**SCHEDULE 4: SUB-LICENCE AGREEMENT**

PUBLISHER ONLINE SUB-LICENCE AGREEMENT

**Russian National Public Library for Science and Technology,** a body incorporated under the law of Russian Federation and whose principle place of business is 3rd  Khoroshevskaya str. 17, Moscow, 123298, Russian Federation (THE LIBRARY)

OFFERS to you, the Institution, the permission to access and use the Science Database on the terms and conditions as set out in this Agreement. Upon completing and returning the enclosed Acceptance of Sub-Licence Form, your institution will become a non-exclusive Sub-Licensee of LIBRARY.

Acceptance shall be by delivery of a completed copy of the Acceptance of Sub-Licence Form attached hereto to LIBRARY. Acceptance shall be acceptance of all terms of this Sub-Licence. In the event that no or partial compliance is made as to the manner or form described for acceptance, no sub-licence will be granted and this offer is deemed withdrawn.

**RECITALS**

**WHEREAS** Publisher Online and all Intellectual Property Rights therein are owned by or licensed to Publisher (“PUBLISHER”);

**AND WHEREAS** by a Licence Agreement between Publisher and LIBRARY, LIBRARY is permitted to sub-licence the access and use of the Science Database to the Sub-Licensee in accordance with the terms of this Agreement.

LIBRARY AND THE INSTITUTION AGREE AS FOLLOWS:

**1. DEFINITIONS**

1.1 In this Sub-Licence, the following expressions shall have the following meanings:

"Acceptance of Sub-Licence Form" means the form as attached to this Licence.

"Authorised Users" means an individual who is authorised by the Institution to have access to its information services (whether on-site or off-site) via Secure Authentication and who is:

* a current student of the Institution (including undergraduates and postgraduates) or an alumni of the Institution;
* a member of staff of the Institution (whether permanent or temporary including retired members of staff and any teacher who teaches Authorised Users registered in the country where the Institution is located);
* a contractor of the Institution; or
* a Walk-In User.

Walk-In Users are persons who are allowed by the Institution to access its information services from computer terminals or otherwise within the physical premises of the Institution. For the avoidance of doubt, Walk-In Users may be given access to the Science Database by any wireless Secure Network. Walk-In Users are not allowed off-site access to the Science Database

 "Commercial Use" means use of the Science Database for the purpose of monetary reward (whether by or for the Institution or an Authorised User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Science Database. For the avoidance of doubt, neither the recovery of direct cost by the Institution from Authorised Users, nor use by the Institution or Authorised Users of the Science Database in the course of research funded by a commercial organisation is deemed to constitute Commercial Use.

 "Educational Purposes" means use for the purpose of education, teaching, distance learning, private study and/or research.

"Fee" means the fee for the Sub-Licence for access and use of the Science Database as set force in Schedule 1

"Institution" An institution or organization that signs the Acceptance of Sub-Licence Form and that is in membership of the Licensee and that is listed in Schedule 3 of the Science Database Licence Agreement AAAS 2017/2 signed between Publisher and LIBRARY

 " Science Database " means the product(s)/material/e-books which are further described in Schedule 2.

 "Metadata" means the textual information that describes the creation, content, or context of a part of the Science Database (e.g. date of creation, subject matter, location of digital file, ownership). Metadata refers to the metadata supplied by the Publisher to the Licensee and Institution and/or the metadata created by the Institution and/or Authorised Users.

 "Modifications" means alterations, additions to, deletion from, manipulations and/or modifications of parts of the Metadata supplied by the Publisher

 "Modify" means to alter, add to, delete from, manipulate and/or modify parts of the Metadata.

 "Secure Authentication" means access to the Science Database by Internet Protocol (“IP”) ranges, by a username and password provided by the Institution or by another means of authentication agreed between the Publisher and the Licensee.

 "Secure Network" means a network which is only accessible to Authorised Users by Secure Authentication.

**2. LICENCE GRANT**

2.1 LIBRARY hereby grants to the Institution a non-exclusive non-transferable licence to access and use the Science Database and to allow Authorised Users to access and use the Science Database on the terms and conditions as set out in this Sub-Licence via Secure Authentication and for Educational Purposes only.

**3. PERMITTED USES**

3.1 This Sub-Licence permits the Institution for Educational Purposes only to:

 3.1.1 provide Authorised Users with integrated access and an integrated article author, article title and keyword index to the Science Database

3.1.2 provide single printed or electronic copies of single articles at the request of individual Authorised Users; for the avoidance of doubt, this sub-clause shall include the distribution of a copy for teaching purposes to each individual student Authorised User in a class at the Authorised Institution;

3.1.3 supply to an authorised user of a non-commercial library located in the same country as the Institution (whether by post, fax or secure electronic transmission provided the electronic file is deleted immediately after printing) a single paper copy of an electronic original of an individual document;

3.1.4 provide single printed or electronic copies of single articles at the request of individual Authorised Users;

3.1.5 display, download and print parts of the Science Database for the purpose of promoting or testing the Science Database or for training Authorised Users;

3.1.6 make and distribute copies of training material as may be required for the purpose of using the Science Database in accordance with this Licence;

3.1.7 mount and use Metadata in bespoke and commercially available library systems to manage library operations;

3.1.8 allow Authorised Users for non-Commercial Purposes only to:

3.1.8.1 access the Science Database by Secure Authentication in order to search, retrieve, display and view the Science Database;

3.1.8.2 Modify the Metadata and to create new Metadata of the Science Database;

3.1.8.3 electronically save parts of the Science Database and Modifications;

3.1.8.4 print out single copies of parts of the Science Database and Modifications;

3.1.8.5 translate excerpts of single copies of parts of the Science Database and Modifications

3.1.8.6 incorporate parts of the Science Database and Modifications in printed and electronic course packs to be used in the course of instruction and/or in virtual learning environments hosted on a Secure Network for access by Authorised Users. Authorised Users must specify the title and copyright owner of the Science Database used in the course packs. Course packs in other formats, such as Braille, may also be offered to Authorised Users;

3.1.8.7 incorporate parts of the Science Database and Modifications in printed or electronic form in assignments and portfolios, theses and in dissertations (“the Academic Works”), and to make reproductions of the Academic Works for personal use and library deposit. Reproductions of the Academic Works can be provided to sponsors of those Academic Works. Authorised Users must specify the title and copyright owner of the Science Database used in the Academic Works;

3.1.8.8 publicly display or publicly perform parts of the Materials as part of a presentation at a seminar, conference, or workshop, or other similar event;

3.1.8.9 save and/or deposit in perpetuity parts of the Science Database and Modifications in electronic repositories operated by the Licensee and Institution and/or by an Authorised User on a Secure Network. Access to and use of such repositories shall be limited to Authorised Users; and

3.1.8.10 use the Science Database and Modifications to perform and engage in text mining/ data mining activities for academic research and other Non-Commercial Purposes and allow Authorised Users to mount, load and integrate the results on a Secure Network and use the results in accordance with this Licence.

**4. RESTRICTIONS**

4.1 Except where this Sub-Licence states otherwise, the Institution and Authorised Users may not:

 4.1.1 use all or any part of the Science Database, Metadata and/or Modifications for any Commercial Use or for any purpose other than Educational Purposes unless the Publisher has given the Institution or an Authorised User permission in writing to do so;

4.1.2 remove, obscure or alter copyright notices, acknowledgments or other means of identification or disclaimers other than Metadata;

4.1.3 alter, or adapt the Science Database (save for Metadata), except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted in this Licence. For the avoidance of doubt, no alteration of the words or their order is allowed;

4.1.4 display or distribute any part of the Science Database (save for Metadata and Modifications) on any electronic network, including the internet other than by a Secure Network;

4.1.5 make printed or electronic copies of multiple extracts of the Science Database for any purpose, beyond those authorised by this Licence; and

4.1.6 systematically distribute the whole or any part of the Science Database to anyone other than Authorised Users.

