

MANDATE  
HANDBOOK

March 2004

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PUBLISHERS LICENSING SOCIETY LTD

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## **1. Introduction**

This Handbook is designed to help the Publisher understand what PLS does, how it operates and how the Publisher can mandate PLS. The following information is for guidance only. For legal reference the Publisher should refer to the Mandate form and to the Terms and Conditions at the end of this Handbook.

## **2. Completing the Forms**

The Publishers Licensing Society Ltd (PLS) requires the Publisher's authorisation to administer Collective Licences on its behalf and to distribute money to it on a continuing basis. To mandate PLS the Publisher must complete the PLS Publisher Mandate Form (Form 1) and return it to PLS. The terms of the authorisation are covered in the PLS General Terms and Conditions, and the PLS Distribution Charter at the end of this handbook. The Serials Declaration (Form 2) should be reviewed annually by publishers of periodicals. The PLS Publisher Licence Information Form (Form 3) helps PLS to distribute the money accurately. The Publisher has the option to exclude itself from the Optional Licences or vary the Default Settings in them by referring to the PLS Licence Information Form and contacting the PLS office. If the Publisher signs and returns Form 1 only, this is sufficient to authorise PLS to act on its behalf.

## **3. The Publishers Licensing Society Ltd**

The Publishers Licensing Society (PLS) is the collective licensing body of UK book, magazine, and other serial publishers. It is a not-for-profit company limited by guarantee, whose members are the three major UK publishing trade associations, the Association of Learned and Professional Society Publishers (ALPSP), the Periodical Publishers Association (PPA), and the Publishers Association (PA), as well as individual publishers. Together with the Authors' Licensing and Collecting Society Ltd (ALCS), it owns The Copyright Licensing Agency Ltd (CLA). Since PLS was established in 1981 more than 2000 publishers have authorised the society to administer their rights and PLS has distributed more than £100 million to publishers.

## **4. Collective Licences**

Collective Licences were developed in the 1980s to permit limited photocopying from books, magazines, and other serials, and to fill a legislative gap between user requirements and the very limited exceptions to copyright. Today CLA offers photocopying and scanning licences to educational institutions, local and central government, and businesses, that use photocopiers and scanners in the course of their operations. It also undertakes data gathering, collects licence fees and splits the revenue between PLS, ALCS and, where appropriate, other collecting societies, such as the Design and Artists Copyright Society Ltd (DACS). Over time, photocopiers have been complemented by other office technologies such as fax machines, scanners and, most recently, email. Collective Licences are adapting to accommodate the use of these new technologies and to support modern learning and working practices. Collective Licences have also been

developed in other countries and the CLA has agreements with foreign Reproduction Rights Organisations (RROs) to include UK publishers' works in foreign collective licences and other revenue-collecting schemes, and to collect money on their behalf.

### **5. Blanket Licences and Transactional Licences**

From the user perspective there are two types of Collective Licence on offer, blanket licences and transactional licences. In blanket licences the licensee pays a flat fee per pupil/student/professional employee every year. Individual copying acts are not recorded, so the money is distributed on the basis of samples, and other data collection exercises. In transactional licences (principally, document delivery licences) the user normally records all acts of copying and accounts to the CLA for them.

### **6. Types of licence ('core' and 'optional')**

From the publisher perspective, there are "Core Collective Licences" and "Optional Collective Licences". Core Collective Licences are the main set of CLA licences. By completing the PLS Publisher Mandate Form (Form 1) the Publisher automatically participates in these types of licence. They are described in more detail in Section 7 below. If the Publisher wishes to exclude any of its works from these licences, it must withdraw those works from the entire collective licensing scheme, or even exclude itself altogether from the scheme.

Optional Collective Licences are additional licences in which Publishers may elect not to participate. In some cases, they may also vary the prices and other settings. Publishers are included at default rates in the Optional Collective Licences, but may make alterations by referring to the Licence Information Form and contacting the PLS office. This will not affect their overall participation in the scheme. These licences are described in Section 8 below.

### **7. Core Collective Licences**

All licences permit the photocopying of works, in general a chapter or up to five per cent (5%) of a book, or one article from one issue of a journal or periodical. Most of the licences are blanket licences and stipulate that copies may not be sold or distributed externally. A list and summary of Core Collective Licences is included in this Handbook.

#### ***Schools***

The CLA schools licence covers photocopying for classroom and school administration use. The vast majority of copying is done for classroom handouts. The blanket licence is charged on the basis of a per-pupil fee that varies depending on the type of school. The licence now includes specific uses originally requested only for the National Literacy Strategy, such as copying on acetates and making enlargements. Material available as publisher-produced acetates or Big Books is not licensed for these specific uses. The CLA distributions are informed by regular data collection exercises in schools.

