



**The Electrochemical Society (ECS)
Online Access
Site License Agreement**

BY THIS AGREEMENT between The Electrochemical Society ("ECS") and the subscriber named below ("Subscriber"), ECS grants the Subscriber the right to access the online editions of ECS publications, subject to the terms and conditions set forth in this Agreement.

Institutional Subscriber Information — Please provide the name and address of the organization that will use this electronic access. Please TYPE OR PRINT CLEARLY.

ECS Ringgold # (if known) _____

ECS Subscriber Account # (if known) [REDACTED]

Name of Institution The Regents of the University of California

Site Address The California Digital Library, University of California Office of the President, [REDACTED]
[REDACTED]; See Appendix C for University of California campuses and their IP ranges

Contact person for administration of online journals See Appendix D for Subscriber Contact

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Telephone _____ Fax _____

Name of Subscription Agency Used (if any) N/A

Account Number with Agency _____

Agency Contact Person _____ Agency Telephone Number _____

1. SCOPE AND COVERAGE

The publications covered by this Agreement are the electronic versions of those titles listed in Appendix A. These publications ("Licensed Material") are made available through the ECS Digital Library ("ECS DL") hosted on the platform operated by HighWire Press.

2. AUTHORIZED USERS

ECS grants to the Subscriber and its Authorized Users online access to the titles listed in Appendix A. This grant extends only to the Subscriber and to Authorized Users and may not be transferred or extended to others. "Authorized Users" means only the faculty, students or staff members of the Subscriber and other individuals whom the Subscriber warrants have contractual access to the Subscriber's information systems using an IP address within the ranges identified in Appendix C, on-site, or off-site via Secure Authentication and who are affiliated with the Subscriber (whether on a permanent or temporary basis). Persons who are not current members of staff or are not a contractor of the Subscriber, but who are permitted to access the Subscriber's information services from computer terminals

within the physical premises of the Subscriber ("Walk-In Users") are also deemed to be Authorized Users, only for the time they are within the physical premises. Walk-In Users may not be given means to access the Licensed Material when they are not within the physical premises of the Subscriber. The Subscriber warrants and represents that common and reasonable methods will be used to inform Authorized Users of the general terms and conditions for the use of the Licensed Material that are consistent with this Agreement. Furthermore, the Subscriber will make reasonable attempt to enforce the terms of this Agreement upon receiving information from ECS or any other source that reasonably indicates that one or more Authorized Users is in violation of the terms of this Agreement.

3. IP ADDRESSES

Authorized Users will be recognized and authorized by their Internet Protocol ("IP") address. IP addresses will be researched by ECS and ECS reserves the right to reject any IP addresses that are not part of the Subscriber's range of Authorized Users. IP addresses and/or address ranges for the Subscriber are indicated in Appendix C. Appendix C must include the name, phone number, and e-mail address of a Subscriber employee who will be the primary network contact for ECS. The Subscriber may submit additional IP addresses throughout the license period for ECS's approval, subject to the terms of Section 8(b)(1).

4. USAGE STATISTICS

COUNTER-compliant usage reports are available via the ECS Digital Library site. Library administrators may run reports based on the (aggregated and itemized for individual campuses) usage upon registering at <http://www.scitationreports.org/> (for pre-2012 content) and/or <http://highwire.stanford.edu/librarians/> (for 2012 content and later).

ECS shall not provide Subscriber's usage statistics in any form to any third party without the Subscriber's written authorization, unless the third party owns rights in the Licensed Materials. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy laws. ECS shall not disclose or sell to other parties usage data or information about the Subscriber or its Authorized Users without the Subscriber's written permission or as required by law.

