



***Annals of Internal Medicine* Site License Terms and Conditions**

A. Grant of License

The American College of Physicians, Inc. (“ACP”) hereby grants to the designated Authorized Site Licensee (“the Licensee”), and the Licensee hereby accepts, a nonexclusive, revocable, non-transferable License to access and use the Licensed Property subject to the terms and conditions set forth herein.

B. Licensed Property

The Licensed Property is the *Annals of Internal Medicine* issues published from 1993 through the present date, plus all forthcoming issues for as long as the License endures, including the *In the Clinic* and *ACP Journal Club* sections as published therein.

C. Authorized Access

Licensor grants to Licensee non-exclusive, perpetual access to, and use of, the Licensed Property through the Licensee’s Secure Network, and the right to provide the Licensed Property to Authorized Users in accordance with this License’s terms and conditions. An Authorized User is the Licensee’s full-time and part-time students, full-time and part-time employees (including faculty, staff, affiliated researchers and independent contractors), and patrons not affiliated with Licensee who are physically present at Licensee’s site(s) (also referred to as “Walk-ins”). A Secure Network is a network accessible only to Authorized Users who are at the Licensee’s premises or whose identities are authenticated at the time of login, and whose conduct is subject to review and regulation by the Licensee.

D. Authorized Uses

The Licensee and the Authorized Users may access or use the Licensed Property in ways that are consistent with this Agreement’s terms and conditions and the Copyright Act of 1976 (17 U.S.C. § 101, et seq.) (later referred to as the “Copyright Act”), including the Copyright Act’s limitations on exclusive rights provisions or other applicable international copyright acts. Additionally, the Licensee and Authorized Users may access or use the Licensed Materials for the following purposes:

- I. **Electronic Reserves.** Licensee and Authorized Users may use a reasonable portion of the Licensed Property for use in connection with specific courses of instruction offered by Licensee.

- II. **Electronic Links.** Licensee may provide password- or proxy-protected hyperlinks from the Licensor's Web page(s) or Web site(s) to the Licensed Property. Licensee may make reasonable changes in the appearance of such links, or in statements accompanying such links as Licensor reasonably requests such changes.
- III. **Interlibrary Loan.** Licensee may provide to other libraries or academic institutions requests to provide reasonable amounts of the Licensed Property through interlibrary loan arrangements.
- IV. **Accessible Formats.** Members may have the right to modify or copy the Licensed Property in order to make the content usable to Authorized Users with perceptual, visual, or physical disabilities.
- V. **Scholarly Use.** The Members' Authorized Users may store a single copy on a Bibliographic Reference Management System and share a single copy of an individual article with a colleague who is not an Authorized User. For the avoidance of doubt, none of these activities may be undertaken for Commercial Use.
- VI. **Regulatory Purposes.** Members' Authorized Users have the right to supply print or electronic copies of individual articles from the Licensed Materials to regulatory authorities for regulatory purposes.
- VII. **Other Uses.** Any other use of the Licensed Property requires permission, which can be obtained through RightsLink, the Copyright Clearance Center (www.copyright.com), or email to permissions@acponline.org.

E. Unauthorized Uses

- I. The Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Property and shall not knowingly permit Authorized Users to use the Licensed Property for any uses other than Authorized Uses.
- II. The Licensee shall not modify, translate, or create a derivative work of the Licensed Property without the written permission of ACP.
- III. The Licensee shall not modify, remove, or obscure any copyright notices or other notices included in the Licensed Property.
- IV. The Licensee shall not use the Licensed Property for commercial purposes, including but not limited to sale of the Licensed Property or bulk reproduction or distribution of the Licensed Property in any form, except for normal printing/copying costs where such reproduction is authorized under Section D.
- V. Except as part of the LOCKSS System, the Licensee may not systematically download, archive, or centrally store substantial portions of articles, files, or material obtained from the Licensed Property, without the written permission of ACP.

VI. To obtain express written permission for any use not authorized by this License, email permissions@acponline.org, fax 215-351-2799, or mail your requests to Senior Associate Publisher, Sales and Circulation, Publishing Division, American College of Physicians, 190 N. Independence Mall West, Philadelphia, PA 19106.

F. Ownership and Protection of the Licensed Property and Reservation of Rights

ACP possesses sole ownership of the copyright and content of the Licensed Property. Except as expressly set forth herein, all rights of whatever nature in and to the Licensed Property are reserved by ACP including, without limitation, the right to authorize others to access and use the Licensed Property. All Licensed Property is subject to “fair use” provisions of U.S. Copyright Act or applicable international copyright acts.

The Licensee shall make reasonable efforts to prevent Unauthorized Uses of the Licensed Property. In the event the Licensee becomes aware of any infringement by third parties of any right licensed herein, or any other use of the Licensed Property, the Licensee shall promptly notify ACP in writing of such infringement or use, and shall do such acts and assist in supplying such information as is reasonably necessary or desirable in relation thereto. ACP shall take only those steps which in its sole discretion are necessary to enforce its rights, including the engagement of legal counsel of its own choosing. Nothing herein shall obligate ACP to take any action against any allegedly infringing party.