**Higher Education**

The terms of the current licence have been set by the Copyright Tribunal. The licence for Higher Education Institutions allows staff and students to photocopy single articles from periodicals and single chapters from books. There is no longer any provision for transactional clearances for photocopying for course packs. The price of the licence is based on the number of full-time-equivalent students (FTEs) per licensee. Scanning of chapters or journal articles does not form part of this core licence, but is part of a separate optional transactional licence (see Section 8, page 7, below). Discussions are beginning to explore ways in which scanning of existing print publications might be incorporated into a future licence for higher education institutions.

**Further Education**

The licence for copying in Further Education colleges is negotiated and operated separately from the Higher Education licence. A new trial licence has been developed for this sector in consultation with colleges and rightsholders. Launched with effect from October 2003, it will run for twelve months in its initial phase. Apart from granting all the rights contained in the HE licence it will also allow, within the usual extent limits, the scanning and retyping of extracts from books, magazines, and other serials, and their storage on the licensee's intranet.

**Business, Government and Public Bodies**

Licences issued to businesses, government departments and agencies, and local authorities are blanket licences. Charges are based on a fee relating to the number of professional employees and, in the case of businesses, to the sector in which they operate. Businesses and public bodies are permitted not only to photocopy, but also to scan journal articles and book chapters within the usual extent limits. Under the current licences such copies may not be stored systematically. Some users have stated that they need to be able to store text on their intranet. PLS plans to develop the business licence in this direction and CLA, with the approval of PLS, has developed such a licence for the pharmaceutical industry with enhanced storage rights. The business licence entitles licensees to circulate within the organisation scanned press cuttings that it has received from a CLA licensed press cuttings agency. The government and public bodies licence also entitles licensees to take copies of up to a maximum of two articles from the same journal or serial publication, or to copy the whole issue in the case of a single-themed issue of a journal or serial.

None of the above licences either permits copying of electronic content that publishers license directly, or authorises making content publicly available on the Internet.

**Press Cuttings Agency Licence**

The Press Cuttings Agency Licence allows press cuttings agencies to photocopy and/or scan periodicals and send individual articles to their customers provided

they have a CLA licence. Customers may circulate these copies internally, including by means of a local intranet, but may not use them for marketing or other external purposes, nor make them publicly available on the Internet. Press cuttings agencies are required to inform CLA of the names of their customers for digital cuttings, because onward internal circulation is only permitted if the client itself has a CLA licence.

### ***Church Licences***

CLA has reached agreement with Christian Copyright Licensing International Ltd to license Christian churches on CLA's behalf. Parishes are permitted to photocopy, retype or handwrite texts for use in their internal activities, including services of worship. The licence does not cover republishing in parish publications.

### ***Copying for Visually Impaired Persons***

CLA has notified a licensing scheme to the Secretary of State pursuant to Section 31 (b) of the Copyright, Designs and Patents Act 1988, as amended by the Copyright (Visually Impaired Persons) Act 2002 with effect from 31 October 2003. The CLA VIP licence will allow 'Approved Bodies' (not-for-profit organisations) to make multiple copies of entire works in a format accessible to visually impaired persons, provided no accessible version is commercially available. CLA will also be amending all its licences to extend, as appropriate, the current provisions for making copies for visually impaired persons to reflect the statutory rights now afforded to visually impaired persons.

### ***Document Delivery Licences***

Document Delivery Services send documents, by and large scholarly journal articles, to individuals and companies that have ordered them. The largest such service is the British Library Document Supply Service. Following the implementation of the EU Copyright Directive, CLA has adjusted its collective licences for the delivery on demand of individual journal articles or book pages in order to accommodate the new law that all copying for research or private study for commercial purposes must now be done with the rights holder's permission, or be licensed.

There are now three different kinds of document delivery licence: a Sticker Scheme for walk-in users, a low-volume Blanket Licence, and the Transactional Document Delivery Licence. The first two are Core Collective Licences and were introduced when the Statutory Instrument implementing the Copyright Directive came into force in the UK on 31 October 2003. The third remains an Optional Collective Licence.

#### ***Sticker Scheme for walk-in users***

A sticker licensing scheme has been made available on a trial basis for one year from November 2003, to prescribed libraries in order to accommodate the new law that all copying for research or private study for commercial purposes must now be done with the rights holder's permission, or be licensed. Users pay a standard fee (currently £9, inclusive of VAT) per article. Users are required to buy

stickers and stick them on all licensed copies of copyright material, so long as that material is not excluded from the PLS Mandate altogether.

