

THIS LICENCE IS AGREED the _____ of _____,

BETWEEN

the **INSTITUTION OF STRUCTURAL ENGINEERS** a company registered by Royal Charter with Company No. RC000274 and a charity registered in England with Charity No. 233392 and whose registered office is at 47-58 Bastwick Street, London, EC1V 3PS ("the Publisher")

and _____ a company registered in
with Company No. _____ and whose registered office is at

("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. INTERPRETATION

1.1 In this Licence, the following terms shall have the following meanings: -

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Licensee's Premises	The physical premises owned or operated by the Licensee, as specified in Schedule 2.
Licensed Materials	The electronic material as set out in Schedule 1 or in new Schedules to this Licence that may be agreed by the parties from time to time.
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- 1.4 In the event and to the extent only of any conflict between the clauses and the schedules, the clauses shall prevail.
- 1.5 Where the context so admits or requires, words denoting the singular include the plural and vice versa.
- 1.6 References to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time (whether before or after the date of this Licence) and shall include any provisions of which they are re-enactments (whether with or without modification) and any subordinate legislation made under such provisions.

2. AGREEMENT

- 2.1 The Publisher agrees to grant to the Licensee the non-exclusive and non-transferable right, throughout the world, to give Authorised Users access to the Licensed Materials via a Secure Network subject to the terms and conditions of this Licence, and the Licensee agrees to pay the Fee. The Agent will be responsible for processing payment of the Fee (and will be entitled to receive any refund of the Fee) on behalf of the Licensee, unless notified otherwise, in which case the Fee will be paid by the Licensee direct to the Publisher.
- 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 in writing to renew it.
- 2.3 If the Licensee fails to pay any amount payable by it under this Licence, the Publisher or its Agent shall be entitled but not obliged to charge the Licensee interest on the overdue amount, payable by the Licensee forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 8% per annum above the base rate for the time being of Barclays Bank plc. Such interest shall accrue on a daily basis and be compounded quarterly. The Publisher or its agent reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

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 - 5.2.2 the Licensee makes no admissions or settlements without the Publisher's prior written consent;
 - 5.2.3 the Licensee gives the Publisher all information and assistance as the Publisher may reasonably require; and
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 - 5.3.3 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.
 - 5.3.4 use reasonable endeavours to ensure that the Server has adequate capacity and bandwidth to support the usage of the Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this Licence.
 - 5.3.5 use reasonable endeavours to make the Licensed Materials available to the Licensee and to Authorised Users at all times and on a twenty-four hour basis, save for scheduled routine maintenance (which shall be notified to the Licensee in advance wherever possible);
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6. LICENSEE'S UNDERTAKINGS

6.1 The Licensee shall:

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- 6.1.2 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 that they are made aware of and undertake to abide by the terms and conditions of this Licence;
- 6.1.3 use reasonable endeavours to monitor compliance and immediately upon becoming aware of any unauthorised use or other breach, inform the Publisher and take all steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;
- 6.1.4 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;
- 6.1.5 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 5.3.3. Should the Licensee make any significant change to such information, it will use reasonable endeavours to notify the Publisher not less than ten (10) days before the change takes effect.
- 6.1.6 use reasonable endeavours to prevent unauthorised use, but will not indemnify or be held liable by anyone for breach of any terms of this Licence by an Authorised User or third party provided that the Licensee did not intentionally assist in or encourage such breach or permit such breach to continue after having actual notice thereof and provided that the Licensee reasonably cooperates with the Publisher to prevent misuse as stated above. The Licensee will notify the Publisher immediately on becoming aware of any unauthorised use, or breach of any terms of this Licence.

6.2 The Licensee hereby acknowledges that the business of the Publisher is entirely dependent upon the Publisher's intellectual property rights in the Licensed Materials, and that any material and persistent breach thereof constitutes a fundamental breach of this Licence, in which event, the Publisher will notify the Licensee immediately in writing and shall have the right to temporarily suspend the Licensee's access to the Licensed Materials. The Licensee shall be given the opportunity to remedy the breach or infringement within thirty (30) days following receipt of written notice from the Publisher. Once the breach or infringement has been remedied or the offending activity halted, the Publisher shall reinstate access to the Licensed Materials. If the Licensee does not satisfactorily remedy the offending activity within thirty (30) days, the Publisher shall be entitled to terminate this Licence without any rebate of the Fee and without prejudice to any other rights or remedies to which it may be entitled.

