

## GeoScienceWorld Subscriber License Agreement

**THIS LICENSE AGREEMENT**, entered into as of this \_\_\_\_ day of \_\_\_\_\_, 200\_, by and between [Name of Institution/Organization], with offices at \_\_\_\_\_, (hereinafter referred to as “Subscriber”), GeoScienceWorld, with offices at 4220 King Street, Alexandria, VA 22302 USA, and [Name of Agent], with offices at \_\_\_\_\_, (hereinafter referred to as “Agent”), provides for use by Subscriber of the Licensed Material, as described herein, under a limited, non-exclusive license; for a fee; and subject to the terms and conditions set forth below.

### Definitions

The terms defined herein when used with initial capitalization will, for all purposes of this License Agreement, have the meanings herein specified, unless the context expressly or by necessary implication otherwise requires, and such meaning will apply whether a term is in singular or plural:

- “Agent” means the organization authorized by GSW to represent GSW as a sales agent and to be a party to this License Agreement.
- “Authorized Site” means the location of Subscriber composed of a single institution or organization within a single metropolitan or contiguous geographic area for which Subscriber requests designation as the site from which Subscriber and Authorized Users are permitted to access the Licensed Material. The IP Address for said Authorized Site for purposes of this License Agreement is set forth in Schedule A.
- “Authorized Users” means those persons officially affiliated or registered with Subscriber as specified in Section 2.
- “Commercial Use” means use for the purposes of monetary reward (whether by or for the Subscriber or an Authorized User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Material, even if by a nonprofit, tax-exempt, or governmental entity. Recovery of direct and indirect cost by the Subscriber from Authorized Users, or use by the Subscriber or by an Authorized User of the Licensed Material in the course of research funded by a commercial organization, is not deemed to constitute Commercial Use.
- “COUNTER” means “Counting Online Usage of Networked Electronic Resources”, which is an international nonprofit initiative designed to serve librarians, publishers and intermediaries by facilitating the recording and exchange of online usage statistics. (For more information, see: <http://www.projectcounter.org>.)
- “Electronic Reserve” means an electronic or other collection of articles, chapters, or other materials from different copyrighted sources compiled for a specific course or series of instruction by an Authorized User of the Subscriber.
- “Fee” means the fee set out in Schedule B, or in new Appendices to this License Agreement that may be agreed to in writing from time to time by the parties to this License Agreement.
- “GeoRef” means the bibliographic online database abstracting and indexing publications in the geological and earth sciences, produced by the American Geological Institute (hereinafter referred to as “AGI”), and protected by trademark and copyright.
- “GeoScienceWorld Millennium Collection” means an electronic aggregation of the full texts of journals and related publications in the geosciences, protected by trademark and copyright, inclusive of such

literature published as far back as 2000, depending upon the publication, and updated continuously for new volumes and issues, under the terms of electronic publishing rights granted to GSW by the publishers and owners of said publications.

“GSW” means GeoScienceWorld, a nonprofit corporation with offices at 4220 King Street, Alexandria, Virginia 22302 USA.

“GSW Web Site” means <http://www.geoscienceworld.org>, the Web site operated by GSW to provide online access to the Licensed Material and to other information and links of interest to researchers in the geological and earth sciences.

“IP Address” means the Subscriber’s unique numeric identifier for a computer or device on a TCP/IP Network, and “TCP/IP Network” means transmission control protocol/Internet protocol, which is the basic communication language or protocol of the Internet.

“Licensed Material” means the GeoScienceWorld Millennium Collection and the Literature Archives. A list of Licensed Material for purposes of this Agreement is set forth in Schedule C. The Licensed Material will also include GeoRef, if subscribed to under this License Agreement, as provided for in Sub-section 6.7.1.

“Literature Archives” means an electronic aggregation of the full texts of journals and related publications in the geosciences, protected by trademark and copyright, inclusive of such literature published prior to 2000, depending upon the publication, under the terms of electronic publishing rights granted to GSW by the publishers and owners of said publications.

“Secure Network” means a network which is accessible to Subscriber’s Authorized Users and whose conduct is regulated by Subscriber.

“Subscription Period” means the initial and any renewal 12-month period of Subscriber’s paid subscription to the Licensed Material (or otherwise as may be pro-rated for less than 12 months if agreed to by the parties to this License Agreement).

“Usage Tracking System” means an automated tracking system for recording the online usage of Subscriber and its Authorized Users, as well as other subscribers and users.