#### *Low-volume Blanket Licence*

A blanket licensing scheme has been made available on a trial basis for one year from November 2003 to the document delivery operations within the UK of libraries that deliver up to 1200 articles per year. Libraries must estimate their delivery volume at the beginning of the year, and pay a fee of £9 (inclusive of VAT) per article in advance. Again, the PLS repertoire is included apart from any material excluded altogether from the PLS Mandate. Copies may not be made from electronic sources. The licence allows only for the delivery of paper copies to the intended recipient, although secure intermediate electronic transmission for subsequent printing is permitted.

#### *Transactional Document Delivery Licence*

Libraries and other organisations that deliver more than 1200 copies per year must operate a fully transactional document delivery licensing scheme. This is described below in Section 8.

#### ***The future development of Core Collective Licences***

With photocopiers and office technology becoming more and more sophisticated, other rights are becoming increasingly important and the requirements of individual sectors or user groups are becoming more complex. It is impossible to predict what other rights users will require in future, and PLS will continue to work with CLA, ALCS and DACS to amend existing Collective Licences and develop new licences for specific uses. The PLS Mandate is sufficiently flexible to accommodate most changes. This may, under special circumstances, include the transfer of previously Optional Collective Licences to the list of Core Collective Licences, or vice versa. The PLS Approval Procedure, which requires the consent of the PLS Board and its three member organisations (ALPSP, PA, PPA), will ensure that the Publisher's commercial interests are well protected and PLS will keep the Publisher informed of any developments. (See PLS General Terms and Conditions clauses 5 and 7.16.)

### **8. PLS Optional Collective Licences**

Some Collective Licences are optional; in other words, the Publisher can choose not to participate in them. This has no effect on the commitment to the rest of the Mandate. PLS recommends that the Publisher participate in all Optional Collective Licences, unless it has a specific concern about the scope of a particular licence. For some Optional Collective Licences the Publisher can make further adjustments. Publishers that return only Form 1 of the PLS Mandate automatically participate in all Optional Collective Licences at the Default Settings. In order to opt out of one of these licences, or to modify the terms of one or more of them, the Publisher must contact the PLS office in order to exercise the options listed in the Licence Information Form. The following brief

descriptions may assist the Publisher in deciding whether or not a particular Optional Collective Licence is of concern.

### ***Transactional Document Delivery Licence***

Document delivery services such as the British Library Document Supply Service in the UK and the Transactional Reporting Service (TRS) of the Copyright Clearance Center in the USA are available to users. (The British Library also offers its business licensing programme to a small number of commercial document delivery firms.) The CLA licence permits fee-paid document delivery of photocopied material, including delivery by fax or via special electronic transmission software. Electronically transmitted copies must be printed out by the end user and the electronic copy deleted. Publishers may set their own fees, and update them when they wish. These updates, including prices, inclusion of new titles, or exclusions of titles, will be applied on a quarterly basis. The licence also permits those of the British Library's customers which are themselves commercial document supply organisations to sell documents and to transmit them to their own end customers.

Much of the British Library's activity, which has historically been carried out under Library Privilege – The Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989, SI 1212 – is not part of the CLA licence, and no fees are paid to rightsholders. The CLA licence creates a mechanism through which rightsholders can be paid for copying that is not so permitted. If the Publisher chooses to exclude its titles from this Optional Licence the British Library may continue to copy these works provided the use falls within the statutory exception of Library Privilege. If the Publisher has a direct agreement with any document delivery service, then PLS needs to be informed.

### ***Higher Education Transactional Scanning Licence***

The Higher Education Transactional Scanning Licence enables colleges and universities to scan parts of books, journals and periodicals and make them available to university staff and students (authorised users) within secure networks on intranets or in resource centres. Publishers may also set prices and choose the pricing model that is used to determine the rate charged to a licensee.

*Pricing Models:* The model that reflects many of the direct needs of staff and students is based on a per-page fee charged per student on a course at the rate of 5p a page (the 'Textbook Model'). The alternative 'Flat Fee Model' applies a (normally higher) page fee irrespective of the number of students. If the Publisher wishes to apply different rates and charging models to different items it should contact the PLS office and provide a list of ISSNs and/or ISBNs and details of which models and rates should apply.

*Textbook Model:* Some material, such as textbook chapters, will predominantly be scanned for use on particular courses, and accessed online by individual

students (who may then print it out). This model allows the Publisher to charge a fee per student on a course. Only students attending that course may be actively directed to the scanned material and material licensed for the use in a particular course may remain accessible only for the duration of that course. If the course is repeated, the fee is re-charged. The current default fee is 5p per page.

*Flat Fee Model:* Some works are either not digitised for a specific course or they are publications, such as journals or monographs, which are sold to Higher Education institutions in single copies only. Scanning is likely to make this material more easily accessible to all authorised users without having a significant impact on sales. This model allows the Publisher to set a flat fee irrespective of the number of students who are directed towards the material. The number of students on a course is irrelevant. Material licensed in this way remains accessible for five years. All students may be directed towards this material.