5. PERMITTED USE

a. Authorized Users are permitted online access to the Licensed Material listed in Appendix A, and may download, save, or print text, search results, or other information from the ECS DL solely for their private use or research. The Authorized Users may only use this online access in a way that conforms with all applicable laws and regulations.

b. For each online publication listed in Appendix A, ECS grants Authorized Users permission to use brief quotations from the content of the online publications with the customary acknowledgment of the source; and to copy and transmit content from individual articles in "person-to-person" and non-systematic exchanges of information between Authorized Users and specific individuals.

c. Subscriber may supply a copy of an article to a non-subscribing library under the following conditions:

1. Using electronic, paper, or intermediated means, Subscriber may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan. Subscriber agrees to fulfill such requests in compliance with Section 108 of the United States Copyright Law (17 USC §108, "Limitations on exclusive rights: Reproduction by libraries and archives") and the Guidelines for the Proviso of Subsection 108(g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works.

2. Subscriber may not supply an article to another library on a commercial, revenue-generating basis without full payment of the ECS royalty, as indicated by the Item Fee Code for each publication.

3. Subscriber may not remove, obscure or modify copyright notices that are part of an article to be printed and supplied to another library.

d. Classroom Use. Subscriber and Authorized Users may distribute single copies of individual articles or items of the Licensed Materials in print or electronic form to Authorized Users. For the avoidance of doubt, classroom handouts shall include the distribution of a copy for teaching purposes to all individual Authorized Users in a class at Authorized Sites (Appendix C).

e. Course Packs (Print and Electronic). Subscriber and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials.

f. Course Reserves (Print and Electronic). Subscriber and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by the University of California.

g. Electronic Links. Subscriber and Authorized Users may provide hyperlinks from the Subscriber's and Authorized Users' web page(s) or web site(s) to individual units of content within the Licensed Materials.

h. Text and Data Mining. Authorized Users may use the Licensed Materials to perform and engage in text and/or data mining activities for academic research, scholarship, and other educational purposes and may utilize and share the results of text and/or data mining in their scholarly work

and make the results available for use by others, so long as the purpose is not to create a product for use by third parties that would substitute for the Licensed Materials. ECS will, upon request, make arrangements for Subscriber and Authorized Users to crawl the Licensed Materials.

i. No Diminution of Rights. Nothing in this Agreement, including but not limited to Authorized Uses, shall be interpreted to diminish the rights and privileges of the Subscriber or Authorized Users with respect to any of the Licensed Materials, including exceptions or limitations to the exclusive rights of copyright owners, such as fair use, under Section 107 of the U.S. Copyright Act. In the event that any content included in the Licensed Materials is in the public domain or has been issued under a Creative Commons or other open license, ECS shall not place access, use or other restrictions on that content beyond those found in the open license, where applicable.

j. Author Rights to Use Their Own Work. Notwithstanding any terms or conditions to the contrary in any author agreement between authors and ECS, authors who are Authorized Users of Subscriber ("Authors") whose work ("Content") is accepted for publication by ECS during the Term shall retain the non-exclusive, irrevocable, worldwide, royalty-free right to use their Content for scholarly and educational purposes, including self-archiving or depositing the Content in institutional, subject-based, national or other open repositories or archives (including the author's own web pages or departmental servers), and to comply with all grant or institutional requirements associated with the Content. Subscriber and ECS agrees to discuss potential implementation of procedures for ECS to deposit Content into Subscriber's institutional repository, or to make the Content available for Subscriber to harvest, as they are developed during the term of this Agreement.

For the avoidance of doubt, it is the intent of the parties to this License Agreement that Subscriber's Authors are third party beneficiaries of this provision of the Agreement. Nothing in this section shall eliminate or limit any other rights that Subscriber or any Author may have to deposit, host or make available Content published by ECS.

Definitions:

Author: An author of a work published by ECS who is an Authorized User of the Licensed Materials.

Content: The author's accepted manuscript version (after peer review and including revisions from the peer review process but before copy-editing and final publication) of any work by an Author that is accepted for publication by ECS.

