



No. 1-5515745400, 1-5662368556, 1-5663121107, 1-5516298022, 1-5516370968,
1-5516962192, 1-5516975749, 1-5516970407, 1-5636463349, 1-5516995445,
1-4941277222, 1-5007145741, 1-5517005146, 1-5517009813
CRM 17.0.0 12/11

ELSEVIER SUBSCRIPTION AGREEMENT

This agreement ("Agreement") is entered into as of 13 November 2013 by and between **The Network of Alabama Academic Libraries**, 100 North Union St., Montgomery, AL 36104, USA ("NAAL"), authorized to enter into this Agreement for the benefit of the NAAL institutions identified on Schedule 2 (the "Subscriber"), and **Elsevier B.V.**, Radarweg 29, 1043 NX Amsterdam, The Netherlands ("Elsevier").

The parties hereto agree as follows:

SECTION 1. SUBSCRIPTION.

1.1 *Subscribed Products.*

Elsevier hereby grants to the Subscriber the non-exclusive, non-transferable right to access and use the products and services identified in Schedule 1 ("Subscribed Products") and provide the Subscribed Products to its Authorized Users (as defined herein) subject to the terms and conditions of this Agreement.

1.2 *Authorized Users/Sites.*

Authorized Users are the full-time and part-time students, faculty, staff, researchers, and independent contractors of the Subscriber affiliated with the Subscriber's locations listed on Schedule 2 (the "Sites") and individuals using computer terminals within the library facilities at the Sites permitted by the Subscriber to access the Subscribed Products. SUS shall promptly notify Elsevier of any material changes in the number of Authorized Users, which changes may result in termination at the end of the year for which the Fees were paid unless the parties are able to agree to appropriate fee adjustments for any subsequent years of the term.

1.3 *Authorized Uses.*

Each Authorized User may:

- access, search, browse and view the Subscribed Products;
- print, download and store a reasonable portion of individual items from the Subscribed Products for the exclusive use of such Authorized User;
- incorporate links to the Subscribed Products on the Subscriber's intranet and internet websites and in electronic coursepacks, reserves and course management systems and instructor websites, provided that the appearance of such links and/or statements accompanying such links will be changed as reasonably requested by Elsevier; ;
- provide print or electronic copies of individual items from the Subscribed Products to other Authorized Users and to third-party colleagues for their scholarly or research use; and
- access, search, browse, view, print, make electronic copies and store for the exclusive use of such Authorized User or, if the Authorized User is a librarian/information specialist, for the exclusive use of another Authorized User certain journal articles and book chapters from the ScienceDirect® online service that are not subscribed to as part of the Subscribed Products, with each twenty-four (24) hour access period for a selected article or chapter, a "Transaction".

The Subscriber may:

- deliver journal articles from Subscribed Titles (as defined herein) and, if any, book chapters from the Subscribed Products to fulfill requests as part of the practice commonly known as “interlibrary loan” from non-commercial libraries located within the United States, provided that the Subscriber’s staff reviews the requests and fulfills the requests in compliance with Section 108 of the U.S. Copyright Law (17 U.S.C. § 108) and the Guidelines for the Proviso of Subsection 108(g)(2) (Final Report of the National Commission on New Technological Uses of Copyrighted Works, 1978).

Notwithstanding anything to the contrary contained in this Agreement, open access content in the Subscribed Products is subject to the terms and conditions stated in the applicable user license identified in the individual journal article.

1.4 *Restrictions on Use of Subscribed Products.*

Except as expressly stated in this Agreement or otherwise permitted in writing by Elsevier, the Subscriber and its Authorized Users may not:

- abridge, modify, translate or create any derivative work based on the Subscribed Products, except to the extent necessary to make them perceptible on a computer screen to Authorized Users;
- remove, obscure or modify in any way any copyright notices, other notices or disclaimers as they appear in the Subscribed Products;
- use any robots, spiders, crawlers or other automated downloading programs, algorithms or devices to continuously and automatically search, scrape, extract, deep link, index or disrupt the working of the Subscribed Products; or
- substantially or systematically reproduce, retain or redistribute the Subscribed Products.

Authorized Users who are individuals who are independent contractors or are employed by independent contractors may use the Subscribed Products only for the purposes of the contracted research work for the Subscriber.

1.5 *Intellectual Property Ownership.*

The Subscriber acknowledges that all right, title and interest in and to the Subscribed Products remain with Elsevier and its suppliers, except as expressly set forth in this Agreement, and that the unauthorized redistribution of the Subscribed Products could materially harm Elsevier and its suppliers.

SECTION 2. ELSEVIER PERFORMANCE OBLIGATIONS.