A current default fee of £5 per page may be set, but the Publisher may prefer to set its own rates as the value of the works copied under this type of licence can vary widely. The Publisher may wish to consider the following points. The licence adds value to the original work, as several users can now access parts of it at the same time. The fee could be based on what the Publisher believes this added convenience over a limited period of time should be worth to users. Price calculations could alternatively be based on the price per page/chapter/article of the original printed work.

*Combination Model:* The Publisher may choose to combine these models by selecting the Textbook Model for its books and the Flat Fee Model for its journals and periodicals. It is possible also to use the flat fee for categories of books such as monographs, and the Publisher should provide separate lists of books for each model.

## **9. Collection from Foreign Reproduction Rights Organisations**

CLA is a full member of the International Federation of Reproduction Rights Organisations (IFRRO) and has a number of agreements with other RRO members. PLS is an associate member of IFRRO. As a result, PLS currently receives fees via CLA for copying from seventeen countries. These are: Australia, Canada (including Quebec), Denmark, Finland, France, Germany, Greece, Iceland, Ireland, The Netherlands, New Zealand, Norway, South Africa, Spain, Sweden, Switzerland (including Liechtenstein) and the United States of America. These countries operate under different licensing schemes including voluntary collective licensing, extended collective licensing, and statutory regimes. Because the collection of money from the majority of collective licensing schemes is independent of any authorisation by publishers, participation in these licences is not optional, with the exception of some document delivery licences (see below).

*The Annual Authorisation Service (AAS)* and *The Photocopy Authorizations License (PAL)*, both operated by the Copyright Clearance Center, are similar to the CLA blanket licences and the Publisher cannot set individual options. The fees for these

licences vary for different industry sectors. The calculation is based on the number of employees, and a dollar rate per professional employee that is set for each industry. The distribution of licence fees to copyright owners is based on the publisher's subscription or sale price, and on surveys of copying activity.

### **10. International Optional Licences**

Several countries now operate document delivery licences or schemes, and others are planned in countries with which CLA has reciprocal agreements. The best-established example of this is the *Transactional Reporting Service (TRS)* of the Copyright Clearance Center (CCC).

The CLA has an agreement with CCC whereby the Center acts for UK rightsholders in the USA and the CLA acts for US rightsholders in the UK. This licence forms part of the Transactional Document Delivery Licence, and the dollar equivalent of that rate will be applied.

### ***Academic Permissions Service (APS):***

The Copyright Clearance Center (CCC) in the USA clears photocopied course packs transactionally using publisher-set rates, using the APS system. CLA has an agreement with CCC to grant permission for the use of its rightsholders' works. After the course packs have been created and sold to students, CCC collects royalties and distributes them to rightsholders. Publishers may choose to participate in this scheme and may set their own dollar rates. The current default rate is 7c per page, but may vary with exchange rates.

### **11. Making Changes**

Publishers must inform PLS in writing whenever any substantial change takes place that materially affects their business. Examples would include a change of ownership, disposal or acquisition of a list, re-naming of a part (or all) of a business. If a publisher decides to change any of the terms of any of the Optional Licences (including prices), or if it wishes to modify the list of exclusions of publications from licences, it must inform PLS in writing. Such changes may not be implemented immediately: changes to prices, for example, will usually be updated within three months.

As far as the Serials Declaration is concerned, a publisher that provides a new mandate, together with its first Serials Declaration, can expect all subsequent distributions to reflect this. Similarly, a material change to the ownership or control of a journal or journals that would necessitate modifying the Serials Declaration must be communicated to PLS. For changes to declarations from mandating publishers, updates are made annually at 1 April. Publishers are urged to let PLS know of any changes well before the 31 March deadline to avoid such changes not being incorporated until the following year. In case of query or difficulty, the PLS office should always be contacted. If a Publisher wishes to direct payments to a particular company within a group, they may be asked to sign a letter of authority and/or indemnity.

## 12. Excluded Works

Certain categories of works are excluded from the licences issued by CLA. Some, such as tests and workbooks, are excluded because the titles are priced for bulk purchase and copying would affect their sales. Others, such as photocopiable titles, are excluded because the title has been sold with a licence to copy built in to the price, and it would thus be inappropriate for publishers to receive a distribution based on this type of publication.

The following types of works are currently not part of the PLS Mandate:

- Photocopiable titles
- Workbooks, workcards or assignment sheets
- Publications issued for tuition purposes with circulation limited to customers paying fees for that tuition
- Public examination papers whether published individually or in a collection
- Printed music (including words)
- All maps, including UK maps that are based on Ordnance Survey data
- Newspapers

If the Publisher publishes works in any of these categories, or if it has received money in error for works belonging to any of these categories, it should inform PLS.

