

AccessScience@McGraw-Hill
License Agreement (“License”)
The McGraw-Hill Companies, Inc. (“McGraw-Hill”)

Definitions: As used in this License, the following terms have the designated meanings:

“**AccessScience**” refers to the McGraw-Hill online product [AccessScience@McGraw-Hill](#) and all Web pages contained therein as updated or revised from time to time while this License is in effect.

“**Subscriber**” refers to library institution identified at the end of this Agreement.

“**User(s)**” refers to (i) in the case of a Subscriber that is a school, university or college library: enrolled students, administrative staff, active faculty and instructors of such Subscriber; and (ii) in the case of a Subscriber that is a public library: patrons and administrative staff of such Subscriber.

“**AccessScience Owned Content**” means information entered into AccessScience by McGraw-Hill’s employees and its licensors, including, without limitation, those authorized representatives who are editors or who are otherwise designated by McGraw-Hill to contribute to AccessScience (collectively, the “**McGraw-Hill Designated Providers**”).

“**Other Content**” means any other information entered into AccessScience by Users or other persons.

1. **License Agreement.** All use of AccessScience by Subscriber or by any User is subject to the terms and conditions set forth in this License rather than the terms and conditions in the Terms of Subscription and License Agreement that appear in AccessScience. Subscriber shall be responsible for ensuring that any Users accessing AccessScience are notified of, and abide by, the terms of this License.

2. **Authorized Use of AccessScience Owned Content.**

a. All of the AccessScience Owned Content is either the property of McGraw-Hill or is licensed to McGraw-Hill and is protected by copyright and other intellectual property laws. Subscriber shall honor all reasonable requests by McGraw-Hill to protect McGraw-Hill’s proprietary interests in AccessScience. During the term of this License, McGraw-Hill hereby grants to Subscriber and its Users a non-exclusive, non-transferable license to access and use AccessScience for the agreed upon fees and under the terms described in this License. Except for the limited rights given to Subscriber herein, all rights in AccessScience are reserved by McGraw-Hill.

b. McGraw-Hill shall defend, indemnify, and hold harmless Subscriber and Subscriber’s officers and employees from all damages liabilities, costs, fees, including, but not limited to, attorney’s fees, resulting from any judgment or settlement agreement arising out of the claim of a third party that McGraw-Hill’s license of the use of AccessScience under the terms to this Agreement or Subscriber’s use of AccessScience pursuant to the terms herein constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary right of any third party. No limitation of liability set forth elsewhere in this Agreement is applicable to the indemnification set forth in the foregoing sentence. Subscriber shall give prompt notice of an infringement claim to McGraw-Hill, provide such cooperation and assistance to McGraw-Hill as is reasonably necessary to defend the claim, and shall allow McGraw-Hill to have sole control of the defense, provided, however, that Subscriber retains the right to participate in the defense at its own expense.

3. **Use Restrictions.** With the exception of certain AccessScience Owned Content licensed to McGraw-Hill, Users may print out for such User's own research or study only a limited number of articles from AccessScience. Except as expressly provided in the foregoing sentence, neither Subscriber nor any User may copy, transmit, rent, lend, sell or modify any materials from AccessScience or modify or remove any proprietary notices contained therein or create derivative works based on materials from AccessScience. McGraw-Hill reserves the right to terminate this License if at any time any User downloads or prints out a substantial portion of AccessScience. Neither Subscriber nor any User may disseminate any portion of AccessScience through electronic means, including mail lists or electronic bulletin boards.

4. **Other Content.**

a. McGraw-Hill shall have a perpetual, non-exclusive right to use in any media and manner whatsoever (including in any of McGraw-Hill's print or electronic publications) and archive all material entered into AccessScience by Subscriber and/or by any User (other than third-party material transmitted through private electronic mail).

b. Users entering material into AccessScience are responsible for the content of that material. Neither McGraw-Hill, any of its licensors nor any McGraw-Hill Designated Online Provider have any responsibility for Other Content, including the content of any messages or information posted by Subscriber, Users or others, or for the content or information accessible via direct or indirect hyperlinks from AccessScience. However, McGraw-Hill retains the right, which it may or may not exercise in its sole discretion, to review, edit or delete Other Content which McGraw-Hill deems to be illegal, offensive, or otherwise inappropriate.

c. Subscriber and Users may not input or distribute any material through AccessScience which is promotional in nature, including solicitations for funds or business, without the prior written authorization of McGraw-Hill.

d. To the extent permitted by applicable law, Subscriber agrees to indemnify McGraw-Hill and the McGraw-Hill Designated Online Providers from all damages, liabilities, costs, charges and expenses, including reasonable attorney's fees, which McGraw-Hill, its affiliates, employees and the McGraw-Hill Designated Online Providers may incur as a result of violation of this License **by any employee and/or officer** Subscriber or material entered into AccessScience **any employee and/or officer** by Subscriber. McGraw-Hill reserves the right to assume the exclusive defense and control of any such matter for which Subscriber has agreed to indemnify McGraw-Hill or the McGraw-Hill Designated Online Providers.

