



This Licence is agreed the [date] day of [date] 20[..]

between

1 **Oxford International Publishers Ltd. Trading as Berg Publishers**, of 1st Floor, Angel Court, 81 St Clements Street, Oxford OX4 1AW, United Kingdom ('the Publisher')

and

2 [full contractual name] of [full address] ('the Licensee')

May be more than one institution; give full contractual name(s) and address(es)

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

IT IS AGREED AS FOLLOWS

1. Key definitions

In the Licence, the following terms shall have the following meanings:

1.1 Authorized Users

Current members of the staff of the Licensee (whether on a permanent, temporary, contract or visiting basis) and individuals who are currently studying at the Licensee's institution, who are permitted to access the Secure Network from within the premises of the Licensee and from such other places where Authorized Users work or study, including without limitation halls of residence and lodgings and homes of Authorized Users, and who have been issued by the Licensee with a password or other authentication for the purposes of accessing an active subscription to one of the Publisher's journals.

1.2 Commercial Use

Use for the purposes of monetary reward (whether by or for the Licensee or an Authorized User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Materials. For the avoidance of doubt neither recovery of direct costs by the Licensee from Authorized Users, nor use by the Licensee or by an Authorized User of the Licensed Material in the course of research funded by a commercial organisation, is deemed to constitute Commercial Use.

1.3 Fee

The fee set out in Schedule 1, or in new schedules to this Licence which may be agreed by the parties from time to time.

1.4 Library Premises

The physical premises of the Library or Libraries operated by the Licensee, as specified in Schedule 2.

1.5 Licensed Material

The electronic material listed in Schedule 1, or in new Schedules to this Licence which may be agreed by the parties from time to time, and which is delivered in the format and according to the time schedule specified in Schedule 1.

1.6 Secure Network

A network (whether a standalone network or a virtual network within the Internet) which is accessible only to Authorized Users and Walk-in Users approved by the Licensee, whose identity is authenticated at the time of login and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Licensee.

1.7 Walk-in Users

Persons who are not Authorized Users but who are registered as permitted users of the Licensee's library or information service and who are permitted to access the Secure Network from designated computer terminals within the Library Premises, as designated in Schedule 2, and who have been issued by the Licensee with a password or other authentication. For the avoidance of doubt, the payment of a fee in order to be registered as a Walk-in User is deemed not to constitute Commercial Use under Clause 1.2 above.

2. Agreement

2.1 The Publisher agrees to grant the Licensee the non-exclusive and non-transferable right to give Authorized and Walk-in Users access to the Licensed Material from the Site via a Secure Network for [specify purpose of Licence], subject to the terms and conditions of this Licence, and the Licensee agrees to pay the Fee to the Publisher.

2.2 This Licence shall commence on [date] and shall remain in effect until [date], when the Licence shall automatically terminate unless the parties have previously agreed to renew it. The licence period for individual items of material shall be as set out in Schedule 1 or in new Schedules to this Licence which may be added subsequently.

2.3 The right specified in sub-Clause 2.1 above is granted in all countries of the world.

3. Permitted uses

The Licensee may, subject to Clause 4 below:

3.1.1 Allow Authorized Users to have access to the Licensed Material via the Secure

Network

3.1.2 Allow Walk-in Users to have access to the Licensed Material from designated computer terminals within the Library Premises.

3.1.3 Supply to an Authorized User of another library (whether by post, fax or secure intermediate electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing), for the purposes of research or private study, a single paper copy of an electronic original of an individual document.

3.1.4 Display, download or print the Licensed Material for the purpose of internal marketing or testing, or for training Authorized Users.

3.2 Authorized Users and Walk-in Users may, subject to Clause 4 below:

3.2.1 Search, view, retrieve and display the Licensed Material

3.2.2 Electronically save parts of the Licensed Material for personal use

3.2.3 Print off single copies of parts of the Licensed Material for personal use.

3.3 Nothing in this Licence shall in any way exclude, modify or affect anything the Licensee or Authorized and Walk-in Users are allowed to do in respect of any of the Licensed Materials under any statutory rights granted by the Copyright Designs and Patents Act 1988 and any amending legislation.

4. Prohibited uses

4.1 Neither the Licensee nor Authorized or Walk-in Users may remove or alter the authors' names or the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Material.

4.2 Neither the Licensee nor Authorized or Walk-in Users may systematically make print or electronic copies of multiple extracts of the Licensed Material for any purpose.

4.3 Scholarly Sharing. Authorized Users may transmit to a third party in hard copy or electronically, minimal, insubstantial amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for resale or commercial purposes.