4.2 No Institution may:

Permit or enable access to the Science Database by users from any location outside of the Institution’s Physical Premises.

4.3 This Clause shall survive termination of this Sub-Licence for any reason.

**5. RESPONSIBILITIES OF THE PUBLISHER**

5.1 The Publisher shall:

5.1.1 provide access and allow use of the Science Database in accordance with the provisions as laid down in this Licence;

5.1.2 make the Science Database available to the Institution and its Authorised Users either from the Publisher’s server or the server of a third party;

5.1.3 provide for customer support services to the Institution and to Authorised Users via e-mail or phone, including answering e-mail inquiries relating to the use, functionality and content of the Science Database;

5.1.4 provide electronic product documentation free of charge. The Publisher allows copies of all documentation to be made provided it is either duplicated in full, or a proper ownership acknowledgement is included;

5.1.5 provide the Institution with fully COUNTER-compliant usage statistics;

5.1.6 use all reasonable efforts to meet the Open URL Standard ([www.niso.org](http://www.niso.org)) to ensure that Authorised Users can discover the Science Database;

5.1.7 use all reasonable efforts to meet the W3C standards ([www.W3.org](http://www.W3.org)) to ensure that the Science Database is accessible to all Authorised Users;

5.1.8 permit the Institution to make cancellations and substitutions of the Materials annually [only applicable for multi-years agreements].

5.2 The Publisher reserves the right at any time to withdraw from the Science Database any item or part of an item:

i) for which the Publisher no longer retains the right to publish; or

ii) for which the Publisher has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable.

**6. RESPONSIBILITIES OF THE INSTITUTION**

6.1 The Institution shall:

* + 1. use all reasonable efforts to ensure that Authorised Users are made aware of the terms of this Sub-Licence;
		2. use all reasonable efforts to ensure that the Authorised Users comply with the terms of this Agreement. The Institution will immediately on becoming aware of any unauthorised use or other breach notify LIBRARY and take all reasonable steps to ensure that such activity ceases and to prevent any recurrence;
		3. provide LIBRARY with lists of valid IP addresses and update those lists on a regular basis the frequency of which will be agreed by the parties from time to time; and

 6.1.4 undertake to the Publisher and LIBRARY that the Institution’s computer system through which Science Database will be used is configured, and procedures are in place, toprohibit access to the Science Database by any person other than an Authorised User, and that during the term of this Sub-Licence, the Institution will continue to make best efforts to bar non-permitted access and to convey appropriate use information to its Authorised Users.

**7. TERM AND TERMINATION**

7.1 The term of this Sub-Licence will commence upon the date of signature and will remain in full force and effect until December 15, 2017 unless terminated earlier as provided for in this Clause 7.

7.2 Any party may terminate this Sub-Licence at any time on the material or persistent breach by the other of any obligation on its part under this Sub-Licence by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach forthwith by written notice to the other party.

7.3 Upon termination of this Sub-Licence by LIBRARY due to a material or persistent breach by the Institution, LIBRARY shall cease to authorise all on-line access to the Science Database. All rights under this Sub-Licence will be automatically terminated, except for such rights of action as will have accrued prior to such termination and any obligation which expressly or impliedly continue in force after such termination.

7.4 At this time, Publisher provides access only for the Subscription Term, and does not undertake to ensure future access to the online archives once the Subscription Term has expired. Although Publisher reserves the right to change their access policy at any time, for *Science*, after termination, users may register and continue to have access to the free peer review / original research content that is available directly from the Sciencemag.org platform (free content includes peer review / original research articles published one year prior to the current calendar date and back through 1997)

7.5 Upon termination of this Licence, Metadata, Modifications and copies of parts of the Science Database made by the Institution or Authorised Users may be retained. Such copies may be used after termination of this Sub-Licence subject to the terms of Clauses 3 and 4 of this Licence, which terms shall survive any termination of this Licence.

