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**THIS LICENCE IS AGREED** the \_\_\_\_\_ day of \_\_\_\_\_ [200\_]

**BETWEEN**

1 North Waterloo Academic Press Inc. of 482 Lexington Crescent, Waterloo, Ontario, Canada, N2K 2J8 ("the Publisher")

and

2 [FULL CONTRACTUAL NAME] of [full address] ("the Licensee")

**WHEREAS** the Publisher holds the rights granted under this Licence

**AND WHEREAS** the Licensee desires to use the rights and the Publisher desires to grant to the Licensee the licence to use the rights for the Fee, subject to the terms and conditions of this Licence.

**IT IS AGREED AS FOLLOWS: -**

**1. KEY DEFINITIONS**

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## **2. AGREEMENT**

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2.2 [This Licence shall commence at the beginning of the Subscription Period, for each of the Licensed Materials as set out in Schedule 1 or in new Schedules to this Licence that may be added subsequently; and shall automatically terminate at the end of the Subscription Period, unless the parties have previously agreed to renew it.]

*Or*

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[2.3 On termination of this License, the Publisher shall provide continuing access for Authorised Users to that part of the Licensed Materials which was published and paid for within the Subscription Period, either from the Server [or from the archive described in 7.4] or by supplying [electronic files] [CD-ROMS] [printed copies] to the Licensee [subject to payment of such fees as the parties may agree] [except where such termination is due to a breach of the License by the Licensee which the Licensee has failed to remedy as provided in 10.1.1 and 10.1.3 of this License{, in which case such continuing access shall be provided in respect of Licensed Materials published up to the date of such breach}].

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7.2.3 provide the Licensee [and the Agent], within 30 days of the date of this Licence, with information sufficient to enable the Licensee to access the Licensed Material.

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## **8. LICENSEE'S UNDERTAKINGS**

- 8.1 The Licensee shall:
- 8.1.1 use reasonable endeavours to ensure that all Authorised Users are appropriately notified of the importance of respecting the intellectual property rights in the Licensed Materials and of the sanctions which the Licensee imposes for failing to do so, as specified in Schedule 3;
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  - 8.1.3 use reasonable endeavours to monitor compliance and immediately upon becoming aware of any unauthorised use or other breach, inform the Publisher and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;
  - 8.1.4 [issue passwords or other access information only to Authorised Users and use all reasonable endeavours to ensure that Authorised Users do not divulge their passwords or other access information to any third party;]
  - 8.1.5 provide the Publisher, within 30 days of the date of this Agreement, with information sufficient to enable the Publisher to provide access to the Licensed Material in accordance with its obligation under clause 7.2.3. Should the Licensee make any significant change to such information, it will notify the Publisher not less than ten (10) days before the change takes effect.
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- 8.3 The Licensee shall, in consideration for the rights granted under this Licence, pay the Fee within [thirty (30)] [sixty (60)] days [of signature] [of receipt of invoice] and, if applicable, within [thirty (30)] [sixty (60)] days [of receipt of invoice relating to] [prior to] each subsequent Subscription Period[ and receipt of such payment shall be a

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## **9. UNDERTAKINGS BY BOTH PARTIES**

- 9.1 Each party shall use its best endeavours to safeguard the intellectual property, confidential information and proprietary rights of the other party.

## **10. TERM AND TERMINATION**

- 10.1 In addition to automatic termination (unless renewed) under clause 2.2, this Licence shall be terminated:

10.1.1 if the Licensee [wilfully] defaults in making payment of the Fee as provided in this Licence and fails to remedy such default within [thirty (30)] [sixty (60)] days of notification in writing by the Publisher;

10.1.2 if the Publisher commits a material or persistent breach of any term of this Licence and fails to remedy the breach (if capable of remedy) within [thirty (30)] [sixty (60)] days of notification in writing by the Licensee;

10.1.3 if the Licensee commits a wilful material and persistent breach of the Publisher's copyright or other intellectual property rights or of the provisions of clause 3 in respect of usage rights or of clause 6 in respect of prohibited uses;

10.1.4 if either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.

- 10.2 On termination all rights and obligations of the parties automatically terminate except for obligations in respect of Licensed Materials to which access continues to be permitted as provided in clause 2.3.