The Publisher may also exclude further individual titles, and must provide PLS with a list of titles (including ISBN/ISSN) if it wishes to do so. A list of excluded works is made available for licensees to consult. Excluding a work cannot guarantee the work will no longer be photocopied. It merely means that any photocopying that does take place is not licensed (and will not therefore be paid for). If the Publisher is concerned as far as possible to prevent the photocopying of such a work or, indeed, if it wishes works to be copied more extensively than licensed by the CLA, PLS recommends adding a clear and prominent copyright notice to that effect in the publication itself. CLA will not list excluded works that are themselves part of an excluded category.

Publishers of photocopiable titles are particularly requested to inform PLS of this by ticking the box on the second page of the Publisher Information Form (Form 3) and to provide a list.

## 13. Distribution of revenue between authors and publishers

The distribution between authors and publishers of net fees (after deduction of the DACS share) for all licences, other than the Higher Education Transactional Licence is:

**Books:** 50:50 between authors (ALCS) and publishers (PLS)

**Serials:** 75:25 between publishers (PLS) and authors (ALCS), except where the Publisher has made a Serials Declaration on Form 2 that it owns and controls more than ninety per cent (90%) of the rights in a particular journal or magazine, in which case:

100:0 between publishers (PLS) and authors (ALCS)

The declaration requires the Publisher to state that it “owns or controls ninety per cent (90%) or more of the Reprographic Reproduction Rights or, as appropriate, the Digitisation Rights in the literary content published in that Serial in the course of the Publication Year immediately prior to the declaration”. If the Publisher has made such a declaration for any of its titles it will receive one hundred per cent (100%) of the revenue from that title.

The Publisher is advised to make such a declaration only if it is confident that it scrupulously obtains and records signed copyright assignments or adequate licences for every article. ALCS is entitled to challenge such a declaration in respect of one or more journals, in which case the Publisher must provide documentary evidence in support of its declaration.

For the Higher Education transactional scanning licence, the split is:

**Books:** Flat fee model – 50:50 between authors (ALCS) and publishers (PLS)  
Textbook model – 50:50 ALCS/PLS, as above, for in-print books; 15% publishers (PLS) 85% authors (ALCS), for out of print books

If the Publisher chooses to opt out of this system altogether, it will receive one hundred per cent (100%) of licence revenues, but it must undertake to pay authors in accordance with its contract with the author.

If the Publisher wishes to do this, it should notify PLS in writing. ALCS will receive details of those publishers undertaking to pay by this method, and may inform authors.

**Serials:** shares of distributions follow the principles described in all other licences, above.

## PLS General Terms and Conditions

### 1 DEFINITIONS

**1.1** In the PLS Publisher Mandate Form, the PLS Mandate Handbook, the PLS Distribution Charter, the PLS Publisher Information Form and in these PLS General Terms and Conditions, the following terms shall have the meanings set out opposite them below unless the context requires otherwise:

**“CLA”** means The Copyright Licensing Agency Limited;

**“Collective Licence”** means Core Collective Licences and Optional Collective Licences (other than any Optional Collective Licences that are excluded from the Mandate) offered to licensees, whether granted transactionally or as blanket licences, authorising licensees to exercise the Licensed Rights;

**“Core Collective Licences”** means a type of Collective Licence which forms an integral part of the Mandate and accordingly cannot be excluded from the PLS Mandate. The Core Collective Licences are listed by PLS in the PLS Licence Information Form and on the PLS Website;

**“Default Settings”** means the Settings which are determined by PLS in the absence of choices made by a Publisher to specify those Settings listed in the Licence Information Form. Default Settings may be amended from time to time by resolution of the PLS Board;

**“Distribution Rules”** means the Distribution Rules as specified in the PLS Distribution Charter and as reviewed and updated from time to time by the PLS Board;

**“Excluded Categories”** means the categories of works excluded from the licences issued by CLA and whose number and definition may be reviewed and changed by the PLS Board in collaboration with the CLA Board;

**“Excluded Publisher”** means a Publisher who has instructed PLS not to include any item in its Repertoire in Collective Licences;

**“Excluded Works”** means the individual works that a Publisher may choose to exclude from the licences issued by CLA, and a list of which has been sent to PLS;

**“Licensed Rights”** (i) means the non-exclusive right to do or to authorise the doing of any of the acts restricted by copyright, database right and other intellectual property rights with respect to the Repertoire but only to the extent that the Publisher owns or controls the rights and only to the extent required for the purpose of the Collective Licences. Licensed Rights include but are not limited to photocopying and other forms of copying in analogue or digital form such as scanning, retyping or handwriting, reproduction by spirit duplicator, copying onto acetates, electronic storage and making available page images on secure networks. Licensed Rights may also include the collection of public lending right revenues from overseas.

