LICENCE AGREEMENT between REGENTS OF THE UNIVERSITY OF CALIFORNIA, with its principal offices at the CALIFORNIA DIGITAL LIBRARY, and OXFORD UNIVERSITY PRESS

THIS AGREEMENT ("the Agreement") is made between OXFORD UNIVERSITY PRESS ("Licensor") and the REGENTS OF THE UNIVERSITY OF CALIFORNIA, a non-profit academic institution with its principal offices at CALIFORNIA DIGITAL LIBRARY ("Licensee"), and is effective from July 1, 2006.

IT IS AGREED as follows:

1. **DEFINITIONS**

In this Agreement, the following expressions shall have the following meanings:

"Authorised User" shall mean an individual who is authorised by the Licensee to access the Licensee's information services available through the Licensee's Secure Network and who is (i) affiliated with the Licensee as a current student, faculty member, employee, or in some other capacity whereby they are permitted to access such services in the Licensee's ordinary course of business, whether from a computer or terminal on the Licensee's Secure Network, or offsite via a modem link to a valid IP address on the Licensee's Secure Network; or (ii) physically present at the Site;

"Commercial Use" shall mean use for the purposes of monetary reward (whether by or for the Licensee, an Authorised User, or any other person or entity) by means of sale, resale, loan, transfer, hire, or other form of exploitation of the Licensed Work(s);

"Licensed Work(s)" shall mean the online version of the full OUP Journal's Archive details of which are set out in Appendix A;

"Licensor Trademarks" shall mean the designations OXFORD and OXFORD UNIVERSITY PRESS;

"Material" shall mean any abstract, article, index, advertising or other material contained in the Licensed Work(s) and accessed online;

"Passwords" shall mean any Licensee’s password(s) required to be created in the Online Registration Materials;

"Secure Network" shall mean a network (whether a stand alone network or a virtual network within the Internet) which is only accessible to Authorised Users. A cache server or any server or network which can be accessed by unauthorised users is not a secure network for these purposes;

"Server" shall mean either Licensor's server or a third party server designated by Licensor on which the Licensed Work(s) are mounted and through which the Licensee and its authorised Users may gain access to the Licensed Work(s) by means of the World Wide Web;

"Site" shall mean the geographical site (or sites) in respect of which the Licensee has purchased an online subscription from which Authorised Users can access the Licensed Work(s) onsite from a computer or terminal on the Licensee's Secure Network located at the site and via which Authorised Users can additionally access the Licensed Work(s) offsite via a modem link to a valid IP address on the Licensee's Secure Network located at the site;

"Fees" shall mean the total price agreed between the Licensor and the Licensee for the Licensed Work as stated in Appendix D of the Licence Agreement.
2. **GRANT OF LICENCE, USAGE RIGHTS AND LIMITATIONS ON USE**

2.1 In consideration of the payment of the Fees as set out in Appendix D provided the Licensee complies in full with the terms and conditions of this Licence, the Licensor grants the Licensee the non-exclusive, non-transferable, worldwide, perpetual right to allow Authorised Users to access and use the Licensed Work(s) by means of one or more Secure Networks for the purposes of research, teaching, and private study.

2.2 Authorised Users may:

2.2.1 access the Server by means of a Secure Network in order to search the Licensed Work(s) and to view, retrieve, and display portions thereof;

2.2.2 electronically save portions of the Licensed Work(s);

2.2.3 print out single copies of portions of the Licensed Work(s);

2.2.4 provide print or electronic copies of all or any part of the Licensed Work(s) to national or international regulatory authorities for the purposes of or in anticipation of regulatory approval and/or trademark applications or other regulatory purposes in respect of the Licensee’s products or services.

2.3 The Licensee and Authorised Users may not:

2.3.1 remove or alter Licensor’s copyright notices or other means of identification or disclaimers as they appear in the Licensed Work(s);

2.3.2 systematically make printed or electronic copies of multiple portions of the Licensed Work(s) for any purpose, except for classroom use;

2.3.3 display or distribute any part of the Licensed Work(s) on any electronic network, including without limitation the Internet and the World Wide Web, other than a Secure Network;

2.3.4 permit anyone other than Authorised Users to access or use the Licensed Work(s);

2.3.5 use all or any part of the Licensed Work(s) for any Commercial Use.

