

AMERICAN SCIENTIFIC PUBLISHERS

26650 The Old Road, Suite 208, Valencia, California 91381-0751, USA Phone: (661) 799-7200 Fax: (661) 799-7230 Web: <u>www.aspbs.com</u>

LIBRARY SITE LICENSE AGREEMENT

This agreement is between American Scientific Publishers (hereinafter referred to as the "Publisher") and

(hereinafter referred to as the "subscriber or licensee") with respect to the electronic version of the Publisher's journal entitled

	(hereinafter called the "Journal").	
The parties hereto agree as follows: Licensed Material: The electronic versions of the printed editions of the (journal)		
that include research articles such as reviews, commu	nications, and research articles	contained in the
printed editions of (journal)	published in a	
calendar year (1 January to 31 December) which are available for access on the Interne	t at <u>www.aspbs.com</u> and any a	dditional
materials that licensor may make available to the licensee under this agreement.		
Journal(s) (Online Edition)	and Online Access	License Fee
		US\$
Date of Agreement and Commencement:		
Licensee's Library Name and Address:		
Number of Sites for Internet Access and Estimated Number of Users at all Sites: _		
IP Address of Licensee (Single Site and Number of Users):		
Domain Name(s)		
Site Address:		
Access Method [] Authorization via User ID/Password and IP Address [] Authorization	ization via IP address	
Licensee Contact Person:		
Phone/Fax/Email:		

Licensor Details: Person: Dr. H. S. Nalwa; Phone: (661) 799-7200 Fax: (661) 799-7230 E-mail: order@aspbs.com

Article 1. OWNERSHIP AND PUBLISHER'S UNDERTAKINGS

The Publisher agrees to grant to the Licensee the non-exclusive and non-transferable right to give Authorized Users access to the Licensed Materials via a Secure Network for the purposes of research, teaching and private study, subject to the terms and conditions of this License, and the Licensee agrees to pay the Fee and to allow Authorized Users to have access to the Licensed Materials from the Server via the Secure Network.

This License shall commence at the date of agreement for a defined Subscription Period (calendar year), for each of the Licensed Materials that may be added subsequently; and shall automatically terminate at the end of the Subscription Period, unless the parties have previously agreed to renew it.

The Publisher warrants and will ensure that it retains all copyrights and distribution rights for all database and other information provided as part of publisher's online service. The Publisher is the sole and exclusive owner of the licensed Material, including but not limited to the title, trade name, its subscription or circulation lists, copyrights and renewals or the extensions of copyright, article(s), inventory and all other materials and rights of any nature whatsoever relating to the licensed. The Publisher has the exclusive right in perpetuity to publish, manufacture, promote, distribute, and sell the Journal in all forms and media whether presently in existence or subsequently devised and to sell or license the exercise of any of these rights including, but not limited to, the right to grant or license any reprint, subsidiary and other rights in and to the Journal throughout the world. The Publisher retains all copyright and intellectual property rights to the print and electronic information provided under this Agreement.

The publisher may modify the Agreement from time to time as necessary for the business purpose. Publisher shall provide a written notice of such modification to the subscriber or licensee that will be effective 30 days after the notice. In such an event, subscriber or licensee and its users shall continue the use of the licensed material following the Notice with the modifications having full force and effect as an integrated part of this contract. The Publisher shall make the Licensed Materials available to the Licensee from the Server in the media and format acceptable to and set by the Publisher. The Publisher will notify the Licensee at least sixty (60) days in advance of any anticipated specification change applicable to the Licensed Materials.

The Publisher shall use all reasonable endeavors to make available the electronic copy of each journal issue in the Licensee not later than 30 days after the publication of the printed version. In the event that for technical reasons this is not possible the publisher will inform the licensee of same, but Publisher shall have no liability to licensee.

The Publisher shall use all reasonable endeavors to make the Licensed Materials available to the Licensee and to Authorized Users at all times (save for routine server examination and maintenance) and to restore access to the Licensed Materials as soon as possible in the event of an interruption or suspension of the service. The parties to this agreement acknowledge that the Internet is neither owned nor controlled by any one entity; therefore, the Publisher can make no guarantee that any given end-user, including the licensee shall be able to access the licensed material at any given time. Publisher represents that it make every good faith effort to ensure that its licensed material is available as widely as possible and with as little service interruption as possible.