**8. ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

8.1 The Institution acknowledges that all copyrights, patent rights, trade marks, database rights, trade secrets and other intellectual property rights relating to the Science Database are the sole and exclusive property of Publisher or are duly licensed to the Publisher and that this Sub-Licence does not assign or transfer to the Institution any right, title or interest therein except for the right to use the Science Database in accordance with the terms and conditions of this Sub-Licence.

8.2 For the avoidance of doubt, the Publisher hereby acknowledges that any database rights created by Authorised Users as a result of textmining/datamining of the Science Database as referred to in Clause 3.1.8.10 shall be the property of such Authorised Users or the Institution.

8.3 For the avoidance of doubt, any intellectual property rights in the Metadata and Modifications generated by the Institution or Authorised Users shall be the property of the Institution and/or such Authorised Users.

**9. REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION**

9.1 The Publisher warrants to LIBRARY that it is entitled to grant the licence in this Sub-Licence and that the use of the Science Database as contemplated in this Sub-Licence will not infringe any copyright or other proprietary or intellectual property rights of any natural or legal person. The Publisher agrees that LIBRARY and the Institution shall have no liability and the Publisher will indemnify, defend and hold LIBRARY and the Institution harmless against any and all direct damages, liabilities, claims, causes of action, legal fees and costs incurred by the Institution in defending against any third party claim of intellectual property rights infringements or threats of claims thereof with respect of the Institution's and Authorised Users use of the Science Database, provided that: (1) the use of the Science Database has been in full compliance with the terms and conditions of this Licence; (2) the Licensee provides the Publisher with prompt notice of any such claim or threat of claim; (3) the Licensee co-operates fully with the Publisher in the defence or settlement of such claim; and (4) the Publisher has sole and complete control over the defence or settlement of such claim.

9.2 The Publisher reserves the right to change the content, presentation, user facilities or availability of parts of the Science Database and to make changes in any software used to make the Science Database available at their sole discretion. The Publisher will notify LIBRARY of any substantial change to the Science Database.

9.3 While the Publisher has no reason to believe that there are any inaccuracies or defects in the information contained in the Science Database, the Publisher makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Science Database including (without limitation) the fitness of such information or part for any purposes whatsoever and the Publisher accepts no liability for loss suffered or incurred by LIBRARY, the Institution or Authorised Users as a result of their reliance on the Science Database.

9.4 In no circumstances will the Publisher be liable to the Licensee for any loss resulting from a cause over which the Publisher does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, or operator errors.

9.5 The Institution agrees to notify LIBRARY immediately and provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with any works contained in the Science Database. It is expressly agreed that upon such notification, or if the Publisher becomes aware of such a claim from other sources, the Publisher may remove such work(s) from the Science Database. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a material breach of this Licence.

9.6 Nothing in this Sub-Licence shall make LIBRARY liable for breach of the terms of this Sub-Licence by any Authorised User provided that LIBRARY and the Institution did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.

9.7 The Institution represents to LIBRARY and the Publisher that its computer system through which the Science Database will be used is configured, and procedures are in place, toprohibit access to the Science Database by any person other than an Authorised User; that it shall inform Authorised Users about the conditions of use of the Science Database; and that during the term of this Sub-Licence, the Institution will continue to make all reasonable efforts to bar non-permitted access and to convey appropriate use information to its Authorised Users.

**10. FORCE MAJEURE**

10.1 Either party’s failure to perform any term or condition of this Sub-Licence as a result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities) ["Force Majeure"] shall not be deemed to be, or to give rise to, a breach of this Licence.

10.2 If either party to this Sub-Licence is prevented or delayed in the performance of any of its obligations under this Sub-Licence by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.

**11. ASSIGNMENT**

11.1 Except as permitted for under this Licence, neither this Sub-Licence nor any of the rights under it may be assigned by either party without obtaining the prior written consent of the other party, such consent shall not unreasonably be withheld or delayed. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Sub-Licence and agrees to be bound to all the terms of this Licence.

**12. GOVERNING LAW AND DISPUTE RESOLUTION**

12.1 This Sub-Licence shall be governed by and construed in accordance with English law and the parties irrevocably agree that any dispute arising out of or in connection with this Sub-Licence will be subject to and within the jurisdiction of the English courts.