2.1 *Access to Subscribed Products.*

Elsevier will make the Subscribed Products accessible to the Subscriber and its Authorized Users from the internet address set forth on Schedule 1 or as may be otherwise set forth herein.

2.2 *Quality of Service.*

Elsevier will use reasonable efforts to provide the Subscribed Products with a quality of service consistent with industry standards, specifically, to provide continuous service with an average of 98% up-time per year, with the 2% down-time including scheduled maintenance and repairs performed at a time to minimize inconvenience to the Subscriber and its Authorized Users, and to restore service as soon as possible in the event of an interruption or suspension of service. If, due to causes within its reasonable control, Elsevier is unable to provide the Subscriber with access to the service for a period exceeding three (3) consecutive days, then Elsevier will refund to the Subscriber the amount of the Fees

calculated by dividing the number of days of downtime by 365 and multiplied by the amount of the Fees for the then current year.

2.3 *Withdrawal of Content.*

Elsevier reserves the right to withdraw from the Subscribed Products content that it no longer retains the right to provide or that it has reasonable grounds to believe is unlawful, harmful, false or infringing.

2.4 *Usage Data Reports.*

Elsevier will make usage data reports on the Subscriber's usage activity accessible online on a monthly basis to the librarians/administrators employed by the Subscriber for internal use only. Such reports may be accessed by vendors or other third parties retained by the Subscriber only with the express written permission of Elsevier and for the purpose of usage analysis of the Subscriber.

SECTION 3. SUBSCRIBER PERFORMANCE OBLIGATIONS.

3.1 *Authentication.*

Access to the Subscribed Products will be authenticated by the use of Internet Protocol ("IP") address(es) and/or usernames and passwords and/or a delegated authentication mechanism requiring at least two different credentials, as identified on Schedule 2.

3.2 *Protection from Unauthorized Access and Use.*

The Subscriber will use reasonable efforts to:

- limit access to and use of the Subscribed Products to Authorized Users and notify all Authorized Users of the usage restrictions set forth in this Agreement and that they must comply with such restrictions;
- issue any passwords or credentials used to access the Subscribed Products only to Authorized Users, not divulge any passwords or credentials to any third party, and notify all Authorized Users not to divulge any passwords or credentials to any third party; and
- promptly upon becoming aware of any unauthorized use of the Subscribed Products, inform Elsevier and take appropriate steps to end such activity and to prevent any recurrence.

In the event of any unauthorized use of the Subscribed Products, Elsevier may suspend the access and/or require that the Subscriber suspend the access from where the unauthorized use occurred upon notice to the Subscriber. The Subscriber will not be liable for unauthorized use of the Subscribed Products by any Authorized Users provided that the unauthorized use did not result from the Subscriber's own negligence or willful misconduct and that the Subscriber did not permit such unauthorized use to continue after having actual notice thereof.

SECTION 4. FEES AND PAYMENT TERMS.

The Subscriber will pay to Elsevier the fees set forth in Schedule 1 (the "Fees") within sixty (60) days of the date of the start of the subscription. The Fees will be exclusive of any sales, use, value added, withholding or similar tax and the Subscriber will be liable for any such taxes in addition to the Fees unless the Subscriber is entitled to exemption from taxation and provides to Elsevier appropriate documentation of its tax-exempt status upon Elsevier's request. Elsevier will send a copy of Elsevier's invoice to the Subscriber's subscription agent identified as the Billing Contact on Schedule 2 (the "Agent"), and the Subscriber will cause the Agent to pay Elsevier in accordance with the payment terms set forth above. If the Agent fails to pay the full amount of Elsevier's invoice on a timely basis, Elsevier may suspend the Subscriber's access to the Subscribed Products until the unpaid amounts of such invoice, and any interest charges, are paid.

SECTION 5. TERM.

5.1 *Term.*

The term of this Agreement will commence on 01 January 2014 and continue until 31 December 2018.

5.2 *Renewal.*

This Agreement will be automatically renewed for successive one-year terms, subject to appropriate adjustments to Schedule 1, unless either party gives notice to the other by 1 October prior to the end of the then current term that it does not intend to renew.

5.3 *Early Termination Due To Insufficient Budgetary Allotment From Government.*

The Subscriber may terminate this Agreement upon thirty (30) days notice given by the Subscriber to Elsevier if sufficient funds are not provided, allocated or allotted in future university approved budgets of the Subscriber or reasonably available or expected to become available from other sources at the time the Subscriber's payment obligation attaches to permit the Subscriber, in the exercise of its reasonable administrative discretion, to continue this Agreement. Notwithstanding the foregoing, if access to the Subscribed Products was provided but not yet paid for prior to termination, Elsevier will be entitled to receive a pro rata portion of the Fees attributable to the period of time that access was provided.

