

**CAS SCIFINDER® SCHOLAR LICENSE AGREEMENT
for Consortia**

between

**The Council of Prairie and Pacific University Libraries
("COPPUL")**

and

**the American Chemical Society ("ACS"),
through its Chemical Abstracts Service division ("CAS")**

CAS and COPPUL agree as follows:

1. DEFINITIONS.

These words have the following meanings:

A. Academic Research. Educational research done in the usual course in the pursuit of a degree, instructional (i.e., educational and training) use in a classroom setting; or research by faculty and students which is funded by the government or non-profit research foundations, or by gifts from commercial entities which will not result in research or a work product that is owned or controlled by a commercial entity, and intended for publication in the publicly available literature; provided, however, that to qualify as Academic Research, the research must not involve patentability searching.

B. Administrative Contact. An Authorized User designated by COPPUL as the primary point of contact with CAS for all Agreement matters.

C. Authorized User. A current faculty or staff member, or officially registered student of a Member, including part-time, post-doctoral and visiting students, located off-campus or at a named Member Site, for whom a Member has provided access to an Authorized I.P. Address for use of SciFinder Scholar.

D. Authorized I.P. Address. An Internet Protocol address(es) at a Member Site, in a form acceptable to CAS, designated by the Member to be associated with a SciFinder Scholar loginid.

E. Commercial Research. Research other than Academic Research; for example, research performed under a funding or consultant contract with the intention of delivering results to a for-profit organization, or patentability research, or by gifts from commercial entities which will result in research or a work product that is owned or controlled by a commercial entity.

F. Concurrent User. Represents one connection to the CAS server for the SciFinder Scholar product. The number of concurrent users refers to the number of possible simultaneous connections to the CAS server.

G. Consortium. For purposes of this Agreement, the organization consisting of Members that has the legal authority to bind Members to this Agreement. COPPUL is a consortium of nineteen university libraries located in Canada that cooperate to enhance information services through resource sharing, collective purchasing, document delivery and many other similar activities. A list of all Members of COPPUL as of the date of signature of this Agreement, including those Members which will not initially be licensing SciFinder Scholar, is attached as Exhibit 1 hereto.

H. Full Access. Twenty-four hour a day availability of SciFinder Scholar. Access is available at any time except for routine, scheduled "downtimes" for system maintenance.

I. Key Contact. An Authorized User designated by each Member as the primary point of contact for local support and administration of SciFinder Scholar.

J. Loginid Activation. An action taken by CAS following COPPUL's or a Member's request which readies a SciFinder Scholar loginid for use.

K. Member. A university, college or qualifying degree granting institution which is a member of the COPPUL consortium. Participating Members are identified in Exhibit 2.

L. Permitted Data Use. The uses of CAS data which are permitted by CAS, as follows:

Authorized Users may make use of CAS data obtained as a result of SciFinder Scholar searches in the ordinary course of Academic Research and may store search results in electronic form, provided that at any one time, no more than 5,000 records are stored by an Authorized User. Authorized Users are permitted to search only for themselves and may share their search results in a reasonable, limited way with other students or faculty at the same Member institution, or with other Member institutions which are current purchasers of SciFinder Scholar, who are working on the same research project; provided, however, that any such sharing may not result in an aggregation of the electronic records stored by individual Authorized Users, nor in the creation of any central source of electronic records. Stored records must be deleted when they are no longer needed by the Authorized User for the relevant research project, or after the completion of Authorized User's degree program, whichever occurs first. Under no circumstances may CAS data be used for any other purpose, including but not limited to distribution of data by assignment, sale, sublicense, loan or other means of transfer to any other Member, any third party, and any commercial use, whether paid or unpaid. Any use beyond the limited use described herein, requires the advance written permission of CAS.

M. SciFinder Scholar. The CAS product designed for academic scientific research consisting of client/server software which provides access to ACS-owned and proprietary databases that include the world's largest collection of chemistry information residing on the CAS server, utilizing a CAS-designed graphical user interface. SciFinder Scholar includes SSM when SSM is ordered by COPPUL.

N. SciFinder Substructure Module (SSM). An optional add-on module to SciFinder Scholar consisting of functionality that enables substructure searching of the CAS REGISTRY File data available through SciFinder Scholar. CAS may offer additional substructure search add-ons to SciFinder Scholar which are not covered initially under this Agreement, e.g., additional data for functionality.