Scholarly and educational purposes: Purposes encompassing teaching, research, and institutional needs, including but not limited to the right to (a) use, reproduce, distribute, perform, and display the Content in connection with teaching, conference presentations, and lectures; (b) make full use of

the Content in future research and publications; (c) republish, update or revise the Content in whole or in part for later publication; (d) meet requirements and conditions of research grants or publishing subventions provided by government agencies or non-profit foundations, and; (e) grant to the Author's employing institution some or all of the foregoing rights, as well as permission to use the Content in connection with administrative activities such as accreditation, mandated reports to state or federal governments, and similar purposes. In all cases, the Author and/or the Author's employing institution will be expected to provide proper citation to the published version.

Repositories or archives: Open-access digital repository services such as those provided by the Author's employing institution, an academic consortium, a discipline-based entity, or a governmental funding agency.

k. Unlimited Access. Subject to the terms of this Agreement, Subscriber and its Authorized Users shall have unlimited and simultaneous user access to the Licensed Materials.

6. PROHIBITIONS ON CERTAIN USE

a. Altering, recompiling, systematic or programmatic copying, reselling, redistributing, publishing or republishing (beyond the brief quotations permitted under Section 5) of any text, search result, or other information from the Licensed Material, or any portion thereof, including without limitation, copyright, proprietary, and/or other legal notices contained therein, in any form or medium, is prohibited.

b. Systematic or programmatic downloading, printing, transmitting, or copying of the Licensed Material is prohibited. "Systematic or Programmatic" means downloading, printing, transmitting, or copying activity of which the intent or the effect is to capture, reproduce, or transfer the entire output of a volume, an issue, or a topical section, or sequential or cumulative search results, or collections of abstracts, articles, or tables of contents. Other such systematic or programmatic use of the Licensed Materials that interferes with the access of Authorized Users or that may affect performance of the ECS DL/HighWire System, for example, the use of 'robots' to index content, or downloading or attempting to download large amounts of material in a short period of time, is prohibited, except as permitted under this Agreement.

c. All rights not expressly granted herein are reserved to ECS. The Sites and Authorized Users may not circumvent ECS's access control systems or use ECS's systems or services to make any attempt to gain unauthorized access to any other system or network.

7. DURATION OF AGREEMENT

a. This Agreement is for the period 01/01/2017 to

12/31/2017, and becomes effective upon receipt by ECS of the Agreement signed by an authorized agent of the Subscriber and on receipt of payment of the Fee as defined in Section 8.

b. This agreement shall be renewable at the end of the current term for a successive one (1) year term unless either party gives written notice of its intention to cancel thirty (30) days before expiration of the current term. In the event of a price increase for a subsequent term as provided for in Section 8, Subscriber shall have no less than sixty (60) days from the date of notification of the price increase to notify ECS of Subscriber's intent to cancel or renegotiate.

c. If either party believes that the other has materially breached any obligations under this Agreement, such party shall so notify the breaching party in writing. The breaching party shall have sixty (60) days from the receipt of notice to use all reasonable means to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the sixty (60) day period, the non-breaching party shall have the right to terminate the Agreement without further notice. Once this Agreement ends, by early termination or otherwise, ECS may terminate access to the Licensed Materials by Subscriber and Authorized users, subject to Section 11. In addition, authorized copies of Licensed Materials made by Authorized Users may be retained for educational purposes and used subject to the terms of this Agreement. The foregoing notwithstanding, ECS reserves the right to suspend access to any individual IP address or address range immediately upon detecting a breach of this Agreement by a person or persons at the IP addresses in question. ECS will use reasonable efforts to notify the Subscriber as soon as possible of any such suspension of service, including the reason for the block and any supporting details, by sending e-mail to the authorized agent address included in this Agreement.

8. FEES AND PAYMENT

a. The Subscriber agrees to pay the fee(s) (the "Fee") as set out in Appendix B. The Fee is payable sixty (60) days after the date of an invoice from ECS or its representative agency, but no earlier than thirty (30) days before renewal.

b. Upon the renewal of this Agreement for the next subscription term, the Fee is subject to ECS's annual price increase for the publications listed in Appendix A. ECS shall provide Subscriber with renewal quotes of all Licensed Materials no less than sixty (60) days prior to the end of the current term. Only the following adjustments may be made to the subscription payments:

1. The Subscriber may submit the IP addresses of additional sites throughout the license period for ECS approval, such approval not to be unreasonably withheld. ECS may take account of any current or prior subscriptions to its publications and adjust the Fee accordingly.

