Enhanced Higher Education Supply Service
Agreement

Please detach, sign and return your licence application to:

New Licences

Email: **licence@cla.co.uk**

New licence enquiries
020 4512 0100

This agreement is made on:

Between:

THE COPYRIGHT LICENSING AGENCY LIMITED ("CLA"); and

THE EDUCATION INSTITUTION known as

Address

Postcode

(hereinafter called "The Licensee")

1. Definitions

1.1 In this Agreement, the following terms shall have the following meanings:

Agreement:
means these terms and conditions, together with Schedule 1 and 2.

CFPS:
shall mean the Copyright Fee Paid Service provided in a similar manner to the Copy Service but where Copyright Fees are charged in addition to the Charges.

Charges:
means the fees payable by the Institution to CLA for performance of the Services.

CLA:
means the Copyright Licensing Agency Ltd., a company limited by guarantee.

Commencement Date:
means the date specified in clause 1 of Schedule 1.

Confidential Information:
means all information and data concerning the parties and their respective businesses and the Services which the parties designate as being of a secret, price sensitive or confidential nature, including, but not limited to, any oral information which the Parties designate as proprietary or confidential at the time of disclosure together with all information regarding customer usage of the Services.

Copy:
means a single, high quality, optical character recognition processed portable document format (PDF) copy of a journal article or book extract (whether published in hard copy format or electronic format), which will be supplied to the Institution in electronic format without technical protection measures and with applicable metadata for use in accordance with the terms and conditions of this Agreement.

Copyright Fee:
means the fee per Copy which is stipulated by the Rights Holder or RRO in consideration of granting the right to provide Copies. For certain non-journal material, such as conference proceedings and books a default copyright fee is charged. Copyright Fees shall be detailed on such websites as may be notified to the Institution by CLA from time to time.

Copyright Notice:
means any notice specifying the permissions and restrictions applicable to the Copy, which is stipulated by CLA within the Licence.

Copy Service:
means the service whereby a copy of an item whether published in hard copy format or electronic format which is held and owned by the Institution in that format and is supplied to the Institution with no Copyright Fee, under the aegis of the Licence.

Institution:
means the institution named in clause 2 of Schedule 1, which is entering into this Agreement with CLA.

The Copyright
Licensing Agency Ltd

Tel 020 7400 3100
Email cla@cla.co.uk
www.cla.co.uk

CLA Scotland
Tel 020 4512 0100
Email licence@cla.co.uk

Registered in England & Wales
Reg no. 1690026

EHESS_20251001

Licence:
means the CLA Higher Education Licence and CLA Independent Higher Education Licence, as made available by CLA from time to time.

Party:
means a party to this Agreement.

Request:
means a document delivery order submitted by the Institution in accordance with clause 3.1, for CLA to procure delivery of a specified item.

Rights Holder:
means the person(s) or organisation(s) owning or controlling the rights to the journals and other periodicals, books and other such publications, copies of items from which are delivered to the Institution through this Agreement.

RRO:
means a Reproduction Rights Organisation, (including, but not limited to, CLA) which acts as a licensing agent for Rights Holders within a specific area or territory.

Service:
means CLA's Enhanced Higher Education Supply Service for UK Higher Education Institutions whereby Copies are supplied to the Institution for processing, transmission or further copying by such Institution in order to provide such Copies to students and teaching staff as part of a course of study. For the avoidance of doubt, the Service is only available to the Institution whilst they hold a current signed Licence.

Service Supplier:
means any entity appointed by CLA at its discretion to deliver any part of the Service on behalf of CLA as may be notified and further detailed to the Institution by CLA from time to time.

User:
shall mean any student or member of the teaching or faculty staff authorised by the Institution to access the Copy.

1.2 References to the masculine include the feminine and the neutral, and the singular includes the plural and vice versa.

1.3 A reference to a statutory provision will be interpreted as a reference to such provision as amended or re-enacted from time to time.

1.4 References to a person shall include any individual or body of persons whether incorporated or unincorporated.

1.5 The headings to the clauses are for reference only and shall not affect the interpretation or construction of this Agreement.

2. Term

2.1 This Agreement shall commence on the Commencement Date and shall continue thereafter unless and until terminated by either Party in accordance with Clause 6.

3. Obligations

3.1 The Institution shall:

3.1.1 bear sole responsibility for deciding whether the Request should be processed through the Copy Service or the CFPS;

3.1.2 follow the instructions for submitting Requests as notified to the Institution from time to time by or on behalf of CLA;

3.1.3 ensure that Requests submitted to the Service Supplier have sufficient levels of bibliographic information for the Service Supplier to locate the specified item; and

3.1.4 ensure that Users access and use Copies in accordance with this Agreement.