“Walk-in Users” means persons who are not officially affiliated with Subscriber, but who are occasional users of Subscriber’s library or information service and Secure Network, and who are permitted to access said Secure Network from computer terminals within Subscriber’s location only. Any payment of a fee to Subscriber by a person in order to be a Walk-in User is deemed not to constitute Commercial Use unless otherwise required by local law or regulation.

## **1. Agreement**

1.1 GSW, acting through its Agent, grants Subscriber the non-exclusive and non-transferable right to allow Subscriber’s Authorized Users to gain online access to the Licensed Material, subject to the terms and conditions of this License Agreement, and to Subscriber’s acceptance of any adjustment to the Fees which may be made from time to time by GSW and Agent.

1.2 Said access to the Licensed Material during the Subscription Period includes all volumes and issues in the GeoScienceWorld Millennium Collection available during said period and all volumes and issues in the Literature Archives. Upon any termination of any Subscription Period, continued access to the applicable portion of the Millennium Collection will be provided to Subscriber solely as specified in Sub-sections 11.4 and 11.5.

- 1.3 Said access will be only from Subscriber's Authorized Site and IP Address, as such are listed in Schedule A or as indicated in writing to GSW and Agent, and via a Secure Network maintained by or on behalf of Subscriber, to the GSW Web Site and server(s) maintained by or on behalf of GSW. Subscriber and its Authorized Users will use the Licensed Material only in accordance with the Permitted Uses and Prohibited Uses provided for in Sections 3 and 4, respectively. Subscriber agrees to pay the Fee for each Subscription Period as provided for in Sub-section 6.6 and Schedule B.

## **2. Authorized Users**

- 2.1 The persons described below will be deemed to be Authorized Users for purposes of this License Agreement. If Subscriber is:
  - 2.1.1 an ACADEMIC INSTITUTION (a degree-granting public or private institution with an educational purpose), Authorized Users are full- and part-time faculty and other teaching staff (including temporary or exchange faculty for the duration of their assignment), full- and part-time library, research, technical and administrative staff; persons officially registered with the institution as full- or part-time students, consultants under contract with the Subscriber (during the term of such contracts), Walk-In Users and other currently registered library users who maintain an official affiliation with the subscribing institution;
  - 2.1.2 a GOVERNMENT AGENCY (a Federal, state, or local agency, or its equivalent), Authorized Users are full- and part-time employees and consultants under contract with the Subscriber (during the term of such contracts) and Walk-in Users;
  - 2.1.3 a PUBLIC LIBRARY (a publicly-funded facility serving the public), Authorized Users are full- and part-time employees, Walk-in Users and registered borrowers;
  - 2.1.4 a CORPORATION (a publicly- or privately-held corporation or unincorporated entity engaged in business, commerce, or industry, and subject to corporate income tax, or in the case of self-employed persons, subject to personal income tax), Authorized Users are full- and part-time employees and consultants under contract with the Subscriber (during the term of such contracts); or
  - 2.1.5 a NOT-FOR-PROFIT CORPORATION OR ORGANIZATION (a society, association, or other membership organization, or a research institute, exempt from corporate income tax), Authorized Users are full- and part-time employees, consultants under contract with the Subscriber (during the term of such contracts), and Walk-In Users.
- 2.2 Authorized Users also include persons affiliated with remote sites of Subscriber as specified in Schedule A, provided such persons will work from, or otherwise maintain affiliation with, these access sites.
- 2.3 Persons at any entity related to or affiliated with Subscriber, but not a part of Subscriber, will not be deemed "Authorized Users" without GSW's express consent.

## **3. Permitted Uses**

- 3.1 The Subscriber may, subject to Section 4 (Prohibited Uses):

