

INTELLECTUAL PROPERTY POLICY OF ASTM INTERNATIONAL (“POLICY”)

I. INTRODUCTION. Ownership and use of ASTM International’s Intellectual Property (e.g. Standards, Draft Standards, Adjuncts, Technical Papers, Research Reports, Manuals, Software, Training Course Materials and Logos –collectively referred to as “ASTM IP”) are vital to the ability of ASTM International to fulfill its mission. ASTM International owns and maintains the rights to its Intellectual Property; it is the responsibility of ASTM International’s Board of Directors (“Board”), staff, members, and others who participate in the creation of ASTM IP (collectively “Participants”), as well as authorized resellers/distributors of ASTM IP, to protect these valuable assets and ensure that they are used in accordance with this Policy.

A. Section 1 of the **ASTM International Charter** states in part: “The corporation is formed for the development of standards on characteristics and performance of materials, products, systems and services; and the promotion of related knowledge.”

B. ASTM International By-law 4.4 states: “The Board shall delegate to such committees and other groups those powers necessary for the fulfillment of their assigned function.”

C. ASTM International By-law 7.1 states: “The Board of Directors is empowered to promulgate procedures for the development and adoption of voluntary consensus standards ...”

D. The Standing Committee on Publications (“**COP**”) advises the Board on the formulation of publications policy. COP is responsible for all publications programs of the Society except the acceptance for publication of ASTM International’s standards.

E. The Committee on Technical Committee Operations (“**COTCO**”) is responsible for the *Regulations Governing ASTM’s Technical Committees (“Regulations”)*, of which **Regulation 17.1** states: “Documents [including standards and provisional standards], technical papers, reports, minutes, letters to the editor, and related materials should be released for publication only through ASTM’s headquarters.”

F. Regulation 10.7 requires that the current edition of the manual, *Form and Style for ASTM Standards (“Form & Style”)* will be followed in the writing of standards (the Committee on Standards (“**COS**”) is responsible for *Form & Style*). **Section F** of *Form & Style* sets forth policies and procedures governing, among other matters, reference to patents, trademarks, similar marks, and reference to standards of other organizations, in ASTM International documents. **Regulation 15** governs the use or reference to a patent in an ASTM International standard.

II. TYPES OF INTELLECTUAL PROPERTY.

Intellectual property includes patents, trademarks and copyrights, as defined in various federal and state statutes.

A. Patent. A patent is a property right granted by the government to inventors of new and useful inventions. Patents may be granted on any new and useful process, machine, manufactured article, composition of matter, or any new and useful improvements thereof. During a patent’s limited term, its owner has the right to exclude others from making, using, selling, offering for sale or importing the patented invention into the United States.

B. Copyright. A copyright is a property right granted to the creators (i.e. authors) of original works that are fixed in a tangible medium of expression and that are independently created and possess some minimal degree of creativity. The exclusive rights provided by a copyright include protection against unauthorized printing, publishing, copying, selling, distributing, and/or performing of the copyrighted work. Copyrighted materials include not only traditional written works but also such things as computer software, electronic files and publications, internet/website files and publications, mult imedia, CD-ROMs, DVDs, videotapes, audiotapes, and training programs.

C. Trademark. A trademark is a word, phrase, symbol or design, or combination of words, phrases, symbols or designs, which identifies and distinguishes the source of goods or services from one party from those of others. A service mark is the same as a trademark except it identifies and distinguishes the source of a service rather than a product. Trademark rights may be used to prevent others from using a confusingly similar mark but not to prevent others from making the same goods or from selling them under a non-confusing mark.

III. PURPOSE OF THIS POLICY.

The purpose of this Policy is to specify and protect the interests of ASTM International in its Intellectual Property rights, and to describe the means by which ASTM International has addressed protection of these rights and recognition of the intellectual property rights of others. ASTM International's Intellectual Property rights and revenue generated by utilization of those rights enable ASTM International to carry out its mission. All ASTM International staff, members, and others as stated in IV.B, below, are expected to comply with this Policy.