2.4 Where the Licensee is an academic library or part of a non-commercial organisation, then notwithstanding any restriction in clause 2.3, the Licensor hereby grants the Licensee the non-exclusive right to supply (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted after printing) to another academic library in the same country as the Licensee or library which is part of a non-commercial organisation in the same country as the Licensee, for the purposes of research or private study and not for commercial use, a single paper copy of an electronic original of an individual document from a journal included in the Licensed Work(s). If the number of copies provided in any one calendar year for any one journal title to any one library exceeds five articles, the Licensee may (i) supply the article and pay the Licensor’s standard document delivery copyright royalty rate; (ii) forward the request to the Licensor who will undertake to provide the article on a pay per view basis; (iii) forward the request to a document delivery company; or (iv) return the request unfulfilled. The Licensor may request reports in respect of the Licensee’s use of the Licensed Work(s) in such inter-library loans, provided the confidentiality of user data shall be maintained.
2.5 If the Licensee is located in the United States of America, the Licensee agrees to fulfil such requests in compliance with Section 108 of the United States Copyright Law (17 USC §108, "Limitations on exclusive rights: reproduction by libraries and archives") and with guidelines developed by the National Commission on New Technological Uses of Copyrighted Works (CONTU Guidelines) from time to time, the text of which is available as part of the US Copyright Office Circular 21.

3. RESPONSIBILITIES OF THE LICENSEE

3.1 The Licensee will provide to the Licensor in writing all identifying information relating to the Licensee and its Authorised Users. The Licensee acknowledges that access to the Licensed Work(s) under this Agreement is conditional upon the Licensee providing this information.

3.2 The Licensee will obtain at its cost all telecommunications and other equipment and software (including an Internet browser and portable document file reader) together with all relevant software licenses necessary to access the Licensed Work(s) online via the Licensee's Secure Network.

3.3 The Licensee will:

3.3.1 be responsible for the confidentiality and all use of its Password(s);

3.3.2 use all reasonable efforts to ensure that only Authorised Users are permitted access to the Licensed Work(s) by means of the Licensee's Secure Network;

3.3.3 take all reasonable steps to ensure that all Authorised Users abide by terms of this Agreement.

3.4 The Licensee will notify Licensor as soon as practicable if it becomes aware of any of the following: (a) any loss or theft of the Licensee's Password(s); (b) any unauthorised use of any of the Licensee's Password(s); or (c) any breach by an Authorised User of the terms of this Agreement. Upon becoming aware of any breach of the terms of this Agreement by an Authorised User, the Licensee further agrees promptly to initiate disciplinary procedures in accordance with the Licensee's standard practice.

4. RESPONSIBILITIES OF LICENSOR

4.1 Licensor shall use all reasonable efforts:

4.1.1 to make the Licensed Work(s) available by means of the World Wide Web to the Licensee;

4.1.2 to ensure that the Server has sufficient capacity and rate of connectivity to provide the Licensee with a quality of service consistent with current standards in the World Wide Web on-line information provision industry;

4.1.3 to restore access to the Licensed Work(s) as soon as possible in the event of an interruption or suspension of the service.

5. ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

5.1 The Licensee acknowledges that all copyrights, patent rights, Licensor Trademarks, services marks, database rights, trade secrets and other intellectual property rights relating to the Licensed Work(s) (collectively the "Licensor Intellectual Property"), are owned by or exclusively licensed to the Licensor and that this Agreement does not convey to the Licensee any right, title, or interest therein except for the right to use the Licensed Work(s) in accordance with the terms and conditions of this Agreement.
5.2 The Licensee shall notify Licensor promptly (i) of the facts and circumstances surrounding any unauthorised possession or use of the Licensed Work(s), or Licensor Intellectual Property, or any portion thereof; and (ii) on becoming aware of any claim by any third party that the Licensed Work(s) infringes an intellectual property or proprietary right of any third party.

6. REPRESENTATIONS AND WARRANTIES

6.1 LICENSOR REPRESENTS AND WARRANTS THAT IT HAS THE POWER TO ENTER INTO THIS AGREEMENT AND TO GRANT THE RIGHTS CONFERRED HEREBIN TO THE LICENSEE AND THAT THE LICENSED WORK(S) DO NOT VIOLATE OR INFRINGE UPON ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHT OR CONTRACT RIGHT OF ANY THIRD PARTY.