The Publisher reserves the right at any time to withdraw from the Licensed Materials any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable. The Publisher undertakes to use reasonable endeavors to provide or to make arrangements for a third party to provide an archive of the Licensed Materials for the purposes of long-term preservation of the Licensed Materials, however this is solely up to the Publisher. The Publisher will not provide any usage statistics of any kinds to the Subscriber or Licensee or its Authorized Users whatsoever.

Except as expressly provided in this License, the Publisher makes no representations or warranties of any kind, express or implied, including, but not limited to, warranties of design, accuracy of the information contained in the Licensed Materials, merchantability or fitness of use for a particular purpose. The Licensed Materials are supplied 'as is'. Under no circumstances shall the Publisher be liable to the Licensee or any other person, including but not limited to Authorized Users, for any special, exemplary, incidental or consequential damages of any character arising out of the inability to use, or the use of, the Licensed Materials. Irrespective of the cause or form of action, the Publisher's aggregate liability for any claims, losses, or damages arising out of any breach of this License shall in no circumstances exceed the Fee paid by Licensee to the Publisher under this License in respect of the Subscription Period during which such claim, loss or damage occurred. The foregoing limitation of liability and exclusion of certain damages shall apply

regardless of the success or effectiveness of other remedies. Regardless of the cause or form of action, the Licensee shall bring no action arising from this License whatsoever.

Article 2. LICENSEE'S UNDERTAKINGS

The Subscriber or Licensee is responsible for the provision of and payment for the computer and telecommunication equipments and services required for access via Internet to the licensed material. The Subscriber or licensee and its Authorized Users are responsible against charges incurred in relation to such equipments, services or customer support. The Subscriber or licensee agrees that the Publisher shall have no liability for the acts or omissions of providers of telecommunication services or computer equipments, power failures or for failures of or faults of their apparatus or service. The Licensee may load the Licensed Materials on the Licensee's server on the Secure Network. Allow its Authorized Users to have access to the Licensed Materials from the Server via the Secure Network. Provide single printed or electronic copies of single articles at the request of individual Authorized Users.

The Subscriber or Licensee shall use all reasonable endeavors to monitor compliance and immediately upon becoming aware of any unauthorized use or other breach, inform the Publisher and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence. The Subscriber or Licensee shall issue ID/passwords or other access information only to Authorized Users and use all reasonable endeavors to ensure that Authorized Users do not divulge their ID/passwords or other access information to any third party.

The Subscriber or Licensee shall provide the Publisher, within 30 days of the date of this Agreement, with information sufficient to enable the Publisher to provide access to the Licensed Material. Should the Licensee make any significant change to such information, it will notify the Publisher not less than thirty (30) days before the change takes effect.

The Subscriber or Licensee shall keep full and up-to-date records of all Authorized Users and their access details [IP addresses] and provide the Publisher with details of such additions, deletions or other alterations to such records as are necessary to enable the Publisher to provide Authorized Users with Access to Licensed Materials as contemplated by this License The Subscriber or Licensee shall use all reasonable endeavors to ensure that only Authorized Users are permitted access to the Licensed Materials.

The Subscriber or Licensee agrees to indemnify, defend and hold the Publisher harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and professional fees) arising out of any claim or legal action taken against the Publisher related to or in any way connected with any use of the Licensed Materials by the Licensee or Authorized Users or any failure by the Licensee to perform its obligations in relation to this License, knowingly assist or condone the continuation of such breach to continue after becoming aware of an actual breach having occurred.

The Subscriber or Licensee and/or any end users shall not, by virtue of this agreement or by virtue of its access to the licensed material, obtain any proprietary rights in or to the licensed material except the rights specifically granted to the Licensee herein. The Subscriber or Licensee and/or any end users shall not use or transmit the licensed material except as specifically authorized by this Agreement.

The Subscriber or Licensee shall, in consideration for the rights granted under this License, pay the Fee within thirty (30) days of signature of receipt of invoice and, if applicable, within thirty (30) days of receipt of invoice prior to each subsequent Subscription Period and receipt of such payment shall be a condition of this License coming into effect. For the avoidance of doubt, the Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes in addition to the Fee.

Article 3. UNDERTAKINGS BY BOTH PARTIES

Each party shall use its best endeavors to safeguard the intellectual property, confidential information and proprietary rights of the other party.

