

## **CONTRACT NAME: AGREEMENT BETWEEN PROQUEST AND THE DAVIS JOINT UNIFIED SCHOOL DISTRICT**

**BRIEF DESCRIPTION OF CONTRACT:** This agreement between ProQuest and Davis Joint Unified School District allows students and staff to search collections of selected articles from magazines, newspapers, reference sources, government sources and primary source material. This program will be used by Davis Senior High School and all users will share a single site login.

The cost of the service is \$2,709 and is allocated in the site discretionary funds.

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Product Name	Code	Start Date	End Date	Price
SIRS Issues Researcher	<i>SIRSRSCH</i>	3/1/2017	2/28/2018	\$ 1,980.00 USD
SIRS Government Reporter	<i>SIRSGOV</i>	3/1/2017	2/28/2018	\$ 729.00 USD
				<b>Total Price: \$2,709.00 USD</b>

**Additional Information:**

Bruce Cummings  
bcummings@djUSD.net  
Ruth Amaral  
ramaral@djUSD.k12.ca.us

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Invoices will be emailed to the bill-to-contact and renewals will be emailed to the ship-to-contact. If your institution is unable to accept electronic invoices, please check this box:	To sign up for our auto-renewal program as part of our 'go green' initiative. Your subscription to the service will automatically renew for successive 12 month periods at the rate set forth in the renewal invoice sent to the Customer, unless Customer sends written cancellation notice to ProQuest within 30-days of the Customer's receipt of the renewal invoice, with such cancellation to be effective as of the end of the current subscription period, please check this box:
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<b>Additional Sites:</b>

**Account Manager Information:**

Laura Fingeret  
 (800) 521-0600 | laura.fingeret@proquest.com

## Terms and Conditions

1. License Grant. Subject to the terms of this Agreement, ProQuest LLC and its affiliates ("ProQuest") hereby grant to Customer a non-exclusive, non-transferable license (the "License") for Customer and its Authorized Users to access and use the products and services listed on Customer's approved Order Form (the "Service") solely at Customer's principal location and those locations listed on the Additional Sites Schedule. Access and use of the Service is only for the internal, research purposes of Customer and/or its Authorized Users as further described in Exhibit A. Additional Sites may be added upon written notice to ProQuest and payment of additional fees, if applicable. Customer does not acquire any intellectual property ownership in the Service or any associated software, systems, documentation, content, other materials and/or improvements made thereto, including improvements based upon customer feedback. All such rights and interests remain in ProQuest and its licensors.
2. Authorized Users. "Authorized User" means only: (a) For public libraries: library staff, individual residents of Customer's reasonably defined geographic area served, and walk-in patrons while they are on-site; (b) For schools and other academic institutions: currently enrolled students, faculty, staff, and visiting scholars, as well as walk-in patrons while they are on-site; and (c) For other types of organizations: employees and independent contractors, while performing their work. Authorized Users excludes Customer's corporate affiliates, academic bookstores, and alumni unless those users are expressly included and reflected on the Order Form or Additional Sites Schedule.

3. Secure/Remote Access. All access and use of the Service must be made via a secure network and secure authentication methods. Use of the Service by remote access is allowed unless otherwise stated on the Order Form. Customer will strictly limit any remote access to its Authorized Users through the use of secure methods of user verification. Customer will promptly notify ProQuest if Customer believes security has been compromised. Online posting of passwords, or otherwise enabling access for the benefit of non-subscribing institutions or users, is strictly prohibited.
4. Updates to the Service. ProQuest will announce any substantial modifications of information, databases, materials, capabilities, or services within the Service by email to Customer's representatives who sign up to receive updates. These changes shall be subject to the terms and conditions of this Agreement, and shall not materially alter use of the Service.
5. Supplemental Terms. Some of the content included in the Service has conditions of use applicable solely to such content. Links to content-specific conditions are clearly displayed with the associated content and will not materially alter use of the Service. Where third-party databases and certain special content types are subject to special terms, such terms and conditions shall be clearly referenced on the Order Form.
6. Variations in Content. The content provided as part of the Service is primarily owned and supplied to ProQuest under agreement with third party licensors, and is subject to the continuation and extent of the license granted under such agreements. ProQuest shall have the right, in its reasonable and good faith discretion, to remove or modify materials in the Service because (a) ProQuest's right to distribute such materials lapses, (b) such materials contain errors or could be subject to an infringement or other adverse claim by a third party, or (c) particular content collections have changed due to editorial selection, coordination, or arrangement of materials.
7. **Fees and Payments.** Customer agrees to pay the fees for the Service shown on the Order Form within 30 days of receipt of ProQuest's invoice unless otherwise specified on the Order Form. Fees are based in part on Customer's population served, Authorized Users and Additional Sites at the time of the order. If any combination of these elements materially increases (e.g., if the Customer acquires a new affiliate), a fee increase commensurate with such change may be required before access and use of the Service is provided to or for the benefit of the additional user population, Authorized Users and/or Additional Sites. Firm U.S. Government orders require a valid purchase order and advance payment or payment in accordance with FAR 52.213.2.
8. U.S. Government Restricted Rights. Services include materials that are commercial technical data and/or computer databases and/or commercial computer software, as applicable, which were developed exclusively at private expense by ProQuest LLC, 789 E. Eisenhower Parkway, Ann Arbor, MI 48108. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer databases and/or computer software are subject to the limited rights restrictions of DFARS SUBPART 252.227-7202-3 (December 2011) Rights in Computer Software and Computer Software Documentation and/or subject to the restrictions of DFARS 252.227-7019 (Sep 2011) Validation of Asserted Restrictions – Computer Software, as applicable for U.S. Department of Defense procurements and the limited rights restrictions of FAR 52.227-14 (December 2007) Rights in Data-General, FAR 52-227-20(c)(2-3) (December 2007) Rights in Data-SBIR Program and/or subject to the restricted rights provisions of FAR 52.227-15 (December 2007) Representation of Limited Rights Data and Restricted Computer Software and FAR 52.227-19 (Dec 2007) Commercial Computer Software-Restricted Rights, as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal procurement.