6.2 SAVE AS PROVIDED ABOVE, LICENSOR GIVES NO WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO REPRESENTATION THAT (I) THE LICENSED WORK(S) WILL BE OF SATISFACTORY QUALITY, SUITABLE FOR ANY PARTICULAR PURPOSE OR FOR ANY PARTICULAR USE UNDER SPECIFIED CONDITIONS, NOTWITHSTANDING THAT SUCH PURPOSE, USE, OR CONDITIONS MAY BE KNOWN TO LICENSOR; OR (II) THAT THE LICENSED WORK(S) WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION OR THAT ANY ERRORS WILL BE CORRECTED; OR (III) THAT THE MATERIAL PUBLISHED IN THE LICENSED WORK(S) IS EITHER COMPLETE OR ACCURATE.

6.3 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE OR ANY THIRD PARTY FOR ANY LOSS RESULTING FROM A CAUSE OVER WHICH LICENSOR 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.

6.4 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES OR LOSS OF PROFITS INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR CORRUPTION OF DATA, LOSS OF PROGRAMS, LOSS OF BUSINESS OR GOODWILL, OR OTHER DAMAGES OR LOSSES OF ANY NATURE ARISING OUT OF THE USE OF, OR INABILITY TO USE THE LICENSED WORK(S).

6.5 WITHOUT PREJUDICE TO THE INDEMNITY IN CLAUSE 7.1, THE LICENSEE AGREES THAT THE ENTIRE LIABILITY OF LICENSOR TO THE LICENSEE OR AUTHORISED USERS ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, BY STATUTE OR OTHERWISE) IN ANY WAY CONNECTED WITH THE USE OR INABILITY TO USE THE LICENSED WORK(S) SHALL BE THE REFUND OF ANY FEE PAID TO THE LICENSOR FOR ONLINE ACCESS TO THE LICENSED WORK(S).

7. INDEMNIFICATION AND FORCE MAJEURE

7.1 Notwithstanding the limitation of liability in clause 6.5, Licensor shall defend, indemnify, and hold the Licensee harmless against all claims, suits, proceedings, losses, liabilities, and damages (including costs, expenses, and reasonable attorneys' fees) asserted by third parties against the Licensee which arise out of any act or omission by Licensor that constitutes a breach of Licensor's warranties hereunder. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.

7.2 The Licensee shall defend, indemnify, and hold Licensor harmless against all claims, suits, proceedings, losses, liabilities, and damages (including costs, expenses, and reasonable attorneys' fees) arising from (i) any unauthorised use or dissemination of the Licensed Work(s) by the Licensee or Authorised Users and (ii) any violation of this Agreement.
7.3 The obligations in clauses 7.1 and 7.2 will survive the termination of this Agreement.

7.4 The Licensee and Licensor shall not be responsible to one another for any failure to perform any obligation under this Agreement due to Acts of God, war, riot, embargoes, acts of civil or military authorities, fire, flood, typhoon, wind storm, snow storm, blizzard, hurricane, or other cause that is outside the control of the party and could not be avoided by the exercise of due care. Notwithstanding the occurrence of any of the events set forth in this clause, the parties shall at all times use reasonable efforts to perform all obligations under this Agreement in a timely manner, taking account of the existing circumstances.

8. **TERMINATION**

8.1 The Licensee may terminate this Agreement at any time by notice in writing to the Licensor PROVIDED THAT such termination does not entitle the Licensee to any refund of fees paid, except for cause.

8.2 Either party may terminate this Agreement forthwith by serving written notice on the other in the event that the other party commits a material breach of this Agreement and in the case of a breach capable of remedy fails to remedy the same within 30 days of a request so to do. Without limitation, a breach by the Licensee of the provisions of Clause 3.3 or 3.4 above would constitute a material breach of this Agreement.

8.3 Licensor reserves the right at any time on 30 days notice to the Licensee to terminate this Agreement in respect of any individual title in the Licensed Work(s) due to ceasing publication of such title.

9. **GENERAL**

9.1 This Agreement is personal to and binding on the parties and neither this Agreement nor any of the rights under it may be assigned or sublicensed.

9.2 All notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this Licence, or such other address as the party concerned shall from time to time designate by notice pursuant to this Clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted 10 (ten) days after posting. All notices to Licensor shall be marked for the attention of the Group Legal Director. All notices to the Licensee shall be marked for the attention of the person whose contact details are given in the Online Registration Materials.