3.2 In consideration of the payment of the Charges (and any relevant Copyright Fees) in accordance with clause 5, where the Copy is supplied by the Service Supplier, CLA shall procure that:

3.2.1 the Service Supplier will send an email acknowledging receipt of a Request;

3.2.2 if the requested item is available, the Service Supplier will fulfil the Request by delivering the Copy to the Institution. The Copy will be provided within two working days of the acknowledgment receipt being issued and in accordance with such other delivery options, performance measures and service hours as are detailed in the service descriptions found on such websites as may be notified to the Institution by CLA from time to time; and

3.2.3 where the item cannot be supplied as specified, the Service Supplier will inform the Institution.

3.3 For the avoidance of doubt, CLA and the Service Supplier may refuse to accept or execute any Request. If requested, CLA or the Service Supplier shall inform the Institution of the reason for any refusal.

3.4 Any fault (including, but not limited to, missing pages, poor quality or wrong item) must be notified to the supplying party by the Institution within twenty-eight (28) days of receipt.

The Copyright Licensing Agency Ltd

Tel 020 7400 3100
Email cla@cla.co.uk
www.cla.co.uk

CLA Scotland
Tel 020 4512 0100
Email licence@cla.co.uk

Registered in England & Wales
Reg no. 1690026

4. Copyright issues

4.1 CLA will be responsible for the payment of all Copyright Fees paid by the Institution to Rights Holders or the appropriate RROs.

4.2 The Institution undertakes to attach the appropriate Copyright Notice to each Copy before supply to the User.

4.3 Processing, manipulation, retransmission or further copying of the Copy shall only be undertaken:

4.3.1 in accordance with the Licence;

4.3.2 if permitted by law; or

4.3.3 with the permission of the Rights Holder or the appropriate RRO.

4.4 In the case of any claim, CLA will indemnify the Institution in respect of all reasonable and proper legal costs, expenses and damages (and ex gratia payments made with the prior written consent of CLA) awarded against or incurred by the Institution. For the purposes of this clause, "claim" shall mean any claim made in writing that a Copy supplied through the CFPS only is an infringing Copy, or that the supply of that Copy to the Institution is an infringement.

4.5 The indemnity conferred by clause 4.4 will not apply:

4.5.1 if the Institution is in material breach of any term of this Agreement; or

4.5.2 if the Institution has not given CLA due notice of any claim within ten (10) working days or of any claim form within five (5) working days of the same having been received by the Institution;

4.6 Subject to the conditions of clause 4.5 CLA will take over responsibility for any negotiations for the settlement of any claim and if such claim cannot be resolved by negotiation CLA shall be entitled to assume full responsibility for the conduct of the defence of such claim.

4.7 CLA shall consult the Institution prior to the conclusion of any negotiations on the settlement of any claim and (subject to CLA's overall responsibility for the conduct of the defence of any action) take into account such views and comments as the Institution may make.

4.8 The Institution shall use all reasonable endeavours to ensure that every relevant letter, claim form, application and process received by it at the Institution's premises shall immediately be forwarded to CLA and shall ensure that no admission, offer, promise, payment or indemnity shall be made or given by or on its behalf or on behalf of CLA without CLA's written consent.

4.9 The above indemnity does not apply to any Copies supplied without Copyright Fees (including, but not limited to, from out of copyright items or through the Copy Service).

5. Payment

5.1 The Charges current at the date of this Agreement are set out in Schedule 2. CLA may review and adjust the Charges at any time that this Agreement remains in force, subject to giving the Institution not less than three (3) months' prior written notice. The Charges may be paid either in advance or by monthly payments in arrears as agreed by the Parties and indicated in Schedule 2.

5.2 If the Charges are indicated in Schedule 2 as payable in advance then CLA may invoice the Institution for each advance payment immediately upon CLA's agreement with the Institution of the amount of that advance payment.

5.3 If the Charges are indicated in Schedule 2 as payable in arrears then, at the end of each calendar month, CLA will invoice the Institution for the Copies supplied during that month. In the monthly invoices CLA will itemise the Request number and cost of the Copies (including any Copyright Fee). CLA may include on invoices items still under delivery depending on timing during that calendar month.

5.4 The Institution shall pay all invoices within thirty days of the invoice date.

5.5 CLA may, in respect of any invoice remaining unpaid after the said thirty day period:

5.5.1 charge interest at the rate prescribed by the law relating to this Agreement; and/or

5.5.2 take action to recover the outstanding amount and interest, together with any costs incurred; and/or

5.5.3 suspend the provision of all services until payment in full has been received.

