

Services Bibliographiques DEC 23 1997 National Library Bibliothèque nationale FILE NO.: EN498-7-0010	002/019 3570-5 ✓
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THIS PUBLISHING AGREEMENT MADE IN DUPLICATE THIS 19th DAY OF December, 1997.

B E T W E E N: HER MAJESTY THE QUEEN IN RIGHT OF CANADA (HEREINAFTER REFERRED TO AS "HER MAJESTY") ACTING THROUGH AND REPRESENTED BY THE MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES CANADA (HEREINAFTER REFERRED TO AS THE "MINISTER")

OF FIRST PART

A N D: UMI COMPANY, A COMPANY INCORPORATED UNDER THE LAWS OF DELAWARE AND HAVING AN OFFICE IN ANN ARBOR, STATE OF MICHIGAN, U.S.A. (HEREINAFTER REFERRED TO AS THE "LICENSEE")

OF SECOND PART

WITNESSETH THAT:

WHEREAS THE NATIONAL LIBRARY OF CANADA REQUIRES SERVICES SUPPORTING THE ACQUISITION, MICROFILMING, PRESERVATION AND OTHER SERVICES FOR THE SUPPORT OF THE CANADIAN THESES SERVICE PROGRAM;

WHEREAS THE NATIONAL LIBRARY OF CANADA ALSO REQUIRES THE DISTRIBUTION OF COPIES OF SUCH THESES; AND

WHEREAS THE LICENSEE IS PREPARED TO PERFORM SUCH SERVICES.

NOW, THEREFORE, THE PARTIES, IN CONSIDERATION OF THE PREMISES AND THE TERMS AND CONDITIONS HEREIN CONTAINED, AGREE AS FOLLOWS:

ARTICLE 1 - DEFINITIONS AND ATTACHMENTS

1.1 In this Licence, unless the context requires otherwise,

- a) "Abstract" means an author-written summary of the thesis or dissertation submitted concurrently with the Work. The Abstract may be submitted in either English or French;
- b) "Agreement" means these Articles of Agreement;
- c) "Author Department", "NLC" or "National Library" means the representative of the National Library of Canada for those duties and functions assigned in this Agreement to the Author Department;
- d) "Copy", "Copies" or "Copies of the Work" mean the Copies of the Work which are to be produced and published by the Licensee hereunder;
- e) "Contract" or "Licence" means this Agreement and all attachments and annexes and all other documents or materials incorporated by reference;

- f) "General Terms and Conditions" mean the attached Annex "B", which forms part of this Agreement;
 - g) "Licensee" means the Party of the Second Part of this Agreement;
 - h) "List Price" means the suggested retail price of a Copy of the Work as set out in this Agreement;
 - i) "Minister" means the Minister of Public Works and Government Services Canada and any duly authorized representative of the Minister, the Party of the First Part of this Agreement;
 - j) "Net Price" means the price at which a copy of the Work is actually sold by the Licensee (after discount);
 - k) "Non-Exclusive Licence to Reproduce Theses" means the form signed by all authors participating in the Canadian Theses Service Program. Each signed form grants the National Library of Canada a non-exclusive licence to reproduce, loan, distribute or sell copies of theses in microform, paper and electronic formats, as well as to sub-license or sub-contract any of the mentioned acts. The Non-Exclusive Licence to Reproduce Theses is attached as Annex "D";
 - l) "Territory" means worldwide;
 - m) "User" means third parties that have purchased Copies of the Work from the Licensee;
 - n) "Work" shall mean each thesis as delivered to the Licensee under the terms of this Agreement.
- 1.2 The following listed documents form part of and are incorporated into this Agreement as fully and effectively as if they were set forth at length herein:
- a) these Articles of Agreement;
 - b) Annex "A"- "Copyright Notice";
 - c) Annex "B"- "General Terms and Conditions";
 - d) Annex "C"- "List Prices and Pre-publication Prices";
 - e) Annex "D"- "Non-Exclusive Licence to Reproduce Theses".

In the event of any discrepancy, inconsistency or ambiguity between the wording contained in one contractual document with the wording of another contractual document, the wording of the Contract document that first appears on the above list shall prevail.

ARTICLE 2 - DESIGNATIONS OF REPRESENTATIVES

2.1 The Licensee's Representative shall be:

William E. Savage
 Director, Academic Relations
 UMI Library Division
 UMI Company
 300 North Zeeb Road, PO Box 1346
 Ann Arbor, Michigan 48106-1346
 U.S.A.