O. Site. All eligible Member facilities located within a named city.

2. LICENSE.

CAS grants COPPUL a non-exclusive, Site-specific license for its Authorized Users to use SciFinder Scholar and the CAS data that Authorized Users search and retrieve using SciFinder Scholar with the following limits:

A. Site: This license is specific to the Member Site(s) set forth in Exhibit 2 hereto.

B. I.P. Addresses: Each Member must report to CAS all Authorized I.P. Address information, by Site, and may use SciFinder Scholar only through its respective Authorized I.P. Addresses. To qualify for use under this Agreement, these I.P. Addresses must be unique to a Member. The I.P. Addresses associated with the initial order placed by COPPUL are set forth in Exhibit 2 hereto. When at locations other than the Site, Authorized Users may connect via telephone lines (dial-in access) through Authorized I.P. Addresses to use SciFinder Scholar.

C. Security: Each Member will use reasonable efforts to ensure that only Authorized Users have access to SciFinder Scholar. Each Member must provide network-wide system security such that all Authorized Users must be required to prove their authorized status prior to each instance of downloading the SciFinder Scholar software from a Member's ftp site and prior to each instance of connecting to the Member network via telephone dial-up to access SciFinder Scholar.

D. Public Access and Library Terminals: COPPUL acknowledges that the SciFinder Scholar product is not intended to support any use other than that by Authorized Users, e.g., use by walk-in visitors or general-public library patrons is not allowed. CAS acknowledges that a Member may be unable to segregate public or library computer terminals from the rest of the Member network, and that occasional walk-in, public use of SciFinder Scholar may occur. Each Member will, in any case, prominently display a notice near all terminals, or electronically on the terminal screen which is part of the product, to which the public has access and on which SciFinder Scholar is available, indicating that SciFinder Scholar is for use only by Member students and faculty, and not the general public.

E. Client Software Copies: Members may make copies of the SciFinder Scholar client software to facilitate use of the product under this Agreement only.

F. Reasonableness of Use. Authorized Users are permitted to use SciFinder Scholar only for Academic Research. For Commercial Research, CAS offers a commercial SciFinder product available under a separate license agreement.

CAS will monitor the volume of searching and answer downloading activity associated with each Authorized I.P. Address on a routine basis, for the purposes of: (1) benchmarking what "average" use is among Authorized I.P. Address(es), and (2) noting any significant variance in patterns of usage for particular Authorized IP Address(es). CAS may ask the Key Contact and the Authorized User(s) involved to discuss any usage pattern(s) CAS questions and, if necessary, to work with CAS to reach a solution if a problem is uncovered. If, however, as a result of such inquiry CAS learns that "excessive" or unusual use or any particular use is related to non-compliance with any provision of this Agreement, and depending on the scope of the non-compliance, CAS will instruct a Member with written notice to use reasonable efforts to bar certain individuals from using SciFinder Scholar, may bar a Member from using SciFinder Scholar, or may elect to terminate this Agreement. If a Member is barred from SciFinder Scholar use, this may affect the terms of COPPUL's use of SciFinder Scholar. CAS will also have available to it all other remedies available under applicable law and in equity.

G. Data Use: Authorized Users are permitted to use CAS data accessed through SciFinder Scholar according to the Permitted Data Use rights. Members will: (1) display the User Agreement text shown in Exhibit 3 to all users in a printable form, and require the user to scroll through the text and indicate agreement (e.g., click-wrap agreement) prior to the initial download of the SciFinder Scholar client software from the Member network to the Authorized User's personal computer, and (2) use other reasonable efforts to communicate the Permitted Data Use rights to Authorized Users. CAS will display the User Agreement text through SciFinder Scholar features, such as Message of the Day. Under no circumstances are Authorized Users permitted to redistribute any collection of CAS data to other Members or to third parties, whether for commercial gain or otherwise, or in any other way commercially exploit the CAS data obtained through use of SciFinder Scholar.