2. A new title, not initially included in the Licensed Materials listed in Appendix A, may be added to this Agreement at any time, at a price to be agreed upon by ECS and the Subscriber.

3. If any publication in Appendix A ceases publication or is withdrawn by ECS from the ECS DL, or if ECS is otherwise unable to provide continued access to any title during the term of this Agreement, the Subscriber's annual subscription payments may be adjusted by agreement between ECS and the Subscriber.

9. COPYRIGHT

The Licensed Material and their contents, including abstracts, are copyrighted by ECS. This material is subject to all applicable copyright, database protection, and other rights under the laws of the United States and other countries. Copyright notices in the Licensed Material and its articles may not be removed, obscured, or modified in any way. Unauthorized copying or redistribution of any content licensed herein is a violation of copyright laws.

10. ECS PERFORMANCE OBLIGATIONS

From the effective date of this Agreement, the Subscriber and Authorized Users are entitled to attempt online access to the Licensed Material at any time. ECS endeavors to provide service through HighWire Press 24 hours a day, 365 days a year. HighWire will announce to Subscribers any planned downtime necessary for service upgrades, and will always seek to minimize the length and effect of such downtime. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay, transmission error, or default in performing hereunder if such delay or default is caused by force majeure, including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, labor strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected. ECS will use all commercially reasonable efforts to correct any material performance problem brought to its attention as quickly as possible and may suspend performance pending such correction.

Persistent Linking. ECS will comply with the most current version of the OpenURL standard (ANSI/NISA Z39.88), and will provide a mechanism for persistent links to content.

Online Terms and Conditions. In the event that ECS requires Authorized Users to agree to additional terms relating to the use of the Licensed Materials (commonly referred to as "click-through" or "clickwrap" licenses), or otherwise attempts to impose terms on Authorized Users through online terms and conditions invoked by the mere use or viewing of the Licensed Materials, such terms shall not materially differ from the provisions of this Agreement.

In the event of any conflict between the click-through terms or online terms and conditions and this Agreement, the terms of this Agreement shall prevail. For the avoidance of doubt, Authorized Users are not a party to this Agreement.

Documentation. ECS will provide complete and up-to-date help and operational documentation for Subscriber and Authorized Users in an electronic format through the HighWire platform.

Support. ECS will provide activation and installation support, including assisting Subscriber and Authorized Users with the implementation of any ECS software. ECS will offer reasonable levels of continuing support to assist Subscriber and Authorized Users in use of the Licensed Materials. ECS will make its personnel available by email and/or phone during Licensor's regular business hours, Monday through Friday, for feedback, problem-solving, or general questions and will respond in a timely manner. Support is also provided directly through the HighWire platform.

Training. ECS will provide to Subscriber appropriate training relating to the use of the Licensed Materials and any ECS software. ECS also will provide additional training to Subscriber staff if made necessary by any updates or modifications to the Licensed Materials or any ECS software.

Updates. ECS will provide regular system and project updates to Subscriber as they become available.

Problems with Licensed Materials. If the Licensed Materials fail to operate, display, load, or render in conformance with the terms of this Agreement, Subscriber shall immediately notify ECS, and ECS shall promptly use best efforts to restore access to the Licensed Materials as soon as possible. In the event that the non-conformity materially affects the Subscriber's or Authorized Users' use of the Licensed Materials, and ECS fails to repair the nonconformity within five (5) business days, ECS shall reimburse Subscriber for such problems in an amount that is proportional to the total Fees owed by Subscriber under this Agreement.