9.3 This Agreement constitutes the entire agreement of the parties about its subject matter, supersedes 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 in writing signed by both parties.

9.4 No provision in this Agreement is intended to be enforceable by a person who is not a party to this Agreement.

9.5 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other further breach.

9.6 This Agreement shall be governed and construed in accordance with California state law.

9.7 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.
9.8 Licensor shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-time includes periodic unavailability due to maintenance of OUP’s server(s), the installation or testing of software and the loading of additional Licensed Materials as they become available, Scheduled down-time will be performed at a time to minimize inconvenience to Licensee and its Authorized Users.

9.9 In the event that Licensor utilizes any type of digital rights management technology to control the access or the usage of Licensed Work, Licensor agrees to notify Licensee of the name, contact information and any technical specifications for the digital rights management technology utilized.

9.10 If Licensor utilizes any type of digital watermarking technology for any element of the Licensed Work, Licensor agrees that watermarks will not be visible to the human eye and will not degrade image quality. These watermarks shall not contain user-related information such as account number or IP address. If digital watermarking technology is used, Licensor agrees to notify Licensee, in advance, of the name, contact information, and any technical specifications for the technology used.

We accept the terms of this Licence:

[Text Deleted]

[...date: 10-8-08...]

[Text Deleted]

[...date: 27-04-2008...]

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Appendix A – the Licensed Work

1. African Affairs – 1902 *
2. Age and Ageing - 1972
3. Alcohol and Alcoholism - 1966
4. American Journal of Epidemiology - 1925
5. American Literary History – 1989 *
6. Annals of Botany - 1908
12. Biometrika – 1914 *
13. BJA: British Journal of Anaesthesia - 1958
14. Brain - 1878
15. The British Journal for the Philosophy of Science - 1950
17. The British Journal of Criminology - 1961
21. The Cambridge Quarterly - 1972
22. Carcinogenesis - 1980
23. Cerebral Cortex - 1991
24. Chemical Senses - 1976
25. Community Development Journal – 1966
27. Contributions to Political Economy - 1982
28. Early Music – 1973 *
29. ELT Journal - 1947
30. English Historical Review – 1886 *
31. Epidemiologic Reviews - 1979
32. Essays in Criticism - 1951
33. European Heart Journal - 1980
34. The European Journal of Orthodontics - 1979
36. European Review of Agricultural Economics - 1974
37. European Sociological Review – 1985 *
38. Family Practice - 1984
40. Forum for Modern Language Studies - 1965
41. French History - 1987
42. French Studies - 1947
44. Glycobiology - 1991
45. Health Education Research - 1986
46. Health Policy and Planning - 1986
47. Health Promotion International - 1986
49. Holocaust and Genocide Studies - 1987
50. Human Molecular Genetics - 1992
51. Human Reproduction - 1986
52. Human Reproduction Update - 1995
53. ICES Journal of Marine Sciences - 1903 (Included in the Archive from 2007)
54. IMA Journal of Applied Mathematics - 1938
55. IMA Journal of Management Mathematics - 1990
56. IMA Journal of Mathematical Control and Information - 1984
58. Industrial and Corporate Change - 1992
60. Integrative and Comparative Biology - 2002. (First published in 1961 as American Zoologist)
61. International and Comparative Law Quarterly - 1952 *
62. International Immunology - 1989
64. International Journal of Epidemiology - 1972
70. IT Now (formerly the Computer Bulletin) - 1957
71. Japanese Journal or Clinical Oncology - 1971
73. Journal of Antimicrobial Chemotherapy - 1978
74. Journal of Biochemistry - 1937
75. Journal of Design History - 1988 *
76. Journal of Electron Microscopy - 1952
77. Journal of Environmental Law - 1989
78. Journal of Experimental Botany - 1950
79. Journal of Heredity - 1910
80. Journal of Islamic Studies - 1990
81. Journal of Law, Economics, & Organization - 1985 *
83. Journal of Molluscan Studies - 1935
84. Journal of Pediatric Psychology - 1976
85. Journal of Petrology - 1960
86. Journal of Plankton Research - 1979
87. Journal of Public Administration Research - 1991 *
90. Journal of Semantics - 1984
91. Journal of Semitic Studies - 1956
92. Journal of the American Academy of Religion - 1933 *
94. Journal of the History of Medicine and Allied Sciences - 1946
95. Journal of the National Cancer Institute - 1988
96. Journal of the Royal Musical Association - 1876 *
97. Journal of Theological Studies - 1900
100. Literature and Theology - 1987
101. Logic Journal of the IGPL - 1994
102. The Library - 1889
104. Medical Law Review - 1993
105. Mind - 1876 *
106. Modern Judaism - 1981 *
108. Music and Letters - 1920 *
109. The Musical Quarterly – 1917 *
110. Mutagenesis - 1986
111. Nephrology Dialysis Transplantation - 1986
112. Notes and Queries - 1849
113. Nucleic Acids Research - 1973
114. Occupational Medicine - 1951
115. Opera Quarterly - 1985
117. Oxford Economic Papers - 1938 *
120. Parliamentary Affairs - 1948
121. Past & Present – 1929 *
122. Philosophia Mathematica - 1964
123. Plant and Cell Physiology - 1960
124. Political Analysis - 1991
125. Protein Engineering – 1988 *
126. Public Opinion Quarterly – 1937 *
127. Publius – 2006 *
128. QJM: An International Journal of Medicine - 1908
129. Quarterly Journal of Mathematics - 1930
131. Refugee Survey Quarterly - 1982
132. Review of English Studies – 1925 *
133. Review of Financial Studies – 1996 *
134. Rheumatology - 1962
135. Social History of Medicine
139. Toxicological Sciences - 1991
140. Twentieth Century British History - 1990
141. World Bank Economic Review - 1987
142. World Bank Research Observer - 1986
143. Year's Work in Critical and Cultural Theory - 1993
144. Year's Work in English Studies - 1922