5. **Term and Termination.**

a. This License will commence upon the date hereof and is non-cancellable by Subscriber for the term subscribed for by Subscriber. This License will remain in effect until terminated by McGraw-Hill, as provided for in this License, or Subscriber fails to respond to any renewal notice for AccessScience and does not renew its subscription. McGraw-Hill also has the right to terminate this License if it does not receive payment for it.

b. McGraw-Hill reserves the right to change the terms of this License by providing notices in AccessScience or, at McGraw-Hill's option, directly to subscribers via electronic or conventional mail. Use of AccessScience following the posting of any changes to these terms and conditions shall be conclusively deemed acceptance of those changes. **It is agreed that Subscriber shall have the right to terminate this License as a result of any such change of terms if Subscriber gives McGraw-Hill written notice of termination within ten (10) business days after receipt of notice of the change in terms and McGraw-Hill shall refund to Subscriber a prorated**

portion of the license fee already paid by Subscriber to McGraw-Hill calculated based upon the then unexpired term of this License.

c. McGraw-Hill may discontinue or change AccessScience or its availability to Subscriber at any time; provided, that if McGraw-Hill discontinues AccessScience or ceases to make AccessScience available to Subscriber for any reason other than circumstances covered by the following sentence, then McGraw-Hill shall refund to Subscriber a prorated portion of the license fee already paid by Subscriber to McGraw-Hill calculated based upon the then unexpired term of this License. If Subscriber fails to abide by the terms or conditions of this License, McGraw-Hill reserves the right in its sole discretion to suspend or terminate Subscriber's access to AccessScience immediately without notice, in addition to any other available remedies; provided, however, that McGraw-Hill shall only decide to suspend or terminate Subscriber's access to AccessScience in those instances where Subscriber has breached a material or significant term or condition of this License.

6. NO WARRANTIES/LIMITATIONS ON LIABILITY

ACCESSSCIENCE AND ALL MATERIALS CONTAINED THEREIN ARE PROVIDED ON AN "AS IS" BASIS. MCGRAW-HILL AND THE MCGRAW-HILL DESIGNATED ONLINE PROVIDERS MAKE NO GUARANTEES OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AS TO THE ACCURACY, ADEQUACY, CURRENTNESS, COMPLETENESS OR PERFORMANCE OF OR RESULTS TO BE OBTAINED FROM ACCESSING AND USING ACCESSSCIENCE AND/OR ANY MATERIAL WHICH CAN BE ACCESSED (VIA A DIRECT OR INDIRECT HYPERLINK OR OTHERWISE) THROUGH ACCESSSCIENCE.

NEITHER MCGRAW-HILL NOR THE MCGRAW-HILL DESIGNATED ONLINE PROVIDERS SHALL BE LIABLE TO SUBSCRIBER OR TO ANY USER OR ANYONE ELSE FOR ANY INACCURACY, DELAY, INTERRUPTION IN SERVICE, ERROR OR OMISSION, REGARDLESS OF CAUSE, OR FOR ANY DAMAGES RESULTING THEREFROM.

IN NO EVENT WILL MCGRAW-HILL AND/OR THE MCGRAW-HILL DESIGNATED ONLINE PROVIDERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SIMILAR DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS) WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEN OR UNFORESEEN AND EVEN IF ANY OF THE FOREGOING PARTIES IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF MCGRAW-HILL AND/OR ANY AND ALL MCGRAW-HILL DESIGNATED ONLINE PROVIDERS ARISING OUT OF OR RELATING TO USE OF THE SERVICE EXCEED THE TOTAL AMOUNT SUBSCRIBER PAID FOR USE OF THE SERVICE DURING THE PREVIOUS TWELVE (12) MONTHS.

7. **Privacy Policy.** McGraw-Hill may, from time to time, use information Subscriber provides to send Subscriber information regarding other products or services from McGraw-Hill which may be of interest to Subscriber. In addition, McGraw-Hill may provide aggregated, anonymous statistical information about AccessScience users to other persons, including potential advertising clients. For detailed information, please click the McGraw-Hill Customer Privacy Policy link at the bottom of any screen of AccessScience.

8. **Fees and Payment.** Subscriber agrees to pay the applicable annual subscription fee and all related fees and charges to Subscriber's subscription representative.

9. **U.S. Government Restricted Rights.** If AccessScience is acquired by or for the U.S. Government then it is provided with Restricted Rights. Use, duplication or disclosure by the U.S. Government is subject to the restrictions set forth in FAR 52.227-19. The contractor/manufacturer is The McGraw-Hill Companies, Inc. at 1221 Avenue of the Americas, New York, New York 10020.

10. **General.**

a. Subscriber is responsible for all sales, use or similar taxes.

b. This License constitutes the entire agreement between Subscriber and McGraw-Hill relating to AccessScience and supersedes any and all other agreements, oral or in writing, with respect to AccessScience. This License may be modified only by a written instrument signed by both parties. The failure of McGraw-Hill to insist upon strict compliance with any term of this License shall not be construed as a waiver with regard to any subsequent failure to comply with such term or provision. Subscriber may not assign any rights or obligations of this License. This License, Subscriber's rights and obligations, and all actions contemplated by this License shall be governed by the laws of the United States of America and **the State of California**, as if this License was a contract wholly entered into and wholly performed within **the State of California**. If any provision in this License is invalid or unenforceable under applicable law, the remaining provisions will continue in full force and effect.

Please Print

Name of Subscriber's Representative _____

Name of Library (Subscriber) _____

Address _____

City _____ **State** _____ **Zip** _____

Country _____

Daytime Phone _____ **FAX:** _____

E-Mail Address _____

The terms of this License are agreed to by Subscriber:

Subscriber Name: _____

By: _____
Signature

Title: _____

Date: _____

Please sign and return agreement to:

[text deleted]