Transfer or Acquisition of Titles. If any portion of the Licensed Materials is transferred to or acquired from another party, ECS shall use best efforts to ensure that Subscriber does not lose access to content subject to this Agreement as a result of the transfer or acquisition. Any archival and perpetual access rights that have been granted shall be honored, whether ECS is acting as the transferring or acquiring party. If ECS is transferring any portion of the Licensed Materials to another party, ECS will use best efforts to assign all rights and obligations to the assignee. If ECS is acquiring works that become subject to this Agreement, ECS will use best efforts to acquire the rights to perform under this Agreement, including but not limited to

perpetual access rights. ECS agrees to communicate with the party from which it is acquiring works to exchange such relevant payment and rights information. For journal titles, ECS will comply with the NISO Transfer Code of Practice.^a

Completeness of Content. ECS will inform the Subscriber of instances where online content differs from print versions of the Licensed Materials. Where applicable, ECS will cooperate with Subscriber to identify and correct content errors or omissions, and when necessary, ECS shall use reasonable efforts to ensure that the online content: (1) is at least as complete as print and other physical format versions of the Licensed Materials; and (2) represents complete, accurate, and timely replications of the corresponding content contained within the print and other physical format versions of such Materials.

In order to facilitate the assessment of completeness of content, ECS will provide upon request of Subscriber a report of the content in the Licensed Materials at the title, issue, chapter, or item level. ECS will disclose to Subscriber content known or found to be missing from the Licensed Materials, including but not limited to images, pages, issues, and chapters.

If online content is a digitized version of print content and differs from the print or other physical format versions of Licensed Materials so as to be substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section 7.

Notification of Modifications of Licensed Materials. From time to time ECS may add, change, or modify portions of the Licensed Materials, or migrate the Licensed Materials to other formats. When such changes, modifications, or migrations occur, ECS shall give notice of any such changes to Subscriber as soon as is practicable, but in no event less than sixty (60) days in advance of modification. If any of the changes, modifications, or migrations renders the Licensed Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section 7.

Withdrawal of Licensed Materials. ECS reserves the right to withdraw from the Licensed Materials any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable. Appropriate notices of any withdraw material will be posted to the Digital Library website.

If any such withdrawal renders the Licensed Materials less useful to Subscriber or its Authorized Users, ECS shall reimburse Subscriber for the withdrawal in an amount proportional to the total Fees owed by Subscriber for the

^a <http://www.niso.org/workrooms/transfer/>

Licensed Materials under this Agreement. If any such withdrawal renders the Licensed Materials substantially less useful to Subscriber or its Authorized Users, Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions in Section 7.

Itemized Holdings/Title List. ECS will provide to the Subscriber, prior to the beginning of the calendar year within the current term, an itemized holdings report that specifies the titles included in the Licensed Materials for the next subscription term. ECS will use reasonable efforts to update itemized holdings reports as soon as is practicable when holdings information changes, and will provide this information to Discovery Service Systems in a timely manner and to Subscriber on request. If the Licensed Materials include content covered by the NISO Knowledge Bases and Related Tools (KBART) Recommended Practice,^b ECS will provide itemized holdings lists for the Licensed Materials in KBART-compliant format, including a column/field for dates (YYYY-MM) of additions.

Notice of the Use of Digital Rights Management Technology. In the event that ECS utilizes or implements any type of digital rights management (DRM) technology to control the access to or usage of the Licensed Materials, ECS will provide to Subscriber a description of the technical specifications of the DRM and how it impacts access to or usage of the Licensed Materials. In no event may such Digital Rights Management Technology be used in such a way as to limit the usage rights of a Subscriber or any Authorized User as specified in this Agreement or under applicable law. If the use of DRM renders the Licensed Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section XI, below.

Use of Digital Watermarking Technology. In the event that ECS utilizes any type of watermarking technology for any element of the Licensed Materials, ECS agrees that watermarks will not reduce readability of content and will not degrade image quality. These watermarks shall not contain user-related information, including but not limited to an account number and usernames. If digital watermarking technology is implemented, ECS will notify Subscriber at least thirty (30) days in advance of implementation, and ECS will provide the technical specifications for the technology used. If the use of the watermarking technology renders the Licensed Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section 7.

