

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into by the Regents of the University of California ("the University") and the American Association for the Advancement of Science ("AAAS") for the purpose of amending, interpreting and supplementing the attached AAAS *Science Online Institutional Site-Wide Subscription Agreement for Access to: Science and ScienceNOW* ("the Agreement"), as the Agreement applies to the subscription entered by the University's California Digital Library ("CDL") as authorized agent of the University. This MOU is effective as of the initial date of the referenced subscription, and shall remain in effect until such time as the subscription is terminated or the terms are amended by mutual written agreement.

The parties agree that the Agreement shall be amended, interpreted, and/or supplemented as follows:

1. Throughout the Agreement, the term "abuse(s)" is understood by both parties to mean "unauthorized uses as defined in the Agreement".
2. AAAS shall use reasonable efforts to ensure that the online content that is equivalent to AAAS print journals represents complete, faithful and timely replications of the print versions of such journals, and will collaborate with the Licensee to identify and correct errors or omissions.
3. The parties shall cooperate in exploring the implementation of additional security procedures as they are developed. However, AAAS reserves the right to accept or decline any proposed new measures based solely on its own cost or policy considerations. If security or technical changes in the UC system or the AAAS access control system render Science Online inaccessible, and AAAS declines to make changes to accommodate the new system, then the University shall have the right to terminate the contract and receive a prorated refund of the subscription fee.
4. The parties shall cooperate in gathering data on usage of Science Online, and shall provide such data to each other upon request. Notwithstanding the foregoing, the parties shall neither collect nor provide data from which an individual user could be identified. Notwithstanding the foregoing, the parties agree that personal data may only be gathered from individual users with their consent, and only for the purposes of fulfilling services related to this agreement. Any such data collected will not be made available to any outside parties in a way that would permit the identification of an individual user.
5. The University may provide electronic links to Science Online from the University's web page(s), and is encouraged to do so in ways that will increase the usefulness of Science Online to Authorized Users. AAAS staff will provide assistance to Licensee upon request in creating such links effectively. Licensee agrees to make changes in the appearance of such links and/or in statements accompanying such links as reasonably requested by AAAS. AAAS will also provide means for licensee to link directly from bibliographic records owned or licensed by Licensee to the content in Science Online at the title, issue, and article levels,

using standard Internet communications and applications protocols, and such other methods as may be agreed to by AAAS and the Licensee. Other than the creation of such links, Licensee shall not modify, manipulate, or create a Derivative Work of Science Online without the prior written permission of AAAS.

6. On or after June 30, 1999, the University is allowed to retain one or more copies of the Science Online content previously licensed by and accessible to the University during the term of the Agreement for the purpose of preservation and/or the creation of a useable archive, and to make such copies accessible by its authorized users under the same terms and conditions. This archival copy shall be created, produced and maintained by any means agreeable to the parties. AAAS hereby grants to the University a nonexclusive, royalty-free, perpetual license to use the archived content in accordance with the terms of the Agreement and this MOU, which terms shall survive any termination of this Agreement.
7. In the event that any Year 2000 problem occurs which effects the availability or usefulness of Science Online, whether the problem is caused by AAAS or attributable to the Internet or other systems, AAAS will seek an equitable solution within cost limits which it deems reasonable. If any service interruption persists for three consecutive days, AAAS will consider appropriate recompense, such as extending the length of the term for a number of days equivalent to the period of inadequate service. Under no circumstances will AAAS' total liability to the University of California system, or any one of its member institutions, exceed the total amount paid for Science Online access by the effected organizations(s) within the preceding 12 months.
8. The provisions of the Agreement that read:

Your institution and its authorized users will have access to Fora, chat rooms, or discussion groups which may be posted from time to time on Science Online including Science and ScienceNOW or other AAAS electronic products. Any user that participates agrees that they will not upload material unless they have the right to do so. Any user who participates in such discussions must forego all copyright and 'moral rights' in any material they upload. AAAS is not obligated to post all comments from users. AAAS retains the right to, and you agree that AAAS may, edit, change or delete any comments before or after posting as it sees fit. AAAS also has the right to remove, edit, or simply not to post any comment it deems to be, or believes others may deem to be, offensive, libelous, slanderous or otherwise illegal. A notice of these terms of usage will be posted at each discussion group. While it is not the institution's responsibility to enforce or monitor user's behavior in such discussion groups, your institution must agree to the following:

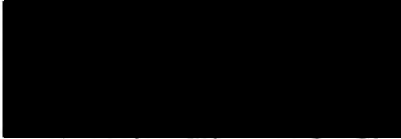
1. *Your institution foregoes any claims it might have of copyright or 'moral rights' with respect to any of its employee's or authorized users' postings, except that your institution reserves the right to use such postings for educational purposes at your institution;*
2. *The subscription administrator must be aware of these terms and advise users if they ask; this obligation can be met by posting either physical or electronic notices at prominent locations near where users may be accessing the discussion groups at the Science Online including Science and ScienceNOW site; and*
3. *You must ensure that our notice will not be blocked, removed, or edited by anything in your system or at your gateway web page.*

are replaced by the following:

Your institution and its authorized users will have access to Fora, chat rooms, or discussion groups which may be posted from time to time on Science Online including Science and ScienceNOW or other AAAS electronic products. AAAS will not be liable for any claims of intellectual property rights infringement, consistent with applicable federal and state law, for information that is posted on Fora, chat rooms, and/or discussion groups. Further, AAAS reserves the right to remove, edit for clarity or brevity, or not post any comment in its discretion, including, but not limited to, taking such actions if AAAS deems such information to be offensive, libelous, slanderous, or otherwise illegal. AAAS shall place conspicuous notices setting forth the foregoing in locations obvious to the users. The University will not be liable for any information posted on Fora, chat rooms, or discussion groups by users, nor will the University be responsible or liable for enforcing or monitoring the user's behavior in the foregoing.

For the Regents of the University of California:

For the American Association for the
Advancement of Science:



Jan. 20, 1999
(date)



2/1/99
(date)

Associate Director for Shared Collections and
Services
California Digital Library

Director of Membership
AAAS

Attachment: Science Online Institutional Site-Wide Subscription Agreement for Access to:
Science and ScienceNOW (date)

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Science Online Institutional Site-Wide Subscription Agreement For Access To: Science and ScienceNOW

This agreement establishes the terms of usage and other rules applying to an institutional site-wide subscription for online access through the Internet to the following portions of Science Online: **Science and ScienceNOW**. Access to these publications is granted for all authorized users (defined below) at the institution based upon the following: acceptance by the American Association for the Advancement of Science of the institution's completed order form; receipt of the required subscription fee; and acceptance of this agreement by the institution's Subscription Administrator at the time of activation of the subscription.

AAAS ("We") maintains the Science Online site include **Science and ScienceNOW** primarily as a service to its members and the scientific community. We hold the copyright for all works published herein, as a compilation and as to the individual articles, collectively and individually, unless otherwise expressly noted. Users agree to be bound by copyright law with respect to their use of the site. Moderate downloading, printing, or saving of material for personal, non-commercial use is permissible, only to the extent consistent with the 'fair use' doctrine. Extensive downloading, printing, or saving of articles by individual users is not permitted. No commercial use (e.g. printing to resell or redistribute to non-paying or non-authorized users) of any articles is permitted without prior, express written permission of AAAS.

Because of the easily reproducible nature of electronic publications, AAAS explicitly prohibits Inter Library Loan of articles or components of Science Online including **Science and ScienceNOW** in any electronic or digital form. It will, however, be permissible for your institution to print out occasional articles for Inter Library Loan under CONTU guidelines, provided the printing is done at your location and at your expense, and that only a limited number of copies of such articles will be made and distributed in this way.