Telephone: 1-800-521-0600 ext. 3810
Facsimile: (313) 973-9145

2.2 The "Minister's Representative" shall be:

Nicole Hudon, Licensing Officer
Electronic Publishing & Licensing Division
Canadian Government Publishing
Public Works and Government Services Canada
350 Albert Street, 4th Floor
Ottawa, Ontario
K1A 0S5

Telephone: (613) 993-6922
Facsimile: (613) 947-6949

2.3 The "Author Department's Representative" shall be:

David Balatti
Director, Bibliographic Services
National Library of Canada
25 Eddy Street
Hull, Quebec
K1A 0N4

Telephone: (819) 994-6882
Facsimile: (819) 997-7517

2.4 All questions relating to the performance of or any proposed amendments to this Agreement shall solely be directed to the Minister's Representative.

2.5 The above officials and their addresses may be changed by written notice.

ARTICLE 3 - LICENCE TO PUBLISH

3.1 Subject to the rights granted by each author of a thesis, or by the Universities, as the case may be, the Crown hereby grants to the Licensee, subject to all the terms and conditions set out in this Agreement, a non-exclusive licence to produce and publish the Abstract and the Work, in paper and microform (microfilm and microfiche) formats, as well as to market, distribute and sell the Abstract and the Work within the Territory.

3.2 Subject to authorization from the Universities or from each author of a thesis, as the case may be, the Crown further grants to the Licensee, subject to all the terms and conditions set out in this Agreement, a non-exclusive license to produce and publish the Abstract and the Work in electronic formats (on-line databases and CD-Rom), including transmission via the Internet, as well as to market, distribute and sell the Abstract and the Work within the Territory.

3.3 The term of this non-exclusive licence shall be from the date of signature of this Agreement and ending on March 31, 2000.

3.4 Theses and dissertations in a language other than English and French shall include an English or French language Abstract provided by the author of the original document to the Licensee.

- 3.5 The Licensee shall print once at the beginning of all Copies of the Work produced in paper, microfiche and electronic formats, the copyright notice and other information as set out in ANNEX "A" - "COPYRIGHT NOTICE" of this Contract. The Licensee shall not indicate to readers that readers are to refer to the Licensee for permission to reprint or copy excerpts or any portion of the Work. The discretion to issue any such permission vests solely in Her Majesty. All inquiries for permission to reprint or copy excerpts or any portion of the Work shall be directed to the Minister's Representative.
- 3.6 Upon expiry or termination of this Agreement, the Licensee shall cease publishing the Work. In such event, all Copies of the Work, all works comprised in the Work and all excerpts thereof in the Licensee's possession shall be returned to NLC. The Licensee shall further provide an electronic copy of all theses created under this Agreement to the NLC.

ARTICLE 4 - MICROFORM AND ELECTRONIC PUBLICATION SERVICES

Microform Publication Services:

- 4.1 Subject to the terms of Article 3.1, the Licensee is hereby granted a non-exclusive licence to produce and publish the Abstract and the Work, in paper and microform (microfilm and microfiche) formats, as well as to market, distribute and sell the Abstract and the Work within the Territory.
- 4.2 NLC shall act as coordinator of the Canadian Theses Service Program and, as the publisher of the theses, will manage all copyright agreements with the authors of the theses. NLC shall further be responsible for creating and distributing the bilingual form entitled "Non-Exclusive Licence to Reproduce Theses" supporting the Canadian Theses Service Program, which form is attached at Annex "D".
- 4.3 The Licensee shall arrange for and receive regularly scheduled shipments of theses in paper and digital formats from participating institutions.
- i) Both parties shall encourage and facilitate digital submission of Masters' theses and dissertations wherever possible.
 - ii) Both parties shall encourage individual institutions to provide paper manuscripts that can be recycled after processing. In that case, the Licensee shall pay for shipment from the participating institution to UMI Company
 - iii) Those institutions that require the return of paper manuscripts submitted for microfilming and publication, payment for inbound shipments will be borne by participating institutions. The Licensee shall bear the cost of payment for return shipments of processed manuscripts.
- 4.4 The Licensee shall process received manuscripts in a timely manner, checking for previously copyrighted materials, pagination and collation and assign ISBNs as provided by the NLC. The Licensee shall also be responsible for routine contacts with graduate schools that facilitate processing. NLC shall be responsible for contacts that relate to policy questions or more problematic issues.

