

WesternU – BioRender Policy and Terms of Use

TERMS OF SERVICE

1. Overview and Scope of Services

WesternU has purchased an institutional subscription to BioRender Services (BioRender Plan). If you sign up for this Plan using an email address associated with WesternU, you will be using the BioRender services on behalf of WesternU and BioRender may disclose information regarding you and your use of the services, including your User Content, to our university.

BioRender Plan. To access the Plan, you need to register under the “Academic” category. BioRender will issue one or more User-Accounts to Customer (one User-Account for each Permitted User) up to the maximum number of Permitted Users allowable under Customer’s BioRender Plan. Customer will ensure that each Permitted User only uses the Services through its assigned User-Account, Permitted Users will not share a User-Account with any other Person, and Permitted Users. Customer agrees to promptly notify BioRender of any actual or suspected unauthorized use of the Services.

Scope of Services. The following Terms are intended to govern all use of digital illustrations, images (whether in two or three dimensional form), figures, templates, icons, drawings and any other pictorials, graphics or accompanying information provided to users by BioRender or its licensors (**BioRender Content**), together with content you import, develop on your own or license from a third party (**User Content**) to create final illustrations, images, figures, drawings and graphics (**Completed Graphics**). BioRender Services provide the Western University of Health Sciences (WesternU) community a robust platform to use and employ BioRender Content to create Completed Graphics and download or export them from the BioRender platform.

Users will be issued a content license under these Terms (“Academic License”) for each item of BioRender Content contained in Completed Graphics allowing to download, including by screen capture or other permitted means, from the Biorender Service (referred to herein as an “**Export**” or “**Exports**”). Following the Export of Completed Graphics, BioRender shall grant the User the right to use BioRender Content in your Completed Graphics in the manner set out herein (the “Permitted Uses”) subject to the restrictions set out below. While BioRender can change the Permitted Uses in accordance with the Terms of Service, this will not affect how the User can use Completed Graphics Exported prior to that time.

User failure to comply with the terms herein could result in the immediate termination of your User-Account.

Definitions

- “Applicable Law” means any rule, regulation, order, judgment, decree or other requirement having the force of law.
- “BioRender Software” means the BioRender software application and tools, including application program interfaces (APIs) and object code, algorithms, workflows, data flows, processes and procedures, and software results, as applicable, available under the name “BioRender”, and any updates to such software application provided as part of the Software Services.

- “Content License Terms” means Academic License Terms which will apply to your use of BioRender Content based on the BioRender Plan
- “Copyrights” means any and all works of authorship (whether or not published) and copyrights (including any registrations and any applications for registration thereof).
- “Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, Copyrights, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- “Loss” or “Losses” means any and all losses, damages, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- “Modifications” means modifications, improvements, customizations, updates, enhancements, aggregations, compilations, derivative works, translations and adaptations, and “Modify” has a corresponding meaning.
- “Professional Services” means the consulting and other professional services ordered by you, including addons, design support, custom icon and template creation which you may purchase, but which are not included in the Services unless expressly agreed by BioRender.
- “Seat” means the right assigned by a Customer (WesternU) to a User-Account for a Permitted User to access and use a BioRender Plan purchased by such Customer.
- “Services” means the Software Services, Professional Services, and the provision of BioRender Content and any part thereof.
- “Software Services” means: (i) the software services through which BioRender hosts and makes available the BioRender Software and any related technical support services; and (ii) any component or Modification of the services referred to in (i), including but not limited to any amendments to or changes in functionality of BioRender Software.
- “User-Account” means the account which is provisioned to you by BioRender upon your registration under a BioRender Plan.
- “Website” means any websites used by BioRender to provide the Software Services, including the website located at www.biorender.com .

Academic License Terms

BioRender hereby grants to you a worldwide, non-assignable, non-transferable, nonexclusive, and perpetual license (solely for the purposes contemplated herein) to create, copy, reproduce, use, process, store and transmit BioRender Content. All rights in and to BioRender Content, including, without limitation, all copyright and other Intellectual Property Rights (except as described below) relating to BioRender Content, are retained by BioRender or its licensors as the case may be. BioRender disclaims any losses you incur as a consequence of your use or application of any BioRender Content in your Completed Graphics.

