

## Electronic Products License Agreement

**THIS LICENSE IS AGREED** to the 28 of September, 2011

### **BETWEEN**

ASTM International, of 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428-2959 USA (herein referred to as "the Licensor")

and

Conférence des recteurs et des principaux des universités du Québec, of Suite 200, 500 Sherbrooke Street West, Montreal, Quebec, H3A 3C6, Canada (herein referred to as the "Licensee")

**WHEREAS** the Licensor holds the rights granted under this Agreement,

**AND WHEREAS** the Licensee desires to enable Members of several Canadian universities and colleges Consortiums and their Members to use the Licensed Materials and the Licensor desires to grant to these several Consortiums and their Members the license to use the Licensed Materials for the Annual Subscription Fee, subject to the terms and conditions of this Agreement.

**AND WHEREAS** the Licensee has been authorized to act as the Representative in administering the Business Terms of the License Agreement as defined in Schedule 1 on behalf of the participating Consortiums and their Members

### **IT IS AGREED AS FOLLOWS:**

#### **1. DEFINITIONS**

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

##### 1.1 Authorized Users.

Full and part time students, faculty and employees (including permanent, temporary, contract or visiting appointments) and researchers associated with the Licensee, regardless of the physical location of such persons. Individuals not affiliated with Licensee who are physically present at Licensee's site(s) as designated in Schedule 1, also known as "walk-in users" shall be deemed to be Authorized Users under the Terms and Conditions of this agreement.

##### 1.2 Commercial Use.

Use of the Licensed Materials for the purposes of monetary reward (whether by the participating Consortiums and their Members, or Authorized Users or Walk-in Users) by means of sale, resale, loan, transfer, hire or other form of commerce. For the avoidance of doubt, the following uses shall not be deemed to constitute Commercial Use: recovery of direct costs by any Member of the participating Consortiums from Authorized Users of the Licensed Materials in the course of research funded by a commercial organization; the payment of an administrative fee by a person in order to be registered with a Member as a Walk-in User; the recovery of copying costs as outlined in Section 3.5.

1.3 Course Packs.

A collection or compilation of materials (e.g. book chapters, journal articles) assembled by staff of a Member for use by students in a class for the purposes of instruction.

1.4 Electronic Reserves.

Electronic copies of materials (e.g. book chapters, journal articles, abstracts) made and stored on the Secure Network by the Licensee for use by students in connection with specific courses of instruction offered by a Member to its students.

1.5 Subscription Fee.

The Annual Subscription Fee set out in Schedule 1 or in new Schedules to this Agreement which may be agreed to by the parties from time to time. For the avoidance of doubt, the Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes in addition to the Fee.

1.6 Licensed Materials.

The electronic material as set out in Schedule 1 or in new Schedules Materials to this Agreement that may be agreed to by the parties from time to time.

1.7 Licensor's Representative.

A third party appointed from time to time by the Licensor to act on the Licensor's behalf, with notice to the Licensee, who may execute this Agreement on behalf of the Licensor and undertake any or all of the Licensor's obligations under this Agreement, as agreed between the Licensor and the Licensor's Representative.

1.8 Licensee.

An institution who is a member of one of the participating Consortiums as listed in Schedule 1 and is a party to this Agreement and who is bound to abide by the terms of this license for their institutions, employees, users and libraries.

1.9 Licensee's Representative.

A third party appointed by the Licensee to act on the Licensee's behalf, with notice to the Licensor, who may execute this Agreement on behalf of the Licensee and undertake specific and defined portions of the Licensee's obligations under this Agreement, as agreed to between the Licensee and the Licensee's Representative including, but not limited to, those parties listed below.

In the current agreement, the Conférence des recteurs et des principaux des universités du Québec shall be authorized to execute and administer the Business Terms of the License Agreement as defined in Schedule 1 on behalf of the Licensee.

Where Appendix 1 is appended to the License Agreement for the purposes of Local Archiving and Hosting of the Licensed Materials, the University of Toronto Libraries shall be authorized to execute and administer the provisions and terms of the Appendix on behalf of the Licensee, with access being limited to the participating Consortium known as OCUL (Ontario Council of University Libraries) and its Members.

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**1.10 Member.**

An institution who is a member of one of the participating Consortiums and is a party to this Agreement and who is bound by the terms of a signed and authorized legal agreement with the Consortium to abide by the terms of this license.

**1.11 Premises.**

The physical premises of the Library or Libraries operated by the Members, as specified in Schedule 1.

**1.12 Secure Network.**

A network which is only accessible to Authorized Users by Secure Authentication.

**1.13 Server.**

The server, either the Licensor's server or a third party server designated by the Licensor, on which the Licensed Materials and associated access software are mounted and may be accessed.

**1.14 Subscription.**

The period normally covered by Subscription Period and Licensed Material listed in Schedule 1, regardless of the actual date of publication.

**1.15 Usage Data.**

The data and reporting requirements specified in Section 6.12, which will be made accessible to the Licensee in a format acceptable to the Licensee.

**2. GRANT OF LICENSE****2.1 General.**

The Licensor has obtained the right to provide the Licensed Material from the publishers of the materials contained in the databases, and the copyright of the Publisher and its information providers is acknowledged.

Licensor hereby grants to the Licensee the nonexclusive and non-transferable right, to permit Authorized Users to access the Licensed Materials via a Secure Network and using the access methods specified in Schedule 1 for the purposes of personal research, teaching, private study, distance learning and administrative use associated with the normal practices and activities of the Licensee, subject to the terms and conditions of this Agreement.