Article 4. PROHIBITED USES

Neither Subscriber or Licensee nor its Authorized Users should use or make available to others any publisher works or parts of works for any kind of commercial uses such as sell, distribution, library loan, marketing, rent, license, publication, product development, service, or exploit the licensed materials or any related services including but not limited to the creation of new database, derivative work, books, textbooks, technical reports, remote access, posting of any information on an open Websites, transmitting materials on the internet, news groups, electronic bulletin boards, reproduction of bibliographies in other works by downloading publisher works into other sites or services. The subscriber or licensee agrees that it will not license or allow its users to directly or indirectly to do so and in a manner that would infringe any copyrights or other proprietary rights contained herein and within it. The subscriber or licensee and its authorized users will not remove, modify, alter, amend, translate, change, merge, transmit, damage or use any publisher works or parts of works. The subscriber or licensee and its authorized users will not use licensed material available over the Internet, publisher works or parts of works for library loans to other unauthorized institution whatsoever.

Neither the Licensee nor its Authorized Users shall remove or alter the authors' names or the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Materials, systematically make print or electronic copies of multiple extracts of the Licensed Materials for any purpose, mount or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, other than the Secure Network.

The Publisher's explicit written permission must be obtained in order to use all or any part of the Licensed Materials for any Commercial Use, systematically distribute the whole or any part of the Licensed Materials to anyone other than Authorized Users; publish, distribute or make available the Licensed Materials, works based on the Licensed Materials or works which combine them with any other material, other than as permitted in this License; alter, abridge, adapt or modify the Licensed Materials, except to the extent necessary to make them perceptible on a computer screen to Authorized Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

The access to publisher Licensed Materials herein is permitted on current calendar year basis (1 January to 31 December) excluding any online access to back issues whatsoever. The online access for paid calendar years will continue as long as the subscription is renewed by the Subscriber or Licensee for forthcoming years otherwise there will be no online access to back files of paid years whatsoever. If subscription is not renewed then online access will be fully stopped for all back files of paid years on 31 December of subscription year. The Subscriber or Licensee agrees to these terms and conditions.

The access to publisher Licensed Materials herein is permitted for one year only (limited to subscription period). No access whatsoever (to present or archive or future editions of the journal) will be allowed to Subscriber or Licensee or its Authorized Users to whole or any part of the Licensed Materials (journal) after the termination of this agreement (agreement will be automatically terminated after one year if not renewed by the subscriber). Library loan to other campus, institutions, agents, subsidiaries, affiliated or parent or any other related organizations is not allowed whatsoever. The Publisher does not grant any rights and access of any kinds whatsoever to Subscriber or Licensee or its Authorized Users in perpetuity therefore access of any kinds whatsoever including archive of the Licensed Materials will be terminated immediately after the termination of this agreement. There is no perpetual online access to the journal contents whatsoever. Publisher will not provide any usage statistics of any kind whatsoever to Subscriber or Licensee or its Authorized Users. The publisher will not provide the archive of Licensed Materials on hard disks, CDs, diskettes, Zip, laser disks, system servers, tapes, hardcopy records after the termination of the agreement.

Article 5. SUBSCRIPTION FEE, PERIOD OF LICENSED MATERIALS AND ACCESS

The Subscriber or Licensee agrees to pay to the publisher the subscription fee for calendar year (1 January to 31 December) before the commencement date. The access to the Licensed Materials is permitted to the publisher-licensed works published in current calendar year (1 January to 31 December) excluding any online access to back issues whatsoever. To access the publisher's licensed work published in previous calendar year(s), the Subscriber or Licensee should pay full subscription fee for back issues. Therefore, the access to publisher Licensed Materials herein is restricted to calendar year(s) for which the subscription fees have been paid by the Licensee or Subscriber and do not extend to other calendar year(s) whatsoever. The number of journal issues may change without any prior notice to the Subscriber or Licensee for which no additional subscription fees or refund will be applied. No prorating of the subscription fees accepted. Reset-up charges will apply if subscription is renewed by 31 December. The Publisher will send the subscriber or licensee does not pay the renewal subscription fee 30 days before the end of the Term, the publisher will assume that the subscriber or licensee wish to terminate this Agreement. If the subscription fee is not paid before the due date, Agreement will be terminated without further notice. No refund of the subscription fee is not paid before the due date, by the Publisher (licensor) for the remaining un-expired portion of the Subscription Period if this agreement is terminated by the Subscriber or Licensee between the Subscription Period (1 January to 31 days before) for the remaining un-expired portion of the Subscription Period if this agreement is terminated by the Subscriber or Licensee between the Subscription Period (1 January to 31 December).