Completed Graphics included in any published or printed material, including websites and social media, containing BioRender Content as permitted hereunder must include the following credit adjacent to the Completed Graphics or in audio/visual production credits: “*Created with BioRender.com*”.

Access and Use Rights. BioRender grants Customer a limited, non-transferable, non-exclusive, right during the Term of the applicable BioRender Plan to use the Services solely in accordance with the terms herein. Customer acknowledges that BioRender or its licensors hold and will retain all right, title and interest including all Intellectual Property Rights in and to: (i) the BioRender Services including BioRender Content and (ii) any Modifications to the foregoing, except to the extent such Modifications form Completed Graphics or contain User Content. Other than as expressly set forth herein, no license or other

rights in the BioRender Services are granted to Customer, and all such rights are hereby expressly reserved by BioRender.

Permitted Use

Permitted Educational and Personal Uses:

The following are “Permitted Uses” of Completed Graphics containing BioRender Content licensed to you under these Academic License Terms:

- posters solely for academic or educational use,
- an unpublished thesis or dissertation,
- use in internal academic lab or team meetings by Customer or its Permitted Users,
- presentations which include Completed Graphics that are solely for academic or educational purposes or personal use cases,
- assignments or exams,
- teaching slides,
- personal blogs and website posts,
- personal social media posts posted by you on our Website

Permitted Publishing Uses:

- journal publications,
- textbook publications provided that in each case the BioRender Content does not appear more than five (5) times in such publication (unless otherwise agreed in writing by BioRender), and
- a published thesis, provided in each case the BioRender Content does not appear in more than five (5) publications (unless otherwise agreed in writing by BioRender)

Other Uses:

- install and use the BioRender Content in more than one location or post a copy on a network server or web server for use by other users.

Prohibited Uses

The following are Prohibited Uses (“Prohibited Uses”) under these Academic License Terms. Customers will not, and will not permit its Permitted Users to:

- sublicense, sell, rent, lend, lease or distribute the Services or any Intellectual Property Rights therein, or otherwise make the Services available to third-parties (provided that Completed Graphics, including BioRender Content, may be published, printed and utilized in accordance with the Academic License Terms);
- use the Services to permit timesharing, service bureau use or commercially exploit the Services;
- use the BioRender Content in design template applications intended for resale, whether online or not, including, without limitation, website templates, Flash templates, business card templates, electronic greeting card templates, and brochure design templates (except for templates created for use within BioRender);
- modify the Software Services;

- use the Services to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations;
- remove or obscure any proprietary notices or labels on the Services, including brand, copyright, trademark and patent or patent pending notices
- use the Services to create, collect, transmit, store, use or process any User Content: (A) that contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data; (B) that Customer does not have the lawful right to create, collect, transmit, store, use or process; or (C) that violates any Applicable Law, or infringes, violates or otherwise misappropriates the Intellectual Property Rights or other rights of any third party (including any moral right, privacy right or right of publicity);
- remove any copyright, watermark, logo or proprietary notice or other information that may appear on, be embedded in, or is in connection with BioRender Content or Services in their original form unless expressly permitted under this Content License Agreement; and incorporate BioRender Content in any trademark or service mark without the prior written consent of BioRender;
- use BioRender Content in a manner that competes with BioRender’s business including, but not limited to, displaying BioRender Content in any format (including thumbnails) for download or Export on a website or offering BioRender Content for sale;
- include BioRender Content in any published or printed material, including websites and social media, containing the BioRender Content without including the following credit adjacent to the BioRender Content or in audio/visual production credits: “*Created with BioRender.com*”;
- to the extent that source code is contained within the BioRender Content, reverse engineer, decompile, or disassemble any part of such source code;
- use or display the BioRender Content in an electronic format that enables it to be downloaded, Exported or distributed via mobile devices or shared in any peer-to-peer or similar file sharing arrangement;
- use or display BioRender Content in such a manner that gives the impression that the BioRender Content was created by you or a person other than the copyright holder of the BioRender Content.
- access or use the Services for the purpose of building a similar or competitive product or service;
- perform any vulnerability, penetration or similar testing of the Services.