Upon ACP’s request, the Licensee will cooperate fully, at ACP’s expense, in confirming, perfecting, preserving and enforcing ACP’s rights in the Licensed Property. During the Term of this License, at ACP’s request, the Licensee shall indicate in its use of the Licensed Property that such Licensed Property is owned by ACP and that ACP has copyright protection therein.

The Licensee shall acquire no ownership rights to the Licensed Property by virtue of this License or otherwise.

The Licensee shall not, during the Term of this License or at any other time thereafter, directly or indirectly, contest or aid others in contesting ACP’s ownership of the Licensed Property.

The Licensee shall not, during the Term of this License or at any other time thereafter, do anything which impairs ACP’s ownership of, or the validity or reputation of, the Licensed Property.

G. Archiving and Perpetual Access

- I. **Perpetual License.** Notwithstanding anything else in the License, ACP grants a nonexclusive, royalty-free, perpetual license to use the Licensed Property that was subscribed to during the term of this License. Such use shall be in accordance with the provisions of this License, which provisions shall survive any termination of this License.

II. **Third-Party Archiving Services.** ACP grants that Licensee may participate in the collaborative archiving endeavors LOCKSS (www.lockss.org) or Portico (www.portico.org) to exercise their rights under this section of the License. Licensee may perpetually use the LOCKSS system to archive and restore the Licensed Property, so long as Licensee use is otherwise consistent with this License. ACP further acknowledges and agrees that, for the purpose of repairing damage to, or loss of, another LOCKSS system's copy of the Licensed Property, Licensee's LOCKSS system may make Licensed Property available to that other LOCKSS system provided that the other LOCKSS system had previously proven to the Licensee's system that it had the same Licensed Property.

H. Rates and Fees

The *Annals of Internal Medicine* Authorized Site License Rate Schedule is published at: www.acponline.org/products_services/journals/institutional.rates.html which is subject to change by ACP.

The Licensee shall pay ACP an Authorized Site License Fee in accordance with the Rate Schedule in effect on the date of the Licensee's *Annals of Internal Medicine* Authorized Site License Application. The Fee must be paid before access to the Licensed Property will be activated (unless otherwise agreed to in writing by ACP) and permits access and usage for a period of one year (unless otherwise agreed to).

A renewal Authorized Site License Fee will be provided by ACP to you or your agent in advance of each anniversary date of the Licensee's License. The renewal Authorized Site License Fee shall be at the rate in effect on the invoice date.

If payment is not received promptly, the Licensee's License to the Licensed Property will be revoked and the Licensee's access to the Licensed Property will be deactivated. Payments must reference the ACP invoice number for which payment is being made.

All fees must be paid either by check or credit card in U.S. Dollars drawn on a U.S. bank, or by electronic wire transfer. For credit card or wire transfer instructions, email sitelicense@acponline.org.

I. Cancellations and Refunds

Site License Subscriptions to the Licensed Property may be canceled at a 100% refund if the request is received before the start of the subscription period. Please note there are no refunds after the start of the subscription.

J. Access and Authentication

Online identity and access information for each location should be listed in Appendix A. ACP provides access through IP addresses, OpenAthens, and/or Shibboleth registered in the

name of the Licensee and owned by, or for the sole use of the subscriber. The Licensee's identity and access information are subject to review and approval by ACP technical staff. ACP reserves the right to reject any online and access information failing to fulfill these criteria.

Licensees who need access via Shibboleth should email sitelicense@acponline.org and provide their Federation, Shibboleth Entity ID, eduPersonScopedAffiliation, eduPersonAffiliation, and eduPersonEntitlement.

Licensees who require other methods of access and authentication should email sitelicense@acponline.org.

K. Changes in Institutional Tier

The Licensee agrees to notify ACP in writing in the case of any changes that impact the tier assigned to the Licensee beyond what is represented to ACP at the time of execution of this License, upon ACP's request, or in subsequent verifications during the renewal invoice process.

L. Usage Reports

COUNTER-compliant usage reports for the *Annals of Internal Medicine* are available online to the Licensee's administrator on the Atypon Platform.

M. Account Administration

Site-license administrators are responsible for pulling usage reports and maintaining up-to-date information on their institutional accounts, i.e., email address, IP addresses, branding, and link resolvers through their account. If you have questions regarding account activation or your login credentials, please contact sitelicense@acponline.org.

N. Warranties and Disclaimer

ACP warrants that it is the owner of the Licensed Property or that it has secured permission to use any copyrighted material in the Licensed Property; that the Licensed Property does not infringe any copyright or other proprietary or intellectual property rights of others; and that it is entitled to grant the rights to which this License applies. ACP makes no other representations or warranties of any kind, express or implied.