4.4 Neither the Licensee nor Authorized or Walk-in Users may mount or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, other than the Secure Network.

4.5 The Publisher's explicit written permission must be obtained in order to:

- 4.5.1 Use the whole or any part of the Licensed Material for any Commercial Use (including course packs, whether Electronic, hardcopy, or material on reserve).
- 4.5.2 Systematically distribute the whole or part of the Licensed Material to anyone other than Authorized Users
- 4.5.3 Publish, distribute or make available the Licensed Material, works based on the Licensed Material or works which combine it with any other material, other than as permitted in this Licence
- 4.5.4 Alter, abridge, adapt or modify the Licensed Material, except to the extent necessary to make it perceptible on a computer screen to Authorized and Walk-in Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

5. Undertakings

5.1 The Publisher warrants to the Licensee that, to the best of its belief, it is the owner of the copyright in the Licensed Material or that it is duly licensed to use the copyright material contained in the Licensed Material and that the Licensed Material used as contemplated in this Licence does not infringe any copyright or other proprietary or intellectual property rights of any natural or legal person. The Publisher shall indemnify and hold the Licensee harmless from and against any direct loss, damage, cost, liability or expense (including reasonable legal and professional fees) arising out of any legal action taken against the Licensee claiming actual or alleged infringement of such rights. This indemnity shall survive the termination of this Licence for any reason. This indemnity shall not apply if the Licensee has amended the Licensed Material in any way not permitted by this Licence.

5.2 The Publisher shall:

5.2.1 Make the Licensed Material available to the Licensee and to Authorized and Walk-in Users from whichever e-distributor the Publisher supplies its Licensed Material through (currently Ingenta) in the media, format and time schedule specified in Schedule 1. The Publisher shall notify the Licensee at least sixty (60) days in advance of any anticipated specification change applicable to the Licensed Material.

5.2.2 Upon request from the Licensee, provide the Licensee, within 30 days of commencement, with information sufficient to enable access to the Licensed Material

5.2.3 Use all reasonable endeavours to ensure that its 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.

5.2.4 Use all reasonable endeavours to make the Licensed Materials available to the

Licensee and to Authorized Users and Walk-in Users at all times and on a twenty-four hour basis, save for routine maintenance, and to restore access to the Licensed Material as soon as possible in the event of an interruption or suspension of the service.

The Publisher undertakes to use reasonable endeavors to provide or to make arrangements for a third party to provide an archive of the Licensed Materials for the purposes of long term preservation of the Licensed Materials, and to permit Authorized Users to access such archive.

5.3 The Publisher reserves the right at any time to withdraw from the Licensed Material 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. The Publisher shall give written notice to the Licensee of such withdrawal.

In no circumstances will the Licensor be liable to the Licensee or any third party for any loss resulting from a cause over which Licensor does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorized access, theft, or operator errors.

In no circumstances will the Licensor be liable to the Licensee or any third party for any consequential, incidental, special or indirect damages including, without limitation, damages for loss of data or corruption of data, loss of programs, loss of business or goodwill, or other damages or losses of any nature arising out of the use of, or inability to use the Licensed Works.

5.4 The Licensee shall:

5.4.1 Use all reasonable endeavours to ensure that all Authorized and Walk-in Users are appropriately notified of the importance of respecting the intellectual property rights in the Licensed Material and of the sanctions which the Licensee imposes for failing to do so, as specified in Schedule 3

5.4.2 Use all reasonable endeavours to ensure that Authorized and Walk-in Users are made aware of and agree to abide by the terms and conditions of this Licence; use all reasonable endeavours to monitor compliance and immediately on becoming aware of any unauthorized use or other breach, inform the Publisher and take all reasonable steps, including appropriate disciplinary action, both to ensure that such activity ceases and to prevent any recurrence

5.4.3 Issue passwords or other access information only to Authorized Users and use all reasonable endeavours to ensure that Authorized Users do not divulge their passwords or other access information to any third party

5.4.4 Keep full and up-to-date records of all Authorized Users and their access details, and if appropriate provide the Publisher with periodic lists of additions, deletions or other

alterations to such records as agreed between the parties from time to time

5.4.5 Allow Walk-in Users access to the Licensed Materials only from designated computer terminals within the Library Premises, as designated in Schedule 2.

5.5 Nothing in this Licence shall make the Licensee liable for breach of the terms of the Licence by any Authorized or Walk-in User provided that the Licensee did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.