- 4.5 The Licensee shall create catalogue records for all manuscripts received from participating institutions and include those records in its bibliographic products and services including its paper publications *Masters Abstracts International* and *Dissertation Abstracts International* and all derivative on-line and CD-Rom electronic databases. At its own cost and expense, the Licensee shall provide NLC with a machine-readable copy of the MARC catalogue records for each manuscript received. Catalogue records created for NLC must include the following fields: 020, 082, 100, 245, 260, 502 (theses note) and 520 (abstract note).
- 4.6 The Licensee shall place images of all manuscripts received from participating institutions on archivally permanent silver halide microfilm. The Licensee shall reformat on to silver halide microfiche through its own proprietary process. All microfilm and microfiche products will conform to ANSI/AIIM standards for archival permanence.
- 4.7 The Licensee, at its own expense and cost, shall provide NLC with a second generation silver halide negative fiche and two positive silver halide service copies of each manuscript filmed and each university with one positive silver halide service copy of each manuscript it submits for filming under this contract.

Electronic Publication Services:

- 4.8 Subject to the terms of Article 3.2, the Licensee is hereby granted a non-exclusive licence to produce and publish the Abstract and the Work in electronic formats (on-line databases and CD-Rom), including transmission via the Internet, as well as to market, distribute and sell the Abstract and the Work within the Territory.
- 4.9 The Licensee shall reformat into Adobe PDF or equivalent digital format all documents received through the Canadian Theses Service Program (i.e. theses and dissertations).
- 4.10 (i) The Licensee shall make available to institutions and end-users, world-wide access over the World Wide Web the most current three months of its Dissertation Abstracts Database. Any title that has a PDF file associated with it will also be linked to a freely accessible twenty-four page preview file.
- (ii) The Licensee shall provide each participating Canadian institution with free on-line access to Adobe PDF or equivalent files of each thesis or dissertation submitted by that institution.
- (iii) Institutions that wish to gain access to their theses and dissertations shall notify the Licensee of the IP address range of the networked servers authorized by that institution. The Licensee's World Wide Web server shall verify the address of the client servers seeking access and will provide theses and dissertations on the basis of those IP addresses.
- 4.11 (i) The Licensee shall provide each participating Canadian institution with a free machine-readable copy of the MARC catalogue record for each manuscript submitted by that institution via Web access.

- (ii) In order to promote access to Canadian scholarship on the World Wide Web, the Licensee shall provide each Canadian institution with its own Web URL, in order to showcase citations, abstracts and previews of that institution's current theses and dissertations through the World Wide Web, free of charge.
- 4.12 (i) The Licensee shall provide NLC with free on-line access to the full text Adobe PDF or equivalent files of all Canadian theses and dissertations submitted under this agreement for on-site usage.
- (ii) the Licensee shall provide NLC with a Web URL containing a comprehensive file of Canadian citations, abstracts and previews, free of charge.
 - (iii) The Licensee shall provide NLC with an electronic Copy of all Canadian theses created under this Agreement, if requested by NLC at any time during the term of this Agreement.
- 4.13 Web URLs provided under this agreement shall be updated by the Licensee on a quarterly basis. On-line ordering, express document delivery through the Licensee's Dissertation Express service and file downloading for digital document delivery shall be components of the Web URLs provided by the Licensee to NLC and graduate institutions.
- 4.14 The Licensee shall, wherever possible, print out and microfilm electronically submitted documents following the same publication procedures as set out in articles 4.2, 4.4, 4.5, 4.6 and 4.7 of this Agreement.

ARTICLE 5 - PRE-PUBLICATION SERVICES TO MANUSCRIPT AUTHORS

- 5.1 As part of its role as publication agent for the Canadian Theses Service Program, the Licensee shall have the right to provide pre-publication services to manuscript authors. Pre-publication services shall include providing discounted paper and/or microform copies directly to the manuscript authors at the time of publication. Pre-publication prices are set out in Annex "C". Pre-publication copy sales shall not be subject to royalty payments.

ARTICLE 6 - FEES AND LIST PRICES

- 6.1 NLC shall pay to the Licensee a maximum fee of fifty five dollars Canadian (\$55.00 CDN) for both Masters theses and Ph.D dissertations regardless of manuscript length throughout the term of this Agreement. Fees shall be invoiced by the Licensee to NLC on a quarterly basis.
- 6.2 The List Price and Pre-publication Prices of Copies of the Work are set out more fully in Annex "C" of this Agreement. The Licensee shall provide the List Price for digital Copies once they become available.
- 6.3 The Licensee has the right to change the list prices for its good and services and shall inform Her Majesty of any changes to the List Price(s) at least thirty (30) days prior to the intended date of change.

ARTICLE 7 - PAYMENT OF ROYALTIES AND ACCOUNTING

7.1 In consideration of this licence being granted to the Licensee pursuant to Article 3 entitled "Licence to Publish", the Licensee shall pay to the Crown:

(i) Date of Signature to March 31, 1998

a minimum royalty of thirty four thousand five hundred dollars Canada (~~\$34,500~~ CDN) plus ten percent (10%) of net revenues from copy sales above the minimum royalty;)*

(ii) April 1, 1998 to March 31, 1999

a minimum royalty of forty thousand dollars Canadian (\$40,000 CDN) plus ten percent (10%) of net revenues from copy sales above the minimum royalty;)*

The royalties received during 1997/1998 and 1998/1999 will be applied against the publishing fees incurred by NLC through the Canadian Theses Service Program.