5.6 All Charges are exclusive of any relevant local taxes which shall be payable by the Institution in addition including, but not limited to, value added tax and/or any import or export tax.

6. Termination

6.1 Either Party may terminate this Agreement immediately by written notice, if the other shall:

6.1.1 commit a material or persistent breach of any term of this Agreement and fail to remedy the breach (if capable of remedy) within thirty (30) days of notification in writing by the other Party;

6.1.2 be unable to pay its debts as they fall due;

6.1.3 enter into any composition with its creditors or enter into liquidation whether compulsory or voluntary (other than for the purposes of solvent reconstruction or amalgamation);

6.1.4 have a receiver, administrator or administrative receiver appointed over the whole or any part of its assets or undertaking;

6.1.5 present a petition for an administration order or cease business (or in each case the equivalent in the relevant jurisdiction);

6.1.6 undergo an adverse change of control, by which is meant a change of control which may:

a) seriously affect that Party's ability to perform the contract; and/or

b) bring the other Party's reputation into disrepute; or

6.1.7 undertake any action or have any action taken against it analogous to any of the foregoing in any jurisdiction.

6.2 Notwithstanding the provisions of clause 6.1, this Agreement may additionally be terminated:

6.2.1 at any time by mutual agreement in writing between the Parties;

6.2.2 by either Party giving to the other not less than three months' prior written notice to that effect, to expire at any time; or

6.2.3 immediately by CLA in the event that the Institution's Licence is terminated for any reason, or it is believed that the Institution is not complying with the terms of such Licence.

6.3 Should CLA have reasonable grounds to believe that the Institution is in breach of any of the terms of this Agreement, CLA shall as soon as practicable serve notice on the Institution requiring it to remedy the alleged breach within fourteen (14) days of the date of the notice, and warning that CLA will suspend the supply of Copies without further notice if the breach is not remedied within the said period. For the purposes of this clause, "reasonable grounds" shall include evidence of non-compliance provided by any Rights Holder or RRO.

6.4 Termination of this Agreement shall be without prejudice to any accrued rights of either Party and shall not affect obligations which are expressed not to be affected by expiry or termination hereof.

7. Confidentiality

7.1 Subject to clause 8, each Party agrees that it will, and will procure that its officers, employees, agents and sub-contractors will, keep strictly confidential the Confidential Information and will not use the Confidential Information of the other Party other than for the performance of its obligations under this Agreement. Confidential Information shall not include, and the foregoing obligations of confidentiality and non-use shall not apply to, any information or data which the receiving party is clearly able to demonstrate:

7.1.1 is now or becomes part of the public domain or the subject of public knowledge through no fault of the receiving Party;

7.1.2 was lawfully in the receiving Party's possession and known to it without restriction as to its use prior to receipt hereunder;

7.1.3 comes into the possession of the receiving Party by or through the action of a third Party otherwise than in breach of a legal obligation of confidentiality to the other Party to this Agreement; or

7.1.4 is independently generated by the receiving Party without use of or reference to information or data received hereunder.

7.2 Subject to clause 8, each Party shall limit access to the Confidential Information of the other Party to those of its officers, employees, agents and sub- contractors who have a need to know such information in connection with the performance of this Agreement.

7.3 Nothing in this clause 7 shall prevent CLA from complying with its duty to the Rights Holders and RROs:

7.3.1 to inform Rights Holder and RROs that CLA has entered into this Agreement with the Institution (but without revealing any of the terms thereof);

7.3.2 on the first days of January, April, July and October, to give details to Rights Holders and RROs of the aggregate number of documents supplied under the terms of this Agreement during the previous quarter; and

7.3.3 in the event of a breach under clause 4 above, to provide all necessary information to enable the Rights Holder or RRO to take any action it deems appropriate;

and the Institution acknowledges and accepts that CLA's compliance with its duty to Rights Holders and RROs does not constitute a breach of this clause 7.

8. Freedom of information

8.1 The Institution acknowledges that the Service Supplier may be subject to the requirements of the Freedom of Information Act 2000 ("the Act"), and, if it is, the Institution shall provide all necessary assistance as reasonably required by the Service Supplier to enable the Service Supplier to comply with the Act. The Institution agrees to provide any such assistance to the Service Supplier within five working days of any request made by the Service Supplier.