5.6 The Licensee shall, in consideration for the rights granted under this Licence, pay the specified Fee to the Publisher within 30 days of signature. For the avoidance of doubt, such 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.

5.7 The Licensee shall provide on an on-request basis (no more than quarterly) usage information for the Publisher's private internal use only, should it be required. Such usage information shall be compiled in a manner consistent with the applicable privacy laws, and the anonymity of individual users and the confidentiality of their searches shall be fully protected. In the case that the Licensee assigns its rights to another party under Clause 7.1 herein, the Publisher may at its discretion require the assignee either to keep such usage information confidential or to destroy it.

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

6. Termination

6.1 In addition to the automatic termination (unless renewed) under Clause 2, this Licence is terminated if either party gives written notice to the other in the following circumstances:

6.1.1 The Licensee defaults in making payment of the Fee

6.1.2 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 days of notification in writing by the other party

6.1.3 Either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.

6.2 On termination all rights and obligations of the parties automatically terminate except for:

6.2.1 Those specified in Clauses 3.3, 5.1 and 5.1 above

6.2.2 All obligations in respect of Licensed Material to which access continues to be permitted

6.3 On termination of this Licence due to breach of any term thereof by the Licensee, the Licensee shall immediately cease to distribute or make available the Licensed Material to Authorized and Walk-in Users.

6.4 On termination of this Licence due to breach of any term thereof by the Publisher, the Publisher shall forthwith repay to the Licensee a pro rata refund of the unexpired portion of the Fee.

7. General

7.1.1 This Licence may not be assigned by either party to any other person or organisation, nor may either party sub-contract any of its obligations, without the prior written consent of the other party which consent shall not unreasonably be withheld.

7.1.2 If rights in all or any part of the Licensed Material are assigned to another publisher, the Publisher shall use its best endeavours to ensure that the terms and conditions of this Licence are maintained.

7.2 Alterations to this Licence are only valid if they are recorded in writing and signed by both parties.

7.3 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 the service of notices and all such notices shall be deemed to have been received within 14 days of posting.

7.4 If any difference shall arise between the parties touching the meaning of this Licence or the rights and liabilities of the parties thereto, the same shall in the first instance be referred to an independent expert agreed by the parties or, in default of such agreement, nominated by the president for the time being of the Institute of Chartered Accountants in England and Wales. Such expert shall act as expert and not as an arbitrator, and the expert's decision (which shall be given in writing stating the reasons therefor) shall be final and binding on the parties. Each party shall provide the expert with such information as the expert may reasonably require for the purposes of determination. 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 such determination is made, in equal proportions.

7.5 Neither party shall be liable in any way for failure or delay in performing its obligations under this Licence if the failure or delay is due to causes outside the reasonable control of the party in default.

7.6 The failure of any party to enforce any provision on any one occasion shall not affect its right to enforce another provision or the same provision on another occasion.

7.7 In the event that any provision of this Licence is held to be invalid, the remainder of the provisions shall continue in full force and effect.

7.8 This Licence shall be governed by and construed according to the laws of England and the parties irrevocably agree to submit to the jurisdiction of the English Courts.

As witness the hands of the parties the day and year below first written

For the Publisher	Date
Name (in block capitals)	
Title	Signature

For the Licensee	Date
Name (in block capitals)	
Title	Signature

[repeat Licensee signatory lines in the case of a consortium]

Schedule 1 - Licensed materials

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

List of Licensed Material, initial licence period for each item, format of each item, delivery schedule (if applicable) for each item and fee for the initial licence period for each item.

Subsequent Schedules can be used to add, remove or update details; the Licence itself does not need to be renegotiated.

As witness the hands of the parties the day and year below first written

For the Publisher	Date
Name (in block capitals)	
Title	Signature

For the Licensee	Date
Name (in block capitals)	
Title	Signature

[repeat Licensee signatory lines in the case of a consortium]

Schedule 2 - Licensee premises

List of addresses of (a) library premises and (b) other premises of the Licensee at which the Secure Network is made available.

As witness the hands of the parties the day and year below first written

For the Publisher	Date
Name (in block capitals)	
Title	Signature

For the Licensee	Date
Name (in block capitals)	
Title	Signature

[repeat Licensee signatory lines in the case of a consortium]

Schedule 3 - Licensee's copyright enforcement policy

List of all documents evidencing the policy, with attached copies.

As witness the hands of the parties the day and year below first written

For the Publisher	Date
Name (in block capitals)	
Title	Signature

For the Licensee	Date
Name (in block capitals)	
Title	Signature

[repeat Licensee signatory lines in the case of a consortium]