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10. Termination for Breach. If a party breaches a material term of this Agreement and does not cure within 30 days from written notice, the other party may immediately terminate this Agreement in whole or as to the affected Service. If this Agreement is terminated in whole or in part for Customer's breach, (a) ProQuest shall disable access to any terminated Service, (b) Customer shall destroy any files, information, data or software derived from any terminated Service in its possession or control, and certify destruction upon request, and (c) ProQuest reserves the right to pursue all available legal remedies.
11. Remedial Action. Without limiting the above, ProQuest may suspend delivery of the Service if it reasonably determines that Customer's or Authorized User's failure to comply with this Agreement may cause irreparable harm to it or its licensors. If delivery is suspended, ProQuest will work in good faith to restore Customer's access as soon as possible.
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13. Limited Warranty and Disclaimer of Warranty. ProQuest warrants that the Service will perform substantially as documented on ProQuest's public websites (the "ProQuest Websites"). EXCEPT AS EXPRESSLY WARRANTED HEREIN, THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE." PROQUEST AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE PERTAINING TO: MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, ACCURACY, TIMELINESS, CORRECTNESS, RELIABILITY, CURRENCY, OR COMPLETENESS OF THE SERVICE OR ANY INFORMATION OR RESULTS OBTAINED THROUGH THE SERVICE, EVEN IF ASSISTED BY PROQUEST. PROQUEST SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR DETERMINING THE COMPATIBILITY OF ANY HARDWARE OR SOFTWARE NOT SUPPLIED BY PROQUEST WITH THE SERVICE AND PROVIDES NO WARRANTY WITH RESPECT TO THE OPERATION OF SUCH HARDWARE OR SOFTWARE WITH THE SERVICE.
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15. Place. ProQuest's principal place of business, where this contract is formed and all services will be deemed performed, is 789 E. Eisenhower Pkwy, Ann Arbor, MI 48108.
16. Entire Agreement. This Agreement consists of the Order Form, these Terms and Conditions, and Exhibit A, and constitutes the entire agreement between the parties hereto with respect to its subject matter and supersedes all previous and contemporaneous agreements between the parties with respect to the same subject matter and may not be amended, except in a writing signed by the parties. The terms of Customer's purchase orders, if any, are for Customer's convenience and do not supersede any term or condition of this Agreement.

## **Exhibit A: Permitted Uses**

1. Online Research Services. Services designed to facilitate online research may be used for Customer's internal research or educational purposes as outlined below provided that doing so does not violate an express provision of this Agreement:
  - a) Research and Analysis. Customer and its Authorized Users are permitted to display and use reasonable portions of information contained in the Service for educational or research purposes, including illustration, explanation, example, comment, criticism, teaching, or analysis.
  - b) Digital and Print Copies. Customer and its Authorized Users may download or create printouts of a reasonable portion of articles or other works represented in the Service (i) for its own internal or personal use as allowed under the doctrines of "fair use" and "fair dealing"; (ii) when required by law for use in legal proceedings or (iii) to furnish such information to a third party for the purpose of, or in anticipation of, regulatory approval or purpose provided that the recipient are advised that the copies are confidential and not for redistribution. All downloading, printing and/or electronic storage of materials retrieved through the Service must be retrieved directly from the on-line system for each and every print or digital copy.
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  - d) Fair Use/Fair Dealing. Customer and its Authorized Users may use the materials contained within the Service consistent with the doctrines of "fair use" or "fair dealing" as defined under the laws of the United States or England, respectively.
  - e) Academic Institutions, Schools, and Public Libraries. If Customer is an academic institution, school, or public library:
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    - ii. Scholarly Sharing. Customer and its Authorized Users may provide to a third party colleague minimal, insubstantial amounts of materials retrieved from the Service for personal use or scholarly, educational research use in hard copy or electronically, provided that in no case any such sharing is done in a manner or magnitude as to act as a replacement for the recipient's or recipient educational institution's own subscription to either the Service or the purchase of the underlying work.
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3. Scholar/Researcher Profiles. The data contained within scholar profiles are for use in facilitating research and collaboration amongst colleagues. Neither Customer nor its Authorized Users may export or otherwise exploit the scholar profiles for mass mailings or similar marketing purposes.