- 3.1.1 Allow Authorized Users (including Walk-in Users, if any) to have access to the Licensed Material via the Secure Network. The number of concurrent Authorized Users permitted to access the Licensed Material online is unlimited.
- 3.1.2 Make temporary (less than 24 hours) local electronic copies by means of caching of all or part of the Licensed Material as is necessary to ensure efficient use by Authorized Users, provided that such use is subject to all the terms and conditions of this License Agreement and does not result in the making available to Authorized Users or other persons of duplicate copies of the Licensed Material.
- 3.1.3 Provide single printed or electronic copies of single articles at the request of individual Authorized Users.
- 3.1.4 Provide interlibrary loans of single printed articles or copies of single articles provided via Ariel software at the request of institutions and organizations with which the Subscriber customarily maintains interlibrary loan arrangements.
- 3.1.5 Display, download or print the Licensed Material for the purpose of internal promotion or testing, or for training Authorized Users.
- 3.2 Subscriber will take all customary and reasonable actions to inform Authorized Users that they may, subject to Section 4:
  - 3.2.1 Search, view, retrieve and display the Licensed Material.
  - 3.2.2 Electronically download and save parts of the Licensed Material for personal use.
  - 3.2.3 Print off single copies of parts of the Licensed Material.
  - 3.2.4 Incorporate parts of the Licensed Material in Electronic Reserves for the use of Authorized Users in the course of instruction, or research , and create multiple copies of a discrete excerpt from the Licensed Material for classroom instruction use, or for research purposes, consistent with existing "fair use" law and regulation, and provided that each such copy carries appropriate acknowledgment of the title and author of the material, and its source (publication title, volume, issue, date), publisher, and copyright, and further provided that each electronic copy of such items are deleted when no longer required for such purpose.
- 3.3 Nothing in this License Agreement in any way excludes, modifies or affects anything Subscriber or any Authorized User is allowed to do in respect of any of the Licensed Material consistent with existing "fair use" law, defined by the U.S. Copyright Code of 1976 (17 U.S.C. § 105-107) and international copyright conventions.

#### **4. Prohibited Uses**

- 4.1 Use of the Licensed Material by Subscriber and Subscriber's Authorized Users is subject to the prohibited uses below:
  - 4.1.1 Neither Subscriber nor Authorized Users may remove or alter the authors' names, copyright notices, trademarks, or other means of identification or disclaimers as they appear in the Licensed Material.
  - 4.1.2 Neither Subscriber nor Authorized Users may mount or distribute any part of the Licensed Material on any electronic or other data network including, without limitation, the Internet and the World Wide Web, other than through a Secure Network and as provided for in Sub-section 3.1.1.

- 4.1.3 Neither Subscriber nor Authorized Users may systematically make print or electronic copies of multiple extracts of the Licensed Material for any purpose other than temporary caching as permitted in Sub-section 3.1.2 and 3.2.4.
- 4.2 Explicit written permission must be obtained from GSW and the copyright holder in order for the Subscriber or any Authorized User to:
  - 4.2.1 Reproduce the whole or any part of the Licensed Material for any Commercial Use.
  - 4.2.2 Systematically make available or distribute the whole or any part of the Licensed Material to anyone other than Authorized Users.
  - 4.2.3 Publish, distribute or make available the Licensed Material, works based on the Licensed Material or works which combine the Licensed Material with any other material, other than as permitted in this License Agreement.
  - 4.2.4 Alter, abridge, adapt or modify the Licensed Material, except to the extent necessary to make it perceptible to Authorized Users on a computer screen or as otherwise permitted in this License Agreement.

## **5. Proprietary Rights**

- 5.1 GSW's rights to publish electronically and distribute online the contents of the Licensed Material in accordance with this License Agreement are granted to GSW by the owners and copyright holders of the publications included in the Licensed Material. No provision of this License Agreement conveys any ownership interest in or to the Licensed Material, in whole or in part, to Subscriber or Authorized Users. Title, as well as applicable copyrights, patents, trademarks, trade secrets or other intellectual property rights in and to the materials in the Licensed Material are, and remain the property of copyright claimants, as applicable.
- 5.2 No rights to use the Licensed Material are conveyed to Subscriber or Authorized Users except as permitted by this License Agreement and, if applicable, pursuant to the user guidelines produced by or on behalf of GSW, from time to time, in electronic or print form.
- 5.3 Materials in the Licensed Material are from copyrighted publications of the respective copyright claimants. Subscriber and Authorized Users are referred to the publication data appearing in bibliographic citations, as well as copyright notices appearing in original publications. Subscriber and Authorized Users are advised that consultation with legal counsel regarding copyright laws prior to the use of certain material contained in the Licensed Material may be appropriate.

## **6. Subscriber's Obligations**

- 6.1 Subscriber will be responsible for installation, costs, operations and maintenance of a communications link and equipment, software and systems necessary to access online the Licensed Material at the GSW Web Site via Subscriber's Secure Site. This responsibility includes the Subscriber's Administrator maintaining Subscriber's list of valid IP Addresses for access control as maintained at the GSW Web Site.
- 6.2 Subscriber will be responsible for communication and any other costs incurred by any Authorized User connecting to the GSW Web Site through Subscriber's IP Address as set forth in Schedule A, and as may be changed from time to time by Subscriber's written notice to Agent.