Interoperability with Prevailing Web Browsers. ECS will use reasonable efforts to ensure that the Licensed Materials are accessible and interoperable with prevailing web

browsers and internet access tools, including, at a minimum, the most recent two major versions (current version and one version prior) and all the associated releases for those versions.

Open Access Option. ECS offers an open access option within the Licensed Materials to its authors via Article Credits, focus issues, and other methods. ECS will report to Subscriber biannually (1) the number of works (such as articles) published under the open access option by all authors, and (2) the number and list of the works by title with full citation by authors at Subscriber's institution.

11. PERPETUAL & ARCHIVAL RIGHTS OF SUBSCRIBERS

Perpetual License. Notwithstanding anything else in the Agreement, ECS grants to Subscriber a nonexclusive, royalty-free, systemwide perpetual license to use any Licensed Materials that were subscribed to or for which a perpetual license fee has been paid 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 Subscriber 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. If ECS's means of access is not available, the Subscriber may provide substantially equivalent access to the Licensed Materials by use of an archival copy or by engaging the services of third-party trusted archives (such as Portico) and/or participating in collaborative archiving endeavors to exercise its perpetual use rights.

Archival Copy. ECS will use reasonable efforts to retain in an archive all electronic information that is published. On termination of this License other than breach by the Subscriber, ECS shall provide continuing access for Authorized Users to that part of the Licensed Material, which was published after December 2015 and within the subscription period paid for by the Subscriber, either from ECS's content platform, by supplying electronic files to the Subscriber, or through a third-party service. The archival copy from ECS shall be provided without any DRM in a mutually agreeable medium suitable to the content, and any fees for provision of copies will be on a time and materials basis only. The definitions of Authorized Users and allowed and prohibited uses as provided in this Agreement shall otherwise apply to the use of the archive copy. Upon the cessation of a subscription for whatever reason, no other additional service is provided. This archive policy does not apply to institutions who do not hold fully paid subscriptions.

In the event ECS discontinues or suspends selling or licensing the Licensed Materials, the Subscriber may use

^b <http://www.niso.org/workrooms/kbart>

such archived Licensed Materials under the same terms as this Agreement.

Third Party Archiving Services. ECS and Subscriber acknowledge that either party may engage the services of third-party trusted archives and/or participate in collaborative archiving endeavors to exercise Subscriber's rights under this section of the Agreement. ECS agrees to cooperate with such archiving entities and/or initiatives as reasonably necessary to make the Licensed Materials available for archiving purposes. Subscriber may perpetually use a third-party trusted system or collaborative archive to access or store the Licensed Materials, so long as Subscriber's use is under the same terms as this Agreement.

In the event ECS discontinues or changes the terms of its participation in a third-party archiving service, ECS shall notify the Subscriber in advance, and shall in good faith seek to establish alternative arrangements for trusted archiving and perpetual access to the Licensed Materials.

12. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY; INDEMNIFICATION

ECS warrants that it is entitled to grant the licenses in this Agreement. ECS warrants that the physical object or medium which contains the Licensed Materials will be free from defects for a period of ninety (90) days from delivery, and that the Licensed Materials comply with California and federal disabilities laws and regulations, and conform to the accessibility requirements of Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.0 at level AA.^c ECS agrees to promptly respond to and resolve any complaint regarding accessibility of Licensed Materials.