8.2 CLA shall procure that the Service Supplier shall endeavour to consult with the Institution should the disclosure of information relating to this Agreement be requested under the provisions of the Act. However, the Institution acknowledges that the Service Supplier shall be responsible for determining, at its absolute discretion, the scope of any information to be disclosed and whether any exemption should apply, and the Institution agrees to comply with any such decisions taken by the Service Supplier.

8.3 The Institution shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit the Service Supplier to inspect such records as requested from time to time.

9. Assignment and sub-contracting

9.1 Neither Party shall assign this Agreement without the express prior written consent of the other, such consent not to be unreasonably withheld or delayed. Notwithstanding the above, either Party may assign to a successor body to which its powers, functions and assets are transferred by statutory authority.

9.2 The Institution shall not sub-contract any of its obligations under this Agreement without the prior written consent of CLA.

9.3 No sub-contract shall relieve the Institution from any obligation or liability under this Agreement and the Institution shall be liable for the acts, omissions or negligence of any sub-contractor and their respective employees, servants and agents, as though they were the acts, omissions or negligence of the Institution.

10. Notices

10.1 All notices given under the Licence shall be in writing by electronic mail. In the case of there being no valid electronic contact, notices shall be sent by first class post, in the case of the Licensee to the address on the application form or otherwise notified to CLA, and shall be deemed to have been served on the second working day (which shall exclude weekends and English public holidays) following the date of posting.

11. Waiver

11.1 Failure or neglect by either party to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of that party's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice that party's rights to take subsequent action.

12. Force majeure

12.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to failure of any telecommunications or other delivery system, fires, strikes (of its own or other employees), insurrection or riots, embargoes, requirements or regulations of any civil or military authority including compliance with any law, court or governmental order, rule, regulation or direction or any action taken by a government or public authority (an "Event of Force Majeure").

12.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

12.3 If a default due to an Event of Force Majeure shall continue for more than six months then the party not in default shall be entitled to terminate this Agreement.

13. Legal status

13.1 Neither Party (unless and except as expressly permitted by this Agreement) shall be a partner, joint venturer, employee or agent of the other and neither party shall hold itself out as such.

13.2 Neither Party shall (except as expressly permitted by this Agreement) purport to undertake any obligation on the other's behalf nor expose the other to any liability nor pledge or purport to pledge the other's credit.

14. Conduct of business

14.1 The Institution shall all times conduct its business under this Agreement in a proper manner and shall not by itself or with others participate in any illegal, deceptive, misleading, disparaging or unethical practices including, but not limited to, practices which may be detrimental to CLA or the Service Supplier, by:

14.1.1 reflecting unfavourably on the good name and reputation of CLA or the Service Supplier; or

14.1.2 portraying the CLA or the Service Supplier's products or services in a false, competitively adverse or poor light.

14.2 Notwithstanding the generality of clause 14.1 above the Institution shall:

14.2.1 ensure that it shall not, offer or give, or agree to give, to any member, employee or representative of CLA or the Service Supplier any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with CLA or the Service Supplier or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract;

14.2.2 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and

14.2.3 have and maintain in place throughout the term of the Agreement the necessary policies and procedures to enable it to comply with this clause 14.2.

For the avoidance of doubt, failure to comply with the above obligations shall constitute a material breach on the part of the Institution. In the event of any dispute, difference or question arising in respect of the interpretation of this clause 14.2, the decision of CLA shall be final.

14.3 The Institution shall not during or after the expiry or termination of this Agreement, use or adopt any trade mark, trade name, logo or commercial designation in respect of products or services similar to those encompassed by this Agreement that infringes upon, includes or is similar to or may be mistaken for the whole or any part of any trade mark, trade name or commercial designation used by CLA or the Service Supplier without CLA or the Service Supplier's (as applicable) prior written consent.

15. Severability

15.1 In the event that any of these terms, conditions or provisions or those of any Schedule or attachment hereto shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent such term, condition or provision shall to that extent be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.

16. Warranties and exclusions

16.1 The Institution hereby warrants, represents and undertakes that it has the full right power and authority to enter into this Agreement. For the avoidance of doubt, this shall mean that the Institution holds a current and valid Licence. In the event that such Licence is suspended or terminated for any reason, the Institution agrees to inform CLA immediately, and CLA shall have the right to suspend or terminate this Agreement upon such notice in accordance with clause 6.2.3.

16.2 The Institution warrants that it shall comply with the terms and conditions of the Licence.

16.3 To the fullest extent permitted by law, CLA shall not be liable to the Institution for consequential, indirect, special or exemplary damages or for any damages (whether direct or indirect) for loss of profits, business or anticipated benefits in each case whether arising under tort, contract, negligence or otherwise whether or not foreseen, reasonably foreseeable or advised of the possibility of such damages.