H. Concurrent Users. COPPUL will place an order for the total number of Concurrent Users required by its Members as set forth in Exhibit 2. The order will include a specific number of Concurrent Users from the total order for each Member's exclusive use. Each Member must have at least one Concurrent User. Concurrent Users may not be reassigned during any term of this Agreement. The number of Concurrent Users at each Member is under COPPUL's sole control, although CAS may make recommendations regarding the number that will provide optimal performance of SciFinder Scholar.

I. Additional Member/Sites. If COPPUL wishes another Member or an additional Site of an existing, participating Member to participate in this Agreement, COPPUL may contact CAS for a quote and any additional terms, if applicable, including whether Member is eligible to license SciFinder Scholar. The addition of Members and Sites is dependent on CAS' then-current policy in this regard.

J. COPPUL Enforcement. COPPUL and its Members acknowledge the ACS' copyright and ownership interests in SciFinder Scholar, that SciFinder Scholar is a principal product of CAS, and the importance to CAS of maintaining these rights in the product and in CAS data. In addition to its other obligations set forth specifically in this paragraph 2, Members promise to use reasonable efforts to monitor compliance with the terms of this Agreement pertaining to the use of SciFinder Scholar, and will notify CAS immediately of any suspected violation by any user. COPPUL and its Members will use reasonable efforts to fully cooperate with CAS in investigating any suspected violation, and will take such action as reasonably requested by CAS, or which it deems in its good judgment to be necessary, to correct such violation.

K. No Other Permitted Uses. Any use of SciFinder Scholar by a Member not specifically permitted under this Agreement, including but not limited to distribution by assignment, sale, sublicense, loan or other means of transfer to any other Member, to any third party, and any commercial use, whether paid or unpaid, is strictly prohibited.

COPPUL's right to use SciFinder Scholar is completely stated here and COPPUL has no other, or any additional, rights to use it. CAS reserves and keeps all other rights in and to SciFinder Scholar and CAS data.

L. COPPUL and Members Limitation of Liability. COPPUL and Members will exercise reasonable, good faith efforts:

1. to inform Authorized Users of the restrictions addressed in sections A-K of this paragraph 2 with respect to the use of SciFinder Scholar, including all data accessed therewith, and all optional add-on modules (the "Restrictions");
2. to use reasonable efforts to enforce the Restrictions;
3. to investigate with CAS any violation or suspected violation of any of the Restrictions, whether by Authorized User(s) or not; and

4. to cooperate with CAS in the resolution of the matter.

COPPUL and Members agree, at CAS' request, to review from time to time with CAS the efforts described above and to make such changes thereto as reasonably necessary.

Neither COPPUL nor Members will be liable to CAS for the actions of an individual user who has acted without the knowledge or consent of COPPUL or the Members, provided COPPUL and the Members are in compliance with the requirements of sections A-L of this paragraph 2.

M. Beta Tests. From time to time, CAS may invite COPPUL to evaluate prototypes or participate in trials, alpha tests and/or beta tests of new releases or new features/functionalities of SciFinder Scholar. The terms of this Agreement will apply to the use of the new release or features/functionalities. Notwithstanding paragraph 11 below, additional terms may be included in a letter accompanying the new software and COPPUL's installation and use of the new software thereafter will indicate acceptance of the additional terms. COPPUL will hold these prototypes, trials, alpha or beta tests in strict confidence.

N. Access to Other Services. SciFinder Scholar may provide COPPUL with access to other optional information services such as electronic full-text journal articles/documents, CAS Document Detective Service (CAS DDS), other Web services not associated with the ACS or CAS, etc. Such access may require licenses or agreements with the information providers and include fees (in addition to the fees mentioned in paragraph 4) for such services. The negotiating and entering into of such licenses, agreements and other arrangements with a third party and the payment of any required fees is separate from and beyond the scope of this Agreement and is the responsibility of COPPUL and its Members. COPPUL will use and access such services at its own risk. Currently these are optional features of SciFinder Scholar offered to Authorized Users at the sole discretion of COPPUL and its Members.

3. TERM OF AGREEMENT.

This Agreement is effective when both parties have signed it. The initial term extends through the last day of the 12th month following the date of Loginid Activation under COPPUL's initial order. It will automatically renew on each anniversary date thereafter for another 12-month period unless terminated as permitted herein.

Because renewal is automatic, COPPUL must notify CAS in advance if COPPUL does not desire to continue this Agreement following the end of each 12-month period or if COPPUL's requirements for SciFinder Scholar change. COPPUL will provide a minimum 30 days' advance notice of this. If CAS does not receive the minimum notice, CAS will automatically renew this Agreement for the then-current number of Concurrent Users at each Site for the next 12-month period.

4. SCIFINDER SCHOLAR PRICING.

A. Prices. Fees for the license to SciFinder Scholar are determined on the basis of number of Concurrent User(s) per Site and whether the Concurrent User(s) have SSM access. COPPUL elects the feature configurations set forth in Exhibit 2 hereto for its initial order at the corresponding annual fee noted in Exhibit 2.

Concurrent User(s) may be added during the current term for a prorated fee at then-current prices. Feature configurations may be upgraded during an Agreement term for a prorated fee. Other feature configuration changes may be made during an Agreement term upon mutual agreement.

B. Other Services. Fees for Web services made accessible through SciFinder Scholar will generally have separate invoices. There may be instances; however, where these fees may appear on your SciFinder Scholar invoice.

C. Invoices. For COPPUL's initial order, invoicing of the full annual license fee will occur during the month following the month during which Loginid Activation occurs. Invoices will be directed to the Administrative Contact. COPPUL agrees to remit all invoiced amounts, according to invoice terms. Fees are not refundable under any circumstance. Other actions may be taken to address problems as they arise.

D. Changes in Pricing. CAS may change the SciFinder Scholar license fees referred to in section A at the time of license renewal and will notify COPPUL's Administrative Contact and Key Contact(s) at least 60 days in advance of the date that any new prices go into effect. Price modifications affect Concurrent Users added after the price change and renewal orders only.

E. Free Evaluation Period. COPPUL will be eligible to evaluate SciFinder Scholar for a free 30-day evaluation period beginning the date CAS activates COPPUL's loginid(s). On or before day 30 of the evaluation period, COPPUL must notify CAS at sfadmin@cas.org followed by faxed notification to 614-447-3939, should it not wish to license SciFinder Scholar. In that event, the license granted in this Agreement is revoked, and COPPUL will have no rights to continue to use SciFinder Scholar. COPPUL will not be responsible for any payment to CAS for the use of SciFinder Scholar during the 30 day evaluation period, whether COPPUL continues to license SciFinder Scholar for the initial term or whether it decides to terminate this Agreement after the free evaluation period.

Should COPPUL terminate this Agreement at the end of the free evaluation period, CAS will de-activate all of COPPUL's SciFinder Scholar loginids. Following termination, COPPUL will use reasonable efforts to erase or otherwise destroy: 1) all copies of SciFinder Scholar (including archive copies) in its Members' possession, and 2) all copies of any data accessed using SciFinder Scholar during the free evaluation period, and within 14 days of termination, COPPUL will provide written certification of such destruction. The license to use CAS data that has been accessed through SciFinder Scholar will cease as of the last day of the free evaluation period.

In the event COPPUL does not notify CAS or does not notify CAS on or before day 30 of the evaluation period, access to SciFinder will continue uninterrupted and COPPUL will be invoiced as noted in 4(C) above.

5. ADMINISTRATIVE CONTACT.

COPPUL designates the following person to be COPPUL's Administrative Contact: **Alexander Slade**. The Administrative Contact may be reached in the following ways during normal business hours: (include address, telephone and telefax numbers and email address):

Alexander Slade
Executive Director, COPPUL
2005 Sooke Road
Victoria, British Columbia
Canada
V9B5Y2

250-391-2554 (phone)
250-391-2556(fax)
coppul@royalroads.ca(email)

COPPUL will provide CAS with the above information immediately if the Administrative Contact is added or changed. The Administrative Contact is responsible for all business matters relating to this Agreement, including billing. The Administrative Contact will also forward a copy of Exhibits 3 and 4 to this Agreement to each Key Contact and obtain signature on Exhibit 4 from each Member.

6. KEY CONTACTS.

Members designate the Authorized Users listed in Exhibit 2 to be Key Contacts. Each Member should have a local Key Contact. Members will provide CAS with necessary contact information immediately if a Key Contact is added or changed.

The Key Contact is responsible for the following tasks:

- A. Exhibit 4.** The Key Contact will obtain the signature of their university on Exhibit 4 and return the Exhibit to CAS.
- B. Client Software.** The Key Contact is responsible for downloading the SciFinder Scholar client software initially and downloading the software as maintenance releases become available, from the CAS server and for appropriately customizing it for use at a given Site. Customization means keying in the loginid and password and determining software preference settings. The Key Contact is also responsible for loading the client software on the Member network such that only Authorized Users have access and may download copies.
- C. Support of Authorized Users.** The Key Contact will serve as the first point of contact for any Authorized User question about SciFinder Scholar. As necessary, the Key Contact may request CAS Help Desk and Customer Service support via telephone during regular service hours.

D. CAS Inquiries. The Key Contact will serve as CAS' first point of contact at a Member Site for any questions or issues that may arise related to use of SciFinder Scholar during the term of this Agreement. In the event that CAS inquires regarding use of SciFinder Scholar under the provisions of paragraph 2(F), the Key Contact will use best efforts to assist CAS in exploring and resolving any issues, which will include best efforts to identify Authorized Users associated with Authorized I.P. Addresses.

7. MAINTENANCE RELEASES.

CAS will provide Members with SciFinder Scholar maintenance releases at no additional charge. Maintenance releases include routine software fixes. Members must use best efforts to ensure that all Authorized Users install the maintenance release within 90 days of their receipt of the release from CAS. Members acknowledge that, to secure continued support of SciFinder Scholar, Authorized Users must install the maintenance releases within this 90-day period.

8. GENERAL PROVISIONS.

A. Ownership. The copyright and title to all property interests in or to SciFinder Scholar and updates thereto, including source and object code, user manuals, and scientific information accessed using it are in and will remain with the ACS as owner, and this Agreement does not grant COPPUL or a Member any right of ownership. The copyright of the ACS is under the Copyright Law of the US (Title 17, U.S. Code), which is party to both the Universal Copyright Convention and the Berne Copyright Convention. COPPUL and Members agree to not remove or obscure copyright notices.

COPPUL, COPPUL's Key Contact(s) and Authorized Users are prohibited from making any modifications, adaptations, enhancements, decompilations, changes or derivative works of SciFinder Scholar. COPPUL is not permitted to use SciFinder Scholar except as specifically set forth herein.

B. Confidentiality. COPPUL and Members agree to keep the specific terms of this Agreement strictly confidential as if it were COPPUL's or Members' own confidential information; for example, COPPUL and/or Members may not post any Agreement text or synopsis to the Internet or a Website except as specifically permitted herein, unless required by law.

C. Warranty and Liability Disclaimers. CAS provides the following limited warranty for SciFinder Scholar: the electronic media on which SciFinder Scholar or an update is recorded and any user manual provided under this Agreement are free from significant defects in material and workmanship under normal use. CAS further warrants that SciFinder Scholar and any update thereto will perform substantially in accordance with the corresponding published specifications. The limited warranties contained in this paragraph are made for a period of 90 days from the date on which SciFinder Scholar or update(s) is delivered to COPPUL. CAS' entire liability and COPPUL's and Members' exclusive remedy with respect to this limited warranty is replacement of any electronic media or user manual not meeting the warranty standard. EXCEPT FOR THIS, CAS DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITH RESPECT TO SCIFINDER SCHOLAR AND ALL INFORMATION SUPPLIED TO COPPUL HEREUNDER, CAS DOES NOT WARRANT ACCURACY OR COMPLETENESS OF THE PRODUCTS OR SERVICES, IS NOT RESPONSIBLE FOR ERRORS AND OMISSIONS IN SEARCH RESULTS OR SOFTWARE DELIVERED HEREUNDER, DOES NOT REPRESENT THAT THE USE OF INFORMATION PRODUCTS OR SERVICES PROVIDED HEREUNDER WILL NOT INFRINGE THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, AND IS NOT LIABLE FOR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS) ARISING OUT OF ANY SERVICES RENDERED OR PRODUCTS PROVIDED, OR ANY FAILURE TO RENDER SERVICES OR PROVIDE PRODUCTS PURSUANT HERETO, OR IN ANY WAY ARISING FROM THIS AGREEMENT.