- 6.3 Subscriber will use reasonable efforts to ensure that only Authorized Users are permitted access to the Licensed Material. Subscriber will be responsible for the issuance, confidentiality and security of the identification password(s) that may be issued by Subscriber to Authorized Users, and will give prompt notice to GSW and to Agent of any known or suspected breach of confidentiality or security with respect thereto. Subscriber agrees that allowing access to the Licensed Material to persons who are not Authorized Users constitutes a material breach of this License Agreement if the Subscriber knew or reasonably should have known that such person was not an Authorized User.
- 6.4 Subscriber will use its best reasonable efforts to ensure that Authorized Users are notified of the importance of respecting the intellectual property rights in the Licensed Material and of the sanctions that may be imposed or claims that may be made for failing to do so, and that Authorized Users are notified of and comply with the terms and conditions of this License Agreement and any and all user guidelines or restrictions provided by Agent or GSW from time to time. Except as provided for in Sub-section 10.8, nothing in this License Agreement will make the Subscriber liable for breach of the terms of the License Agreement by any Authorized User provided that the Subscriber did not cause, knowingly assist, or condone the continuation of such breach after becoming aware of an actual breach having occurred. The Subscriber will, immediately on becoming aware of any unauthorized use or other breach, inform GSW and the Agent and take reasonable steps, including appropriate disciplinary action as consistent with local policies, both to ensure that such activity ceases and to prevent any recurrence.
- 6.5 Subscriber will designate the following persons to be available to Agent on a routine and expedited basis during normal business hours when necessary:
  - 6.5.1 a System Administrator, for the purpose of resolving technical questions and matters, and
  - 6.5.2 a Subscription Administrator, for purposes of resolving questions and matters related to this License Agreement, including but not limited to Fees and payments.
- 6.6 Subscriber will, in consideration for the rights granted under this License Agreement, pay the Fee in US dollars for its subscription access to the Licensed Material in accordance with Section 1 within 30 days of receipt of Agent's invoice for each Subscription Period including the initial term and, if applicable, each subsequent renewal term. In the event that Subscriber fails to make prompt payment, Agent reserves the right to deny access to the Licensed Material until such time as Subscriber's account is made current. Subscriber will be responsible for the payment of all taxes, or other related fees incurred in connection with this License Agreement.
- 6.7 The Subscriber to GSW Licensed Material agrees to maintain a subscription to GeoRef at all times during the term of this License Agreement. The Subscriber must either:
  - 6.7.1 subscribe to GeoRef at a surcharge incorporated into this License Agreement, or
  - 6.7.2 certify to Agent that a current GeoRef subscription is being maintained as provided for in Schedule B. Subscriber may obtain and maintain said subscription to GeoRef from any distributor authorized by AGI, or from AGI directly, and said subscription will be subject to the terms and conditions of a separate agreement between Subscriber and such party. In the event that a subscription to GeoRef held separately

from this License Agreement lapses, notice must be provided to GSW within 30 days and the appropriate surcharge for GeoRef access through GSW will be invoiced to Subscriber.

## **7. GSW's Obligations**

- 7.1 GSW will make available online access to the electronic copy of each publication included in the Licensed Material promptly after it is made available to GSW from publisher or other source. Such electronic copies will be produced by GSW in a format and in accordance with standards determined by GSW.
- 7.2 GSW will use its reasonable best efforts to ensure that the GSW server(s) have adequate capacity to support the usage of the Subscriber and its Authorized Users at a level commensurate with the standards of access to information services of similar scope operating via the World Wide Web, as such standards may evolve over the term of this License Agreement.
- 7.3 GSW will use reasonable efforts to make the Licensed Material available to the Subscriber and its Authorized Users at all times and on a twenty-four hour basis, except during routine maintenance and down-time, and to restore access to the Licensed Material as soon as reasonably possible in the event of an interruption or suspension of the service. GSW will make a reasonable effort to notify Licensee of scheduled downtime at least 24 hours in advance. In the event of an interruption or suspension of service lasting more than 72 consecutive hours, the Subscriber's then-current Subscription Period will be extended by an equal number of hours at no charge.
- 7.4 GSW reserves the right at any time to withdraw from the Licensed Material any item or part of an item for which it no longer retains the right to publish electronically, or which it has reasonable grounds to believe infringes copyright or is unlawful. GSW will give notice to the Subscriber of any such withdrawal. In the event that the total amount of material removed constitutes more than 10% of the total content of the Licensed Material in any Subscription Period, GSW, through the Agent, will refund to Subscriber an amount of Subscriber's paid Fee equal to such percentage of total content.
- 7.5 GSW will ensure that an electronic archive of all Licensed Material is maintained by GSW and/or by one or more depositories.
- 7.6 GSW, through authorized parties, will provide to the Subscriber and its Authorized Users online user technical support by telephone and email during normal business days and hours.
- 7.7 At the sole discretion of GSW, GSW may use the staff, resources, proprietary systems and services of competent other parties under agreement with GSW in order for GSW to fulfill its obligations as specified in this Section 7.