**2.2 Perpetual Access.**

Except for termination for cause (see Section 10.4), Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use the Licensed Materials that were accessible during the term of this Agreement. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement. The means by which Licensee shall have access to such Licensed Materials shall be in a manner and form substantially equivalent to the means by which access is provided under this Agreement. For the purposes of clarity, inclusion of "Appendix 1 Local Archiving and Hosting of Licensed Materials" in the License Agreement shall constitute prior agreement to enforce all of the provisions of Section 2.2.

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### **3. USAGE RIGHTS**

Nothing in this Agreement shall in any way limit the ability of the Licensee's Authorized Users to engage in or conduct any activity that would not constitute an infringement under Canadian copyright laws, in respect of a copyrighted work.

The Licensed Materials may be used for the purposes of personal research, teaching, private study, distance learning, administrative use or other non-commercial use as follows:

#### 3.1 Display.

Members and Authorized Users shall have the right to electronically display the Licensed Materials.

#### 3.2 Digitally Copy.

Members and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.

#### 3.3 Saving Copy

Members and Authorized Users may electronically save reasonable portions of the Licensed Materials.

#### 3.4 Print Copy.

Members and Authorized Users may print a reasonable portion of the Licensed Materials.

#### 3.5 Recovery of Copying Costs.

Members may charge a fee to cover costs of copying or printing portions of Licensed Materials for Authorized Users, including the costs associated with reproducing portions of the Licensed Materials for the creation of printed course packs. Such fees shall not constitute commercial use.

#### 3.6 Course Packs/Electronic Reserve.

Members and Authorized Users may incorporate a reasonable portion of the Licensed Materials in printed Course Packs and Electronic Reserve collections for the use of Authorized Users in the course of instruction at a Member, but not for Commercial Use. Each such item shall carry appropriate acknowledgement of the source, listing title and author of the extract, title and author of the work, and the publisher. Course packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorized Users who, in the reasonable opinion of the Member, have physical or learning disabilities.

#### 3.7 Electronic Learning Environments

Members and Authorized Users may incorporate parts of the Licensed Material to be used in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments, library environments, and courseware technologies) hosted on a Secure Network. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner.

#### 3.8 Use in Academic Research

Members and Authorized Users may incorporate parts of the Licensed Material in printed or electronic form in assignments, portfolios, theses and dissertations, including reproductions of the Licensed Material for library deposit and other non-commercial uses.

### 3.9 Electronic Links.

The Licensor agrees to use reasonable efforts to comply with the Open URL standard. Licensee may provide electronic links to the Licensed Materials from Member's web page(s) and is encouraged to do so in ways that will increase the usefulness of the Licensed Materials to Authorized Users. The Licensor will assist the Licensee upon request in creating such links effectively, and will use the OpenURL standard for such links whenever feasible. Licensee may make changes in the appearance of such links and/or statements accompanying such links as reasonably requested by the Licensor.

### 3.10 Scholarly Sharing.

Authorized Users may transmit to a third party colleague in hard copy or electronically, reasonable amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for re-sale or commercial purposes. In addition, Authorized Users have the right to use, with appropriate credit, figures, tables and excerpts from the Licensed Materials in Authorized User's own scientific, scholarly and educational works.

### 3.11 Interlibrary Loan.

Members shall be permitted to supply to a library of a non-Member (whether by post, fax or secure transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing), for the purposes of research or private study and not for Commercial use, a single copy of an electronic original of an individual document being part of the Licensed Materials.

### 3.12 Training Materials.

Members may display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorized Users or groups of Authorized Users.

### 3.13 Marketing Materials.

Members may display, download or print training and promotional materials related to the Licensed Materials for the purpose of internal marketing or for training Authorized Users or groups of Authorized Users.

### 3.14 Caching.

Members and Authorized Users may make such local digital copies of the Licensed Materials as are necessary to ensure efficient use by Authorized Users by appropriate browser or other software.

### 3.15 Extraction from Databases.

If the Licensed Materials are a database, compilation or collection of information, Authorized Users shall be permitted to extract or use reasonable amounts of information contained therein for purposes such as educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research or analysis.

### 3.16 Branding.

The Licensee may request that the product be branded with the name of the institution on the homepage of the product, or otherwise as agreed, in order to publicize the acquisition to the Authorized Users of the Licensee.

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### 3.17 Indices.

Members may use the Licensed Materials in connection with the preparation of or access to integrated indices to the Licensed Materials, including author, article, abstract and keyword indices.

## **4. PROHIBITED USES**

4.1 Unauthorized Use. Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials.

4.2 Modification of Licensed Materials. Licensee shall not modify, manipulate, or create a derivative work of the Licensed Materials without the prior written permission of Licensor.

4.3 Removal of Copyright Notice. Licensee may not remove, obscure or modify any copyright notices included in the Licensed Materials.

4.4 Commercial Purposes. Licensee may not use the Licensed Material for any Commercial Use or for any purpose other than those outlined in Section 3.

4.5 Systematic Downloading. Licensee may not use robots, spiders, or intelligent agents to access, search and/or systematically download any portion of the Licensed Materials.

## **5. MUTUAL RESPONSIBILITIES**

### 5.1 Confidentiality of User Data.

Licensor and the Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by participating Consortiums and their Authorized Users. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party.

### 5.2 Implementation of Developing Security Protocols.

Licensor and the Licensee shall cooperate in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.

## **6. LICENSOR RESPONSIBILITIES**

### 6.1 Availability of Licensed Materials.

Upon the Effective Date of this Agreement, Licensor shall make the Licensed Materials available to Licensee.

### 6.2 Platforms for accessibility of Licensed Materials.

Two platforms for accessing the Licensed Materials will be available: from ASTM International and from I H S.

### 6.2 Documentation.

Licensor will provide and maintain help files and other appropriate user documentation.

### 6.3 Training and Support.

Licensors will offer installation support, including assisting with the implementation of any Licensor software. Licensor will provide appropriate training to Licensee staff relating to the use of the Licensed Materials and any Licensor software. Licensor will offer reasonable levels of continuing support to assist Licensee in use of the Licensed Materials. Licensor will make its personnel available by email, phone or fax, or in person during regular business hours, Monday through Friday for feedback, or longer by agreement, problem-solving, or general questions.

### 6.4 Quality of Service.

Licensors shall use reasonable efforts to ensure that the Licensor's server(s) have sufficient capacity and rate of connectivity to support the usage of the Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this Agreement.

Licensors shall use reasonable efforts to make the Licensed Materials available to the Licensee at all times and on a twenty-four hour basis, save for routine maintenance (Licensor shall notify the Licensee in advance wherever possible), and to restore access to the Licensed Materials as soon as possible in the event of an interruption or suspension of the service. Scheduled down-time will be performed at a time designed to minimize inconvenience to Licensee with advance notice.

If the Licensed Materials fail to operate in conformance with the terms of this Agreement, Licensee shall immediately notify Licensor, and Licensor shall promptly use reasonable efforts to restore access to the Licensed Materials as soon as possible. In the event that Licensor fails to repair the nonconformity in a reasonable time, Licensor shall reimburse Licensee in an amount proportional to the total Fees owed by Licensee under this Agreement. Persistent failure to comply with the provisions set forth in this agreement may be treated as a breach of the agreement as described in Section 10.4.

### 6.5 Notice of Terms of "Click-Through" License Terms.

In the event that Licensor requires Authorized Users to agree to terms relating to the use of the Licensed Materials before permitting Authorized Users to gain access to the Licensed Materials (commonly referred to as "click-through" licenses), Licensor shall provide Licensee with notice of and an opportunity to comment on such terms prior to their implementation. In no event shall the terms of such "click-through" licenses materially differ from the provisions of this Agreement. In the event of any conflict between the terms of such "click-through" licenses and this Agreement, the terms of this Agreement shall prevail.

### 6.6 Completeness of Content.

Where applicable, Licensor shall use reasonable efforts to ensure that the online content is at least equivalent to print versions of the Licensed Materials, and represents a complete, faithful and timely replication of the print versions of such Materials where applicable. Licensor will cooperate with Licensee to identify and correct errors or omissions as required.

### 6.7 Archiving.

A digital archive of the Licensed Materials that the Licensor makes available electronically on its servers will be maintained. The archival files are intended to be maintained in perpetuity, with their format converted as appropriate if the technology used

for storage or access changes. Licensor will make reasonable efforts to ensure that most files are being retained simultaneously in several formats. Licensor and Licensee warrant that, where the Archive of Licensed Materials cannot be maintained, Sections 2.2 and 10.7 of this agreement shall come into effect.

#### 6.8 Notification of Modifications of Licensed Materials.

The Licensee understands that from time to time the Licensed Materials may be added to, modified, or deleted by the Licensor and/or that portions of the Licensed Materials may migrate to other formats. Licensor shall give a sixty (60) day notice of any such changes to the Licensee. Failure by the Licensor to provide such reasonable notice shall be grounds for immediate termination of the Agreement by the Licensee. If any modifications render the Licensed Materials less useful to the Licensee, the Licensee may treat such modifications as a breach of the agreement as described in Section 10.4.

In the case where materials are permanently removed from the Licensor's servers, Licensor shall make a permanent note or mark indicating that the article was removed and providing sufficient explanation as to the reasons why it was removed.

#### 6.9 Withdrawal of Licensed Materials.

The Licensor 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 and for which the Licensor has been unable to secure the provisions as set out in Clauses 6.7 and 6.10, or any item or part of an item for which the Licensor has reasonable grounds to believe it infringes copyright or is defamatory, or otherwise unlawful in nature from the Licensor's servers. The Licensor shall give written notice to the Licensee of such withdrawal. If the withdrawn material represents more than ten per cent (10%) of the Licensed Material the Licensor shall make a pro rata refund of part of the Fee to the Licensee, taking into account the amount of material withdrawn and the remaining unexpired portion of the Subscription Period. Withdrawal of Licensed Materials from the Licensee's Servers shall be governed by the provisions set out in Appendix 1.

#### 6.10 Addition to the Licensed Materials

The Licensor reserves the right at any time to add new materials to the Licensed Material. The Licensor shall give written notice to the Licensee of such changes in accordance with Section 6.8. Any fees arising from the addition of new content within a multi-year agreement shall be the subject of negotiation and the Licensor and Licensee must mutually agree and consent to any increase in the Subscription Fees for subsequent years arising from the addition of new materials.

#### 6.11 Loss of Ownership of Licensed Material

In the event that ownership of a part or parts of the Licensed Material is sold by the Licensor or otherwise transferred to a third party the Licensor will use all reasonable efforts to retain a non-exclusive copy of the volumes published and make them available free of charge through the Licensor's server or by supplying such material free of charge to the Licensee in accordance with the procedure described in Section 10.7.

#### 6.12 Usage Data and Reports

Licensor shall collect and compile Usage Data in accordance with the principles and guidelines established by the most current Project Counter Code of Practice (<http://www.projectcounter.org/>). Licensor will make reports available to Licensee on a regularized basis and in a format that render them useful to the participating Consortiums and their Members.

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### 6.13 World Wide Web Consortium standards

The Licensor agrees to make reasonable efforts to comply with the W3C standards as described at: <http://www.w3.org/Consortium/>.

## **7. CONSORTIUM'S AND MEMBERS' RESPONSIBILITIES**

### 7.1 Provision of Notice of License Terms to Authorized Users.

Licensee shall make reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement including, in particular, any limitations on access or use of the Licensed Materials as set forth in this Agreement.

### 7.2 Provision of Notice of Intellectual Property Right to Authorized Users.

Licensee shall make reasonable efforts to provide Authorized Users with notice of any applicable Intellectual Property or other rights related to the Licensed Materials. Licensee shall make reasonable efforts to prevent any infringement that comes to the attention of the participating Consortiums or their members, of any Intellectual Property or other rights of the Licensor in the Licensed Materials. Licensee shall promptly notify Licensor of any infringement that arises, and take appropriate steps to avoid its recurrence.

### 7.3 Protection from Unauthorized Use.

Licensee shall use reasonable efforts to protect the Licensed Materials from any use that is not permitted under this Agreement. Licensee shall use reasonable efforts to comply with the terms and conditions of this Agreement by Authorized Users, and upon becoming aware of any unauthorized use or other breach, inform the Licensor in a timely manner and take reasonable and appropriate steps to ensure that such activity ceases and to prevent any future recurrence. Both parties agree to cooperate in good faith and provide sufficient exchange of information to prevent any further unauthorized use.

In the event of any substantial unauthorized use of the Licensed Materials by an Authorized User, (a) Licensor may terminate such Authorized User's access to the Licensed Materials, (b) Licensor may terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred limited to the specific IP address or subnet from which the use occurred, and/or (c) the participating Consortium or its Member(s) shall terminate such Authorized User's access to the Licensed Materials upon Licensor's request. Licensor shall take none of the steps described in this paragraph without first providing written notice to both the participating Consortium and its relevant Member(s).

### 7.4 Maintaining Confidentiality of Access Passwords.

Where access to the Licensed Materials is to be controlled by use of passwords, Licensee shall issue log-on identification numbers and passwords to each Authorized User and use reasonable efforts to ensure that Authorized Users do not divulge their numbers and passwords to any third party.

## **8. REPRESENTATION, WARRANTIES AND INDEMNIFICATION**

Subject to the Limitations set forth elsewhere in this Agreement:

### 8.1 General.

Licensor warrants that it has the right to license the rights granted under this Agreement to use Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials

by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party.

### 8.2 Physical Media.

Licensor warrants that the physical medium, if any, on which the Licensed Materials is provided to Licensee will be free from defects for a period of ninety (90) days from delivery, and may be returned if it is found to be defective.

### 8.3 Limitations on Warranties.

Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, arising out of the use of or the inability to use the Licensed Materials.

Licensor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

Except for the express warranties stated herein, the Licensed Materials are provided on an "as is" basis, and Licensor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. Licensor makes no warranties respecting any harm that may be caused by the transmission of a computer virus or other such malicious computer program. Licensor further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

### 8.4 Indemnities.

Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request.

### 8.5 Term of Indemnity.

This indemnity shall survive the termination of this Agreement for any reason. This indemnity shall not apply to any specific Licensed Material if the Licensee or any of its Members has amended the Licensed Material in any way not permitted by this Agreement. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.

## **9. GENERAL**

### 9.1 Entire Agreement.

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

9.2 Amendment.

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of Licensor and Licensee on behalf of its Members.

9.3 Assignment & Transfer.

This License may not be assigned by either party to any other person or organization, nor may either party sub-contract any of its obligations, without the prior written consent of the other party, which consent shall not unreasonably be withheld. The rights and obligations of this Agreement shall bind and benefit any successors or assigns of the parties.

9.4 Notices.

Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this Agreement or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within 14 days of posting.

9.5 Notice of the Use of Digital Rights Management Technology.

In the event that Licensor utilizes any type of digital rights management technology to control the access or the usage of Licensed Materials, Licensor agrees to notify Licensee of the name, contact information and any technical specifications for the digital rights management technology utilized. In no event may such Digital Rights Management Technology be used in such a way as to limit the usage rights of a Licensee or any authorized user as specified in this agreement or under applicable law.

9.6 Notice of the Use of Digital Watermarking Technology.

If Licensor utilizes any type of digital watermarking technology for any element of the Licensed Materials, Licensor agrees that watermarks will not be visible to the human eye and will not degrade image quality. These watermarks shall not contain information pertaining to Authorized Users such as account numbers or IP addresses. If digital watermarking technology is used, Licensor agrees to notify the Licensee, in advance, of the name, contact information, and any technical specifications for the technology used.

9.7 Force Majeure.

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, terrorism, insurrections, strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected.

9.8 Severability.

The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation or enforceability of the remainder of this Agreement.

9.9 Waiver of Contractual Right.

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.

**9.10 Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Quebec and the parties irrevocably agree that any dispute arising out of or in connection with this Agreement will be subject to and within the jurisdiction of the laws of Quebec and Canada applicable therein. Both parties agree that any action or proceeding relating to this Agreement will be brought to a court of competent jurisdiction in the Province of Quebec, Canada.

**9.11 Dispute Resolution.**

If the parties disagree over an interpretation of this Agreement or whether a party is in breach of any part of this Agreement, the parties shall in good faith enter into negotiations to resolve the disagreement and discuss the feasibility of resolving the disagreement by mediation or other means short of litigation. The parties shall cooperate in good faith in pursuing mediation or such other means.

**10. TERM AND TERMINATION****10.1 Renewal.**

This Agreement shall commence at the beginning of the Subscription Period, for each of the Licensed Materials as set out in Schedule 1 of this Agreement and that may be added subsequently; and shall remain in effect until the end of the Subscription Period, when the Agreement shall automatically terminate unless the parties have previously agreed to renew it.

**10.2 Early Termination.**

In the event of early termination permitted by this Agreement, the Licensee shall be entitled to a refund of any fees or pro-rata portion thereof paid by Licensee for any remaining period of the Agreement from the date of termination. This paragraph is invalid if the Licensee commits a willful, material and consistent breach of the terms of this Agreement, and fails to remedy the breach within thirty (30) days of notification by the Licensor.

**10.3 Suspension of Access.**

The Licensor reserves the right to temporarily suspend any Member's access to the Licensed Materials for substantial infringement of the rights holder's intellectual property rights in the Licensed Materials or for a breach of the terms of this Agreement that threatens either the performance or security of the Server. Any account suspension by Licensor shall comply with the provisions laid out in Section 7.3 of this agreement. Immediately after suspending such access the Licensor shall issue a notice to the Member and their participating Consortium of the breach specifying the activity of the Member that caused the breach. The Licensor shall forthwith restore access to the Member upon receipt of notice that such activity has ceased and that the Member has made reasonable efforts to protect against recurrence of such activity.

**10.4 Breach of Agreement.**

In the event that either party believes that the other materially has breached any obligations under this Agreement, or if the Licensor believes that the Licensee has exceeded the scope of this Agreement, such party shall notify the breaching party in writing. The breaching party shall have 30 days from the receipt of notice to cure the alleged breach and to notify the nonbreaching party in writing that cure has been effected. If the breach is not cured within the 30-day time period, the non-breaching party shall have the right to terminate the Agreement without further notice.

#### 10.5 Extension of Term.

In the event that the Licensor is in breach of this Agreement as set out in clause 10.4, the Licensee, at its option and on notice to the Licensor, may extend the term of this agreement by one full calendar month, or a period equivalent to the length of time that the specified breach remained uncured.

#### 10.6 Funding Contingency.

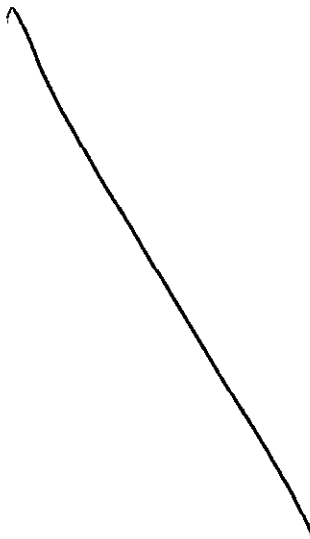
If public funding of one or several of the participating Consortiums or funding of one or several of any participating Consortium by the Members is materially reduced and the participating Consortium or Consortiums thereby become/becomes unable to pay future amounts payable pursuant to this Agreement, the participating Consortium(s) may give the Licensor written notice of termination for their Members and this Agreement shall terminate for these Members effective 30 days after the giving of such notice if the participating Consortium(s) has/have failed to pay the Fee for the calendar year in which such notice was given, or if the participating Consortium(s) has/have paid the Fee for the calendar year in which such notice was given, January 1 of the following year.

#### 10.7 Continued Access to Licensed Materials

Licensor warrants that, in the unlikely event that it cannot assume the responsibility for maintaining the Archive of Licensed Materials as stipulated in Section 6.7, or if the Licensor ceases doing business or otherwise cannot honour the terms of this agreement, Licensor will undertake one of the following courses of action: a) to transfer the archive to one or more Third Parties mutually acceptable to the Licensor and the Licensee, where perpetual access will be maintained; or b) the Licensee may, at their option, obtain copies of the Licensed Materials in a medium mutually agreed upon between the parties provided that the Licensee pays the Licensor an amount limited to the reasonable costs associated with reproducing the Licensed Materials.

### **11. FEES/PAYMENTS**

The fees established in Schedule 1 (and as defined under 'Subscription Fee' in the definitions of terms) shall constitute the financial transaction of this Agreement. Terms of payment shall also be indicated in Schedule 1.



**SCHEDULE 1****BUSINESS TERMS**

A schedule dated the \_\_\_\_\_ of \_\_\_\_\_, 2011 to the Agreement dated the \_\_\_\_\_ of \_\_\_\_\_, 2011 between ASTM International and the Licensee:

Name of Licensed Material:

ASTM Standards (Basic/Active) and ASTM Standards (Basic/Active) + Digital Library (also known as The Standards and Engineering Digital Library or SEDL). Selection of product by each Member is indicated in the Authorized Users section in Schedule 1.

Subscription Period (Inclusive dates): beginning September 15, 2011 for a period of one year, renewable

Format: database

Access: via World Wide Web – via either the I H S platform or the ASTM International platform. The University of Alberta will continue to have access via the I H S platform as well as additional access to the ERC version of ASTM, at no charge.

Fee and payment schedule: annual fee

Billing method: invoiced in US dollars, via I H S (200, 1331 MacLeod Trail SE, Calgary, Alberta T2G 0K3 Canada) – one invoice per Consortium for its Members

Authorized Users: The universities and colleges participating in this License Agreement:

Consortium / Institution	ASTM Standards (Basic/Active)	ASTM standards (Basic/Active) + Digital Library (SEDL)	Price per institution	TOTAL PER CONSORTIUM
<b>Council of Prairie and Pacific University Libraries (COPPUL)</b>				
Memorial University of Newfoundland	x		██████	
Dalhousie University		x	██████	
U Alberta		x	██████	
U British Columbia		x	██████	
U Calgary		x	██████	
U Regina		x	██████	
U Saskatchewan		x	██████	
total				██████

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Conférence des recteurs et principaux des universités du Québec (CREPUQ)				
Polytechnique Montréal	x			
Université de Sherbrooke	x			
Université Laval		x		
total				
Ontario Council of University Libraries (OCUL)				
Carleton University	x			
Guelph, University of	x			
Lakehead University	x			
Laurentian University	x			
Queen's University	x			
Royal Military College	x			
Ryerson University	x			
Toronto, University of	x			
Western Ontario, University of	x			
Windsor, University of	x			
Ontario Institute of Technology		x		
Ottawa, University of		x		
Waterloo, University of		x		
McMaster, University of		x		
total				
Ontario Colleges Library Services (OCLS)				
Conestoga College	x			
Fanshawe College	x			
total				
<b>TOTAL</b>	<b>15</b>	<b>11</b>		

**AS WITNESS** the hands of the parties the day and year below first written

FOR THE [REDACTED]

[REDACTED]

28-09-2011

September Twenty Eight, 2011

Position / Title: Director - Int'l Sales [REDACTED]

[REDACTED] LICENSEE :

Name (in block capitals): [REDACTED]

27-09-2011

September 27, 2011

[REDACTED]

[REDACTED]

Organization: Conférence des recteurs et des principaux des universités du Québec

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**APPENDIX 1****LOCAL ARCHIVING AND HOSTING OF LICENSED MATERIALS**

**THIS ADDENDUM IS AGREED** to the 04 of January, 20112

**BETWEEN**

ASTM International of [100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428-2959 USA] (herein referred to as "the Licensor")

and

The Governing Council of the University of Toronto represented by the University of Toronto Libraries, acting as Service Provider (herein referred to as the Service Provider) to the Licensee

*to occur under contract / etc.*

**WHEREAS**

This is an Addendum to the Electronic Products License Agreement ("the License Agreement") dated the 28 of September, 2011 and made between the Licensor and the Conférence des recteurs et des principaux des universités du Québec acting as Licensee on behalf of members of several Canadian universities and colleges Consortiums and their Members

The Governing Council of the University of Toronto represented by the University of Toronto Libraries hereby agrees to act as the Service Provider, as defined in section 1.9 of the License Agreement;

NOW IT IS HEREBY AGREED as follows;

From the Date hereof the License Agreement shall be amended as follows;

**1. General.**

Licensor agrees to deliver electronic copies of the Licensed Materials to the Service Provider for the purposes of loading onto its server(s) and to provide access to its members and Authorized Users (also known as 'local hosting'). Service Provider hosting services are limited to those servers within the Server Domain name of Scholarsportal.info and related IP address ranges.

**2. Format.**

Licensor agrees to provide Licensed Materials in the following formats:

PDF image files for the full-text of content.

*MIX*  SGML or XML structure information (commonly known as 'headers' or 'header data') for each article conforming to the publishers DTD or XML Schema.

Other Formats (subject to approval by Consortium)

Please Specify: FTP



In addition, Licensor agrees to provide the Service Provider with any other metadata information, including any DTD or XML Schemas, for the purposes of accurately loading, storing and rendering the Licensed Materials on the Server(s) operated by the Service Provider. In the case of electronic journals, the header data (normally in SGML format) should be clearly related to the underlying content (normally the PDF version of the article or associated text) based on some combination of common base file names, organization into a hierarchical directory structure reflecting the organization of volume, issue, and article, or by use of a table that maps the SGML file name to the corresponding PDF. Licensor agrees to use reasonable efforts to assist the Service Provider in all activities required to render a faithful reproduction of the Licensed Materials on the Service Provider's servers, including making appropriately trained staff available during normal business hours for assistance (8:00 am to 4:00 pm EST).

The content of the Licensed Materials provided shall not normally materially differ from any equivalent print editions of journals. Any exceptions shall be identified and agreed upon in advance by both Licensor and Licensee.

### 3. Portability.

The Licensee shall have the right to migrate the Licensed Materials on a locally hosted system to new formats, in response to technological change, in order to ensure ongoing access to Authorized Users, within the framework of this License. It is understood that digital rights management technology shall not interfere with this right.

### 4. Schedule of Delivery.

Licensor agrees to make copies of the Licensed materials available to the Licensee in a format consistent with this agreement within a reasonable time period. For the purposes of clarity, Licensor will provide all current Licensed Materials within a period of 10 (10) working days from the date of this agreement. In addition, Licensor agrees to provide the Service Provider with any subsequent content or update to the Licensed Materials after the first appearance of the Materials on the licensor's web server(s) within a period of 10 (10) working days.

### 5. Notification of Updates.

Licensor agrees to provide the Service Provider with information pertaining to any subsequent modifications to the Licensed Materials within a period of ten (10) working days.

### 6. Withdrawal of Licensed Materials.

Licensor shall give written notice of any intention to withdraw any part of the Licensed Materials from their server in accordance with Section 6.9 of this agreement. Licensor may request that the Service Provider remove an item or part(s) of the Licensed Materials present on the server(s) operated by the Service Provider by providing detailed rationale in writing to the Licensee no less than sixty (60) days prior to the scheduled date of removal from Licensor's server. Licensor shall not knowingly cause the removal or deletion of any part of the Licensed Materials on the server(s) operated by the Service Provider through the use of data loads or any related data delivery mechanisms or processes. Service Provider retains the right to archive and continue to provide access to the withdrawn materials provided that a permanent note, mark or URL link is made indicating that the article has been removed from the Licensor's servers. Where possible, a link will be made from the server(s) operated by the Service Provider to the Licensor's server to provide the rationale as to why the material was removed.

7. Termination.

Should the Licensor decide to terminate the agreement, the Licensed Materials would remain on Scholars Portal servers in perpetuity. Access rules and Copyright as stated in the license remain in place.

8. Contact for the Service Provider.

Manager, OCUL Scholarly Information Resources Project  
130 St. George Street  
Toronto, Ontario Canada M5S 1A5

FOR THE LICENSOR:

[Redacted signature block]

JAN 04, 2012  
Ontario Council of University Libraries



# IHS PAYMENT AGREEMENT

**THIS IHS PAYMENT AGREEMENT** ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011 (the "Effective Date") by and between IHS Global Inc. with its offices at Suite 200, 1331 Macleod Trail SE, Calgary AB Canada T2G 0K3, on behalf of itself, IHS Affiliates ("IHS") and ASTM International, and CREPUQ, Conférence des recteurs et des principaux des universités du Québec, with its principal offices at Montreal, Canada on behalf of several Canadian universities and colleges Consortia and their Members participating in the CONSORTIA CANADA license agreement with ASTM International. Where license terms grant a right or benefit to "Licensee" under the License, they will apply to Licensee under this IHS Agreement by reason of flow-down. Where license terms grant a right or benefit to ASTM International under the License, they will apply to IHS under this IHS Agreement by reason of flow-down.

Term: [ 1 ] year(s)       Site License ('SL')       Enterprise-Wide License ('EWL')       User License only ('UL')

Currency: U.S. Dollar      Quote Date: 2011-09-22

Account #:      Account Manager: Barry Anderson      Vertical Sales:      Membership of Association #:      Client Reference #: 100527618  
(if Applicable)      Client VAT #: (if applicable)

Locations/Sites	Concurrent Users	# Potential Users	Media	PCN	Price Base	License Type (S/LEW/UL)	Product Subscription Start Date	PRODUCTS DESCRIPTION	BASE PRICE	ANNUAL FEE
15	1	1	CI	410N	C06/Q	EW	15-Sep-11	SITES 1-15 ASTM INTERNATIONAL - STANDARDS (BASIC/ACTIVE) COLLECTION		
11	1	1	CI	ASTDL	C06/Q	EW	15-Sep-11	SITES 16-26 ASTM INTERNATIONAL STANDARDS (BASIC/ACTIVE) + DIGITAL LIBRARY - ALSO KNOWN AS THE ASTM STANDARDS AND ENGINEERING DIGITAL LIBRARY OR SEDL - COLLECTION		
								SITES 1-10, 23-26 OCUL Billing	\$	
								SITES 12 & 13 OCLS Billing		
								SITES 11 & 16 - 21 COPPUL Billing		
								SITES 14, 15 & 22 CREPUQ Billing		
								Sub-Total		
								HST #10416 8638 RT 0001		
								TOTAL IN U.S. FUNDS		
								Expenses		

Special Billing Instructions:      Payment Terms: Net 30

Invoice Addresses: Each of the four participating consortia will receive an invoice for the total amount owed by their participating members and each consortium is responsible for only their consortium's payment.

**OCUL :**  
Faye Abrams  
OCUL Projects Officer  
130 St. George Street  
Toronto, ON  
Canada  
M5S 1A5

**COPPUL :**  
Alexander (Sandy) Slade  
Executive Director  
Council of Prairie and Pacific Libraries  
2005 Sooke Road  
Victoria, BC  
Canada  
V9B 5Y2

**CREPUQ :**  
Christine Hiller  
CREPUQ  
Suite 200  
500 Sherbrooke Street West  
Montreal, QC  
Canada  
H3A 3C6

**OCLS :**  
Helen Yang  
Electronic Resources Librarian  
Ontario Colleges Library Service  
31 Scarsdale Road  
North York, ON  
Canada  
M3B 2R2

The four consortia named OCUL, COPPUL, OCLS and CREPUQ, on behalf of their respective participating members in the CONSORTIA CANADA licence agreement with ASTM International, must pay their consortium's portion of any and all monies due to IHS Global Inc. ("IHS") for the ASTM Standards (Basic/Active) and ASTM Standards (Basic/Active) + Digital Library -- also known as the ASTM Standards and Engineering Digital Library or SEDL, licensed by Licensee from ASTM International under the terms of the Electronic Products License Agreement. All payments to IHS are due within 30 days from date of invoice and are not refundable.

See Attachment A to this Payment Agreement for a listing of locations and addresses.

KR.003/1, CML - IHS Subscription Agreement  
v13.01 SAMB 06/01/10

Client Initials: \_\_\_\_\_

& Date: 29-09-2011  
September 29, 2011

# IHS PAYMENT AGREEMENT

Total Sites	Total Potential Users
26	n/a

Term: [ 1 ] year(s)	<input type="checkbox"/> Site License ('SL')	<input checked="" type="checkbox"/> Enterprise-Wide License ('EWL')	<input type="checkbox"/> User License only ('UL')
Currency: U.S. Dollar	Quote Date: 2011-09-22		
Account #:	Account Manager: Barry Anderson	Vertical Sales:	Membership of Association #: (if Applicable)

## Attachment A

Locations/ Sites	Company Name, Street address, City, State/Province, Country	ZIP/ Postal	Authorized Users per Location	IP Address(es) or ranges
1	University of Guelph	N1G 2W1	n/a	131.104.*.* 68.171.65.192 - 222
2	Lakehead University	P7B 5E1	n/a	65.39.0.0-65.39.63.255
3	Laurentian University	P3E 2C6	n/a	142.51.*.* 209.226.56.98 209.226.58.242-243 209.226.88.22 209.226.88.26
4	Queen's University	K7L 5C4	n/a	130.15.*.* 130.15.126.81 [proxy] 130.15.241.169 [proxy] 193.122.239.* [Int'l Study Centre]
5	Carleton University	K1S 5B6	n/a	134.117.1.1 - 134.117.135.255 134.117.10.200 Proxy 134.117.138.1 - 134.117.140.255 134.117.142.1 - 134.117.221.255 134.117.224.1 - 134.117.254.255
6	Royal Military College	K7K 7B4	n/a	137.94.*.*
7	Ryerson University	M5B 2K3	n/a	141.117.*.* 141.117.79.62 ezProxy server
8	University of Toronto	M5S 1A5	n/a	128.100.*.* 142.1.*.* 142.150.*.* 142.151.*.* 192.12.183.* 192.139.206.*-207* 192.75.177.* 192.75.254.* 192.82.128.*-131* 198.96.61.* 199.212.31.*
9	University of Western Ontario	N6A 3K7	n/a	129.100.*.*
10	University of Windsor	N9B 3P4	n/a	Please provide
11	Memorial University	A1B 3Y1	n/a	Domain name: *.mun.ca 134.153.0-79.* 134.153.80.2-255 134.153.81-88.1 134.153.88.3-255 134.153.89-112.* 134.153.113.3-6 134.153.113.7-255 134.153.114-255.* 209.205.240-255.* 192.75.24.* 192.219.31.* 208.85.80-83.*
12	Conestoga College	N2G 4M4	n/a	142.156.1.* 204.225.107.96 9 (Proxy) 142.156.61.* 142.156.63.*
13	Fanshawe College	N5Y 5R6	n/a	205.211.140-145.* 204.225.107.96 (Proxy) 192.139.219-220.* 198.96.18-19.*
14	Ecole Polytechnique	H3T 1J4	n/a	132.207.*.*
15	Université de Sherbrooke	J1K 2R1	n/a	132.210.*.* 206.167.[180-186]* (résidences)

KR.003/1, CML - IHS Subscription Agreement  
v13.01 SAMb 06/01/10

Client Initials: \_\_\_\_\_

& Date: 29-09-2011  
September 29, 2011

Commercial C/06-C/BG, C/ML-C/BL  
International C/IR, C/IM  
S - TE - N KR.006/1 May/2010

16	Dalhousie University	B3H 4H8	n/a	129.173.*.* 129.173.72.87 (Proxy Server) 129.173.72.149 (Proxy server)
17		T6G 2J8	n/a	129.128.*.* 142.244.0-10.* 142.244.12-251.* 198.161.218.* 199.185.2-3.* 209.115.220-221.* EZProxy: 129.128.216.34 129.128.216.32
18	University of British Columbia	V6T 1Z2	n/a	128.189.64-255.* 137.82.*.* 142.90.*.* 142.103.*.* 142.231.64-99.* 198.162.32-63.* 206.87.0-63.* 206.87.96-159.* 206.87.192-223.*
19	University of Calgary	T2N 1N4	n/a	136.159.0.0 - 136.159.235.165 136.159.235.167 - 136.159.235.173 136.159.235.175 - 136.159.235.211 136.159.235.213 - 136.159.255.255 86.36.48.162 to 86.36.48.190 EZProxy: 136.159.235.223 Serials Solutions 360 Search Unique IP: 207.170.234.211
20	University of Regina	S4S 0A2	n/a	142.3.*.*
21	University of Saskatchewan	S7N 5A4	n/a	128.233.0.0/16 ; 198.169.12-19 ;192.75.63.0/24 ; Proxy server: cyber.usask.ca:3128 ; EZProxy: cyber.usask.ca
22	Université Laval	G1V 0A6	n/a	132.203.*.*
23	Ontario Institute of Technology	L1H 7L7	n/a	192.197.54.* 205.211.181.105 ezproxy
24	University of Ottawa	K1N 9A5	n/a	137.122.*.* 137.122.14.60 proxy 137.122.27.98 Library Proxy 137.122.27.99 Library Proxy 192.75.139.* 207.35.222.150 207.35.222.152 216.48.80.0 - 216.48.95.255
25	University of Waterloo	N2L 3G1	n/a	129.97.00.00-129.97.255.255
26	McMaster University	L8S 4L8	n/a	130.113.*.* 130.113.111.210 proxy 130.113.111.211 proxy 130.113.111.214 proxy 130.113.128.11 proxy 130.113.128.224 proxy 130.113.226.6 proxy

I  
 By  
 Da  
 F  
 Title: V.P. des recteurs  
 v2.Sept SAM 07/01/11

KR.003/1, CML - IHS Subscription Agreement - Attachment A  
 v13.01 SAMb 06/01/10