



ACADEMIC SUBSCRIPTION LICENSE AGREEMENT

ASSIGNMENT AND SCOPE

1. Parties and Addresses:

Subscriber: University of California, Irvine Libraries, with its principal offices at 230 Science Library, Irvine, California 92623-9557 (“Subscriber”), for whom notices should be sent to such address or to such address as Subscriber may hereafter indicate in writing; and

Knovel Corporation, a Delaware corporation with its principal place of business at 13 Eaton Avenue, Norwich, New York, 13815, USA (“Knovel”), for whom notices may be sent to such address or to such address as Knovel may hereafter indicate in writing.

2. Products:

- Knovel Interactive Library
 Subject Area, Subject Area Collection or Premium Content (list below)

Access includes all current Premium Content

3. Scope of Subscription License Agreement

3.1 License Grant. Knovel hereby grants to Subscriber and its Authorized Users (as defined below), the following non-transferable, non-exclusive right and license to access the Knovel service with respect to the products identified above (the “Licensed Products”):

- search, view and browse the Licensed Products; and
- print and download from the Licensed Products excerpts of reasonable quantity, provided that use of such excerpts does not amount to or result in commercial distribution and is limited to Authorized Users and is in compliance with all international copyright laws.

Knovel shall make all reasonable efforts to ensure that Knovel content is complete and free from error. Knovel (at its sole discretion) will use reasonable efforts to keep Knovel content available for access on a 24-hour per day, 7-day per week basis, subject to downtime for maintenance purposes. There can be no assurances, however, that access will be available at all times or uninterrupted.

3.2 Authorized Users. The parties recognize the following as paid Authorized Users for purposes of this Agreement:

Currently enrolled full or part-time students, currently employed faculty (permanent, temporary, contract or visiting), teaching staff, administrators and library staff.

Knovel can be used only by employees, affiliates and “authorized” walk-in library users at the sites that are disclosed in this Agreement and approved by Knovel. Subcontractors, affiliates (campuses, other libraries) and any other third party contacts are not defined as Authorized Users under this license and as such are not granted access rights without the prior written approval of Knovel.

Subscriber representative's initials: AS

Knovel representative's initials: TC



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SITES

Name of Subscriber Institution: **University of California, Irvine Libraries**

Location or Branch Name(s) (if different from the Institution name):

(If additional space is needed, please attach the list on a separate sheet labeled "Appendix A".)

UC-Berkeley _____

UC-Irvine _____

UC-Merced _____

Contact Name: [REDACTED]

(This person will be the primary account contact and will receive all monthly reports)

Job Title: **Research Librarian**

Phone: [REDACTED]

FAX: [REDACTED]

E-Mail: [REDACTED]

Address: **230 Science Library, P. O. Box 19557**

City: **Irvine**

State/Province: **CA**

Postal Code: **92623-9557**

Country: **USA**

Company Website:

Number of Registration IDs required for this location:

IP Address(es) or IP Range(s) for this location:

See Attachment A

Subscriber representative's initials: AS

Knovel representative's initials: JL



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FEES & PAYMENT

In consideration of the license granted and the obligations required of the Subscriber hereunder, Subscriber agrees to pay the fees noted below. This agreement is non-cancelable and non-transferable.

Service Start Date: **March 1, 2006**

Service End Date: **September 30, 2007**

Number of Concurrent Users: **500-1500 Relevant Users, Unlocked**

Total Price Paid: **[REDACTED]**

Special Terms and Conditions:

[REDACTED] annual increase cap

18-month subscription broken out as follows:

UC-Berkeley - **[REDACTED]**

UC-Irvine - **[REDACTED]**

UC-Merced - **[REDACTED]**

*Usage reports are generated monthly and emailed to the contact person designated at each campus.

*In the event of a system breakdown or technical error, please contact **[REDACTED]** via phone or e-mail,

or contact the Knovel Technical Support group by phone (203)748-6066 ext. 230

Knovel Sales Rep: **BK**

Subscriber representative's initials: *AS*

Knovel representative's initials: *Tce*



ACADEMIC SUBSCRIPTION LICENSE AGREEMENT GENERAL TERMS AND CONDITIONS

1. REPRESENTATIONS AND WARRANTIES

- 1.1 *Knovel Warranties.* Knovel warrants that the Licensed Products will substantially conform to Knovel's product descriptions, specifications, or descriptions in user manuals, if used for its intended purposes and that use by Subscriber of the licensed products according to the terms and conditions herein will not infringe the rights of third parties. Although Knovel believes the licensed content of third parties to be reliable, Knovel does not warrant or guarantee the timeliness, sequence, accuracy or completeness of the Licensed Products, or that it will be error-free or trouble-free. Except as stated in this agreement, Knovel provides the Licensed Products on an 'as is' basis without warranty of any kind, including without limitation, warranties of merchantability or fitness of a particular purpose. In no event shall Knovel be liable for: indirect, special, punitive or consequential damages including lost profits, lost data, or otherwise. In no event shall Knovel's liability hereunder exceed the amount of fees paid for the license of the Licensed Products.
- 1.2 *Subscriber Warranties.* Subscriber warrants that it will use reasonable efforts to ensure the security and integrity of the Licensed Products, especially as regards access by parties other than Authorized Users, and will otherwise ensure compliance by its Authorized Users with the terms and conditions set forth in this Agreement. Subscriber further represents and warrants that it has entered into this Agreement to obtain products or services for its own account and use and not on behalf of any other person or entity.
- 1.3 *Survival of Warranties.* The foregoing representations and warranties shall survive for the term of this Agreement (unless otherwise noted).

