

Dated September 23, 2003

IOP PUBLISHING LIMITED (1)

and

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (2)

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VARIATION AGREEMENT

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THIS AGREEMENT is made the 23<sup>rd</sup> day of September, 2003

BETWEEN:

- (1) IOP PUBLISHING LIMITED a company incorporated in England (registered number 467514) and having its registered office at Dirac House, Temple Back, Bristol BS1 6BE, United Kingdom ("IOPP"); and
- (2) THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a non-profit academic institution, with its principal offices at The California Digital Library, 415 20<sup>th</sup> Street, 4<sup>th</sup> Floor, Oakland CA, 94612, USA ("the Consortium").

RECITALS:

- (A) On 1 November 1999 the parties entered into an Agreement which was varied by letter dated 13 February 2002, such agreement as so varied being "the Agreement" for the purpose of this Variation Agreement.
- (B) The parties now wish to vary the Agreement on the terms hereof.

1. INTERPRETATION

- 1.1. The headings in this Variation Agreement are for convenience only and shall not affect its interpretation.

2. TERM

- 2.1. This Variation Agreement will commence on signature by both parties.

3. THE VARIATION

- 3.1 The parties now agree to vary the Agreement as follows:
  - 3.2 All Licensees and Ernest Orlando Lawrence Berkeley National Laboratory of Library Building 50, 1, Cyclotron Road, Room 4206, Berkeley, California 94720 ("LBNL") shall have access to IOPP's Archive as listed in Schedule 1 to this Variation Agreement ("the Archive") on the following basis:
    - 3.1.1. Access is to the full text and linked HTML references of the Archive for volumes published during 1874 to 1992 inclusive only;
    - 3.1.2. Access is via IOPP's web server;

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- 3.1.3. Access to the Archive is governed by the following clauses of the Agreement: 1 (Rights of Licensees) 3 (Duties of Licensees). Clause 7 of the Agreement (on Withdrawal of Publications) does not apply to the Archive;
- 3.1.4. IOPP reserves the right at any time to withdraw from the Archive any material which in IOPP's sole discretion it on reasonable grounds believes infringes copyright, is defamatory, obscene, unlawful or is otherwise objectionable. IOPP will give reasonable written notice to the Licensees and LBNL of any such withdrawal. On receipt of such notice the Licensees and LBNL will immediately make reasonable endeavours to comply with IOPP's reasonable instructions with respect to the destruction, deletion, return or surrender of the withdrawn material;
- 3.1.5. Access is conditional on payment of a fee totalling US\$[Text deleted]
- 3.1.6. An annual update fee for annual updates to the Archive is chargeable. IOPP agrees to waive such fee whilst the Consortium has the right electronically to access IOPP journals other than the Archive ("the Current Journals");
- 3.1.7. In the event that the Agreement terminates in respect of the Current Journals so that the Consortium ceases to have the right electronically to access Current Journals the annual update fee will become payable for continued electronic access to the Archive and for annual updates to the Archive;
- 3.1.8. In the event that the Consortium does not pay the annual update fee if the Agreement terminates in respect of the Current Journals (so that the Consortium ceases to have the right electronically to access Current Journals) electronic access to both Current Journals and the Archive via IOPP's web server will automatically cease; and
- 3.1.9. At any time Licensees and LBNL will be given, on request, an appropriate copy of the Archive for local loading purposes to enable continued access to the Archive in perpetuity in accordance with clauses 1 and 3 of the Agreement. Local loading provisions on security and network security notified at such time will apply to such copies.
- 3.1.10. Notwithstanding anything else in this Variation Agreement, IOPP hereby grants to the Licensees a nonexclusive, worldwide, royalty-free, perpetual licence to use any materials licensed for use under this Variation Agreement that were accessible during the term of this Variation Agreement. Such use shall be in accordance with the



provisions of the Agreement, which provisions shall survive any termination of the Agreement.

- 3.2. IOPP USES ALL REASONABLE ENDEAVOURS TO INCLUDE ALL MATERIAL FORMING PART OF THE PRODUCTS IN THE ARCHIVE BUT DUE TO THE AGE, RARITY AND UNAVAILABILITY OF CERTAIN MATERIAL IOPP ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THE MATERIAL AND MAKES NO REPRESENTATION OR WARRANTY IN THIS REGARD. IOPP WILL MAKE REASONABLE ENQUIRIES AND INVESTIGATE THE POSSIBILITY OF INCLUDING ANY PARTICULAR ITEM WHICH IS MISSING AND WHICH IS BROUGHT TO IOPP'S ATTENTION.
- 3.12. IOPP CONDUCTS REASONABLE QUALITY CHECKING AS PART OF THE PRODUCTION PROCESS OF THE ARCHIVE. THIS CHECKING ENCOMPASSES ACCURACY AND COMPLETENESS. NO CHECKING ABOVE AND BEYOND THE CHECKING WHICH FORMS PART OF THE PRODUCTION PROCESS HAS BEEN CARRIED OUT. CONSEQUENTLY IOPP ACCEPTS NO RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF THE ARCHIVE MATERIAL LICENSED AND MAKES NO WARRANTY OR REPRESENTATION IN THIS REGARD.

#### **4. SUPPLY OF ARTICLES FILES FOR LOCAL LOADING**

- 4.1. For the avoidance of doubt the parties agree that in the event that IOPP supplies a copy of the Publications by way of article files pursuant to clause 13.2 of the Agreement or in the event that IOPP supplies a copy of the Archive pursuant to clause 3.1.9 of this Variation Agreement IOPP grants to the Licensees a nonexclusive, worldwide, royalty free, perpetual licence to use such files in accordance with the provisions of the Agreement as varied by this Variation Agreement.

#### **5. GENERAL**

- 5.1. Terms which are defined in the Agreement shall have the same meaning where used in this Variation Agreement.
- 5.2. Save as varied by this Variation Agreement the Agreement shall remain in full force and effect.

AS WITNESS the hands of the parties the day and year first above written.

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# SCHEDULE 1

## THE ARCHIVE

### Part A

#### PUBLICATIONS WITHIN THE HISTORIC FULL-TEXT ARCHIVE (1874-1991 INCLUSIVE: "THE Historic Archive"))

Journal title	ISSN	Full-text available back to
<b>Classical and Quantum Gravity</b>	0264-9381	1984 (vol 1)
<b>Clinical Physics and Physiological Measurement (1980-1992)</b> Now Physiological Measurement	0143-0815 0967-3334	1980 (vol 1) None in Historic Archive
<b>European Journal of Physics</b>	0143-0807	1980 (vol 1)
<b>Inverse Problems</b>	0266-5611	1985 (vol 1)
<b>Journal of Micromechanics and Microengineering</b>	0960-1317	1991 (vol 1)
<b>Journal of Optics (1977- 1998)</b> Now Journal of Optics A: Pure and Applied Optics (from 1999) (Formed by merger of Journal of Optics (1997-1998) and Pure and Applied Optics: Journal of the European Optical Society Part A(1992-1998)) Formally: Nouvelle Revue d'Optique (1973-1976) Formally also Nouvelle Revue d'Optique Appliquée (1970-1972)	0150-536X 1464-4258  0335-7368 0029-4780	1977 (vol 8) None in Historic Archive  1973 (vol 4) 1970 (vol 1)
<b>Journal of Physics A: Mathematical and General Physics (from 1975)</b> Formerly: Journal of Physics A: Mathematical, Nuclear and General Physics (1973-1974) Formerly: Journal of Physics A: Proceedings of the Physical Society: General Physics (1968-1972)	0305-4470 0301-0015 0022-3689	1975 (vol 8) 1973 (vol 6) 1968 (vol 1)
<b>Journal of Physics B: Atomic, Molecular and Optical Physics (from 1988)</b> Formerly: Journal of Physics B: Atomic and Molecular Physics (1970-1987) Formally: Journal of Physics B: Proceedings of the Physical Society: Atomic and Molecular Physics (1968-1969)	0953-4075 0022-3700 0368-3508	1988 (vol 21) 1970 (vol 1) 1968
<b>Journal of Physics: Condensed Matter (from 1989)</b> Formerly: Journal of Physics C: Solid State Physics (1970-1988) Formerly: Journal of Physics C: Proceedings of the Physical Society: Solid State Physics (1968-1969)	0953-8984 0022-3719 0368-3516	1989 (vol 1) 1970 (vol 1) 1968 (vol 1)
<b>Journal of Physics D: Applied Physics</b> Formally British Journal of Applied Physics	0022-3727 0508-3443	1968 (vol 1) 1950 (vol 1)
<b>Journal of Physics G: Nuclear and Particle Physics</b>	0954-3899	1989 (vol 15)

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Formerly: Journal of Physics G: Nuclear Physics (1975-1988)	0305-4616	1975 (vol 1)
<b>Journal of Radiological Protection</b> Formally : Journal of the Society for Radiological Protection (1981 - 1987)	0952- 4746 0260- 2814	1988 (vol 8) 1981 (vol 1)
<b>Measurement Science and Technology</b> Formerly: Journal of Physics E: Scientific Instruments (1968-1989) Formally Journal of Scientific Instruments	0957-0233 0022-3735 0950-7671	1990 (vol 1) 1968 (vol 1) 1923 (vol 1)
<b>Nanotechnology</b>	0957-4484	1990 (vol 1)
<b>Network: Computation in Neural Systems</b>	0954-898X	1990 (vol 1)
<b>Nonlinearity</b>	0951-7715	1988 (vol 1)
<b>Physics Education</b>	0031-9120	1966 (vol 1)
<b>Physics in Medicine and Biology</b>	0031-9155	1956 (vol 1)
<b>Physics in Technology</b> Formally: Review of Physics in Technology	0305-4624 0034-6683	1973 (vol 4) 1970 (vol 1)
<b>Plasma Physics and Controlled Fusion</b> Formerly: Plasma Physics (1959-1983)	0741-3335 0032-1028	1984 (vol 26) 1959 (vol 1)
<b>Proceedings of the Physical Society of London (1874-1925)</b>	1478-7814	1874
<b>Proceedings of the Physical Society (1926-1948)</b>	0959-5309	1926
<b>Proceedings of the Physical Society Section A (1949-1957)</b>	0370-1298	1949
<b>Proceedings of the Physical Society Section B (1949-1957)</b>	0370-1301	1949
<b>Proceedings of the Physical Society (1958-1967)</b>	03701328	1958
<b>Quantum Optics: Journal of the European Optical Society Part B (1989- 1994)</b> Now Journal of Optics B: Quantum and Semiclassical Optics (from 1999)	0954-8998 1464-4266	1989 (vol 1) None in Historic Archive
<b>Reports on Progress in Physics</b>	0034-4885	1934 (vol 1)
<b>Semiconductor Science and Technology</b>	0268-1242	1986 (vol 1)
<b>Superconductor Science and Technology</b>	0953-2048	1989 (vol 1)
<b>Transactions of the Optical Society (1899-1932)</b>	1475-4878	1899 (vol 1)
<b>Waves in Random Media</b>	0959-7174	1991 (vol 1)

#### Part B

#### PUBLICATIONS WITHIN THE RECENT 10 YEAR FULL-TEXT ARCHIVE (1992 - 2001 inclusive: "the Recent 10 Year Archive")

Journal Title	ISSN	Year of First Electronic Back-file	Number of year available (2002)
Chinese Physics	1009-1963	2001	1
Chinese Physics Letters	0256-307X	2001	1
Classical & Quantum Gravity	0264-9381	1992	10
Combustion Theory & Modelling	1364-7830	1997	5
Distributed Systems Engineering	0967-1846	1994	6

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European Journal of Physics	0143-0807	1992	10
Inverse Problems	0266-5611	1992	10
Journal of High Energy Physics	1126-6708	1997	5
Journal of Micromechanics & Microengineering	0960-1317	1992	10
Journal of Optics A: Pure and Applied Optics (from 1999) (Formed by merger of Journal of Optics (1977-1998) and Pure and Applied Optics: Journal of the European Optical Society Part A(1992-1998))	1464-4258	1999	3
	0150-536X	1992	7
	0963-9659	1992	7
Journal of Optics B: Quantum & Semiclassical Optics (From 1999) Formally Quantum and Semiclassical Optics: Journal of the European Optical Society Part B (1995-1998) Formally Quantum Optics: Journal of the European Optical Society Part B (1989-1994)	1464-4266	1999	3
	1355-5111	1995	4
	0954-8998	1992	3
Journal of Physics A: Mathematical and General Physics	0305-4470	1992	10
Journal of Physics B: Atomic, Molecular and Optical Physics	0953-4075	1992	10
Journal of Physics: Condensed Matter	0953-8984	1992	10
Journal of Physics D: Applied Physics	00222-3727	1992	10
Journal of Physics G: Nuclear & Particle Physics	0954-3899	1992	10
Journal of Radiological Protection	0952-4746	1992	10
Journal of Turbulence	1468-5248	2000	2
Measurement Science & Technology	0957-0233	1992	10
Modelling & Simulation in Materials Science & Engineering	0965-0393	1993	9
Nanotechnology	0957-4484	1992	10
Network: Computation in Neural Systems	0954-898X	1992	10
New Journal of Physics	1367-2630	1999	3
Nonlinearity	0951-7715	1992	10
Nuclear Fusion	0029-5515	1992	10
Physics Education	0031-9120	1992	10
Physics in Medicine and Biology	0031-9155	1992	10
Physiological Measurement Formally Clinical Physics and Physiological Measurement (1980-1992)	0967-3334	1993	9
	0143-0815	1992	1
Plasma Physics & Controlled Fusion	0741-3335	1992	10

Plasma Sources Science & Technology	0963-0252	1992	10
Public Understanding of Science	0963-6625	1992	10
Quantitative Finance	1469-7688	2001	1
Reports on Progress in Physics	0034-4885	1992	10
Semiconductor Science & Technology	0268-1242	1992	10
Smart Materials & Structures	0964-1726	1992	10
Superconductor Science & Technology	0953-2048	1992	10
Waves in Random Media	0959-7174	1992	10

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IOPP in the  
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Signed by [Text deleted]  
for and on behalf of  
the Consortium in the  
presence of: [Text deleted]

date 1/10/03

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