D. Separability. Should any part of this Agreement be unenforceable, all other provisions will not be affected.

E. No Waiver. If CAS does not exercise any right provided for in this Agreement, this does not mean that CAS waives the right to exercise it in the future.

F. Non-Assignment. COPPUL may not assign or sublicense, without CAS' prior written consent, any rights, duties, or obligations under this Agreement to any person or entity, in whole or in part.

G. Governing Law. Section Deleted.

H. Risks and Costs Associated With Use. COPPUL and each Member is responsible for all risks and costs associated with use of SciFinder Scholar and CAS data, including any and all applicable taxes and duties, such as local, use, value-added, or sales tax, and custom duties.

9. TERMINATION OF AGREEMENT.

A. For Default. If either party breaches a term of this Agreement, the other may send written notice of the breach, including a reasonable cure period not less than seven (7) days. If the breach is not cured within that time, or if the parties do not reach a satisfactory agreement on extending the cure period, then the non-breaching party may terminate this Agreement effective immediately upon written notice. CAS has the option of barring only a breaching Member from using SciFinder Scholar in lieu of full termination of this Agreement.

B. For Convenience. Each party has the right to terminate this Agreement for the sake of convenience effective at the end of the then-current 12 month period, provided that the party choosing to terminate gives the other party at least 30 days' advance written notice.

C. Conditions Following Termination.

On the effective date of termination of this Agreement, regardless of the reason for termination, the license granted in this Agreement to use SciFinder Scholar is revoked, and COPPUL will have no rights to continue to use SciFinder Scholar. On the effective date of termination, CAS will de-activate all of COPPUL's SciFinder Scholar loginids. Following termination, COPPUL Members will use reasonable efforts to erase or otherwise destroy all copies of SciFinder Scholar in their possession (including archive copies) and provide CAS with a written certification of the destruction within a 2 week period. The license to use CAS data that has been accessed through SciFinder Scholar will continue under the terms of Permitted Data Use, defined in paragraph 1(L), which include the requirement to destroy data at the end of the research project or degree program, whichever is first.

Paragraphs 8 and 9 will survive the termination of this Agreement for any reason.

10. NOTICES.

Any notice(s) given under this Agreement must be sent in writing and will be considered given: (i) upon receipt by the transmitting party of confirmation or response if delivery is by telex, telegram, facsimile, or electronic mail; (ii) 5 days after posting if sent by registered mail or certified, return receipt requested mail, postage prepaid, or (iii) one day after posting by overnight mail. Mailed or transmitted notices must be sent to the following addresses. The parties will provide notice to each other of any change in address.

Chemical Abstracts Service
Legal Administration Department
2540 Olentangy River Road
P. O. Box 3012
Columbus, Ohio 43210-0012

Telefax 614-447-3939

Alexander Slade
Executive Director, COPPUL
2005 Sooke Road
Victoria, British Columbia
Canada
V9B5Y2

Telefax 250-391-2556

11. ENTIRE AGREEMENT.


This Agreement, including Exhibit(s), is the entire understanding between the parties concerning the subject matter hereof, and it supersedes all prior representations and agreements, oral or written and may not be modified unless in writing signed by authorized individuals of both parties. If COPPUL uses a purchase order in conjunction with ordering or paying for SciFinder Scholar, be advised that the terms of the purchase order will in no way modify, add to, or delete any of the terms and conditions of this Agreement. **ANY DISCREPANCY BETWEEN COPPUL'S PURCHASE ORDER(S) AND THIS AGREEMENT WILL BE RESOLVED IN FAVOR OF THIS AGREEMENT.**

12. AUTHORITY.


The representative of COPPUL signing this Agreement represents that he or she has the full and complete authority to bind COPPUL and all of its Members to the terms of this Agreement.

The parties' agreement with the terms herein is evidenced with their respective signatures below:

SIGNATURE BY COPPUL'S AUTHORIZED REPRESENTATIVE:


By: _____
ALEXANDER SLADE
Printed Name
EXECUTIVE DIRECTOR, COPPUL
Title
DEC 13 2001
Date

SIGNATURE BY CAS' AUTHORIZED REPRESENTATIVE:


By: Suzan A. Brown
Director, Marketing

Jan 14, 2002
Date