## **8. Agent's Obligations**

- 8.1 Agent will keep confidential and secure any confidential information of Subscriber, and will give prompt notice to Subscriber of any known or suspected breach of confidentiality or security with respect thereto.
- 8.2 Agent will maintain a record of the Subscriber's IP Address and ensure online access by Subscriber and its Authorized Users to the Licensed Material on or before the date of

commencement of the initial Subscription Period and continuing through any renewal thereof.

- 8.3 Agent will provide to the Subscriber customer support by telephone and email during normal business days and hours.

## **9. Usage Information and Reports**

- 9.1 GSW will maintain a Usage Tracking System. Subscriber will permit GSW to collect the Subscriber's and its Authorized Users' online usage data exclusively for GSW's and Subscriber's use. Such usage information will be compiled and maintained in a manner consistent with applicable privacy laws, and the anonymity of individual users and the confidentiality of their searches will be fully protected.
- 9.2 GSW will put forth reasonable best efforts to ensure that the Usage Tracking System complies in all material respects with "Release 1" of the "Code of Practice" of COUNTER, and with subsequent releases when applicable and practical, and will make available to the Subscriber the set of basic usage reports identified in said code as "Level 1", and "Level 2" when applicable and practical.
- 9.3 GSW will maintain the security of the Usage Tracking System and will permit access to the Subscriber's and its Authorized Users' usage data only by persons authorized in writing by the Subscriber, and by representatives of GSW in GSW's ordinary course of business. All access to reports in the Usage Tracking System by the Subscriber will be controlled by use of a confidential password and ID, to be assigned by Subscriber in consultation with and upon notice to GSW.

## **10. Limited Warranties, Limited Liabilities and Indemnifications**

- 10.1 Subscriber represents and warrants that it has the complete right and authority to enter into this License Agreement by and on behalf of Subscriber. GSW represents and warrants that it has the complete right and authority to enter into this License Agreement by and on behalf of GSW, and that Agent is an authorized representative of GSW for the purposes of this Licensing Agreement. Agent represents and warrants that it has the complete right and authority to enter into this License Agreement by and on behalf of Agent.
- 10.2 Agent and GSW warrant to the Subscriber that Subscriber is duly licensed to use, in accordance with the terms and conditions hereof, the Licensed Material and that the Licensed Material, if used as contemplated in this License Agreement, does not knowingly infringe upon any copyright or other proprietary or intellectual property rights of any natural or legal person.
- 10.3 Agent and GSW will not be responsible for any claim, loss or liability attributable to errors, inaccuracies or other defects in the Licensed Material or any part thereof whether arising from any intentional act or omission or (to the maximum extent permitted by relevant laws) any negligence or otherwise, and THE PARTIES EXPRESSLY EXCLUDE ANY LIABILITY FOR BREACH OF ANY IMPLIED OR EXPRESS WARRANTY AS TO TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AGENT AND GSW WILL NOT BE LIABLE FOR ANY DIRECT OR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF USE OF

ANY OF THE LICENSED MATERIAL. Subscriber agrees that, collectively, Agent's and GSW's maximum liability to Subscriber and any of Subscriber's Authorized Users, and the exclusive remedy related thereto, will in no event exceed an amount equal to the Fee paid by Subscriber to Agent for the then-current Subscription Period.

- 10.4 As a consequence of factors affecting computerized communications which are beyond Agent's and/or GSW's reasonable control, no guarantee of performance is made or implied for any person's online use of the Licensed Material through the Internet or other transmission modes. In the event that Subscriber requires greater surety of access, Agent may arrange for Subscriber to have dedicated circuit access to the GSW Web Site through a telecommunications carrier for an additional charge to be determined. **ALTHOUGH DUE CARE IS USED IN PREPARING THE LICENSED MATERIAL, AGENT AND GSW MAKE NO WARRANTIES THAT ONLINE ACCESS WILL BE UNINTERRUPTED OR THAT THE LICENSED MATERIAL WILL MEET SUBSCRIBER'S REQUIREMENTS, OR THAT THE CONTENT IS ACCURATE OR COMPLETE, OR THAT THE RESULTS OBTAINED BY ANY USERS WILL BE ERROR FREE. GSW AND AGENT FURTHER MAKE NO WARRANTIES RESPECTING ANY HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, TIME BOMB, LOGIC BOMB OR OTHER SUCH COMPUTER PROGRAM. SUBSCRIBER HEREBY ACKNOWLEDGES THAT USE OF THE GSW WEB SITE AND LICENSED MATERIAL IS AT SUBSCRIBER'S SOLE RISK. NO EMPLOYEE OR REPRESENTATIVE OF AGENT OR GSW IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS LICENSE AGREEMENT.**
- 10.5 EXCEPT AS PROVIDED UNDER THE INDEMNITY OF SUB-SECTION 10.7 OF THIS LICENSE AGREEMENT, AGENT AND GSW WILL NOT BE LIABLE TO SUBSCRIBER, AUTHORIZED USERS OR ANY THIRD PARTY FOR LOSS OF PROFITS, LOSS OF USE, OR FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, EVEN IF THEY ARE AWARE OF THE POSSIBILITY THEREOF. Subscriber agrees that, collectively, Agent's and GSW's maximum liability to Subscriber and any of Subscriber's Authorized Users, and the exclusive remedy related thereto, will in no event exceed an amount equal to the Fee paid by Subscriber to Agent for the then current Subscription Period.
- 10.6 No employee or representative of Agent or GSW will be liable for assistance provided to an Authorized User in performing research using the Licensed Material and any such assistance received from such persons will be solely at the Authorized User's risk.
- 10.7 Any cause of action concerning this License Agreement or the Licensed Material must be commenced within one year after such cause of action has accrued.
- 10.8 Agent and GSW agree to indemnify Subscriber, and its directors and officers, from and against any and all liability, damages, loss or expense (including reasonable attorney's fees) arising from any claim, action or proceeding based upon or arising out of any actual or alleged infringement upon, violation or misappropriation by Agent or GSW of any third party's proprietary rights, including copyright, patent, trademark and trade secret, in

consequence of the authorized use of the Licensed Material under this License Agreement. Subscriber agrees to indemnify Agent and GSW, and their directors and officers, from and against any and all liability, damages, loss or expense (including reasonable attorney's fees) arising from any claim, action or proceeding based upon or arising out of any actual or alleged infringement upon, violation or misappropriation by Subscriber or by Subscriber's Authorized Users of any third party's proprietary rights, including copyright, patent, trademark and trade secret, in consequence of the use of the Licensed Material under this License Agreement.

## **11. Term and Termination**

- 11.1 This License Agreement will become effective on the date first set forth above. Unless terminated sooner in accordance with the terms of Sub-section 11.2 or allowed to expire (upon tender of 60 days written notice given by any party hereto to the others), this License Agreement will be renewed automatically for successive one year terms, subject to applicable adjustment to the Fee and acceptance by the Subscriber of any such adjustment. Subscriber's paid online access to the Licensed Material will be for the initial Subscription Period specified in Schedule B, and will continue for any renewal or extension thereof, subject to the terms of this Licensing Agreement.
- 11.2 This License Agreement will be terminated if any party hereto gives written notice to the others in the following circumstances:
- 11.2.1 The Subscriber defaults in making payment of the Fee in accordance with Sub-section 6.6 and fails to remedy such default within 45 days of notification in writing by the Agent.
  - 11.2.2 Any party hereto commits a material or persistent breach of any term of this License Agreement and fails to remedy the breach (if capable of remedy) within 30 days of notification in writing by any other party.
  - 11.2.3 Any party hereto becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 11.3 On termination of this License Agreement all rights and obligations of the parties hereto automatically terminate except for those rights and obligations specified in Sections and Sub-sections 3 through 6, 10, 11.4 and 11.5.
- 11.4 On the non-renewal or termination after a minimum of one year of this License Agreement, other than as provided for in Sub-section 11.2, GSW will, within a reasonable period, make available to the Subscriber, at Subscriber's option, either of the post-termination services provided for in Sub-sections 11.4.1 or 11.4.2, which will in either case be solely for the Subscriber's own use, and will be subject to use only by Subscriber and its Authorized Users under the same rights, restrictions and prohibitions as if this License Agreement was still in effect.
- 11.4.1 Continued online access to the volumes and issues of publications in the GeoScienceWorld Millennium Collection for dates of the Subscription Period. Said continued online access will be subject to a reasonable annual maintenance fee. Or,

- 11.4.2 An electronic copy of the GeoScienceWorld Millennium Collection for dates of the Subscription Period. Said electronic copy will be subject to a reasonable one-time production fee and will be in an offline media commonly in use at the time.
- 11.5 In the event that GSW is unable to continue to provide online access to any of the Licensed Material, directly or through an alternative party, due to any financial, legal, technical or other reason, GSW will, within a reasonable period, make available to the Subscriber an electronic copy of the GeoScienceWorld Millennium Collection for dates of the Subscription Period at the time of such discontinuance of online access. Said electronic copy will be in an offline media commonly in use at the time and solely for the Subscriber's own use, and will be subject to use by Subscriber and its Authorized Users under the same rights, restrictions and prohibitions as if this License Agreement was still in effect.