2. USAGE RESTRICTIONS

- 2.1 *Usage Restrictions.* Except as expressly permitted in this Agreement, none of the Licensed Products may be used (directly or indirectly) for any of the following purposes:
- substantial or systematic reproduction;
 - re-distribution, re-selling, or sub-licensing in any manner including in connection with fee-for-service use;
 - systematic supply or distribution in any form to anyone other than an Authorized User;
 - systematic or substantial retention of the Licensed Products.
 - Interlibrary Loan is allowable *
- 2.2 *Alteration; Notices.* Neither Subscriber nor its Authorized Users may modify, adapt, transform, translate, or create any derivative work based on the Licensed Products, or otherwise use same in a manner that would infringe the copyright or other proprietary rights therein. Copyright notices, other notices, or disclaimers included in the Licensed Products may not be removed, obscured, or modified in any way.
- 2.3 *Reverse Engineering/Decompilation.* Subscriber will not reverse-engineer, decompile, or disassemble any software included in the Licensed Products. However, in the event that a court determines that Subscriber has such right under its local law which cannot be waived, this right shall be restricted solely to the study of matters such as inter-operability and shall not be used in such a way as to affect the commercial value of the licensed products.
- 2.4 *Intellectual Property Rights.* Subscriber acknowledges that all rights save for the limited and non-exclusive licenses or other privileges granted under this Agreement are reserved to and remain the exclusive property of Knovel or its licensors, and nothing in this Agreement shall transfer any rights to Subscriber. Knovel reserves the right at any time to withdraw third-party content from the Licensed Products for which it no longer has rights to publish, or which it has reasonable ground to believe infringes copyright or is unlawful or otherwise objectionable. Knovel will make reasonable efforts to substitute comparable content in such situations and will promptly notify Subscriber about all changes so holdings records can be revised as needed. Subscriber acknowledges that the Licensed Products contain valuable and proprietary data and information, and that

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Knovel representative's initials: TC



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the unauthorized distribution of such material could materially harm the business and prospects of Knovel or its licensors.

- 2.5 *Content/Service Integrity.* Subscriber recognizes that the following are important Subscriber obligations: (a) maintaining the integrity of the Licensed Products; and (b) ensuring that access to, and use of, the Licensed Products is limited to Authorized Users. Knovel accordingly reserves the right to terminate this Agreement if routine violations of these security principles or intellectual property rights are substantiated. Subscriber will take reasonable measures to detect misuse of the Licensed Products, notify Knovel of such misuse, and take corrective actions, or take such action upon request from Knovel.
- 2.6 *MARC Records* are included free of charge and will be sent to [REDACTED] Shared Cataloging Unit, UCSD Libraries [REDACTED] and [REDACTED] as well as all updates thereto.

3. GENERAL

- 3.1 *Severability.* In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of this Agreement; in such circumstances, this Agreement shall be construed as if such objectionable material had not been included unless the deletion of same would result in material deviation from the terms of agreement contemplated by the parties.
- 3.2 *Terms and Conditions.* The current term of this Agreement will renew automatically for one year at the end of the Service End Date and each anniversary date thereafter unless either party gives written notice of non-renewal to the other party at least ninety (90) days prior to any such anniversary date (the initial term and such renewal, collectively, the "Term").
- 3.3 *Entire Agreement; Modification; Assignment.* This Agreement and any annexes or schedules hereto and thereto, and documents explicitly referred to herein or therein (e.g. user manuals and specification documents), contain the entire understanding of the parties with respect to the subject matter contained herein and supersede all terms and conditions in any quotations, purchase orders, acknowledgements, or other documents exchanged by the parties. There are no promises, covenants, or undertakings other than those expressly set forth therein. This Agreement cannot be modified except by a writing signed by the relevant parties. Subscriber acknowledges and agrees that it may not transfer any rights to any party unless it first obtains the written consent of Knovel.
- 3.4 *Indemnification Clause.* Knovel shall indemnify and hold Subscriber and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by Subscriber or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of such claims. The indemnifying party shall have the right to defend such claims at its own expense. The other party shall provide assistance in investigating and defending such claims as the indemnifying party may reasonably request and have the right to participate in the defense at its own expense.
- 3.5 *Governing Law.* This Agreement shall be interpreted and construed according to, and governed by, the laws of the State of California, excluding any such laws that might direct the applications of the laws of another jurisdiction. The federal or state courts located in California shall have jurisdiction to hear any dispute under this Agreement.

Subscriber representative's initials: 

Knovel representative's initials: 



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4. ACCEPTANCE AND AGREEMENT

This order, including the attachments such as the Product Descriptions, Sites, Fees & Payment, and General Terms and Conditions (the "Agreement"), is accepted and agreed among the parties and executed as of this 1st day of March, 2006.

**California Digital Library Acquisitions
(Subscriber)**

Signed

Name: [Redacted]
Title: Head for Collections
Date: 13 April 2006

Knovel Corporation

Signed

[Redacted]
Vice President, Worldwide Sales

Subscriber representative's initials: [Signature]

Knovel representative's initials: [Signature]

Attachment A

UC-Berkeley



UC-Irvine



UC Merced