SECTION 6. ELSEVIER WARRANTIES AND INDEMNITIES.

6.1 *Warranties.*

Elsevier warrants that use of the Subscribed Products in accordance with the terms and conditions herein will not infringe the intellectual property rights of any third party.

6.2 *Indemnities.*

Elsevier will indemnify, defend and hold harmless the Subscriber and its Authorized Users from and against any loss, damage, costs, liability and expenses (including reasonable attorneys' fees) arising from or out of any third-party action or claim that use of the Subscribed Products in accordance with the terms and conditions herein infringes the intellectual property rights of such third party. If any such action or claim is made, the Subscriber will promptly notify and reasonably cooperate with Elsevier. This indemnity obligation will survive the termination of this Agreement.

6.3 *Disclaimer.*

EXCEPT FOR THE EXPRESS WARRANTIES AND INDEMNITIES STATED HEREIN AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SUBSCRIBED PRODUCTS ARE PROVIDED "AS IS" AND ELSEVIER AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE SUBSCRIBED PRODUCTS AND ANY OTHER DATA, DOCUMENTATION OR MATERIALS PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ERRORS, INACCURACIES, OMISSIONS, OR DEFECTS CONTAINED THEREIN, AND ANY IMPLIED OR EXPRESS WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6.4 *Limitation of Liability.*

Except for the express warranties and indemnities stated herein and to the extent permitted by applicable law, in no event will Elsevier or its suppliers be liable for any indirect, incidental, special, consequential or punitive damages including, but not limited to, loss of data, business interruption or loss of profits, arising out of or in connection with this Agreement, or will the liability of Elsevier and its suppliers to the Subscriber exceed a sum equal to the Fees paid by the Subscriber hereunder during the twelve (12) month period immediately preceding the date on which the claim arose, even if Elsevier or any supplier has been advised of the possibility of such liability or damages.

SECTION 7. GENERAL.

7.1 *Force Majeure.*

Neither party's delay or failure to perform any provision of this Agreement as a result of circumstances beyond its control (including, but not limited to, war, strikes, fires, floods, power failures, telecommunications or Internet failures or damage to or destruction of any network facilities or servers) will be deemed a breach of this Agreement.

7.2 *Severability.*

The invalidity or unenforceability of any provision of this Agreement will not affect any other provisions of this Agreement.

7.3 *Entire Agreement.*

This Agreement contains the entire understanding and agreement of the parties and replaces and supersedes any and all prior and contemporaneous agreements, communications, proposals and purchase orders, written or oral, between the parties with respect to the subject matter contained herein.

7.4 *Modification.*

No modification, amendment or waiver of any provision of this Agreement will be valid unless in writing and signed by the parties.

7.5 *Assignment.*

The Subscriber will not assign, transfer or license any of its rights or obligations under this Agreement unless it obtains the prior written consent of Elsevier, which consent will not unreasonably be withheld.

7.6 *Privacy.*

Elsevier will not, without the prior written consent of the Subscriber, transfer any personal information of any Authorized Users to any non-affiliated third party or use it for any purpose other than as described in this Agreement and in the online privacy policy for the relevant online service.

7.7 *Notices.*

All notices given pursuant to this Agreement will be in writing and delivered to the party to whom such notice is directed at the address specified below or the electronic mail address as such party will have designated by notice hereunder.

If to Elsevier: Elsevier B.V. c/o Regional Sales Office, Elsevier Inc., 360 Park Avenue South, New York, NY 10010-1710, USA.

If to NAAL and/or the Subscriber: The Network of Alabama Academic Libraries, 100 North Union St., Montgomery, AL 36104, USA.

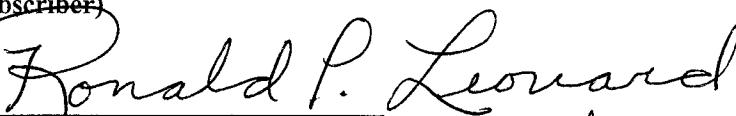
7.8 *Execution.*

This Agreement and any amendment thereto may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective to the same extent as original signatures.