6.3 The Licensee shall, in consideration for the rights granted under this Licence, pay the Fee within thirty (30) days of receipt of invoice and, if applicable, within thirty (30) days of receipt of invoice relating to each subsequent Subscription Period. For the avoidance of doubt, the Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes in addition to the Fee.

7. TERM AND TERMINATION

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

- 7.1.1 if the Licensee defaults in making payment of the Fee as provided in this Licence;

- 7.1.2 if either party 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) days of notification in writing by the other party;
- 7.1.3 if either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 7.2 On termination all rights and obligations of the parties automatically terminate except as specifically provided in this Licence.
- 7.3 On termination of this Licence for cause, as specified in clauses 7.1, the Licensee shall immediately cease to distribute or make available the Licensed Materials to Authorised Users.
- 7.4 On termination of this Licence by the Licensee for cause, as specified in clause 7.1.2 above, the Publisher shall forthwith refund the proportion of the Fee that represents the paid but un-expired part of the Subscription Period.
- 7.5 On termination (with the exception of termination in relation to clauses 7.1.1 and 7.1.2) the Publisher undertakes to use reasonable endeavors to (i) provide to Licensee that portion of the Licensed Materials that was available during the time the Licensee maintained its subscription, (ii) provide or make arrangements for a third party (e.g. LOCKSS or Portico) to provide an archive of the Licensed Materials for purposes of long term preservation and (iii) permit Authorised Users to access such archive after termination of this Licence if the Publisher can no longer provide access.

8. GENERAL

- 8.1 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.
- 8.2 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.
- 8.3 Neither party may assign or transfer any of its rights or obligations under this Licence, except as provided in this Licence in respect of the Agent and the management of the Server, without prior written consent of the other such consent not to be unreasonably withheld or delayed, save that the Publisher may assign or transfer its rights under the Licence without consent provided it gives advance notice to the Licensee.
- 8.4 If either party shall come under the control of any third party other than that by which it is controlled at the date of this Licence, the other shall have the right immediately to terminate or renegotiate the terms of this Licence. Control shall mean either the ownership of more than fifty per cent (50%) of the ordinary share capital carrying the right to vote at general meetings or the power to nominate a majority of the board of directors.
- 8.5 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.
- 8.6 Neither party's delay or failure to perform any provision of this Licence, as a 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.
- 8.7 The invalidity or un-enforceability of any provision of this Licence shall not affect the continuation or enforceability of the remainder of this Licence.
- 8.8 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.

9. USE OF AN EXPERT TO RESOLVE DISPUTES

- 9.1 This licence shall be governed by and construed in accordance with English law and 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 English courts.
- 9.2 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 Secretary General for the time being of the Association of Learned and Professional Society Publishers.
- 9.3 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.
- 9.4 Each party shall provide the expert with such information as he may reasonably require for the purposes of his decision.
- 9.5 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: INSTITUTION OF STRUCTURAL ENGINEERS

Signature:

ROBIN JONES
MANAGING EDITOR

Date:

FOR THE LICENSEE:

Signature:

Date:

SCHEDULE 1

LICENSED MATERIALS, SUBSCRIPTION PERIOD AND ACCESS METHOD

A schedule dated as below to the Licence dated _____ between The Institution of Structural Engineers
and _____

THE LICENSED MATERIALS:

Title	Subscription Period	Fee
<i>The Structural Engineer</i>	January to December	Annual subscription

ACCESS METHOD:

Authentication via assigned subscription number
Authentication via IP address

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Signature:

ROBIN JONES
MANAGING EDITOR

Date:

FOR THE LICENSEE:

Signature:

Date:

SCHEDULE 2

LICENSEE'S PREMISES

A schedule dated as below to the Licence dated _____ of _____, _____ between The Institution of Structural Engineers and _____

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Signature:

ROBIN JONES
MANAGING EDITOR

Date:

FOR THE LICENSEE:

Signature:

Date: