

## BioOne Subscriber License

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BY AND BETWEEN

1. **BioOne, a non-profit corporation with offices at 21 Dupont Circle, Suite 800, Washington, DC 20036 (hereinafter referred to as 'BioOne')**  
and
2. The Regents of the University of California  
with its principal offices at the California Digital Library, 415 20<sup>th</sup> Street, 4<sup>th</sup> Floor,  
Oakland, CA 94612  
**(hereinafter referred to as the 'Licensee').**

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  - 5.5.3 Keep full and up-to-date records of all Licensee's authorized IP Addresses, and if appropriate, provide BioOne with periodic lists of additions, deletions or other alterations to such records as agreed between the parties from time to time.
  - 5.5.4 Use reasonable efforts to ensure that only Authorized Users are permitted access to the Licensed Material. Subject to the provisions of Section 5.6, allowing access to the Licensed Materials to persons not Authorized Users shall constitute a material breach of this License not capable of remedy for purposes of Section 6.2.2 if the Licensee knew or reasonably should have known that such person was not an authorized user.
- 5.6 Nothing in this License shall make the Licensee liable for breach of the terms of the License by any Authorized User provided that the Licensee did not cause, knowingly assist, or condone the continuation of such breach after becoming aware of an actual breach having occurred.
- 5.7 The Licensee shall, in consideration for the rights granted under this License, pay the Fee in accordance with Para. 2.1 within 60 days of receipt of invoice and, if applicable, within 60 days of each subsequent renewal.
- 5.8 BioOne and the Licensee shall both permit and enable the collection and distribution of usage data for BioOne's and the Licensee's use. BioOne use of such data will be approved by the Board of Directors. Such usage information shall be compiled in a manner consistent with the applicable privacy laws, and the anonymity of individual users and the confidentiality of their searches shall be fully protected. In the case that either party assigns its rights to another party under Para. 7.1 herein, the other party may at its discretion require the assignee to either keep such usage information confidential or destroy it.
- 5.9 Each party shall use reasonable efforts to safeguard the intellectual property, confidential information and proprietary rights of the other party and third parties. This intellectual property, confidential information and proprietary rights shall include but not be limited to the source code of both BioOne and third parties.
- 5.10 The parties will work in good faith to implement additional security (authentication procedures as national standards become more established).

**6. Term and Termination**

- 6.1 This Agreement shall commence on the date first set forth above and continue for one (1) year. Unless terminated sooner in accordance with its terms or allowed to expire (upon tender of sixty (60) days notice by either party), this Agreement will be automatically renewed for successive one (1) year terms, subject to applicable adjustment to the License Fees.

- 6.2** This License is terminated if either party gives written notice to the other in the following circumstances:
- 6.2.1** The Licensee defaults in making payment of the Fee in accordance with Para. 2.1 and fails to remedy such default within thirty (30) days of notification in writing by BioOne.
  - 6.2.2** Either party commits a material or persistent breach of any term of this License and fails to remedy the breach (if capable of remedy) within thirty (30) days of notification in writing by the other party.
  - 6.2.3** Either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 6.3** On termination all rights and obligations of the parties automatically terminate except for:
- 6.3.1** Those specified in Paragraphs 2.1.2, 3, 4, 5.1, 5.5 and 5.9 above.
  - 6.3.2** All obligations in respect of Licensed Material to which access continues to be permitted.
- 6.4** On termination of this License for cause, as specified in Paragraphs 6.2.1 to 6.2.2 above, the Licensee shall immediately cease to distribute or make available the Licensed Material.
- 6.5** On termination of this License by the Licensee for cause, as specified in Para. 6.2.3, BioOne shall within thirty (30) days repay a prorated proportion of the Fee as represents the paid but unexpired part of the Subscription Period.
- 7. General**
- 7.1** This License may not be assigned by either party to any other person or organization without the prior written consent of the other party, which consent shall not unreasonably be withheld.
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  - 7.3** Alterations to this License and to the Appendices to this License (which may be altered separately from the body of this License without affecting the validity of the License as a whole) are only valid if they are recorded in writing and signed by both parties.
  - 7.4** Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this License or to such other address as notified by either party to the other as its address for the service of notices and all such notices shall be deemed to have been received within 3 business days of posting.

**If to Licensors:**

Publisher  
Address of Publisher  
City of Publisher  
State of Publisher  
Country of Publisher  
Postal Code of Publisher

**If to Licensee:**

Contract Notices to:

Director, Business Development  
California Digital Library  
415 20<sup>th</sup> Street, 4<sup>th</sup> Floor  
Oakland, CA 94612  
USA

Subscription maintenance, pricing, invoicing and renewal to:

California Digital Library Acquisitions  
Geisel Library  
University of California  
9500 Gilman Drive, Dept. 0175A  
LaJolla, CA 92093-1075  
USA

Technical Contact:

California Digital Library  
415 20<sup>th</sup> Street, 4<sup>th</sup> Floor  
Oakland, CA 94612  
USA

- 7.5** Either party's failure to perform any term or condition of this Agreement, as a result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures or damage to or destruction of any network facilities, or other Acts of God) shall not be deemed to be, or to give rise to, a breach of this Agreement.
- 7.6** The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement.
- 7.7** The failure of either party to require performance by the other party of any provision of this Agreement will not affect its full right to require such performance at any subsequent time; nor will the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

## BioOne Subscriber License

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As witness the hands of the parties the day and year below first written.

**For BioOne**

By its agent Amigos Library Services, Inc.

Date 10-29-01

Name \_\_\_\_\_ ~~Director of Business Services~~ \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

**For the Licensee**

Date 8/1/01

Name \_\_\_\_\_

Title Director, Business Development

Signature \_\_\_\_\_

## **BioOne Subscriber License**

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### **Appendix A**

#### **Fees**

**BioOne subscriber fees, credits and discounts are included as part of the BioOne Order Form/Price List. BioOne does not require pricing be included as part of this Subscriber License.**

**Appendix B**

**List of Licensed Materials included in the BioOne Database**

**A list of titles available as part of the BioOne service may be found on the BioOne Web site. BioOne does not require the list be included as part of this Subscriber License.**

Appendix C

Licensee's Authorized Access Sites

**Subscriber IP addresses should be submitted on the BioOne Order Form/Price List.**

:University of California IP Addresses by Campus  
:rev. 8/23/01

UC Berkeley

**[Text deleted]**

UC Davis

**[Text deleted]**

UC Irvine

**[Text deleted]**

UC Los Angeles

**[Text deleted]**

UC Merced

UC Riverside

**[Text deleted]**

UC San Francisco

**[Text deleted]**

UC Santa Barbara

**[Text deleted]**

UC Santa Cruz

**[Text deleted]**

UC San Diego

**[Text deleted]**

**[Text deleted]**

UC OP - California Digital Library

**[Text deleted]**

[Text deleted]

UC Lawrence Berkeley Laboratory

[Text deleted]

UC Lawrence Livermore Laboratory

[Text deleted]