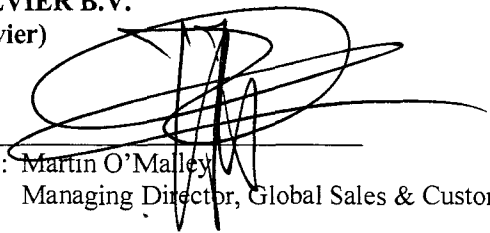
IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

THE NETWORK OF ALABAMA ACADEMIC LIBRARIES

(Subscriber)


Name: Ronald P. LEONARD
Title: Director of NAAL

ELSEVIER B.V.
(Elsevier)



Name: Martin O'Malley

Title: Managing Director, Global Sales & Customer Marketing, Science & Technology

No. 1-5515745400, 1-5662368556, 1-5663121107 1-5516298022, 1-5516370968,
1-5516962192, 1-5516975749, 1-5516970407, 1-5636463349, 1-5516995445,
1-4941277222, 1-5007145741, 1-5517005146, 1-5517009813

ELSEVIER SUBSCRIPTION AGREEMENT
Schedule 1
Subscribed Products/Access/Fees

AUBURN UNIVERSITY

No. 1-5515745400

Subscribed Products – publisher	Access	2014	2015	2016	2017	2018
ScienceDirect® online – Elsevier B.V.	sciencedirect.com					
Freedom Collection						
• <i>Total Electronic Subscription</i>		\$1,520,624.72	\$1,585,251.27	\$1,656,587.58	\$1,735,275.49	\$1,822,039.26
• <i>Total Subscription Turnover</i>		\$1,520,624.72	\$1,585,251.27	\$1,656,587.58	\$1,735,275.49	\$1,822,039.26
• Electronic Subscription Fee (10% discounted)		\$1,368,562.43	\$1,426,726.33	\$1,490,929.02	\$1,561,748.15	\$1,639,835.55
• Content Fee 9 %		\$136,856.21	\$142,672.60	\$149,092.87	\$156,174.78	\$163,983.52
• Freedom Collection Fee		\$52,000.00	\$54,210.00	\$56,649.45	\$59,340.30	\$62,307.31
Clinics Collection Fee		\$5,723.83	\$6,010.02	\$6,310.52	\$6,626.05	\$6,957.35
TOTAL FEES		\$1,563,142.47	\$1,629,618.95	\$1,702,981.86	\$1,783,889.28	\$1,873,083.73

No. 1-5663121107

Subscribed Products – publisher	Access	2014 USD	2015 USD	2016 USD	2017 USD	2018
ScienceDirect® online – Elsevier B.V.	sciencedirect.com					
Elsevier Book Series / Handbook Series (2008-) -Handbook of Numerical Analysis		\$302.64	\$317.77	\$333.66	\$350.34	\$367.86
TOTAL FEES		\$302.64	\$317.77	\$333.66	\$350.34	\$367.86

Subscribed Products – publisher	Access	2014 USD	2015 USD	2016 USD	2017 USD	2018
ScienceDirect® online – Elsevier B.V.	sciencedire ct.com					
Cell Press Collection Fee		\$20,104.01	\$20,958.43	\$21,901.56	\$22,941.88	\$24,088.98
TOTAL FEES		\$20,104.01	\$20,958.43	\$21,901.56	\$22,941.88	\$24,088.98

UNIVERSITY OF ALABAMA

Subscribed Products – publisher	Access	2014	2015	2016	2017	2018
ScienceDirect® online – Elsevier B.V.	sciencedire ct.com					
Freedom Collection						
• Total Electronic Subscription		\$1,259,762.50	\$1,313,302.41	\$1,372,401.01	\$1,437,590.06	\$1,509,469.57
• Total Subscription Turnover		\$1,259,762.50	\$1,313,302.41	\$1,372,401.01	\$1,437,590.06	\$1,509,469.57
• Electronic Subscription Fee (10% discounted)		\$1,133,786.45	\$1,181,972.37	\$1,235,161.13	\$1,293,831.28	\$1,358,522.85
• Content Fee 9 %		\$113,378.57	\$118,197.16	\$123,516.03	\$129,383.04	\$135,852.20
Book Series Titles		\$14,229.16	\$14,833.90	\$15,501.42	\$16,237.74	\$17,049.63
• Freedom Collection Fee		\$52,000.00	\$54,210.00	\$56,649.45	\$59,340.30	\$62,307.31
Cell Press Collection Fee		\$10,323.82	\$10,762.58	\$11,246.90	\$11,781.13	\$12,370.18
Clinics Collection Fee		\$3,736.48	\$3,923.30	\$4,119.47	\$4,325.44	\$4,541.71
Elsevier Book Series / Handbook Series (2008-)						
-Advances in Heat Transfer		\$595.85	\$625.64	\$656.92	\$689.77	\$724.26
-Advances in Computers		\$496.55	\$521.38	\$547.45	\$574.82	\$603.56
-Comprehensive Analytical Chemistry		\$527.44	\$553.81	\$581.50	\$610.58	\$641.11
-Advances in Applied Microbiology		\$601.69	\$631.77	\$663.36	\$696.53	\$731.36