## 12. General

- 12.1 Entire Agreement: This License Agreement, and the Exhibits, Schedules and Appendices attached thereto, constitute the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations and understandings, or written documents. This License Agreement may be modified only by mutual approval and by an instrument in writing duly executed by all parties. If any one or more of the provisions of this License Agreement is, for any reason, held to be unenforceable by a court or administrative agency, the remaining terms and conditions hereof will remain in full force and effect. Any provision to this License Agreement may be waived at any time by a written acknowledgment signed by the party entitled to the benefit of such provision. Any such waiver by a party on a specific occasion and with regard to a specific provision will not be construed as a waiver of the same or any other provision.
- 12.2 Notices: All notices provided for herein will be in writing and will be deemed to have been given (a) when delivered personally; (b) when sent by confirmed telex or facsimile; (c) three business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one day after deposit with a commercial overnight carrier, with written verification of receipt. All communications will be sent to the addresses set forth in Schedule D or to any other addresses which may be provided in writing by the parties pursuant to this provision.
- 12.3 Assignment: This License Agreement and all rights and obligations hereunder will not be assignable, sub-licensed, or otherwise transferred by Subscriber without the prior written consent of the other parties. All of the terms and conditions of this License Agreement will be binding upon and inure to the benefit of and be enforceable by the parties and their respective heirs and successors. Except as expressly stated, nothing in this License Agreement will be deemed to confer any benefit upon any person or entity that is not a party to this License Agreement.
- 12.4 Force Majeure: No party will be deemed in default of this License Agreement to the extent that performance of its obligations or attempts to cure any breach (other than failure to comply with payment obligations) are delayed or prevented by unforeseen circumstances or circumstances beyond its control, including without limitation, war, strikes, civil disturbances, natural disasters or acts of God ("Force Majeure"), provided that such party

gives the other parties written notice thereof promptly and in any event. In the event of such a Force Majeure, the time for performance or cure will be extended for a period equal to the duration of the Force Majeure plus 30 days.

- 12.5 Governing Law: This License Agreement will be interpreted and enforced according to and consistent with the laws of the Commonwealth of Virginia, United States, without giving effect to the principles of conflict of law thereof.
- 12.6 Expenses of the Parties: Except as otherwise provided by this License Agreement, the parties hereto will each pay their own legal, accounting, administrative and other costs incurred in connection with this License Agreement.
- 12.7 Resolution of Controversy or Claim: The parties agree that any controversy or claim arising out of or relating to this License Agreement, or the breach thereof, will be settled as follows: (a) by a good faith effort by the parties to reach a mutually acceptable settlement in a timely and economical manner, or if such settlement is not achieved by such effort within 30 days, (b) by mediation conducted by an impartial professional mediator acceptable to both parties (at an expense shared equally), or if such settlement is not achieved by such process within 30 days, (c) by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any such mediation and/or arbitration shall take place in Alexandria Virginia. Judgment upon the award rendered by the arbitrator(s) may be entered into any United States court having jurisdiction thereof, and the parties agree that exclusive jurisdiction shall lie in State or federal court in Alexandria, Virginia.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be duly executed as of the date and year first written above.

Signed,

By the Subscriber:

By GeoScienceWorld:

Signature \_\_\_\_\_  
[Name]  
[Position]

Signature \_\_\_\_\_  
Donald Hemenway  
Executive Director

By the Agent:

Signature \_\_\_\_\_  
[Name]  
[Position]



**Schedule B. Fee**

The following amount is the Subscriber's Fee for the initial Subscription Period and may thereafter be adjusted subject to acceptance by the Subscriber:

GeoScienceWorld Millennium Collection

[Specify amount: USD \$\_\_\_\_\_]

*[If applicable, itemize as to gross, less discount, net]*

Literature Archives

Included with above at no additional charge

GeoRef

[Specify amount: USD \$\_\_\_\_\_] Or,

\_\_ We certify that we have a subscription to GeoRef with an expiration date of \_\_\_\_\_.

