

**MEMBERSHIP AGREEMENT AND SOFTWARE LICENSE AGREEMENT  
WITH**

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**FOR THE  
ASSOCIATION FOR COMPUTER-ASSISTED SURVEYS**

THIS Membership Agreement and Software License Agreement ("Agreement") is effective this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, ("effective date") by and between THE INSTITUTE FOR SCIENTIFIC ANALYSIS, a California not-for-profit corporation having its principal place of business at 390 4<sup>th</sup> Street, 2<sup>nd</sup> Floor, Suite D, San Francisco, CA 94107 ("Licensor") and

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having its principal office at \_\_\_\_\_  
\_\_\_\_\_ ("Licensee").

WITNESSETH

WHEREAS, Professor J. Merrill Shanks at the University of California, Berkeley originally created the software development and services program at UC Berkeley, in cooperation with other individuals and organizations, and

WHEREAS, this program, called the Computer-assisted Survey Methods (CSM) Program but is now operating outside the University as part of the Institute for Scientific Analysis, which now acts as the Licensor for all CSM-based software and services, and

WHEREAS, Licensor now holds an exclusive license to develop and disseminate the following CSM-based computer program: Survey Documentation and Analysis (SDA), and all associated documentation, hereinafter referred to as "Licensed Material;" and

WHEREAS, Licensor desires to facilitate the continuing improvement and utilization of computer software and related materials for the collection and processing of survey-type data; and

WHEREAS, Licensor, through its CSM Program, has created an informal cooperative organization composed of organizations that obtain a sub-license to use its Licensed Material, which will continue to be called the Association for Computer-assisted Surveys; and

WHEREAS, Licensor desires to enhance and expand the activities of the Association by the inclusion of additional members of the Association; and

WHEREAS, Licensee desires to become a member of the Association and to obtain from Licensor a license to use the Licensed Material and other Association-related services;

NOW THEREFORE, in consideration of the mutual covenants, conditions, and terms hereinafter set forth, the parties agree as follows:

## **PART I. LICENSE**

### **A. License to Use Licensed Material**

Licensor hereby grants to Licensee a non-transferable, non-exclusive license to use Licensed Material upon the terms and conditions set forth in this Agreement.

### **B. Title**

1. All right, title and interest, including, but not limited to copyright and all copyright rights, in the Licensed Material is and shall at all times remain in Licensor (and, indirectly, within the University of California).
2. Licensee has no right, title or interest therein, or thereto, except as expressly set forth in this Agreement.

### **C. Use Restricted to Internal Purposes**

1. Licensee shall restrict the use of Licensed Material for its own internal purposes, and for purposes of evaluation and comment to Licensor. Licensee may use the Licensed Material to prepare reports or other publications but may under no circumstances transfer, distribute, or allow others to use any portion of the Licensed Material.
2. Licensee shall not distribute, transfer or use any portion of Licensed Material outside Licensee's organization. If Licensee's membership is a Federated Membership, as defined in Attachment A, Licensee shall not permit subsidiary organizations in the federation to distribute any copies of Licensed Material outside of their respective organizations.

### **D. Enhancements and Derivative Works**

Licensee may not enhance, modify, correct, update, make any changes to or prepare any derivative works based upon the Licensed Material. (Any such desired modifications would require a different agreement)

## **PART II. RESPONSIBILITIES**

### **A. Responsibilities of Licensor**

All technical responsibility of the Licensor pertinent to this License shall be carried out through Licensor's CSM Program. Licensor for the term of this Agreement shall:

1. Continue the development of software for computer-assisted survey data collection, documentation, and/or processing. Licensor will provide Licensee six months' notice should Licensor's development be discontinued.

2. Maintain all CSM systems on specific hardware and operating systems that are designated as CSM supported environments. These supported environments may be changed by Licensor as necessary. Licensor will provide Licensee with a minimum six (6) months notice should support be discontinued.
3. Facilitate the exchange of techniques and instruments for data collection and processing.
4. Provide routine technical consultation by telephone, telefax and electronic or postal mail to Licensees using Licensed Materials.
5. Provide technical and administrative support for training workshops that are held for Association members on an (approximately) annual basis.
6. Provide additional services on a recharge basis as CSM staff time and project scheduling permits. Such services include, but are not limited to, ports of CSM systems to hardware and operating systems that are not designated as CSM-supported environments, implementation of user-specific enhancements and on-site training at member organizations.

