

**TAIR Subscription Agreement For Non-Profit,
Governmental, and Educational Entities**

This agreement ("Agreement") is effective the 7th day of March 2016 ("Effective Date")

By and between

PHOENIX BIOINFORMATICS CORPORATION of 643 Bair Island Road Suite 403, Redwood City, CA 94063, USA ("Phoenix")

and

INSTITUTE OF EXPERIMENTAL BOTANY AS CR, v. v. i having its institutional headquarters at Rozvojová 263, Prague 6 - Lysolaje, 16502, Czech Republic ("Institution").

RECITALS

WHEREAS Phoenix maintains the TAIR database of materials related to Arabidopsis thaliana, "Licensed Materials" as defined herein;

WHEREAS, Phoenix has certain proprietary and copyright rights in the database and compiled materials comprising the Licensed Materials; and

AND WHEREAS subject to the terms and conditions of this Agreement, Institution desires to utilize the Licensed Materials and Phoenix wishes to grant access to the Licensed Materials.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

The following terms shall have the following meanings:

1.1 "Licensed Materials" means The Arabidopsis Information Resource (TAIR) database, which may include gene structure, gene product information, gene expression information, DNA sequences and an inventory of available genetic constructs and seed stocks available from third parties, genome maps, genetic and physical markers, publications, and information about the Arabidopsis research community. The Licensed Materials contains information summarized by Phoenix from published research literature and also contains data and other information submitted by third parties.

1.2 "Authorized User" means current members of the faculty, staff, and graduate or undergraduate student body of Institution, and individuals using computer terminals physically located within Institution's library facilities.

1.3 "Authorized Use" means non-commercial research conducted by Authorized Users of academic, governmental, or non-profit entities.

Article 2. Grant

2.1 Phoenix, under its copyright and proprietary rights in the Licensed Materials hereby grants to Institution the non-exclusive and non-transferable right, to give Authorized Users access to the Licensed Materials for Authorized Use, in accordance with the terms and conditions of this Agreement.

2.2 Institution acknowledges that Licensed Materials may contain or pertain to materials that are subject to proprietary rights, including copyright, trademark, and patent rights, of third parties. No licenses or rights to such proprietary rights are granted hereunder.

Article 3. Fees and Payment

3.1 In consideration of the licenses granted hereunder, Institution agrees to pay fees according to the amounts, schedule, and payment terms set forth in Appendix A.

3.2 Institution's right to access the Licensed Materials is conditional upon Phoenix's receipt of payment in accordance with Appendix A. If payment is not received in a timely fashion, Phoenix reserves the right to immediately and without notice, either suspend Institution's access to the Licensed Materials or to terminate this Agreement. Institution is required to pay any amounts still owed to Phoenix at the time Institution's account is suspended or terminated. Institution is solely responsible for determining and paying any tax liabilities incurred by Institution as a result of payments made under this Agreement.

Article 4. Access and Usage

4.1 Access to the Licensed Materials is controlled by authenticated Internet Protocol ("IP") address or ranges of IP addresses, under the terms and conditions provided in Appendix A and Appendix B.

4.2 Institution's Authorized Users may print out or copy into digital media limited excerpts of the Licensed Materials for its Authorized Uses. In conjunction with this Authorized Use, Institution's Authorized Users may also publish data comprising limited excerpts of the Licensed Materials, as reasonably necessary to support bona fide research projects, provided that TAIR is attributed as the source of any such published data.

4.3 Other than as provided in Article 4.2, Institution and its Authorized Users will not otherwise copy, download, upload or in any other way reproduce comprehensive portions of the Licensed Materials. Institution and its Authorized Users will not sell, distribute, sublicense, provide access to, or transfer the Licensed Materials in whole or part, to third parties except under the fair use exceptions of 4.4 below. Institution and its Authorized Users will not modify or remove any copyright, trademark, patent, disclaimer notices, proprietary markings or restrictive legends placed on the Licensed Materials.

4.4 Institution and Authorized Users may make all use of the Licensed Materials as is consistent with the Fair Use Provisions of United States and international law. Nothing in this Agreement is intended to limit in any way whatsoever Institution's or any Authorized User's rights under the Fair Use provisions of United States or international law to use the Licensed Materials.

Article 5. Provision of Access to the Licensed Materials

5.1 Phoenix will use reasonable efforts to make online access to the Licensed Materials available on a continuous basis. Availability will be subject to periodic interruption and downtime for server maintenance, software installation or testing, loading new files, and other reasons at the discretion of Phoenix. Phoenix will provide reasonable technical support and assistance to enable Institution's access to the Licensed Materials, at specified hours during Pacific Time Zone business hours.