IV. SCOPE.

A. This Policy applies to any ASTM International standard, draft standard or related document (hereinafter referred to as “**ASTM Documents**”) defined in **Regulation 2** of the **Regulations Governing ASTM Technical Committees**, and any adjuncts to such ASTM Documents, as well as to all other ASTM International publications and related property, in all forms (including CD-ROM, software, multimedia, ASTM Internet Web Site, videotapes, audiotapes) and written materials such as Special Technical Publications, Manuals, Technical Journals, Proficiency Test Program materials, Professional and Technical Training materials, as well as use of trademarks, service marks and Logos (collectively part of ASTM IP). (Many of these, as well as other examples of ASTM IP, are listed in the ASTM International Publications Catalog and related brochures. Logos are specifically covered by the ASTM International **Logo Policy** as adopted by the Board on 15 October 1998.)

B. This Policy applies to all ASTM International employees, members, officers, directors, Participants, resellers/distributors and others involved with the development, adoption, publication, use and/or distribution of ASTM IP. For purposes of this Policy, “committee” or “technical committee” includes subcommittees and task groups.

C. Participants, members, and authorized resellers/distributors acknowledge and agree that the adoption, enactment, reference, or incorporation of any of the ASTM IP by any government or agency has not and will not effect, transfer, modify or alter the copyrights of the ASTM IP in any way.

V. POLICY.

A. All of ASTM International's Intellectual Property rights must be protected, regulated and maintained, no matter how wide the information is distributed in print, electronically, or otherwise. Such protection is essential to ASTM International's ability to fulfill its mission and maintain its Intellectual Property.

B. ASTM International owns and maintains the rights to its Intellectual Property.

C. ASTM International reserves the right to copyright any of its print, electronic products, databases, audio/visual products and any other subject matter covered by the Copyright Act. This is intended to protect ASTM International and its members from unauthorized copying and distribution of ASTM IP.

D. By participating in any ASTM International technical committee and/or participating in the creation, development and/or adoption of ASTM IP, Participants and committee members acknowledge that the copyright to such Intellectual Property resides in ASTM International. If requested by ASTM International, such Participants and committee members agree to execute any and all documents deemed necessary or appropriate by ASTM International to transfer and effectuate ownership of all such rights, including but not limited to copyrights, they may possibly have in ASTM IP. The rights granted to ASTM International by this assignment or transfer shall belong to ASTM International in perpetuity.

E. All Participants, members and staff agree to abide by and follow the requirements of the ASTM International Charter, ASTM International By-laws, **Regulations Governing ASTM Technical Committees**, and **Form and Style for ASTM Standards**, ASTM International **Logo Policy**, as well as this Policy, as each may be amended from time to time, when creating, developing or utilizing ASTM IP.

F. It is ASTM International's policy, reflected in **Form & Style F5**, that the copyrights and other intellectual property rights of third parties be respected and not infringed by ASTM International or any of its committees, or any employee, member or other person acting on behalf of ASTM International.

G. It is ASTM International policy that, if at all possible, proprietary and/or patented equipment, apparatus, material or information not be included in a standard. If such inclusion is necessary, ASTM International's Patent Policy (**Regulation 15**) must be complied with.

H. ASTM International registers its trademarks and service marks in the United States and in countries around the world. As a condition of membership, members agree that the marks are the property of ASTM International at all times. Use of the marks is subject to, among other things, ASTM International's *Logo Policy*.

I. Electronic Networks.

1. The Copyright Act provides copyright protection for certain works fixed in any tangible medium expression, now or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of technology.

2. As more and more sophisticated technology becomes available, it may become increasingly difficult to determine and enforce ownership of ASTM International's Intellectual Property rights; therefore, inputting, uploading, downloading, reproducing, or transmitting ASTM IP without ASTM International's prior permission (or in conformity with ASTM International's applicable License Agreements) is prohibited.