(iii) April 1, 1999 to March 31, 2000 *D. A. J. L.*

The Licensee shall invest ~~the~~ revenues generated from the Canadian Theses Service Program in 1999/2000 as follows:

- (i) seven and one half percent (7.5%) royalty to source institutions on all sales of that institution's titles; and
- (ii) ten percent (10%) royalty to qualifying authors of theses. Qualifying authors are those whose works sell seven or more copies in a given calendar year.

7.2 The Licensee shall render to the Minister on a semi-annual basis as of January 31 and July 31 in each year, commencing with January 31, 1998, a written account of sales of the Work(s) which account shall contain a statement of the number of Copies of the Work(s) sold and the List Price for each such Copy. This statement shall also include:

- (a) the format (hard copy, soft cover, diskette, on-line, microform, etc.) and if these sales are based on List or Net Prices;
- (b) the sale price per copy; and
- (c) the title of the Work (indicated only as Canadian Theses);


There shall be a written account of sales for each period, regardless of the amount of actual sales. Each account shall contain a computation of the amount of royalty (if any) payable to Her Majesty for such preceding period, which amount shall become due and payable no later than thirty (30) days of the end of such period. The written account as well as the royalty payment (if any) shall be sent to the attention of the Minister's Representative as stipulated in Article 2.2. The royalty payment shall be made payable to the Receiver General for Canada.

- 7.3 (i) The Licensee shall provide on a monthly basis, to the National Library of Canada, the following statistics/information:
- (a) number of theses processed/filmed;
 - (b) list of theses in ISBN order for each university shipment processed;
 - (c) list of theses arranged alphabetically by author for each university shipment processed;
- (ij) The Licensee shall also provide on a semi-annual basis, to the National Library of Canada, the following statistics/information:
- (a) number of theses sold and total revenue generated from these sales; and
 - (b) number of theses sold by author.

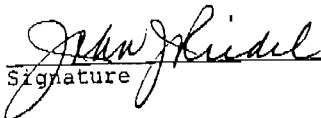
IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN EXECUTED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA BY THE REPRESENTATIVES OF THE MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES CANADA DULY AUTHORIZED IN THAT BEHALF, AND HAS BEEN EXECUTED BY UMI COMPANY BY THEIR DULY AUTHORIZED OFFICERS.

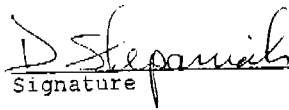
SIGNED AND DELIVERED:

MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICE CANADA:

PER: 
David Myer, Director
Communications Planning, Expositions and Special Events
Public Relations and Print Contract Services Sector
Supply Operations Services Branch
Public Works and Government Services Canada

UMI COMPANY:

PER:  December 1, 1997
Signature
John Riedel, President, UMI
Print Name and Title

PER:  12/9/1997
Signature
Dennis Stepaniak, Chief Financial Officer, UMI
Print Name and Title

ANNEX "A"

COPYRIGHT NOTICE

NOTICE:

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

AVIS:

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ANNEX "B"

GENERAL CONDITIONS FOR PUBLISHING AGREEMENTS

ARTICLE 1 -
INTERPRETATION

1.1 Time shall be of the essence of this Agreement.

1.2 Neither Party is an agent of or for the other for any purpose of this Agreement and nothing in this Agreement shall be construed to enable either to act as such.

1.3 This Agreement shall constitute the entire and sole agreement between the Parties with respect to the subject matter of this Agreement and shall supersede all other communications, negotiations, arrangements and agreements of any nature between them prior to the Effective Date of this Agreement.

1.4 This Agreement, including all matters relating to its validity and performance, shall be interpreted, construed and governed by, and all relations between the Parties shall be fully determined in accordance with, the laws in force in the Province of Ontario, Canada.