4. Electronic Resource Discovery, Access, and Management. For electronic resource discovery (e.g., Summon), access and/or management services (e.g., Intota), the Customer reserves all right, title and interest in all Customer specific data it contributes to the Service (which may include but is not limited to Customer created metadata, bibliographic information, holdings and circulation data) and grants ProQuest permission to use such data for the limited purpose of operating and improving the Service and such information may only be provided to third parties in aggregate form. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party without Customer's permission. Provided that such access, use, and/or sharing does not violate an express provision of this Agreement, Customer and its Authorized Users are permitted to: (a) access the Service and information derived from the Service in order to discover, manage and provide access to library resources owned or licensed by Customer, (b) create, store and retain any reports and lists delivered by the Service, (c) share data about Customer's own library holdings that is retrieved from such Service with third party applications, so long as prior written notice is provided to ProQuest and (d) display metadata, bibliographic and holdings information in the library catalog available on Customer's library website.
5. Library Catalog Enrichment Service. For library catalog enrichment Services (e.g., Syndetics), Customer may use the enrichment elements for the sole purpose of augmenting Customer's own library OPAC or website. Customer may not convert Service metadata records into MARC format, nor distribute or display the enrichment elements in any third party applications, catalogs or websites.



6. Purchased Content. For perpetual archive licenses ("PAL") (as specified on the ProQuest Websites or Order Form), Customer pays a one-time fee for a perpetual license to the designated materials (the "Purchased Content"), and an annual "Continuing Service Fee."
  - a) Perpetual License. The License to Purchased Content and any updates Customer receives is perpetual, and may only be revoked if Customer materially breaches this Agreement, or if the licensed materials contain errors or could be subject to an infringement or other adverse claim by a third party.
  - b) Continuing Services. In consideration of the Continuing Service Fee, ProQuest will provide Customer and its Authorized Users with online access to the Purchased Content, plus any included updates, on a proprietary platform designed to enhance the research experience (a "ProQuest Platform"). ProQuest will maintain systems and technology that help Customer comply with use restrictions and security standards required by ProQuest's licensors.
  - c) File Delivery. If Customer loses the ability to access its Purchased Content online through ProQuest (e.g., if ProQuest discontinues online access services), or if the Purchased Content is otherwise eligible for local loading, Customer may obtain digital copies upon certifying that it will secure and restrict use of the Purchased Content as contemplated under this Agreement, using systems and technology at least as protective as ProQuest's. File transfer costs, if any, are Customer's responsibility.
  - d) Data Mining. Subject to any content-specific restrictions, Customer and its Authorized Users may extract and compile data from locally-loaded copies of the Purchased Content solely for Customer's teaching, learning, and research purposes.
7. Patron Driven Acquisition ("PDA"). For certain Services, Customer may elect to have user activity trigger the purchase of content. Purchase preferences and Service eligibility for the PDA model are described on the ProQuest Websites.
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9. Restrictions. Except as expressly permitted above, Customer and its Authorized Users shall not:
  - a) Translate, reverse engineer, disassemble, decompile, discover, or modify ProQuest's software;
  - b) Remove any copyright and other proprietary notices placed upon the Service or any materials retrieved from the Service by ProQuest or its licensors;
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  - e) Perform automated searches against ProQuest's systems (except for non-burdensome federated search services), including automated "bots," link checkers or other scripts;
  - f) Provide access to or use of the Services by or for the benefit of any unauthorized school, library, organization, or user;
  - g) Publish, broadcast, sell, use or provide access to the Service or any materials retrieved from the Service in any manner that will infringe the copyright or other proprietary rights of ProQuest or its licensors;
  - h) Use the Service to create products or perform services which compete or interfere with those of ProQuest or its licensors;

- i) Text mine, data mine or harvest metadata from the Service;
- j) Communicate or redistribute materials retrieved from the Service; or
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Product Name	Code	Start Date	End Date	Price
SIRS Issues Researcher	SIRSRSCH	3/1/2017	2/28/2018	1,980.00 USD
SIRS Government Reporter	SIRSGOV	3/1/2017	2/28/2018	729.00 USD
				<b>Total Price: 2,709.00 USD</b>

<b>Billing Information:</b> Please review your billing address to ensure its accuracy.	<b>Shipping Information:</b> Please confirm the shipping address is accurate.
<b>Davis Senior High School</b> 315 W 14th St Davis CA United States 95616-1914	<b>Davis Senior High School</b> 315 W 14th St Davis CA United States 95616-1914
<u>Electronic Invoice Recipient(s):</u> Bruce Cummings bcummings@djud.net Ruth Amaral ramaral@djud.k12.ca.us	<u>Electronic Renewal Recipient(s):</u> Bruce Cummings bcummings@djud.net Ruth Amaral ramaral@djud.k12.ca.us
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