Asterisk (*) indicates overlap with JSTOR title.
Appendix B - Campuses of the University of California

University of California, Berkeley
University of California, Davis
University of California, Irvine
University of California, Los Angeles
University of California, Riverside
University of California, San Diego
University of California, San Francisco
University of California, Santa Barbara
University of California, Santa Cruz
University of California, Merced
University of California Office of the President

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Email: [Text Deleted]

CDL Technical Contact
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Sr. Programmer Analyst
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510.287.3825 – fax
Email: [Text Deleted]
Appendix C – University of California IP Address List

UC Berkeley
[Text Deleted]

UC Davis
[Text Deleted]

UC Irvine
[Text Deleted]

UC Los Angeles
[Text Deleted]
Appendix D – Business Terms

Licensed Works: **Oxford Journals Complete Archive**

Fees:

One-time CDL cost: [Text Deleted]

Ongoing hosting fees - [Text Deleted]

Additional Terms:

- Includes all ten (10) University of California campuses, plus UC Office of the President

- Includes all titles in 2006 Complete Archive.

- Future OUP titles (new acquisitions and launches) are not included.

- Titles listed in Appendix E - 31 additional titles published by Oxford in 2006 – will be included in Licensed Works at no additional cost, should their archives be digitized. It is understood that OUP are currently unable to load the archive content for these journals on a title-by-title basis; if the digital backfiles are bundled together on our system with that of titles not included in this agreement (new acquisitions and launches), OUP are currently unable to separate them. When content is bundled together in this manner, OUP will, subject to approval, invoice licensee for the cost of the backfiles to the non-licensed journals only, so that access can be given.

- Licensor agrees to provide Complete Archive content to Ithaka Harbor’s Portico for archival retention.

- For titles lost to archive, title price paid by Licensee will be credited to future Licensee fees due.
Appendix E – 2006 Backfiles Not Yet Digitized

American Law and Economics Review
Biostatistics
Brief Treatment and Crisis Intervention
Chinese Journal of International Law
Continuing Education in Anaesthesia, Critical Care & Pain
Enterprise & Society: The International Journal of Business History
Europace
European Journal of International Law
Human Rights Law Review
International Journal of Constitutional Law
International Relations of the Asia-Pacific
Journal of Competition Law and Economics
Journal of Conflict and Security Law
Journal of Deaf Studies and Deaf Education
Journal of Economic Geography
Journal of Financial Econometrics
Journal of International Criminal Justice
Journal of International Economic Law
Journal of the ICRU
Law, Probability and Risk
Molecular Biology and Evolution
Radiation Protection Dosimetry
Review of Financial Studies
Schizophrenia Bulletin
Screen
Social Science Japan Journal
Socio-Economic Review