ARTICLE 2 -
REPRESENTATIONS

2.1 The Licensee represents and warrants that:

(a) it is incorporated, validly existing, in good standing and has the corporate power and authority to carry out its obligations under this Agreement;

(b) it has, or has the capabilities to obtain, or will provide: the personnel, experience, qualifications, equipment, facilities and all other skills and resources necessary to design, edit, produce, test, verify, and deliver the Work

and to perform its obligations under this Agreement;

(c) it has not entered into any license, arrangement or understanding with any other person that does or will impair, diminish or vitiate its ability to perform its obligations under this Agreement;

(d) there is no understanding or anticipated litigation or proceeding before any court or tribunal relating to any matter that may affect its ability to perform its obligations under this Agreement; and

(e) it has maintained and will continue to maintain throughout the term of this Agreement, the capability to publish and produce the Work in accordance with the terms and conditions of this Agreement. The Licensee agrees to carry out the publication, production, marketing and distribution of the Work diligently and to provide efficient supervision and inspection thereof and ensure that the Work will be of proper quality, material and workmanship and in full conformity with all other requirements of this Agreement.

ARTICLE 3 -
ADVERTISING APPROVALS

3.1 All advertising and promotional materials created for use by the Licensee in relation to the Work and which makes reference to any federal government institution shall be subject to the prior and timely approval of the Minister. Failure of the Minister to notify the Licensee of its refusal to approve the materials, within seven (7) days of receipt thereof shall constitute ipso facto a deemed acquiescence. Such deemed acceptance

shall only be applicable if the Licensee first notified the Minister of the amount of time available to take a decision and referred the Minister to this Sub-Article of this Agreement.

ARTICLE 4 - PAYMENT

4.1 Payment by Canada for services rendered or for goods delivered by the Licensee or as otherwise required under this Contract, shall be made within:

(a) thirty (30) days following the date on which, the performance of each obligation of the Licensee is being carried out in a manner fully satisfactory to the Author Department.
or

(b) thirty (30) days following the date on which an invoice and substantiating documentation are received according to the terms of the Contract and have been verified by the Author Department;

whichever is later.

4.2 The Minister shall notify the Licensee, within 15 days of receipt of an invoice, of any inadequacy of the invoice or of the supporting documentation, and where any such notice is given within that period the date for payment of the amount invoiced shall be postponed until the Licensee remedies the inadequacy to the satisfaction of the Minister. Failure by Canada to act within fifteen (15) days will only result in the date specified in paragraph 1 of the Article to apply for the sole purpose of calculating interest on overdue accounts.

4.3 Where a delay referred to in Article (Excusable Delay) has occurred, the Minister may, at the Minister's

discretion, withhold all or a portion of any payment due to the Licensee until a "work-around" plan approved by the Minister has been implemented in accordance with that article. Article (Interest on Overdue Accounts) shall not apply to any amount withheld under this sub-article.

4.4 Despite anything contained in this Contract, if the Minister or the Author Department has determined that the Licensee has failed to perform or discharge any term or condition of this Co-publishing Agreement, then Her Majesty may reduce or suspend any payment otherwise payable to the Licensee, until the cause of such reduction or suspension has been resolved to the satisfaction of Her Majesty.

4.5 Her Majesty may, when making any payment to the Licensee, deduct from the amount payable any amount which is payable to Her Majesty by the Licensee under this Contract.

ARTICLE 5 - INTEREST ON OVERDUE ACCOUNTS

5.1 For the purposes of this article:

"Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made, where the "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.

"date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada and

given for payment of an amount due and payable;

an amount is "due and payable" when it is due and payable by Canada to the Licensee in accordance with the terms of the Contract; and

an amount becomes "overdue" when it is unpaid on the first day following the day upon which it is due and payable.

5.2 Subject to the Contract, Canada shall be liable to pay to the Licensee simple interest at the Average Rate plus 3 percent per annum on any amount that is overdue, from the date such amount becomes overdue until the day prior to the date of payment, inclusive. Interest shall be paid without notice from the Licensee except in respect of payment which is less than fifteen (15) days overdue. No interest will be payable or paid in respect of payment made within such fifteen (15) days unless the Licensee so requests after payment has become due.

5.3 Canada shall not be liable to pay interest in accordance with this article if Canada is not responsible for the delay in paying the Licensee.

5.4 Canada shall not be liable to pay interest on overdue advance payments.

ARTICLE 6 - INTEREST ON LATE ROYALTY PAYMENTS

6.1 The Licensee shall be liable to pay to the Minister simple interest at the Bank Rate, plus one and one quarter per cent (1.25%), on any amount of royalty which is overdue from the date such amount became overdue until the date prior to the date of payment, inclusive.

6.2 For the purposes of Sub-Article 6.1:

(a) an amount is "due and payable" when it is due and payable by the Licensee to Her Majesty pursuant to the Payment of Royalties Article of this Agreement;

(b) an amount is "overdue" when it is unpaid on the first day following the day upon which it is due and payable;

(c) "date of payment" means the date on which the cheque to the Receiver General for Canada for the royalty payment is received by the Minister's Representative; and

(d) "Bank Rate" means the discount rate of interest set by the Bank of Canada and shall be the one that is prevailing at the opening of business on the date the amount of royalty became overdue.