#### **B. Responsibilities of Licensee**

1. Licensee shall acknowledge the use of Licensed Material in the preparation of any reports or publications that refer to the CSM Program at the Institute for Scientific Analysis by including the following legend at an appropriate location in such report or publication:

(Some of) The data collected (and/or statistical results) which are used in this report (publication) were produced using computer programs made available through the Computer-assisted Survey Methods Program (CSM), Institute for Scientific Analysis. Neither the CSM staff nor the Institute for Scientific Analysis bear any responsibility for the results or conclusions presented here.
2. Licensee is encouraged to recommend to Licensor new priorities for software development which maximize the operation and/or methodological benefit to Licensees. (1) Original ideas and/or recommendations submitted by Licensee shall be treated as proprietary to Licensee until such time as they are incorporated into Licensor's operating software and documentation made available to all Licensees. (2) Licensor reserves the right to accept or reject technical requests and recommendations for software development.

### **PART III. ASSOCIATION FOR COMPUTER-ASSISTED SURVEYS**

#### **A. Association for Computer-Assisted Surveys**

It is understood that the Association is an informal organization of Licensees and other organizations that are interested in the continuing development and support of computer-based procedures for the collection, documentation, and processing of survey-type data, and the informal exchange of technical information among participating organizations.

Members' annual fees provide essential funding for the continuing development and support of Licensed Materials. In addition, technical services to members are provided at additional charges to the organization involved.

Attachment A describes the different types of membership in the Association. Depending on which category of membership a given Licensee adopts, that organization may install Licensor-supported software for use on their own (Licensee's) computers or may use some of those programs on Licensor's computers.

**B. Membership**

The first, and primary, benefit of membership in the Association involves access to the Licensor's software and documentation, including periodic enhancements or major revisions of that software.

In addition to that access, members of the Association may take advantage of routine technical consultation from the Licensor's staff, and member organizations are periodically asked for their advice and requests concerning additional capabilities that should be added to the next release of Association-supported software.

**C. Fees**

1. In return for the benefits of Association membership (including CSM services as well as the use of Licensed Material), Licensee shall pay an annual fee to Licensor in accordance with the applicable fee category set forth in Attachment A. The fee for the initial twelve-month period is derived from the level of anticipated usage in category \_\_ and amounts to \$\_\_\_\_\_.00.
2. Licensor may revise the fee schedule in Attachment A for subsequent fee periods beyond the initial period. Licensor's decision to so revise the fee schedule will be at its sole discretion and when necessary to cover changes in total Association-related costs.
3. Fee payments shall be by check payable to Licensor and forwarded to the address shown in Part IV(J). Fee payments must be submitted with an executed copy of this Agreement and each annual anniversary date thereafter.

**PART IV. GENERAL**

**A. Term and Renewal Options**

1. The term of this Agreement shall commence on the effective date, unless terminated by the operation of law or by acts of the parties in accordance with the terms of this Agreement, will remain in effect for \_\_\_\_ year(s) from that date. Licensee may continue this Agreement for additional one-year periods by payment of the annual fee applicable at the time of each renewal, as provided in Part III of this Agreement.
2. If Licensee maintains this Agreement in effect without termination or cancellation for three consecutive years, Licensee may continue this Agreement and its internal use of Licensed Material at no additional fee, but Licensee relinquishes all rights, benefits and privileges of membership in the Association including CSM staff consultation and technical assistance.

3. Within thirty days after expiration or termination of this Agreement for any reason, Licensee will return Licensed Material to Licensor and will delete files of Licensed Material from all computers in which it has been installed.

**B. Indemnification**

Licensee will indemnify, hold harmless, and defend Licensor, its officers, employees, and agents; the sponsor(s) of the research that led to the development of Licensed Material; and the authors of Licensed Material and their employers against any and all claims, suits, losses, damages, costs, fees, and expenses resulting from or arising out of Licensee's exercise of this license.

**C. Exclusion of Warranties**

1. Licensor represents to Licensee that it has the lawful right to grant this license.
2. LICENSED MATERIAL IS PROVIDED TO LICENSEE ON AN "AS IS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE, LICENSOR MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE LICENSED MATERIAL WILL NOT INFRINGE ANY COPYRIGHT, PATENT, TRADEMARK, OR OTHER RIGHTS.

**D. Limitation of Liability**

IN NO EVENT SHALL THE INSTITUTE FOR SCIENTIFIC ANALYSIS BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE EXERCISE OF THIS LICENSE OR THE USE OF THIS SOFTWARE AND ITS DOCUMENTATION.

**E. Documentation/Object Code**

Licensor will deliver to Licensee applicable object code (in executable form) and related user documentation for the Licensed Material. Source code will not be provided under this agreement. (Any access to source code for cooperative development would require a different agreement.)

**F. Default**

If Licensee fails to pay the required fee provided for herein within thirty (30) days after written notice that the same is overdue and payable, or if Licensee fails to observe, keep or perform any other provisions of this Agreement, Licensor shall have the right to terminate this Agreement.