16.4 To the fullest extent permitted by law, no responsibility is assumed by CLA for any injury and/or damage as a matter of product liability, negligence or otherwise, or from any use or operation of any methods, products, instructions or ideas contained in any item supplied by CLA and/or the Service Supplier under this Agreement.

16.5 The express terms of this Agreement are in lieu of all warranties, conditions, undertakings, terms and obligations implied by statute, common law, trade usage, course of dealing or otherwise including but not limited to any implied warranties of merchantability or fitness for any particular purpose all of which are hereby excluded to the fullest extent permitted by law.

16.6 Nothing in this Agreement including this clause 16 shall exclude or limit either Party's liability for:

16.6.1 death or personal injury resulting from the negligence of that Party or its servants, agents or employees;

16.6.2 fraud or fraudulent misrepresentation; or

16.6.3 any other liability the exclusion or limitation of which is prohibited by law.

17. Rights of third parties

17.1 Other than as expressly set in this Agreement, the Parties do not intend that any provision of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

18. Publicity

18.1 Each Party shall obtain written approval from the other prior to making any announcement or advertisement or releasing any information regarding this Agreement or the Party's activities relating to its participation in this Agreement. The Party from whom approval is being sought shall respond to the request within ten working days from receipt of the request.

19. Entire agreement

19.1 This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and shall supersede any and all prior or collateral agreements, negotiations, notices of intention, communications, understandings and representations whether written or oral. Each Party acknowledges that in entering into this Agreement it has not relied and is not relying on any representations or warranties (whether implied or otherwise) other than those expressly set out in this Agreement and the Parties irrevocably and unconditionally waive any right they may have to any remedy in respect of any other such representation or warranty except in the case of fraud.

19.2 The Parties shall not be bound or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth in this Agreement and no changes, amendments or additions to any part of any document incorporated in this Agreement and no subsequent documentation purported to be incorporated herein shall be valid unless in writing and signed by the duly authorised representative of each Party.

19.3 This Agreement will take precedence over any terms and conditions which appear in the Institution's purchase order or other related documents ("Documentation"). No terms or conditions in any such Documentation will be binding on either Party or made a part of this Agreement, unless such Documentation constitutes an amendment to this Agreement made in accordance with the terms of clause 19.2 above.

20. Governing law and jurisdiction

20.1 This Agreement shall be governed and construed in accordance with English law.

20.2 The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly by negotiation. If the matter is not resolved by negotiation the matter may be referred to mediation in accordance with Centre for Dispute Resolutions (CEDR) Model Mediation Procedures. To initiate mediation either CLA or the Institution shall give notice in writing (an "ADR Notice") to the other Party, requesting mediation. If there is any point on the conduct of the mediation upon which the Parties cannot agree within 14 days of the date of the ADR Notice CEDR will, at the request of either of them, decide that point for the Parties having consulted them. The mediation will start not later than 28 days after the date of the ADR notice. If the dispute has not been settled by mediation within 3 months from the date of the ADR Notice either Party may then commence court proceedings and each Party hereby submits to the exclusive jurisdiction of the English Courts.

21. Survival of terms

21.1 The obligations of the Parties under Clauses 1, 4, 5, 6.4, 7, 8, 14, 16, 17 and 20 hereof, together with such other clauses as may reasonably be construed as surviving termination including this clause, shall survive the termination of this Agreement.

Signed for and on behalf of the Licensee:

Signed:	Name:
Position:	Date:

Enhanced Higher Education Supply Service
Schedule 1

1. Commencement date:

2. Parties:

THE COPYRIGHT LICENSING AGENCY LIMITED; and

THE EDUCATION INSTITUTION known as	
Address	
	Postcode
EHESS Contact	Email

Enhanced Higher Education Supply Service
Schedule 2

Institution name:

Charges are applicable to this agreement. Please refer to our website for the latest fees.

	Pay Monthly*	Advance payment*
Copyright Fee Paid copy from print	£11.90 plus copyright fee	£10.90 plus copyright fee
Outsourced scanning from print	£11.90	£10.90

* All prices are subject to VAT. Please refer to our website for the latest fees.

The institution has chosen to pay (please tick as appropriate):

☐ in advance / on account * Initial deposit amount ☐ + VAT

☐ in arrears

* Please note, if you choose the advance payment option, your account will require a minimum deposit of £150.00 + VAT.