Article 6. WARRANTIES AND LIABILITIES

The Subscriber or Licensee represents and warrants that it has full power and authority to enter into this Agreement and subscriber or licensee and its authorized users will not infringe the rights of any third party. The Subscriber or licensee or authorized user(s) agrees to indemnify and hold the Publisher and any of its representatives harmless from any and all claims, demands for any special, indirect, incidental, consequential or punitive damages or any award of damages of any kind against publisher for loss of data or corruption of data, loss of program, loss of business of any nature arising from the use or inability to use publisher databases. The publisher will not be liable for any special, indirect, consequential loss or damage whatsoever arising from any omissions, errors, inaccuracies, interruptions, power failures, conditions beyond publisher's control or corruption caused in the publisher databases whether caused by transmission, processing, accessing, unavailability at times of customer support or any other time, users, third party, to the titles and data provided online or otherwise, including but not limited to liabilities, loss of revenue, profit, business, opportunities, goodwill, costs, charges and expenses (including counsel fees) that the Publisher incurs or sustains arising out of any breach by the Subscriber or licensee of the foregoing warranties and representations. The publisher does not warrant that access to the publisher licensed works or parts of works will be free from errors or faults.

The Subscriber or Licensee authorized user(s) hereby agrees to indemnify and defend Publisher from claims, costs, charges, damages, fees, expenses or liabilities of any kind whatsoever brought or preferred by its Authorized Users or any third party against Publisher. Under no circumstances, neither Publisher nor any of its contractors, employees, or agents shall in any case be liable to the Subscriber or licensee or its Authorized Users or any other person for any special, exemplary, indirect, incidental, consequential, or punitive damages of any kind arising out of the liability to use or the use of, the Licensed Materials, including, but not limited to, lost profits or lost business opportunities arising out of or relating to the transactions contemplated by this Agreement. Irrespective of the cause or form of action, the Publisher's aggregate liability for any claims, losses, or damages arising out of any breach of this License shall in no

circumstances exceed the Subscription Fee paid by Licensee to the Publisher under this License in respect of the Subscription Period during which such claim, loss or damage occurred.

The Subscriber or Licensee acknowledges that Publisher is unable to exercise control either over the availability of the Internet or any other data network or over the quality of the text graphics and illustrative data supplied hereunder by the Publisher; accordingly, Publisher hereby gives no warranty of any kind that the Data will be available for access by customers at all times on the Internet or on any other data network.

The publisher licensed works or parts of works is provided "as is" and "as available" The Publisher makes no representations or warranty of any kind whether express or implied, including but not limited to, warranties of warranty of design, quality, accuracy of information contained in the Licensed Materials, merchantability or fitness of use for a particular purpose.

Publishers, any of their officers, directors, employees, agents and any other party involved in preparation or publication of work anywhere in the world hereby expressly disclaim all legal liabilities for any and all damages, injuries, costs, or losses of any kind arising whether direct, indirect, incidental, punitive, consequential, or special. The Publisher make no warranty or assume any responsibility whatsoever for the any contents, graphics, materials, advertisements, products, service, accuracy, completeness, correctness, reliability, timeliness, usefulness, suitability for any particular purpose, anything else which has contaminating or destructive properties or otherwise provided on this website, and can not guarantee that it will always be. All access and use is at the discretion and risk of the users and Publishers cannot assume any responsibility or liability whatsoever for the information or material contained on the website and referenced herein or for the consequences of their use whether such liability is arising in contract, tort or otherwise. The content of the publisher's work is subject to change without any prior notice due to any changing circumstances or for any other reasons. All representations, warranties and indemnities shall survive the termination of the Agreement in perpetuity.

Article 7. TERMS AND TERMINATION OF AGREEMENT

This agreement shall commence on the date above written and remain in effect until initial period of the license Term as defined in the Agreement. Thereafter, the Agreement shall be renewed on the terms and conditions set fourth herein, on a year-to-year basis unless either party notifies the other in writing that it does not wish to renew the Agreement. Such notification shall be given at least sixty (60) days prior to expiration of the initial term or any annual extension thereof.

The Publisher may terminate this Agreement if the subscriber or licensee does not pay the renewal subscription fee 30 days before the end of the Term.

This Agreement may be terminated by either party at any time upon written notice to the other party if the either the subscriber or licensee or the publisher is not meeting obligations on its part. The termination of the Agreement will become effective 30 days after receiving the written notice unless defaulting party has resolved the default. The publisher may terminate this Agreement at any time upon 60 days written notice to the Subscriber or Licensee.

