum designation will not apply if compliance would violate (1) any law, regulation, or official governmental policy or (2) any bylaw or equivalent governing instrument of Licensee.

AGREED TO AND ACCEPTED:

I have read and agree to all provisions of this Agreement

Licensee—Name of Institution

Massachusetts Medical Society:

Authorized Signature / Date

Authorized Signature / Date

Printed Name of Authorizing Person

Return Completed Agreement and Order

Form to:

Massachusetts Medical Society
Attn: Ellie Phillippo
Journal Watch Site Licensing Office
860 Winter Street
Waltham, MA 02451-1413 USA
Fax: 781.464.4818

Title of Authorizing Person

Email: _____

Telephone: _____

Fax: _____