Ownership of Intellectual Property in Derivative Works

Customer acknowledges that BioRender or its licensors hold and will retain all right, title and interest including all Intellectual Property Rights in and to: (i) the BioRender Services including BioRender Content and (ii) any Modifications to the foregoing, except to the extent such Modifications form Completed Graphics or contain User Content. Other than as expressly set forth herein, no license or other rights in the BioRender Services are granted to Customer, and all such rights are hereby expressly reserved by BioRender.

For the avoidance of doubt, and notwithstanding anything to the contrary, as between BioRender and Customer, Customer holds and retains all right, title and interest including all Intellectual Property Rights in and to the Completed Graphics and there are no restrictions in place as to how Customer and its Permitted Users may use the Completed Graphics during and after the termination of this Agreement provided that use of BioRender Content included in a Completed Graphic does not violate the Academic License terms to which Customer has been granted the right to use such BioRender Content. For all purposes within this Agreement, including the User Content Terms and Academic License Terms, a Completed Graphic is not a Modification and BioRender shall not own any copyright in User Content nor shall a Completed Graphic

be a work made for hire for BioRender. In no scenario does Customer grant BioRender any intellectual property, copyright or licensing rights in User Content and Modifications to User Content. Customer does not waive nor does it release in favor of BioRender any rights of “droit moral”, “moral rights” rental rights and similar rights in and to Completed Graphics and User Content, including any Modifications thereto.

Notwithstanding anything to the contrary, the parties agree that once a Completed Graphic has been published, printed or utilized by Customer or its Permitted Users in accordance with the Permitted Uses as set out under the Academic License Terms, any BioRender Content that may form part of the Completed Graphic may not be revoked by BioRender and Customer and its Permitted Users shall have no obligation to destroy or delete such Completed Graphic even if requested to do so by BioRender.

Monitoring and Audit

Customer agrees that BioRender may monitor the Website and Services, including without limitation, any Completed Graphics created using the Services. BioRender reserves the right to monitor the security and preserve the integrity of the Website, resources, data, BioRender Content, User Content, and Intellectual Property. Upon forty-five (45) days’ written notice and no more than once every twelve (12) months, BioRender may perform a more thorough audit of Customer’s use of the Services to ensure Customer’s use of the Services is in compliance with the terms of this Agreement. Any such audit will not require any access to User’s systems and will not unreasonably interfere with User’s normal business operations or use of the Services. Customer agrees to cooperate with BioRender’s audit and to provide reasonable assistance and access to information reasonably requested by BioRender. The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the confidentiality provisions set out in this Agreement. If the audit identifies noncompliance, Customer agrees to remedy within thirty (30) days of written notification of that noncompliance. Customer agrees that BioRender shall not be responsible for any Customer’s costs incurred in cooperating with the audit.

Termination

BioRender reserves the right to terminate any username and password which BioRender reasonably determines, or in BioRender’s sole discretion after consultation with Customer or Permitted User (as applicable), may have been used by an unauthorized third party or by any user or individual other than the Customer or Permitted User to whom such username and password was originally assigned. BioRender reserves the right to revoke any content or other licenses it provides to Customer pursuant to this Agreement if it determines that a User-Account was shared with another person in an unauthorized manner and shall have no obligation to provide advanced security measures to such User-Account.

Upon termination of your Academic BioRender Plan, if you are not in breach of your Agreement with BioRender:

- BioRender may, in its sole discretion, permit you to continue to use our Services under a Free BioRender Plan;
- You may not Modify BioRender Content or any portion of an Exported Completed Graphic other than for purposes of sharing or adapting a limited number of Completed Graphics;
- You may crop, reshape or resize a Completed Graphic containing BioRender Content to print a Completed Graphic;

- BioRender reserves the right to grant a license under any terms and for any consideration with a third-party for Modifications to BioRender Content, provided that such license does not otherwise infringe on your Intellectual Property Rights;

Termination of Content Licenses

You can terminate the licenses granted to you under these Academic License Terms by destroying the BioRender Content and Completed Graphics, along with any copies or archives of it or accompanying materials (if applicable), and ceasing to use the Completed Graphic for any purpose.

If you are in breach of our Agreement, your BioRender Plan and the licenses granted to you hereunder shall also terminate. Upon such termination, BioRender may require you to immediately (i) destroy or delete all copies and archives of the Completed Graphic or accompanying materials and (ii) if requested, confirm to BioRender in writing that you have complied with these requirements.

BioRender reserves the right to revoke or amend the license granted hereunder and replace the BioRender Content with an alternative for any reason.

Upon notice from BioRender, or upon your knowledge that any BioRender Content is subject to a threatened, potential or actual claim of infringement of another's right for which BioRender may be liable, you must immediately and at your own expense (i) stop using the BioRender Content; (ii) delete or remove the BioRender Content from your premises, computer systems and storage (electronic or physical); (iii) ensure that your clients, printers or ISPs do likewise; and (iv) let BioRender know.

Confidentiality

Each Party will hold in strictest confidence and not disclose or use in any manner whatsoever, other than as expressly contemplated by this Agreement or as required by law, any Confidential Information. "Confidential Information" means all information (and all documents and other tangible items which record information, whether on paper, in computer readable format or otherwise) relating to the disclosing Party's business (including without limitation business plans, manner of doing business or business results) which (i) at the time in question is either protectable as a trade secret or is otherwise of a confidential nature (and is known or should reasonably be known by the receiving Party as being of a confidential nature) and (ii) has been made known to or is otherwise learned by the receiving Party as a result of the Parties' relationship under this Agreement. However, Confidential Information will not include any information, documents or tangible items which (i) are a matter of general public knowledge other than as a result of a disclosure by the receiving Party, (ii) are now in the receiving Party's possession as evidenced by the receiving Party's existing written records, or (iii) are hereafter received by the receiving Party on a non-confidential basis from a source other than the disclosing Party who is not, to the receiving Party's knowledge, bound by confidential or fiduciary obligations to the disclosing Party or otherwise prohibited from transmitting the same to the receiving Party.

Consents. Without limiting any other obligation specified in this Agreement, each Party is responsible for obtaining all applicable consents that are necessary for each Party to perform its obligations under this Agreement in accordance with all Applicable Laws, including privacy law. During the term of this Agreement and thereafter in perpetuity, neither Party will gather, store, log, archive, use or otherwise retain any Personal Information in any manner which is not permitted by applicable privacy laws and will not disclose, distribute, sell, share, rent or otherwise transfer any Personal Information to any third party, except as expressly required to perform its obligations in this Agreement or with the required consent.

Each Party represents and warrants that it will use Personal Information only in compliance with (a) this Agreement, (b) each party's then current privacy policy, and (c) all applicable provincial, local, state, and federal laws and regulations (including, but not limited to, the Personal Information Protection and

Electronic Documents Act (S.C. 2000, c. 5), and all other current and future laws and regulations relating to spamming, privacy, and consumer protection). Each Party will not retain any Personal Information for any period longer than necessary for it to fulfill its obligations under this Agreement.

General Provisions

Governing Law. This Agreement and any action related thereto will be governed by and construed in accordance with the substantive laws of the State of California. For any dispute with BioRender, Customer agrees to first contact BioRender at support@biorender.com and attempt to resolve the dispute in good faith informally. In the event the dispute cannot be reasonably resolved, each party agrees to irrevocably attorn to the exclusive personal jurisdiction and venue of the courts sitting in Los Angeles, California. Notwithstanding the foregoing, BioRender may: (i) commence lawsuits to collect unpaid fees from Customer; and (ii) seek injunctive relief with respect to a violation of BioRender's Intellectual Property Rights; in any appropriate jurisdiction. The U.N. Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

Publicity. Unless otherwise specified in writing by an authorized Customer representative, Customer does not grant BioRender a license to use the trade-marks and trade-names of Customer.