All costs necessary for accessing and viewing Science Online including **Science and ScienceNOW** including equipment, software, phone lines, telecommunications, and Internet connections will be borne by the institution or individuals who subscribe. AAAS provides access only for the term of this subscription, and does not undertake to ensure future access to the online archives once the subscription term has expired. It is our intention to retain full-text versions of all articles for all past issues posted online and to continue to make this database available to all currently active subscribers. However, because we cannot be certain of future technology, storage, or maintenance costs, we cannot guarantee this access. AAAS reserves the right to remove all or portions of the archive of past issues, or to institute a charge for access to it in the future. Only current active subscribers are entitled to continued access to the archives and the current material.

AAAS intends for the site to be available 24-hours per day, 7 days per week. However, AAAS will not be liable for damages or refunds should the site become unavailable temporarily or access to the site becomes slow or incomplete due to system back-up procedures, Internet traffic volume, upgrades, overload of requests to the servers, general network failures or delays, or any other cause which may from time to time make the site inaccessible for your users.

While we make an effort to ensure the accuracy of content posted online, AAAS does not warrant or guarantee its accuracy, completeness, merchantability, or fitness to a particular purpose. In no case shall AAAS' aggregate liability for any content or accessibility problems with the site exceed the amount of subscription fees paid for **Science and ScienceNOW** during the 12-month period preceding any claim or notice of damages.

While institutions forming site-wide subscription agreements are not bound to monitor or enforce the specific uses made of the site by authorized users, you must agree to the following:

1. In the event that AAAS or your institution become aware of abuses of the site emanating from any of your locations, you will notify us (if you become aware first), and will cooperate in locating and attempting to stop the specific individuals who are abusing the service. If the specific abuser(s) cannot be identified or stopped, AAAS has the right to withhold, suspend, or terminate access to all or any portion of your site. AAAS will not be liable for any damages beyond a prorated refund for the remaining unused portion of the subscription.
2. You agree not to remove, cover, overlay, obscure, or change any copyright notices, legends, or terms of use which AAAS may post on the site in order to inform individual users about system features, terms of use, or copyright notices; in some cases, we may ask your institution to post information in writing near Science Online including **Science and ScienceNOW**-enabled workstations or on your system's gateway web pages to alert users to terms of use. You agree to cooperate with reasonable requests to post such notices.
3. You are responsible for creating and maintaining reasonable security measures, and posting policies to ensure that only authorized users will use the site. For purposes of this agreement, all individuals with a current direct affiliation with your institution – for example employees, students or a visitor to the physical campus who is authorized to use the library network – will count as authorized users. Your institution is prohibited from making agreements for access to Science Online including **Science and ScienceNOW** with individuals, organizations, vendors, affiliates, or partners which are not a part of the same institution purchasing this subscription. You affirm that all IP addresses in the range you list for authorization are specifically controlled by the institution for workstations under its administrative control and for the use of individuals who meet the authorized user criteria above.

Your institution and its authorized users will have access to Fora, chat rooms, or discussion groups which may be posted from time to time on Science Online including **Science and ScienceNOW** or other AAAS electronic products. Any user that participates agrees that they will not upload material unless they have the right to do so. Any user who participates in such discussions must forego all copyright and 'moral rights' in any material they upload. AAAS is not obligated to post all comments from users. AAAS retains the right to, and you agree that AAAS may, edit, change or delete any comments before or after posting as it sees fit. AAAS also has the right to remove, edit, or simply not to post any comment it deems to be, or believes others may deem to be, offensive, libelous, slanderous or otherwise illegal. A notice of these terms of usage will be posted at each discussion group. While it is not the institution's responsibility to enforce or monitor user's behavior in such discussion groups, your institution must agree to the following:

1. Your institution foregoes any claims it might have of copyright or 'moral rights' with respect to any of its employee's or authorized users' postings, except that your institution reserves the right to use such postings for educational purposes at your institution;

2. The subscription administrator must be aware of these terms and advise users if they ask; this obligation can be met by posting either physical or electronic notices at prominent locations near where users may be accessing the discussion groups at the Science Online including Science and ScienceNOW site; and

3. You must ensure that our notice will not be blocked, removed, or edited by anything in your system or at your gateway web page.

End

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