ACP has made, and will continue to make, good faith efforts to assure that the Licensed Property is accurate and complete, but it does not warrant the accuracy or completeness, or the merchantability or fitness for a particular purpose.

The Licensee and its Authorized Users will be permitted to access the Licensed Property at any time. ACP will make reasonable efforts to assure that its vendor will provide continuous access to the Licensed Property and correct any performance problem brought to its attention, but ACP will not be liable for any delay, interruption, down time, or other failure of performance.

Likewise, ACP will not be liable to the Licensee for any loss or damage (incidental, consequential, punitive, or otherwise) arising out of the use of, or the inability to use, the Licensed Property.

O. Term and Termination of License

This License shall be effective upon ACP's receipt of the Authorized Site License payment fee.

ACP may terminate the Licensee's License and rescind the privilege of accessing and using the Licensed Property as granted herein in the event that:

- I. The Licensee defaults in the performance of any of its duties or obligations under the terms and conditions herein, including the timeliness of such performance and payment, and does not substantially cure such default, or commence a cure, within thirty (30) days after being given written notice specifying the default; provided that ACP shall not be required to provide such notice or the opportunity to cure such default more than one time in any twelve (12) consecutive-month period of time; or
- II. The Licensee makes a general assignment of substantially all of its assets for the benefit of its creditors; or
- III. A petition is filed in bankruptcy or under any insolvency law by or against the Licensee, which petition is not dismissed within sixty (60) days after it was filed; or
- IV. ACP provides written notice that the Terms and Conditions herein are revised and the Licensee does not provide a signed acknowledgement of acceptance of the new terms and conditions within ninety (90) days after such notice.

The Licensee may terminate its License, thereby declining the privilege of accessing and using the Licensed Property, at any time by giving written notice to ACP. Please note there are no refunds after the start of the subscription. Upon the termination of this License, at the end of the Term or otherwise, ACP will deactivate the Licensee's access to the Licensed Property. For the avoidance of doubt, Licensee shall have perpetual access to the subscribed years of the Licensed Property.

P. Taxes

Licensee is responsible for the payment of any applicable taxes in addition to the Site License fee, other than taxes on ACP's net income, arising out of Licensee's use of the Licensed Property and/or the rights granted under this Agreement. ACP acknowledges that not-for-profit institutions may be exempt from state and other taxes.

Q. Choice of Law/Venue

This License shall be governed and interpreted in accordance with the laws of the United States and the Commonwealth of Pennsylvania.

Any dispute, disagreement, controversy or claim arising out of or relating to any provision of this License, or any alleged breach thereof, shall be submitted to and settled by arbitration in the Commonwealth of Pennsylvania in accordance with the rules and regulations of the American Arbitration Association then in effect. The arbitrators shall have the right and authority to issue equitable as well as monetary relief and to award the cost of arbitration, including attorneys' fees, to the prevailing party or apportion such costs as the arbitrator(s) deems fair and equitable, and to determine how their award or decision as to each issue and matter in dispute may be implemented or enforced. All arbitration decisions or awards hereunder shall be issued in writing and shall be final, conclusive and binding upon the parties, their successors and permitted assigns. There shall be no appeal therefrom other than for bias, fraud or misconduct. Judgment upon any award or decision may be entered in any court of competent jurisdiction in the Commonwealth of Pennsylvania or otherwise, and the parties hereto consent to the application by any party of interest to any court of competent jurisdiction for confirmation or enforcement of such award.

However, if required by the laws of Licensee's state, any dispute will be resolved in accordance with such laws, including any laws requiring arbitration or the exhaustion of specific administrative remedies.

The Authorized Signatory whose name appears below hereby requests that the institution named below be designated as an Authorized Site Licensee of the American College of Physicians, Inc. for the *Annals of Internal Medicine* (including the *In the Clinic* and *ACP Journal Club* sections published therein) as published from 1993 through present date plus all forthcoming issues for as long as the License endures.

On behalf of the Institution

Institution Name: _____

Authorized Signature: _____

Print Name: _____

Print Title: _____

Date: _____

Appendix A to *Annals of Internal Medicine* Site License Terms and Conditions: Specifications for Account Administration, Access, and Authentication

Institutional Administrator: The following person is appointed as ACP's key contact person for this institution.

Name: _____

Title: _____

Postal Address: _____

Email Address: _____

Phone: _____

Fax: _____

Subscription Agent (if applicable)

Subscription Agent Handling Billing: _____

Agency Contact Person: _____

Authorized Sites

Please list below the locations and IP addresses or Athens IDs of each site for this institution. To use Shibboleth authentication or to add more locations, email sitelicense@acponline.org.

Site Name	Site Location (City, State or Province)	IP Address or Eduserv Athens Information