**G. California Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its conflicts of law provisions.

**H. Modification**

Any modification to this Agreement must be in writing and duly executed on behalf of both parties.

**I. Assignment**

This Agreement may not be assigned by Licensee without the prior written consent of Licensor.

**J. Notices**

All notices between the parties under this Agreement shall be sent to the following:

For Licensor:                   Computer-assisted Survey Methods Program  
                                      Institute for Scientific Analysis  
                                      390 4<sup>th</sup> Street, 2<sup>nd</sup> Floor, Suite D  
                                      San Francisco, California 94107

For Licensee:                   \_\_\_\_\_

  \_\_\_\_\_

  \_\_\_\_\_

  \_\_\_\_\_

**K. Entire Agreement**

This document contains the entire Agreement between the parties and supersedes all prior written or oral agreements with respect to the subject matter hereof. The provisions of this Agreement are severable, and in the event that any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling body of law, such invalidity or enforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

**L. Precedence of this Agreement**

The terms and conditions of this Agreement take precedence over any terms added during the course of payment. The only added terms that are permissible are those regarding the transmission of payment.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of this first day and year written above.

THE INSTITUTE FOR SCIENTIFIC ANALYSIS (Licensor)

By \_\_\_\_\_  
Yuteh Cheng

Title                   Manager, CSM Program

Date                   \_\_\_\_\_

(Licensee)

Signature             \_\_\_\_\_

Printed Name         \_\_\_\_\_

Title                   \_\_\_\_\_

Date                   \_\_\_\_\_

## **ATTACHMENT A--FEE SCHEDULE**

September 1, 2018

Annual fees for Association membership and software utilization are defined for several different types of memberships and levels of utilizations. Fees for each membership category are presented below in three separate sections. For all types of membership, changes in the level of aggregate utilization of Licensed Materials during the designated period shall be reported to Licensor, and the fee for subsequent periods shall be modified to reflect that change.

### **Membership Categories and Rates for CASES Users (Categories A-K):**

The appropriate fee for each category of membership in this section is based upon the estimated number of person hours in which authorized individuals (either within the Licensee's organization or acting at the request of Licensee's organization) will use Licensed Materials based on the CASES system at any workstation, and on the number of responders from Web-based self-administered questionnaires. For membership categories B and above, usage of Licensed Materials from the SDA system are permitted but not counted in determining the level of utilization.

### **Membership Categories L, M and Y (CSM hosting services):**

Membership categories L and Y give the organization access to CSM services but do not entitle the Member to receive any software. Category M gives the organization access to CASES on a single PC as well as CSM hosting services. Each category has several levels based on the hosting utilization.

### **Membership Categories and Rates for SDA Users (Categories N-S):**

Membership categories in this section are intended for organizations that use SDA but do not make any use of CASES. For these membership categories, the appropriate fee is based on the extent to which Licensee uses Licensed Materials from the SDA system, either on the Licensor's computers or their own.

### **Federated Memberships (Category X):**

This type of membership permits several organizations to pay reduced annual fees by creating a federated membership in the Association. In this arrangement, only one organization is a direct member of the Association, and that organization handles all requests for assistance from users in the other subsidiary organizations.



**Membership Fees Based on Utilization of CASES (SDA use permitted, but not counted)**

- Category A -** For users whose utilization of Licensed Materials is limited to one personal computer (PC) primarily for exploratory purpose. The yearly utilization should be limited to 500 or less staff hours, and less than 500 responders.  
\$2,500/yr  
for each PC
- Category B -** For yearly utilization up to 2,000 person (staff) hours and up to 25,000 responders from Web-based self-administered questionnaires.  
\$7,200/yr
- Category C -** For yearly utilization greater than 2,000 hours but less than 4,000 staff hours and up to 50,000 responders from Web-based self-administered questionnaires.  
\$11,500/yr
- Category D -** For yearly utilization greater than 4,000 hours but less than 8,000 staff hours and up to 125,000 responders from Web-based self-administered questionnaires.  
\$17,500/yr
- Category E -** For yearly utilization greater than 8,000 hours but less than 16,000 staff hours and up to 250,000 responders from Web-based self-administered questionnaires.  
\$24,000/yr
- Category F -** For yearly utilization greater than 16,000 hours but less than 32,000 staff hours and up to 500,000 responders from Web-based self-administered questionnaires.  
\$32,500/yr
- Category G -** For yearly utilization greater than 32,000 hours but less than 64,000 staff hours. and up to 1,000,000 responders from Web-based self-administered questionnaires.  
\$42,500/yr
- Category H -** For yearly utilization greater than 64,000 hours but less than 256,000 staff hours and unlimited responders from Web-based self-administered questionnaires.  
\$51,500/yr
- Category I -** For yearly utilization greater than 256,000 hours but less than 1,000,000 staff hours and unlimited responders from Web-based self-administered questionnaires.  
\$81,000/yr
- Category J -** For yearly utilization greater than 1,000,000 hours but less than 4,000,000 staff hours and unlimited responders from Web-based self-administered questionnaires.  
\$155,000/yr
- Category K -** For any level of yearly utilization beyond 4,000,000 staff hours and unlimited responders from Web-based self-administered questionnaires.  
\$235,000/yr

## Membership Fees for Organizations That Only Use CSM Hosting Services

### Categories L & M

For organizations that use Licensor's Web site for CASES Web QA studies and other CSM services on a recharge basis.