ARTICLES 7 - TAXES

7.1 Municipal taxes are not applicable.

7.2 Provincial Taxes

(a) Excluding legislated exceptions, federal government departments and agencies are not required to pay any ad valorem sales tax levied by the province in which the taxable goods or services are delivered. This exemption has been provided to federal government departments and agencies under the authority of one of the following:

(1) Provincial Sales Tax Exemption License Numbers, for the provinces of:

Newfoundland
32243-0-09
Prince Edward Island
OP-10000-250
Nova Scotia
U84-00-03172-3
Ontario
11708174G
Manitoba
390-516-0
British Columbia
005521

(2) An Exemption Certification, for Quebec, New Brunswick, Saskatchewan, the Yukon Territory, and the Northwest Territories, which certifies that the property and/or services ordered/purchased hereby are for the use of, and are being purchased by the federal government with Canada funds, and are therefore not subject to provincial/territorial sales and consumption taxes.

(b) Currently, in Alberta, Saskatchewan, the Yukon Territory, and the Northwest Territories, provincial sales taxes do not apply to goods or services delivered to the federal government.

(c) The Licensee is not exempt from paying provincial sales tax under the above Exemption License Numbers or Exemption Certification. The Licensee is required to pay Provincial Sales Tax on taxable goods or services used or consumed in the performance of the Contract (as per appropriate provincial legislation), including material incorporated into real property.

7.3 Goods and Services Tax /Harmonized Sales Tax

The Goods and Services Tax, (GST) or Harmonized Sales Tax (HST), whichever is applicable, will be incorporated into all invoices as a separate item and will be paid by Canada to the Licensee. The Licensee agrees to remit to Revenue Canada any amounts of GST and HST paid or due.

ARTICLES 8 & 9 - RESERVED

ARTICLE 10 - GOVERNMENT SUPPLIED MATERIALS

10.1 All manuscripts, texts,

artwork, computer tape, diskette, audio, tape, print design, plates, engravings, negatives, positives and any other materials either supplied by Her Majesty to the Licensee or paid for by Her Majesty shall remain the property of Her Majesty and shall be collectively referred to as Government Supplied Material (GSM). All property, title to which is with, or vests in Her Majesty, shall be returned immediately on request of the Minister.

10.2 Upon any payment being made to the Licensee for or on account of materials, parts, work-in-process, or finished work, either by way of progress payments or otherwise, title in and to all materials, parts, work-in-process and finished work so paid for by such progress payments or otherwise shall vest and remain in Her Majesty and the Licensee shall be responsible therefor. It being understood and agreed that such vesting of title in Her Majesty shall not constitute acceptance of Her Majesty of such materials, parts, work-in-process and finished work and shall not relieve the Licensee of its obligations to perform the work in conformity with the requirements of the Contract. Any material or work-in-process paid for by Her Majesty is to be known as Government Supplied Material.

10.3 All items comprised in any GSM shall be used by the Licensee solely for the purposes of this License and shall always be and remain the property of Her Majesty and wherever feasible the Licensee shall maintain adequate accounting records of all GSM and shall mark the same as being Her Majesty's property.

10.4 All GSM (except such as are installed or incorporated in the work) shall be returned to Her Majesty upon demand, in the same condition as when supplied to the Licensee; provided the Licensee shall not be responsible for any loss or damage resulting from ordinary wear and tear, or causes beyond the Licensee's control.

10.5 Except as otherwise provided in this License, no additional insurance shall be carried by the Licensee on any GSM. The Licensee shall take reasonable and proper care of all property, title to which is vested in Her Majesty, while the same is in, on or about the plant and premises of the Licensee or otherwise in his possession or subject to his control and shall be responsible for any loss or damage resulting from his failure to do so other than loss or damage caused by ordinary wear and tear.

ARTICLE 11 - RECORDS TO BE KEPT BY Licensee - AUDITING

11.1 The Licensee shall keep proper accounts including the invoices, receipts and vouchers, which shall at reasonable times be open to audit and inspection by the authorized representatives of the Minister who may make copies and take extracts therefrom.

11.2 The Licensee shall afford facilities for audit and inspection and shall furnish the authorized representatives of the Minister with such information as the Minister or they may from time to time require with reference to the documents referred to herein.

11.3 During the life of this Agreement and up to twelve months following its

termination, the Licensee shall not dispose of the documents referred to herein without the written consent of the Minister, but shall preserve and keep them available for audit and inspection at any time.

ARTICLE 12 - INDEMNITY AGAINST CLAIMS

12.1 The Licensee shall indemnify and save harmless Her Majesty and the Minister from and against any and all claims, damages, loss, costs and expenses which they or either of them may at any time incur or suffer as a result of or arising out of,

(a) any injury to persons, including injuries resulting in death, or loss of or damage to property of others which may be or be alleged to be caused by or suffered as a result of the carrying out of the Licensee's obligations or any part thereof;

(b) any liens, attachments, charges, encumbrances or similar claims upon or in respect of any property vested in Her Majesty under this Agreement; and

(c) any use or infringement of copyright of a Work not supplied to the Licensee by Her Majesty, in performing this Agreement or as a result of the use by Her Majesty of the Work performed or provided by the Licensee and originating in copyrighted material belonging to a third party and not provided by Her Majesty.

12.2 The Licensee's liability to indemnify or reimburse Her Majesty under this Agreement shall not affect or prejudice Her Majesty from exercising any other rights under law.

ARTICLE 13 - TERMINATION FOR DEFAULT

13.1 The Minister may terminate, upon Notice to the Licensee, the whole or any part of the Contract:

(a) in the event that the Licensee fails, refuses or neglects or is unable to perform or discharge any material obligation stipulated in this Contract; or

(b) in the event that the Licensee fails to respect any of the delay periods stipulated in this Contract; or

(c) to the extent permitted by the laws of Canada, in the event that the Licensee is in a situation where it:

(i) applies for or consents to the appointment of a receiver, receiver-manager, trustee or liquidator for itself or any of its property; or

(ii) is unable, or admits its inability, to pay its debts as they become due; or

(iii) makes a general assignment for the benefit of creditors; or

(iv) is adjudicated bankrupt or insolvent; or

(v) files a voluntary petition in bankruptcy or a petition seeking reorganization or arrangement with creditors or takes advantage of any insolvency law or admits to the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or initiates a corporate action for the purpose of effecting any of the foregoing, or if an order is made or resolution passed for the winding up of the Licensee; or

(d) in the event that any written account of sales reports are overdue by three (3) months; or

(e) in the event that any royalty payable by the Licensee to Her Majesty under the Contract is overdue by six (6) months.

13.2 The Licensee shall have no claim for any further payment save as provided in this Article, but shall remain liable to Her Majesty for all loss and damage which may be suffered by Her Majesty by reason of the default or occurrence upon which such Notice was based.

13.4 This Contract shall terminate, without notice, upon the occurrence of any event detailed above under paragraph 13.1(c).

ARTICLE 14 - TERMINATION BY THE PARTIES

14.1 Notwithstanding any other provision of this Agreement, either party may terminate, upon sixty day notice to the other party, the whole or any part of this Agreement. Any amounts paid in advance will be refunded.

ARTICLE 15 - RESERVED

ARTICLE 16 - SUB-CONTRACTORS

16.1 The Licensee may sub-contract without prior written consent of the Minister such portions of his obligations as is customary in the carrying out of similar Agreements.

16.2 No sub-contract entered into by the Licensee shall relieve the Licensee from any obligations under this Agreement or impose any liability upon Her Majesty or the Minister to the sub-contractor. In particular, no act or omission of the Licensee shall have the effect of rendering any monies payable by Her Majesty under this Agreement payable to any person or corporation other than the Licensee

unless Her Majesty consents thereto. The Licensee shall bind each sub-contractor by the terms and conditions of this Agreement as far as applicable to the sub-contract.

**ARTICLE 17 -
SUB-LICENSES/
ASSIGNMENTS**

17.1 This Agreement shall not be assigned, sub-licensed or otherwise encumbered by the Licensee or by operation of law, in whole or in part, without the prior written consent of the Minister and any assignment, sub-license or other encumbrance made without that consent shall be void and of no effect; except for the Licensee's normal course of business of contracting out for publication services. Any assignment without the Minister's written permission shall constitute a default of a material obligation on behalf of the Licensee, and such assignment will be of no effect.

17.2 No assignment, sub-license or other encumbrance of this Agreement shall relieve the Licensee from any obligation under this Agreement or impose any liability upon Her Majesty or the Minister.

**ARTICLE 18 - AGREEMENT
TO ENURE**

18.1 This Agreement shall enure to the benefit of and shall be binding upon the Parties hereto and their lawful heirs, executors, administrators and successors.

**ARTICLES 19, 20 & 21 -
RESERVED**

**ARTICLE 22 -
CERTIFICATION -
LOBBYISTS**

22.1 The Licensee certifies that it has not paid or agreed to pay and covenants that it will not pay a

contingency fee for the solicitation, negotiation or obtaining of this Agreement to any person other than an employee acting in the normal course of the employee's duties.