5.2 Phoenix reserves the right at any time to withdraw from the Licensed Materials any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable.

5.3 Institution's access and use of the Licensed Materials may be monitored by Phoenix with respect to elapsed time spent accessing the service, number of Authorized Users or computers accessing the Licensed Materials and/or the volume of Licensed Materials downloaded or printed by Institution for the purposes of compiling aggregate use statistics and monitoring compliance with this Agreement.

Article 6. Warranties, Limitations of Liability, and Indemnity

6.1 Phoenix is not responsible for the content of any Licensed Materials comprising opinions, advice, statements, services, offers, or other information or content expressed or made available by third parties.

6.2 Phoenix does not guarantee the accuracy, completeness, or usefulness of any Licensed Materials. No assurance is provided by Phoenix that the Licensed Materials will reflect the most recent findings or developments with respect to *Arabidopsis thaliana* research.

6.3 Phoenix warrants that it has made reasonable efforts to ensure that it has obtained necessary permissions from third parties to use and distribute the Licensed Materials. Phoenix will hold harmless Institution and its Authorized users for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Institution or any Authorized User in accordance with the terms of this Agreement, except in cases of gross negligence or criminal conduct.

6.4 PHOENIX MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF DESIGN, ACCURACY OF THE INFORMATION CONTAINED IN THE LICENSED MATERIALS, MERCHANTABILITY OR FITNESS OF USE FOR A PARTICULAR PURPOSE. THE LICENSED MATERIALS ARE SUPPLIED 'AS IS'.

6.5 UNDER NO CIRCUMSTANCES WILL PHOENIX AND INSTITUTION BE LIABLE TO EACH OTHER OR ANY OTHER PERSON, INCLUDING BUT NOT LIMITED TO AUTHORIZED USERS, FOR ANY SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER ARISING OUT OF THIS AGREEMENT.

Article 7. Term and Termination

7.1 This Agreement will remain in place from the Effective Date until the end of the subscription period specified in Appendix A. If a notice of intent not to renew this Agreement is not received from Institution prior to the last day of the subscription period, Phoenix may, at its sole discretion, automatically renew this Agreement for an additional one-year term under the same terms and conditions of this Agreement, with the exception that a price increase of 3% will be applied to the second and annually to each subsequent one-year term extension.

7.2 If either party commits a material or persistent breach of any term of this Agreement, and such breach is capable of remedy, and the breaching party fails to remedy the breach within thirty (30) days of notification in writing by the other party, the non-breaching party will have the right to terminate this agreement by providing written notice of termination to the breaching party. This right of termination will persist so long as the breaching party remains in breach. For clarity, the foregoing is applicable only in the event of a breach which is capable of remedy. If the breach is not capable of remedy, the non-breaching party may terminate the Agreement immediately by providing written notice of termination to the breaching party.

Furthermore, this Agreement shall be terminated:

7.2(a) if Institution defaults in making payment of the Fee as provided in this Agreement; or

7.2(b) if either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.

7.3 On termination or expiration of this Agreement, all rights and obligations of the parties automatically terminate except Paragraph 4.3 (prohibition on unauthorized distribution of Licensed Materials to third parties), Article 6 (Warranties, Limitations on Liability), Paragraph 7.4 (right to injunctive relief in the event of unauthorized distributions of Licensed Materials), and Article 8 (General), which such obligations will remain in force.

7.4 Phoenix has a property ownership in the database and compilations comprising the Licensed Materials, as well as copyright rights covering the compilations and database which comprise the Licensed Materials. Institution hereby acknowledges that the business of Phoenix is dependent upon maintaining Phoenix's proprietary rights in and control of the Licensed Materials, and that any breach of the prohibitions of Article 4.3 or any other unauthorized reproduction, distribution, or furnishing of access to the Licensed Materials constitutes a fundamental breach of this Agreement, in which event, this Agreement will immediately terminate and Phoenix will be entitled to immediate injunctive relief without any rebate of the fees paid by Institution and without prejudice to any other rights or remedies to which Phoenix may be entitled.

7.5 Upon expiration of this Agreement or termination of this Agreement other than for breach of Article 4.3 or any other unauthorized reproduction, distribution, or furnishing of access to the Licensed Materials, Institution may retain and continue to use any Licensed Materials obtained in accordance with the terms of this Agreement during the period this Agreement was in force for its Authorized Use as specified in Article 4.2.

General

8.1 This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this Agreement, whether oral or written.

8.2 Modifications to terms of this Agreement will be valid only if they are recorded in writing and signed by both parties.

8.3 Either party to this Agreement may assign this Agreement to a successor which has acquired substantially all the assets of that party by operation of merger,

purchase, or otherwise, provided that the assignee agrees in writing to assume all the obligations of the assigning party under this Agreement.

8.4 Ali notices, consents, approvals or requests under this Agreement will be in writing and shall be deemed given when: (1) mailed (by registered or certified mail, return receipt requested) to the receiving party at the address specified below (which may be amended by providing written notification of change of address to the other party); or (2) emailed, but only to the extent that receipt of such email is expressly acknowledged by the receiving party.

The corresponding addresses of the parties are as follows:

PHOENIX BIOINFORMATICS CORPORATION
643 Bair Island Road Suite 403, Redwood City, CA 94063, USA
Phone: +1 650 995 7502
Email: info@phoenixbioinformatics.org

Institution's Name: Institute of Experimental Botany AS CR, v. v. i
Attention: Dr. Helena Štorchová, Plant Reproduction Lab
Address: Rozvojová 263, Prague 6 - Lysolaje, 16502 Czech Republic
Phone: +420 225 106 828
Email:

8.5 Neither party's delay or failure to perform any provision of this Agreement, as result of circumstances beyond its control (including, without limitation, war, terrorism, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) will be deemed to be, or to give rise to, a breach of this Agreement.

8.6 The invalidity or un-enforceability of any provision of this Agreement will not affect the continuation or enforceability of the remainder of this Agreement.

8.7 Either party's waiver, or failure to require performance by the other, of any provision of this Agreement will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.

8.8 Phoenix compiles and displays a list of institutional subscribers on the TAIR website for informational purposes only. No endorsement by subscribing parties is implied. Institution's name will be added to the list of institutional suppliers, unless Institution elects otherwise by notification of Phoenix in writing that it does not want to be listed.

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed by their duly authorized representatives as of the Effective Date recited on Page 1:

PHOENIX

Institute of Experimental Botany AS CR, v. v. i.

Signature



Name

Executive Director

Title

March 4, 2016

Date

Signature

Director

04 -03- 2016

Date

APPENDIX A
LICENSED MATERIALS, SUBSCRIPTION PERIOD, INVOICING AND PAYMENT

THE LICENSED MATERIALS

Title	Subscription Period	Fee
TAIR	3/1/2016-4/30/2017	\$595 USD

Within a reasonable period following the Effective Date of this Agreement, Phoenix will provide an invoice to Institution at the following address:

Institute of Experimental Botany AS CR, v. v. i, Rozvojová 263, Prague 6 - Lysolaje, 16502 Czech Republic

All amounts due under this Agreement are payable in United States currency within sixty (60) days after invoicing by Phoenix. Payment may be made by check made out to Phoenix Bioinformatics Corporation, or by ACH transfer. In the event of an ACH transfer payment, Institution will be responsible for payment of all bank fees and other taxes or charges associated with such ACH transfer. To **ensure Institution's payments are applied to the correct invoice in a timely manner, Institution must include invoice numbers on all check remittances, and include it as the reference number on ACH payments.**

ACH TRANSFER INFORMATION

Domestic Transfer, US Dollars:

Amount: U.S. Dollar Amount
Pay: Citibank NA
Citibank Address: 250 University Avenue, Palo Alto, CA, 94301, USA
Citibank ABA#: 321171184
For Credit to: Phoenix Bioinformatics Corporation
Account #: 205608045

International Transfer, US Dollars:

Amount: U.S. Dollar Amount
Pay: Citibank NA
Citibank Address: 250 University Avenue, Palo Alto, CA, 94301, USA
SWIFT Address: CITI US 33
FBO: Phoenix Bioinformatics Corporation
Account #: 205608045

International Transfer, Other Currency:

Please contact us for wire transfer instructions

APPENDIX B

Authorized Users will be recognized and authenticated by domain name and IP address and/or range.

List of addresses (including country where applicable) of Institution's Premises or sites, Domain Name(s) and IP addresses and/or ranges:

Class 8 Network: first two network numbers plus asterisks for host addresses, i.e.: 125.64.*.*

Class C network: first three network numbers plus an asterisk for host address, i.e.: 125.64.133.*

Single station: all four numbers, i.e. 125.64.133.20; or ranges, i.e. 125.64.133.20-125.64.133.40

Network contact:

Name: Josef Nulčec Telephone: +420 220 390 352 E-mail address: nulcek@ueb.cas.cz

Institution name & address	Domain name(s)	IP addresses/ranges
Institute of Experimental Botany AS CR, v. v. i	ueb.cas.cz	