(ii) the right to authorise CLA (or other non-exclusive licensees of PLS) to take action to enforce any of the rights listed in (i) above, including a right of action under S.101A of the Copyright, Designs and Patents Act 1988;

**“Mandate”** means the PLS Publisher Mandate Form, the PLS Distribution Charter, the PLS Publisher Information Form; and these PLS General Terms and Conditions;

**“Mandating Publisher”** means a Publisher who has authorised PLS to issue Collective Licences;

**“Optional Collective Licences”** means a type of Collective Licence which the Publisher can exclude from its Mandate without affecting the rest of the Mandate by selecting options from the Licence Information Form accordingly;

**“Party”** means the Publishers Licensing Society Limited or a Publisher;

**“PLS”** means the Publishers Licensing Society Limited;

**“PLS Board”** means the Board of Directors of the Publishers Licensing Society Limited;

**“PLS Website”** means the PLS internet-based website which currently has the URL [www.pls.org.uk](http://www.pls.org.uk);

**“Publisher”** means the organisation on whose behalf a Mandate is duly signed and for the avoidance of doubt, includes its subsidiaries and holding company and any subsidiaries of such holding company as such terms are defined in Section 736 of the Companies Act 1985, as amended, unless excluded on the PLS Publisher Information Form;

**“Repertoire”** means every publication the Publisher has published to date or will publish during the duration of this Mandate or for which it will acquire the necessary rights, except for any publications which belong to an Excluded Category or which the Publisher has excluded from all Core Collective Licences by notice in writing to PLS or in which the Publisher has disposed of the relevant rights and informed PLS of such disposal;

**“Serials Declaration”** means the declaration regarding the ownership or control of rights in literary works in serials as specified on the PLS Publisher Mandate Form or otherwise;

**“Settings”** means those terms in a Collective Licence which may be individually specified by a Publisher from the PLS Licence Information Form including, but not limited to, the rates at which the Licensee is charged for a particular licensed act and the extent of, and limits to, copying.

**1.2** Unless the context otherwise requires, any use of the plural shall also include the singular, and vice versa. References to any one gender shall include both genders.

## **2 COLLECTIVE LICENCES**

**2.1** Collective Licences include statutory or voluntary licensing schemes outside the UK, including those revenue-collecting schemes that do not require a licence. These schemes have been set up and are run in countries with which CLA has reached a reciprocal agreement and are recognised by the International Federation of Reproduction Rights Organisations (IFRRO). The PLS Board shall have the authority to authorise the grant of Collective Licences to individual licensees or for a limited repertoire, in particular in the case of trial licences.

**2.2** The PLS Board may approve the amendment of the Collective Licences and Default Settings as and when the PLS Board considers it reasonable.

**2.3** If PLS wishes to make substantial amendments or extensions to any of the Licensed Rights in the Collective Licences, it may only do so subject to the PLS Approval Procedure as set out in clause 5.

## **3 OPTIONAL LICENCES AND SETTINGS**

**3.1** Publishers who choose to exclude their works from certain Optional Collective Licences must first inform PLS in writing. Such exclusions can only be made in respect of licences that the PLS Board has determined are optional. These Optional Licences do not form part of the Core Collective Licences.

**3.2** If the Publisher does not inform PLS in writing that it wishes to modify the Settings determined in the Core Collective Licences, and modified from time to time by the PLS Board, the Licensed Rights will be deemed to have been granted by the Publisher at Default Settings.

**3.3** The Default Settings are reviewed from time to time by the PLS Board and, subject to the PLS Approval Procedure in clause 5 below, they may be amended, extended, reduced or eliminated without the Publisher's prior consent.

## **4 NOTICE**

**4.1** In the event that the Mandate is amended or modified in accordance with clauses 2.2 or 3.3, PLS undertakes to use all reasonable endeavours to inform the Publisher of the proposed changes to the Mandate and allow the Publisher sufficient time to make changes to the Settings or withdraw its Mandate.

**4.2** As far as it is reasonably able, PLS undertakes to inform the Publisher regularly of the status of its Mandate, any changes that it has requested be made to its Mandate, and any substantial changes to the Collective Licences. The Publisher will be deemed to have approved the Mandate as notified unless it gives written notice to PLS within three months of receiving the information.

**4.3** Any such changes shall be provided by PLS in accordance with the notification procedure outlined in clause 7.16 below, and additionally posted on the PLS Website.