The initial Subscription Period is: commencing \_\_\_\_\_, 200\_, and ending \_\_\_\_\_, 200\_.

## Schedule C. Licensed Material

The following list of publications constitutes the Licensed Material for the initial Subscription Period. Titles and time periods of inclusion may change from time to time at the discretion of GSW, subject to the provisions of Section 7.4.

Journal Title	ISSN print (online)	Publisher	Millennium Collection Earliest Year*	Literature Archive Earliest Year**
Geology	0091-7613	Geological Society of America	2000	1988
Geological Society of America Bulletin	0016-7606	Geological Society of America	2000	1988
Journal of the Geological Society of London	0016-7649	Geological Society of London	2000	1979
Geological Magazine	0016-7568 (1469-5081)	Cambridge University Press	2000	1997
Bulletin de la Societe Geologique de France	0037-9409	Societe Geologique de France	2002	
South African Journal of Geology	0371-7208	Geological Society of South Africa	2000	
Rocky Mountain Geology	0010-7980	University of Wyoming	2000	1998
American Mineralogist	0003-004X	Mineralogical Society of America	2003	1998
Reviews in Mineralogy and Geochemistry	1529-6466	Mineralogical Society of America	2003	
Clays and Clay Minerals	0009-8604	Clay Minerals Society	2000	
Clay Minerals	0009-8558 (1471-8030)	Mineralogical Society of Great Britain and Ireland	2003	
Mineralogical Magazine	0026 461X (1471-8022)	Mineralogical Society	2003	
Bulletin of Canadian Petroleum Geology	0007-4802	Canadian Society of Petroleum Geologists	2002	
AAPG Bulletin	0149-1423	American Association of Petroleum Geologists	2000	
Environmental Geosciences	1075-9565 (1526-0984)	American Association of Petroleum Geologists	2000	
Environmental and Engineering Geoscience	1078-7275	Association of Engineering Geologists	2000	
Geochemistry - Exploration, Environment, Analysis	1467-7873	Geological Society of London	2001	
Quarterly Journal of Engineering Geology and Hydrogeology	1470-9236	Geological Society of London	2000	1997

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Schedule C (continued)

Journal Title	ISSN print (online)	Publisher	Millennium Collection Earliest Year*	Literature Archive Earliest Year**
Vadose Zone	1539-1663	Soil Science Society of America	2002	
Economic Geology	0361-0128	Society of Economic Geologists	2000	
Exploration and Mining Geology	0964-1823	Canadian Institute of Mining, Metallurgy and Petroleum	2000	1992
Bulletin of the Seismological Society of America	0037-1106	Seismological Society of America	2000	
Leading Edge	1070-485X	Society of Exploration Geophysicists	2000	1982
Journal of Sedimentary Research	1527-1404	Society for Sedimentary Geology	2000	1931
Palaios	0883-1351	Society for Sedimentary Geology	2000	1986
Paleobiology	0094-8373	Paleontological Society	2000	
Journal of Paleontology	0022-3360	Paleontological Society	2000	
Journal of Foraminiferal Research	0096-1191	Cushman Foundation for Foraminiferal Research	2000	
Micropaleontology	0026-2803	Micropaleontology Project, Inc.	2004	1954
Palynology	0191-6122	American Association of Stratigraphic Palynologists	2000	

\* Anticipated issues; Millennium Collection articles will be displayed in full text HTML and PDF; collection will go from earliest year to current issues and ongoing.

\*\* Anticipated issues; Literature Archive articles will be displayed as PDF full text. Collection will contain no gaps between earliest year and first year of Millennium Collection.

**Schedule D. Notices**

The following addressees will apply to notices given by one party to the other for purposes of this License Agreement:

If to the Subscriber:			
Organization			
Attention	Name		
	Position		
Mailing Address			
Telephone		Telecopier (Fax)	
Email			

If to the Agent:			
Organization			
Attention	Name		
	Position		
Mailing Address			
Telephone		Telecopier (Fax)	
Email			

If to GSW:			
Organization	GeoScienceWorld		
Attention	Name	Donald Hemenway	
	Position	Executive Director	
Mailing Address		4220 King Street	
		Alexandria, VA 22302 USA	
Telephone	703-671-4791	Telecopier (Fax)	703-379-7563
Email	hemenway@agiweb.org		

**Schedule E. Subscriber and Account Information**

*[Agent attaches and completes its customary account information form, if any. If not, this Schedule is deleted from the document.]*