22.2 In this section:

"person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a release with the registrar pursuant to section 5 of the Lobbyist Registration Act R.S.C. 1985 c. 44 (4th Supplement) as the same may be amended from time to time.

"employee" means a person with whom the Licensee has an employer-employee relationship;

"contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in obtaining a Government Contract or negotiating the whole or any part of its terms.

22.3 All accounts and records pertaining to payments of contingency fees shall be subject to the Accounts and Audit provisions of the Agreement.

22.4 If the Licensee certifies falsely under this section or is in default of the obligations contained therein, the Minister may either terminate this Agreement for default in accordance with the termination for default provisions of the Agreement or recover from the Licensee by way of deduction from the Contract Price or otherwise the full amount of the contingency fee.

22.5 The Licensee warrants,

(a) that no bribe, gift, or other inducement has been paid, given, promised or offered to any official or employee of Her Majesty for, or with a view to, the obtaining of this Contract by the Licensee, and

(b) that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingency fee.

**ARTICLE 23 -
INTERNATIONAL
SANCTIONS**

23.1 From time to time, in compliance with United Nations obligations or other international agreements, Canada imposes restrictions on trade, financial transaction dealings with a foreign country or its national. These sanctions may be implemented by regulation under the United Nations Act (UNA), R.S.C. 1985, c. U-2, the Special Economic Measures Act (SEMA), S.C. 1992, c. 17 or the Export and Import Permits Act (EIPA), R.S.C. 1985, c. E-19. The Licensee agrees that it will, in the performance of the Contract, comply with any such regulations that are in force on the effective date of the Contract and will require such compliance by its first-tier subcontractors.

23.2 The Licensee agrees that Canada relies on the Licensee's undertaking in subsection (1) to enter into the Contract, and that any breach of the undertaking shall entitle Canada to terminate the Contract under the provisions of the Contract relating to default by the Licensee, and therefore to recover damages from the Licensee, including

reprocurement costs arising out of such a termination.

23.3 As of this date, sanctions are in place against the following countries:

Yugoslavia (Serbia and Montenegro) - UNA, United Nations Federal Republic of Yugoslavia (Serbia and Montenegro) Regulations, SOR 92-342 as amended by SOR 93-211

Haiti - SEMA, Special Economic Measures (Haiti) Regulations 1993, SOR 93-499

Iraq - UNA, United Nations Iraq Regulations, SOR 90-531 as amended by SOR 90-694, 91-185, and 93-343

Libya - UNA, United Nations Libya Regulations, SOR 92-222 as amended by SOR 93-521

Canada will use reasonable efforts to make the text of any such regulations available on its electronic bulletin board on a reasonably current basis by the way of assistance to the Licensee, but the Licensee agrees that only the text as published in the Canada Gazette, Part II, is authoritative and the Licensee waives any claim against Canada, the Minister, or their employees or agents for any costs, loss, or damage whatever that results from the Licensee's reliance on the text of a regulation as reproduced on the electronic bulletin board.

ARTICLES 24 & 25 - RESERVED

ARTICLE 26 - NOTICES

26.1 When either Party is obligated or entitled to give any notice, request, approval, demand, consent, direction or other communications (hereinafter "Notice") to the other, such Party shall first

communicate its substance as rapidly as possible. Such Notice, however, shall only be effective as stipulated below.

26.2 Any notice pursuant to this Agreement shall be in writing and is effective if delivered in person, sent by registered mail, by telegram, by facsimile or by telex to the appropriate official at the address stipulated in ARTICLE 2 of the Agreement entitled "DESIGNATIONS OF REPRESENTATIVES". Any Notice shall be deemed to have been given if by registered mail, when the postal receipt is acknowledged by the other party; by telegram, when transmitted by the carrier; and by telex and facsimile, when transmitted.

ARTICLE 27 - AMENDMENTS

27.1 No amendment of this Agreement shall have any force or effect unless reduced to writing and signed by representatives of the Minister duly authorized in that behalf and duly authorized representatives of the Licensee.

ARTICLE 28 - SEVERABILITY

28.1 If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from the Contract and all other provisions of the Contract shall remain in full force and effect.

ANNEX "C"

LIST PRICES AND PRE-PUBLICATION PRICES

All prices are in U.S. dollars

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NON-EXCLUSIVE LICENCE TO
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ANNEX D

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Surname — Nom de famille		Given names — Prénoms	
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Permanent address — Résidence principale			
Full name of university — Nom complet de l'université			
Faculty, department, school — Faculté, département, école			
Degree for which thesis was presented — Grade pour lequel cette thèse a été présentée		Date degree awarded — Date d'obtention du grade	
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