## **5 PLS APPROVAL PROCEDURE**

**5.1** In the event that PLS wishes to make substantial amendments or extensions to the Licensed Rights in the Collective Licences in accordance with clause 2.3, PLS shall first seek the approval of the PLS Board of Directors and the unanimous approval of all its member organisations, i.e. The Association of Learned and Professional Society Publishers, the Periodical Publishers Association, and the Publishers Association (the “PLS Approval Procedure”).

**5.2** If such approval is obtained, PLS shall notify Publishers in accordance with the notification procedure in clause 7.16 below. Such notification shall additionally be posted on the PLS Website.

## **6 TERMINATION**

**6.1** In the event that either Party wishes to terminate the Mandate, it may at any time give written notice to the other Party and the Mandate will terminate six months after receipt of such notice.

**6.2** Any Collective Licences issued by PLS or its agents before the date of termination shall survive the termination of the Mandate, in particular with respect to the Publisher’s Repertoire. PLS will ensure that licensees are notified in writing of the termination of the Mandate within twelve months of the date of receipt of notice.

**6.3** The termination of this Mandate (including its being superseded by a new or updated form of Mandate) for any reason:

**6.3.1** shall be without prejudice to any rights or obligations which shall have accrued or become due prior to the date of termination;

**6.3.2** shall not prejudice the rights or remedies which any party may have in respect of any breach of the terms of this Mandate prior to the date of termination; and

**6.3.3** shall not affect this clause 6 and clauses 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, and 7.14, all of which shall continue in force after such termination.

## **7 GENERAL**

**7.1** The PLS Board may review and amend these Terms and Conditions if, in its reasonable judgement, changes are necessary.

**7.2** The Publisher agrees that PLS may exercise any of the rights and duties granted by the Publisher under this agreement, or authorise any agency working in agreement with PLS, including in particular CLA, to do so.

**7.3** The Publisher agrees that PLS or its agents may enter into agreements with organisations performing similar functions in other countries.

**7.4** Without prejudice to the existing rights of the Publisher to its share of due but unpaid net fees as defined in the Distribution Charter, this Mandate replaces any previous PLS Mandate. A Serials Declaration made in a previous Mandate or separately during the past calendar year shall remain in effect.

**7.5** The provisions of this Agreement shall be binding on and inure to the benefit of the successors and assigns of the Publisher, including in particular to the assignee of relevant rights in works from the Repertoire.

**7.6** All rights licensed are non-exclusive, revocable, worldwide and for an indefinite term subject to termination by the Publisher in accordance with clause 6 above.

**7.7** No Party shall be liable for any delay or failure in the performance of its obligations in connection with the Mandate to the extent that such failure or delay is due to any cause or circumstance beyond that Party's reasonable control and that failure or delay could not have been prevented or overcome by that Party acting reasonably and prudently ("Force Majeure").

**7.8** In the event of any conflict or inconsistency between these Terms and Conditions and any other part of the Mandate or accompanying documentation these Terms and Conditions shall prevail.

**7.9** Disputes between Publishers about the allocation of payments made by PLS shall be mediated by PLS in the first instance.

**7.10** If any dispute arises out of this Mandate the Parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure in London.

**7.11** To initiate mediation, a Party must give notice in writing to the other Party to the dispute requesting a mediation in accordance with clause 7.10 above. A copy of such notice shall be sent to CEDR.

**7.12** The mediation shall start no later than 28 days after the date of the written notice described in clause 7.11 above.

**7.13** If there is any point on the conduct of the mediation, including as to the nomination of the mediator, upon which the Parties cannot agree within 14 days from the date of written notice being given in accordance with clause 7.11 above, such point shall, at the request of either or both Parties, be decided on their behalf by CEDR.

**7.14** The mediation shall take place in England and the language of the mediation will be English. Any mediation agreement reached by the Parties shall be governed by English law. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise out of, or in connection with, the mediation.

**7.15** This Agreement shall be governed by and construed in accordance with the laws of England and subject to the exclusive jurisdiction of the English courts.

**7.16** Any notice required in connection with the Mandate shall be in writing and will be delivered in person, sent by first class post or sent by facsimile or sent by e-mail to PLS at the address given in the Mandate Handbook or by the Publisher at its address as shown on the PLS Publisher Mandate Form (or as subsequently amended). Any such notice shall be deemed to have been duly given as follows:

- if sent by personal delivery, upon delivery to the relevant address
- if sent by first class post, two clear days after posting
- if sent by fax, on receipt of an 'OK' transmission confirmation and if sent by e-mail, when confirmation of receipt is received.

PLS or a Publisher may notify the other of a change to its details by written notification. PLS will additionally post changes, once notified to Publishers, on the PLS Website.