VI. PROCEDURE.

A. Intellectual Property -- Standards.

1. Standards and related documents developed by or for ASTM International committees are copyrighted by ASTM International, as set forth in the U.S. Copyright Act. When an individual or entity joins, volunteers for or accepts appointment to the ASTM International or an ASTM International committee, the individual or entity, as a condition of membership and participation, expressly acknowledges and agrees that copyrights and all rights to all materials produced by or for ASTM International committees are owned by ASTM International and that ASTM International will register the copyright in its own name.

2. Copyrights and Patents in ASTM Standards. If, in developing an ASTM Document or adjuncts to such ASTM Documents, a committee proposes to incorporate material from the copyrighted publication of another organization, the committee should request ASTM International staff to obtain written permission from the copyright holder to reprint the material. Reference to a patented item should be avoided, if at all possible, but in all cases section **F5** of *Form & Style* must be complied with. *Regulation 15* of the *Regulations Governing ASTM Technical Committees*, and *Form and Style for ASTM Standards* (including but not limited to sections **F3** and **F4**), as well as ASTM International staff, should be consulted for guidance if patented items or trade/service marks are to be referenced in an ASTM Document.

3. ASTM International standards may currently include copyrighted material reproduced under agreement with the copyright holder. Similarly, ASTM International may permit others to reprint its material based on appropriate license agreements. Section **F5** of *Form and Style* must be followed when referencing standards of other organizations.

4. The provision stated in A.3 (above) applies to all forms of media, including, for example, both hard copy and electronic formats.

5. Guidance to committees and members on protection of ASTM IP and avoidance of infringement of the rights of others is provided by the ASTM International staff.

6. Permission to Use ASTM IP. Only the President of ASTM International or the Vice President of Publications of ASTM International can grant permission for the use, copying or distribution of ASTM IP by others. Any requests for such permission must be forwarded to ASTM International staff for consideration and further action.

B. Intellectual Property Other Than Standards

1. ASTM International recognizes different ways to assign intellectual property rights:

a) When individual authors submit manuscripts of technical papers for publication by ASTM International, the author must sign an agreement (**Author Agreement**) whereby ownership of the material is assigned to ASTM International; however, if the technical paper was prepared in the course of the author's employment by the U.S., Canadian, or British Governments, ASTM acknowledges that copyright does not exist.

b) When ASTM International contracts, subsidizes, or agrees with writers, authors, editors, or others to prepare or otherwise help create ASTM IP other than technical papers as given in **1a** above, a "**Work for Hire**" **Agreement** must be signed in which copyright is acknowledged to reside in ASTM International or will be assigned to ASTM International. Copyright shall be granted and/or assigned exclusively to ASTM International, including any and all rights protected by the copyright laws of the United States and all other countries as set forth in the respective agreement.

2. When ASTM International creates and distributes ASTM IP, ASTM International may do so in whatever manner it decides. This will not, however, preclude the use of the Intellectual Property by authors and editors as set forth in the applicable agreements described in 1a and 1b above.

3. ASTM International will take reasonable precautions to preserve the property rights of an author of a manuscript submitted, but not accepted, for publication by ASTM International.

C. Licensing. ASTM International may, at its sole discretion, assign, license or permit the use by others of ASTM IP. ASTM International requires any individual or entity who desires to copy, reproduce, market, create a derivative work utilizing or distribute any of ASTM International's Intellectual Property (e.g. Standards, Draft Standards, Adjuncts, Technical Papers, Research Reports, Manuals, Software, Training Course Materials, Logos) to execute an appropriate **ASTM License Agreement**. Such agreements will normally require, among other things, that licensees not modify the ASTM IP and that they make appropriate copyright acknowledgments and royalty payments. ASTM International has no obligation to execute such agreements.

As amended by the ASTM International Board of Directors, October 28, 2003.