- 10.3 On termination of this Licence for cause, as specified in clauses 10.1.1 and 10.1.3, the Licensee shall immediately cease to distribute or make available the Licensed Materials to Authorised Users [and shall return to the Publisher or destroy all Licensed Materials locally mounted pursuant to clause 3.1.1 and 3.1.2] except as provided in clause 2.3.

- 10.4 On termination of this Licence by the Licensee for cause, as specified in clause 10.1.2 above, the Publisher shall forthwith refund the proportion of the Fee that represents the paid but un-expired part of the Subscription Period.

## **11. GENERAL**

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

- 11.2 Alterations to this Licence and to the Schedules to this Licence are only valid if they are recorded in writing and signed by both parties.
- 11.3 This Licence may not be assigned by either party to any other person or organisation, nor may either party sub-contract any of its obligations, except as provided in this Licence in respect of [the Agent] [and the management and operation of the Server] [and the Publisher's Representative], without the prior written consent of the other party, which consent shall not unreasonably be withheld.
- 11.4 If rights in all or any part of the Licensed Materials are assigned to another publisher, the Publisher shall [use its best endeavours to] ensure that the terms and conditions of this Licence are maintained.
- 11.5 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 Licence 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.
- 11.6 Neither party's delay or failure to perform any provision of this Licence, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this Licence.
- 11.7 The invalidity or un-enforceability of any provision of this Licence shall not affect the continuation or enforceability of the remainder of this Licence.
- 11.8 Either party's waiver, or failure to require performance by the other, of any provision of this Licence 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.
- 11.9 [This Licence shall be governed by and construed in accordance with { *jurisdiction* } law; {subject to clause 12,} the parties irrevocably agree that any dispute arising out of or in connection with this Licence will be subject to and within the jurisdiction of the courts of { *jurisdiction* }.]

## **[12. USE OF AN EXPERT TO RESOLVE DISPUTES**

- 12.1 If any difference arises between the parties on the meaning of this Licence or their rights and obligations, it shall first be referred to an independent expert appointed by agreement of the parties, or, in default of an agreement, by the [President] [Chair] for the time being of the [Institute of Chartered Accountants] [*professional or academic body*].
- 12.2 Any expert so appointed shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing stating the reasons for his decision) shall be final and binding on the parties.
- 12.3 Each party shall provide the expert with such information as he may reasonably require for the purposes of his decision.

12.4 The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable or, if no determination is made by the expert, by the parties in equal proportions.]

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

**FOR THE PUBLISHER: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**SCHEDULE 1**

**LICENSED MATERIALS [SUBSCRIPTION PERIOD] AND ACCESS METHOD**

A schedule dated [date] to the Licence dated [date] between [Publisher] and [Licensee]

*THE LICENSED MATERIALS*

<b>Title</b>	<b>[Subscription Period]</b>	<b>Format</b>	<b>Delivery Schedule</b>	<b>Fee</b>
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*List of Licensed Material, for each item list title, [initial Subscription Period, including where relevant the start date and end date] format, delivery schedule (if applicable) and Fee [for the initial Subscription Period]. If back files are provided free of charge as part of the License, these should be listed specifically.*

*ACCESS METHOD*

Authentication via User ID/password and IP Address  
Authentication via IP address

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

**FOR THE PUBLISHER: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**SCHEDULE 2**

**LIBRARY PREMISES**

A schedule dated [date] to the Licence dated [date] between [Publisher] and [Licensee]

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*Single station: all four numbers, ie 125.64.133.20; or ranges, ie 125.64.133.20-125.64.133.40*

<b>Library name &amp; address</b>	<b>Domain name(s)</b>	<b>IP addresses/ranges</b>
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**Network contact:** Name:

Telephone:

Fax:

E-mail address:

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**FOR THE PUBLISHER: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**SCHEDULE 3**

**LICENSEE'S COPYRIGHT ENFORCEMENT POLICY**

A schedule dated [date] to the Licence dated [date] between [Publisher] and [Licensee]

*List any documents evidencing the policy, with attached copies*

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

**FOR THE PUBLISHER: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_