## PLS Distribution Charter

- 1.** PLS aims to distribute revenue from Collective Licences fairly, transparently, efficiently and swiftly.
- 2.** Revenue from Collective Licences collected by The Copyright Licensing Agency Ltd (CLA) is distributed between the Publishers Licensing Society Ltd and the Authors' Licensing and Collecting Society Ltd (ALCS) and, where appropriate, contractual partners such as the Design and Artists Copyright Society Ltd and foreign reproduction rights organisations, in accordance with agreements made between them from time to time.
- 3.** PLS and CLA may each retain a proportion of the revenue collected (subvention) to cover the cost of their operations including legal costs and may vary these subventions from time to time as determined by the Boards of Directors of PLS and CLA respectively.
- 4.** The basic CLA subvention is 11.7%. A subvention of 25% is charged on new licences in the first year to reflect more closely the actual cost to CLA.
- 5 (a)** The PLS subvention is currently 6%. The subvention is not applied by PLS to revenue from foreign Reproduction Rights Organisations where distribution data is supplied. PLS accounts for the use of its subvention annually at a meeting open to all Mandating Publishers.  
**(b)** PLS may periodically review the subvention payments it receives in order to determine whether the aggregate subvention payments it has received during the period under review exceed or fall short (as the case may be) of the amounts required by PLS for the proper functioning of its business. If on any such review PLS determines at its discretion that the aggregate subvention payments that it has received during the period under review exceed its anticipated funding requirements for the following year, or for any longer period following such review, PLS may at its discretion either (i) pay or repay its Mandating Publishers on a fair and reasonable basis such amounts as PLS determines represents the relevant excess or (ii) suspend the next annual subvention payment. If, on the other hand, PLS determines at its discretion that the aggregate subvention payments that it has received during the period under review fall below its anticipated funding requirements for a period following such review (whether for the next year or for any further period), PLS may increase its subvention payment for the year following such review by such percentage amount (not exceeding an additional 5% on top of the existing subvention) as the PLS Board deems fair and reasonable in order to reflect its anticipated additional costs for such following year or period.
- 6.** Money from UK licences is allocated to a specific publication or Publisher in accordance with the CLA distribution policy and after CLA and PLS have deducted their respective subventions (Net Fees). Money can only be distributed for publications that carry either an ISBN or an ISSN.

- 7.** Net Fees from blanket Collective Licences are allocated to publications or Publishers in accordance with information supplied by CLA. This may include information audits, record keeping, surveys, or other methods. They therefore do not reflect actual levels of copying.
- 8.** Net Fees from transactional licences are allocated to the publications covered by such licences.
- 9.** Net Fees for which PLS does not have any adequate publication-specific data are allocated to Publishers in accordance with rules agreed by the PLS Board.
- 10.** Net Fees allocated to publications are distributed to the Publisher linked to that item on the CLA/PLS bibliographic database. The Publisher shall assist PLS in creating and maintaining an accurate database of the Repertoire.
- 11.** Money allocated to non-mandating Publishers is held until the Publisher can be contacted.
- 12.** Where a Publisher has ceased publishing, or refuses to accept distribution revenue allocated to it, or, in the view of the PLS Board, is untraceable, the PLS Board may decide to redistribute such revenues to other Mandating Publishers.
- 13.** The Publisher is not entitled to any payment in respect of any accounting period if the amount accruing to it is less than £25. PLS may revise this amount from time to time.
- 14.** PLS retains the interest earned from money passing through its accounts. PLS aims to process and distribute all money as quickly as possible.
- 15.** PLS may determine whether or not specific publications belong to a category of works excluded from the PLS Mandate or from a specific Collective Licence according to rules determined by PLS.
- 16.** Excluded Publishers are not included in the distribution of money collected from UK blanket licences or of money collected from foreign Reproduction Rights Organisations.
- 17.** The Publisher is not entitled to any payment if it changes its address as stated on the PLS Publisher Mandate Form, does not notify PLS in writing, and PLS cannot with reasonable effort determine its new address.
- 18.** Revenue allocated to individual titles or Publishers in accordance with this Charter may vary over time. Future revenue cannot reliably be forecast on the basis of current receipts.
- 19.** All sums distributed by PLS take the form of self-billing invoices that include Value Added Tax (VAT), where appropriate.
- 20.** This Distribution Charter is reviewed by the PLS Board on a regular basis and may be amended from time to time.

*pls*

P U B L I S H E R S   L I C E N S I N G  
S O C I E T Y   L T D

37-41 Gower Street, London WC1E 6HH

Telephone: +44 (0) 20 7299 7730   Facsimile: +44 (0) 20 7299 7780

Email: [pls@pls.org.uk](mailto:pls@pls.org.uk)   Website: <http://www.pls.org.uk>