Upon expiration or termination of this Agreement, the Subscriber or licensee and its users agree to cease use of product and destroy all publisher licensed works or parts of works stored in any form of storage media including but not limited to hard disks, CDS, diskettes, Zip, laser disks, system servers, tapes, hardcopy records and documents. The Upon termination of this agreement by Subscriber or Licensee, no refund of the subscription fee to the Subscriber or Licensee shall be made by the Publisher (licensor) for the remaining un-expired portion of the Subscription Period.

This Agreement may terminate upon written notice if Subscriber or Licensee is unable to make payments, cease to carry on business or threatens to go into administrative receivership or any analogous event to any of the preceding in any jurisdiction.

If at any time the Publisher in its sole discretion shall decide that subscription of the publisher licensed works have become so materially lessened that it would be unprofitable to continue it, the Publisher may cancel and will give notice to the Subscriber or licensee to that effect for the termination of this Agreement. In addition to automatic termination, this License shall be terminated if the Licensee defaults in making payment of the Fee as provided in this License and fails to remedy such default within thirty (30) days of notification in writing by the Publisher, if the Licensee commits a willful material and persistent breach of the Publisher's copyright or other intellectual property rights, if either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.

On termination all rights and obligations of the parties automatically terminate except for obligations in respect of Licensed Materials. On termination, the Licensee shall immediately cease to distribute or make available the Licensed Materials to Authorized Users and shall return to the Publisher or destroy all Licensed Materials locally mounted.

Article 8. TRANSFER OF LICENSE

This Agreement and the rights herein granted are personal to the parties hereto. Neither party shall assign delegate transfer or charge or in any manner make over or purport to assign delegate transfer charge or make over this Agreement or its rights hereunder or any part thereof, without the prior written consent of the other.

Article 9. ARBITRATION AGREEMENT

All questions or differences whatsoever which may at any time hereafter arise between the parties hereto concerning and/or touching this Agreement or the subject matter thereof and whether as to construction or otherwise, shall be referred to a single arbitrator to be agreed upon by the parties hereto. All such questions or differences shall be submitted to the American Arbitration Association and

shall be arbitrated pursuant to their rules and regulations, and such arbitration shall be held in the County of Los Angeles, California. This contract shall be construed and interpreted under the laws of the State of California.

Article 10. NOTICES

All notices hereunder shall be in writing and may be served upon either of the parties hereto at their respective addresses aforesaid, either personally or by sending the same by prepaid first class letter post, facsimile, telex or confirmed electronic mail, and if served personally the date of service, and if by letter post, facsimile or telex or electronic mail, the date in the normal course of posting or transmitting as the case may be upon which the same would be delivered, shall be deemed to be the date of service thereof.

Article 11. GENERAL TERMS

This Agreement shall be construed and interpreted pursuant to the laws of the State of California applicable to contracts wholly entered into and performed within the State of California.

This Agreement constitutes the complete understanding of the parties. Each party affirms its signatory is authorized to agree to the terms of this agreement. No modification or waiver of any provision shall be valid unless in writing and signed by both parties. Any waiver in one or more instances by either of the parties or any breach by the other of any terms or provisions contained in this Agreement shall not be considered a waiver of any succeeding or preceding breach.

This License constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this License, whether oral or written. Alterations to this License and to the Schedules to this License are only valid if they are recorded in writing and signed by both parties.

This License may not be assigned by either party to any other person or organization, nor may either party sub-contract any of its obligations, except as provided in this License in respect of the Agent and the management and operation of the Server.

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 service of notices. All such notices shall be deemed to have been received within 14 days of posting.

Neither party's delay or failure to perform any provision of this License, as result of circumstances beyond its control including, without limitation, acts of terrorism inside or outside the United States effecting this agreement, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities shall be deemed to be, or to give rise to, a breach of this License.

Each party shall preserve the confidential information of or pertaining to the other party and shall not, without first obtaining the other's written consent, disclose to any person or organization, or use for its' own benefit, any confidential information of or pertaining to the other party during and after the term of this Agreement, unless such confidential information is required to be disclosed by a court of competent jurisdiction or by any governmental or self-regulatory organization or authority.

The headings to the articles of this Agreement are for guidance only and do not form a part and shall not be construed in the construction of this Agreement.

AGREED TO AND ACCEPTED BY:

Authorized Subscriber or licensee:

(Signature)

(Name and Position)

(Date)

(Address)

PUBLISHER:

AMERICAN SCIENTIFIC PUBLISHERS HSNalwa

Copyright@American Scientific Publishers Dr. H. S. Nalwa