ECS MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE ECS DL AND HIGHWIRE PRESS, INCLUDING THEIR QUALITY, ORIGINALITY, SUITABILITY, SEARCHABILITY, OPERATION, PERFORMANCE, AND COMPLIANCE WITH ANY COMPUTATIONAL PROCESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

NEITHER PARTY SHALL BE LIABLE FOR: EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND, ARISING OUT OF OR IN CONNECTION WITH THE SUBSCRIPTION OR LICENSES GRANTED HEREUNDER, THE USE OR INABILITY TO USE THE ECS DL, SUCH PARTY'S PERFORMANCE UNDER THIS AGREEMENT, TERMINATION OF THIS AGREEMENT BY SUCH PARTY OR THE LOSS OF DATA, BUSINESS OR GOODWILL, EVEN IF SUCH PARTY IS ADVISED OR AWARE OF THE

POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY FOR ANY CLAIMS, LOSSES OR DAMAGES OF ANY KIND ARISING OUT OF ANY BREACH OR TERMINATION OF THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY THE SUBSCRIBER TO ECS FOR THE ONLINE SUBSCRIPTION(S) FOR THE CURRENT SUBSCRIPTION YEAR IN WHICH SUCH CLAIM, LOSS OR DAMAGE OCCURRED, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING WITHOUT LIMITATION DUE TO NEGLIGENCE. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies. No claim may be made against either party unless suit is filed thereon within one (1) year after the event giving rise to the claim.

ECS shall indemnify and hold harmless the Subscriber and Authorized Users for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, that arise from any third party claim that alleges copyright infringement or other intellectual property infringement arising from the use of the Licensed Materials by the Subscriber or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. This Section 12 shall survive the termination of this Agreement.

In addition to the indemnity in the preceding paragraph, each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, arising 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, and such indemnification is only in proportion to the losses, claims, damages, awards, penalties, or injuries that were caused by the intentional or negligent acts or omissions of the indemnifying party.

The indemnified party shall provide assistance in investigating and defending such claims as the indemnifying party may reasonably request and shall have the right, but not the obligation, to participate in the defense at its own expense.

^c <http://www.w3.org/WAI/guid-tech.html>

13. CONFIDENTIALITY

Each party shall use its best endeavors to safeguard confidential information of the other party. For the purpose of this Agreement, confidential information means information concerning the prices, fees, IP addresses, special terms, or the specific content agreed to by the parties but does not apply to the mere acknowledgment of this Agreement. Confidential information may be disclosed to Subscriber's subscription agents and any other natural or legal person who is involved in the implementation of this Agreement, but may not be shared outside the intended parties. Any information which at the commencement of this Agreement is or becomes available to the public and information required to be disclosed by law or by regulations of any governmental authority shall not be deemed confidential information for the purposes of this clause.

14. GOVERNING LAW & DISPUTE RESOLUTION

This Agreement shall be interpreted and construed according to, and governed by, the laws of California, excluding any such laws that might direct the application of the laws of another jurisdiction.

All differences and disputes that may arise out of this Agreement or in connection therewith are to be resolved by direct discussions between the parties. In the event that the parties cannot, by exercise of their good faith efforts, resolve the dispute, they shall submit the dispute to informal mediation, as further described below in this paragraph. The parties shall continue to perform their respective obligations under this Agreement that are not affected by the dispute. The party invoking mediation shall give to the other party written notice of its decision to seek informal mediation, and the notice must include a description of the issues subject to the dispute and a proposed resolution thereof. Designated representatives of both parties shall attempt to resolve the dispute within five (5) working days after such notice. If those designated representatives cannot resolve the dispute, the parties shall meet at a mutually agreeable location and describe the dispute and their respective proposals for resolution to responsible executives of the

disputing parties, who shall act in good faith to resolve the dispute.

If the dispute is not resolved within thirty (30) calendar days of the meeting among the parties' executives, either party may pursue a legal action in court. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in Alameda County, California (or, if applicable, the federal court located in the Northern District of California). During such court action, the parties shall continue to perform their respective obligations under this Agreement that are not affected by the dispute.

15. GENERAL

This Agreement constitutes the entire agreement between the parties and supersedes any prior communication or agreement between the parties with respect to the subject matter hereof. The headings used in this Agreement are for convenience only and are not to be considered in construing the terms of this Agreement. Subject to termination under Section 7, this Agreement may be amended only by written amendment signed by authorized representatives of both parties.

Neither party may not assign or transfer its rights under this Agreement. The provisions of Sections 2, 6, 7, 10, 11, 12, and 15 hereof shall survive any expiration or termination of this Agreement.

Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Waiver of Contractual Right. Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

I have read and agree to adhere to and abide by all the terms and conditions stated above, and I certify that I am authorized to sign this Agreement on behalf of the Subscriber.

For the Subscriber

Name: 

Title: Associate Executive Director, CDL

Signature: 

Date: August 7, 2017

For the Publisher

Name: _____

Title: Director of Publications

Date: _____

8/7/17

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ECS — The Electrochemical Society

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Appendix A — Licensed Materials

Please check all products to which you subscribe.

- ☐ **ECS Digital Library** — includes *Journal of The Electrochemical Society*, *ECS Journal of Solid State Science and Technology*, *ECS Electrochemistry Letters* (archive), *ECS Solid State Letters* (archive), *Electrochemical and Solid-State Letters* (archive), *Interface* (gratis open access), *ECS Transactions*, and *ECS Meeting Abstracts* (gratis open access).
- ☒ **ECS Plus** — includes *Journal of The Electrochemical Society*, *ECS Journal of Solid State Science and Technology*, *ECS Electrochemistry Letters* (archive), *ECS Solid State Letters* (archive), *Electrochemical and Solid-State Letters* (archive), *Interface* (gratis open access), *ECS Transactions*, *ECS Meeting Abstracts* (gratis open access); PLUS unlimited Article Credits for authors affiliated with the subscribing institution, which allow UC-affiliated authors to publish their articles open access for free in any ECS journal.
- ☐ *Journal of The Electrochemical Society* (JES)
- ☐ *ECS Journal of Solid State Science and Technology* (JSS)
- ☐ *ECS Transactions* (ECST)
- ☐ **The Electrochemical Society *Interface*** (IF) (gratis open access)
- ☐ *ECS Meeting Abstracts* (MA) (gratis open access)

Archive

Access to the archive publications is included with any ECS subscription.

ECS Electrochemistry Letters (EEL) (archive)

ECS Solid State Letters (SSL) (archive)

Electrochemical and Solid-State Letters (ESL) (archive)

Access Conditions: Unlimited simultaneous user, systemwide perpetual access

Authentication: IP authentication (See Appendix C for IP addresses)

The Electrochemical Society (ECS)

**Online Access
Site License Agreement**

Appendix B — Fees

Product(s): ECS Plus

Subscription Fee(s): Academic [REDACTED] for 1/1/2017-12/31/2017

Total Costs: [REDACTED]

Payment Terms: Subscriber will pay a single invoice for the annual subscription fee.

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Appendix C — Authorized Sites & IP Addresses/Ranges

UC Berkeley (UCB)
(including Lawrence Berkeley Laboratory)

Range Start

[REDACTED]

Range End

[REDACTED]

UC Davis (UCD)

Range Start

[REDACTED]

Range End

[REDACTED]

[REDACTED]

[REDACTED]

UC Irvine (UCI)
Range Start

Range End

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

UC Los Angeles (UCLA)
Range Start

Range End

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

UC Merced (UCM)
Range Start

Range End

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

UC Office of the President (UCOP)
Range Start

Range End

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

UC Riverside (UCR)
Range Start

Range End

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Range Start

[REDACTED]

[REDACTED]

Range Start

[illegible][illegible]

[REDACTED]
[REDACTED]
[REDACTED]

UC Santa Barbara (UCSB)

Range Start

[REDACTED]
[REDACTED]

UC Santa Cruz (UCSC)

Range Start

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Range End

[REDACTED]
[REDACTED]

Range End

[REDACTED]
[REDACTED]
[REDACTED]

See Appendix D for Subscriber Contact.

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University of California, Office of the President

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Invoicing contact:

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CDL Acquisitions Coordinator
University of California

[REDACTED]
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Technical contact:

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California Digital Library
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