12.2 The parties agree to use best efforts to resolve disputes in an informal manner, by decision of the Managing Director of the Publisher, LIBRARY Director and current Director of the Institution. Where the parties agree that a dispute arising out or in connection with this Sub-Licence would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.

12.3 Any person to whom a reference is made under Clause 12.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.

12.4 Each party shall provide the expert with such information and documentation as he may reasonably require for the purposes of his decision.

**13. NOTICES**

13.1 All notices required to be given under this Sub-Licence shall be given in writing in Russian and English and sent by electronic mail, fax or first class registered or recorded delivery to the relevant addressee at its address set out below, or to such other address as may be notified by either party to the other from time to time under this Licence, and notices shall be deemed to have been received (a) 24 hours after successful transmission in the case of electronic mail or fax; (b) fourteen (14) days after the date of posting in the case of first class registered or recorded delivery:

|  |  |  |
| --- | --- | --- |
| if to the LIBRARY |  | Elena Marinosyan, Department of National subscription,3rd  Khoroshevskaya str. 17, Moscow, 123298, RussiaTel. +7-495- 6989330  Email: marinosyan@gpntb.ru |
| If to the Publisher |  | Emilie DavidThe American Association for the Advancement of Science1200 New York Avenue NWWashington DC 20005, USA Email: edavid@aaas.org |
| If to the Sub-Licensee |  | [As stated in the Acceptance of Sub-Licence Form] |

**14. GENERAL**

14.1 This Licence, its Schedules and Annexes constitute the entire agreement between the parties relating to the Science Database and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.

14.2 The Schedules and Annexes shall have the same force and effect as if expressly set in the body of this Sub-Licence and any reference to this Sub-Licence shall include the Schedules.

14.3 No provision in this Sub-Licence is intended to be enforceable by a person who is not a party to this Licence.

14.4 The invalidity or unenforceability of any provision of this Sub-Licence shall not affect the continuation in force of the remainder of this Licence.

14.5 The rights of the parties arising under this Sub-Licence shall not be waived except in writing. Any waiver of any of a party's rights under this Sub-Licence or of any breach of this Sub-Licence by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Sub-Licence shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

14.6 The parties hereto agree that the specific contents of this Agreement, including, but not limited to, prices, quantities and specific Licence provisions, are confidential and may not be disclosed to third parties without the prior written consent of the other party.

### **SCHEDULE 1 - FEE**

The Fee is covered by LIBRARY

**SCHEDULE 2 – SCIENCE DATABASE**

1. *Science* 1997–Current Issue: Full text *Science* issues from 1997 to the present

ISSN: 1095-9203

2. *Science* Classic Digital Archive: 1880 – 1996: Full text Science issues from 1880 through 1996

**ACCEPTANCE OF SUB-LICENCE FORM**

The Sub-Licensee hereby accepts and agrees to the terms and conditions of this Sub-Licence and its Schedules.

Name of Sub-Licensee (name of institution): ………………………………………………………

……………………………………………………………………………………………………………

**Full postal address of Sub-Licensee:** …………………………………………………………………

# ……………………………………………………………………………………………………………IP addresses:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Library Premise(s)** | **Contact person** | **Address** | **IP addresses/passwords** |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Signature:**…………………………………………………………………………………….

**Signed by:** ……………………………………………………………………………………

**Position:**…………………………………………………………………………………………

**Date:**…………………………………….………………………………………………………

**Contact persons for** PUBLISHER **support and communications regarding the administration of the Agreement**

**Primary contact for Sub-Licensee:**

Dept:………………..

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Deputy contact for Sub-Licensee:**

Dept:…………………………….

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Note:** any changes to these contact details must be notified to LIBRARY in writing.

**Please sign two copies of this form and fax or post one original copy to:** Russian National Public Library for Science and Technology, Department of National subscription,

3rd  Khoroshevskaya str. 17, Moscow, 123298, Russia

and retain **one** original copy for institutional records.