- Category L is for organizations that do not obtain any Licensed software.
- Category M is for member organization whose utilization of Licensed Materials is limited to one personal computer (PC) at a time with no Web-based CASES utilization or SDA.

The fees for categories L and M will include a \$1,450 association fee plus an annual hosting fee that depends on the number of responders annually. Service charges for instrument design and programming are charged separately. The hosting fees for the various levels of usage follow the guideline below. The final cost for each hosting service will be a fixed-cost project.

Category	Annual Hosting Fee	Maximum number of responders from Web-based self-administered questionnaires
<b>L1</b>	\$1,650	Up to 400 responders
<b>L2</b>	\$1,850	Up to 800 responders
<b>L3</b>	\$2,100	Up to 1,600 responders
<b>L4</b>	\$2,300	Up to 3,200 responders
<b>L5</b>	\$2,850	Up to 6,400 responders
<b>L6</b>	\$3,500	Up to 12,800 responders
<b>L7</b>	\$4,600	Up to 25,000 responders
<b>L8</b>	\$7,350	Up to 50,000 responders
<b>L9</b>	<b>Negotiated</b>	Above 50,000 responders
<b>M1</b>	\$2,500	Up to 400 responders
<b>M2</b>	\$2,700	Up to 800 responders
<b>M3</b>	\$2,950	Up to 1,600 responders
<b>M4</b>	\$3,150	Up to 3,200 responders
<b>M5</b>	\$3,700	Up to 6,400 responders
<b>M6</b>	\$4,350	Up to 12,800 responders
<b>M7</b>	\$5,450	Up to 25,000 responders
<b>M8</b>	\$8,200	Up to 50,000 responders
<b>M9</b>	<b>Negotiated</b>	Above 50,000 responders

**Membership Fees based on Utilization of SDA Only (Without CASES)**

- Category N** - For utilization of SDA software on Licensee's computers and Web site up to 50,000 requests per year for any kind of SDA-supported procedures.  
\$7,200/yr
- Category O** - For utilization of SDA software on Licensee's computers and Web site up to 125,000 requests per year for any kind of SDA-supported procedures.  
\$11,500/yr
- Category P** - For utilization of SDA software on Licensee's computers and Web site up to 250,000 requests per year for any kind of SDA-supported procedures.  
\$19,500/yr
- Category Q** - For utilization of SDA software on Licensee's computers and Web site up to 500,000 requests per year for any kind of SDA-supported procedures.  
\$32,000/yr
- Category R** - For utilization of SDA software on Licensee's computers and Web site up to 1,000,000 requests per year for any kind of SDA-supported procedures.  
\$49,000/yr
- Category S** - For unlimited use of SDA software on Licensee's computers and Web site.  
\$64,000/yr

**Category Y**

For organizations that use Licensor's Web site for hosting SDA datasets and other CSM services. This basic membership does not entitle the Member to receive any software. The fee for category Y includes several factors:

<b>Fee factors</b>	<b>Cost formula</b>
Association fee	\$1,450
Data charge	$D = n(\text{datasets}) * n(\text{variables}) * n(\text{cases})$ $E = D / 1,000,000$ (round up to integer) Charge = \$100 * E
Usage surcharge	when over 100,000 requests: $U = n(\text{requests}) / 100,000$ (round up to integer) Charge = \$100 * U
Service charge	at cost (of personnel work hours)

If the total charge from adding up all of the above cost factors goes beyond \$10,000, CSM will negotiate with the participating member to set a mutually agreeable charge.

## **Special Arrangements and Fees for Federated Membership in the Association**

**Category X -** In Federated memberships, several cooperating organizations act as a single member of the Association, and rely on the staff members from one site to handle all end users within the Federated structure. The annual fee for Federated memberships is determined as follows:

The category for the organization with the highest level of utilization is used as the base fee (for which the minimum is Category C for CASES users, or Category N for members who only use SDA.) Additional fees are charged at one half the normal rate for each additional organization in the structure. Federated Agreements should be accompanied by a written statement which identifies the organization which will serve as headquarters for the Federated structure and all satellite organizations.