



PLS General Terms and Conditions

All words and phrases with initial capitals have the meanings given to them in clause 13 of these General Terms and Conditions.

1 The Publisher's Rights

The Publisher has the right to authorise a collective management organisation of its choice to manage the rights, categories of rights or types of copyright works of its choice, for the territories of its choice. Unless the collective management organisation has objectively justified reasons to refuse such management, it is obliged to manage such rights, categories of rights or types of copyright works, provided that their management falls within the scope of its activity.

2 The Scope of PLS's Activity

The present scope of the activity of PLS is the administration of collective licensing and the provision of rights management services to publishers. Such scope may change from time to time by PLS Resolution. Any such change will be notified to the Publisher prior to implementation and the Publisher will be afforded the opportunity to accept or decline any changed or new aspect of the services provided by PLS, or the nature of the Licensed Rights, by way of amendment to or termination of its Publisher Account in accordance with these General Terms and Conditions.

3 Grant of Rights

3.1 By completing and submitting a Publisher Account Form the Publisher grants the Licensed Rights to PLS and appoints PLS to provide such Services (if any) as selected

by the Publisher in the Publisher's Settings in PLS Account Manager from time to time, in each case in accordance with the Publisher Account Form, the Publisher's Settings in PLS Account Manager, these General Terms and Conditions, the PLS Distribution Charter and the PLS Code of Conduct, subject to acceptance of the Publisher Account Form by PLS. PLS shall accept any duly completed Publisher Account Form by notice in writing to the Publisher unless the identity of the submitting party is unclear, or not proven, or if the Publisher Account Form has been incorrectly completed, or if PLS has reason to believe that the Publisher is not authorised to establish the Publisher Account.

3.2 The Licensed Rights comprise the non-exclusive right for PLS to reproduce and/or use and/or to authorise the reproduction and/or use of the Publisher's Repertoire, whatever the format of the primary publication/production or the format of their reproduction and/or other use, including all print, online and digital formats. For the avoidance of doubt the Licensed Rights apply

(a) to all literary, dramatic, musical and artistic works and typographical arrangements contained in the Publisher's Repertoire (including, without limitation, books, periodicals, journals, articles, editorial, advertorials, poems, headings, captions and all other text; diagrams, maps, charts, forms and tables; musical compositions; layout; illustrations, photographs and other images) and all other works in which copyright and other rights of a similar nature subsist (but excluding any audio only or audio-visual works); and

(b) to all trade marks, registered designs, and all other intellectual property in or contained in the Repertoire. If there are now or in the future any rights or material contained within the Repertoire that the Publisher cannot for any reason license under the terms of the Publisher Account, or not to the full extent of the Publisher Account (Contributor's IP), then such Contributor's IP is to that extent excluded from the grant of rights in the Publisher Account.

3.3 The Licensed Rights are licensed to PLS on a non-exclusive basis for the territory/territories as shown in the Publisher's Settings in PLS Account Manager from the date of acceptance of the Publisher Account Form by PLS (or earlier if already licensed to PLS under a previous mandate) until expiry of the notice period that is applicable (under these General Terms and Conditions) to any notice of termination received by PLS (or, if earlier, the expiry of the notice period applicable to any change in accordance with clause 6).

3.4 Any Publisher which has not submitted a Publisher Account Form but which has mandated PLS to administer rights on its behalf under a previous form of mandate will be deemed to have a provisional Publisher Account until it submits a Publisher Account Form. There may be circumstances in which PLS is unable for technical or other reasons to provide to provisional Publisher Account holders all the services and benefits otherwise available to Publisher Account holders and therefore all Publishers are encouraged to submit a Publisher Account Form so as to ensure that they gain the maximum benefit from their grant of rights to PLS.

3.5 The following terms apply to arrangements with Appointed CMOs:

3.5.1 The Publisher agrees that PLS may sub-license to a CMO, or appoint a CMO to administer as agent, some or all of the Licensed Rights (an Appointed CMO) and delegation to similar organisations overseas is permitted. Where applicable, PLS shall sub-license to Appointed CMOs (or appoint them as agents) in accordance with the Publisher's instructions in the Publisher Account Form, the Publisher's Settings in PLS Account Manager and any subsequent amendment thereto.

3.5.2 The Publisher acknowledges and agrees that any such Appointed CMO arrangement shall permit licensing or sublicensing (as applicable) by the Appointed CMO on the terms and conditions imposed from time to time by the Appointed CMO in

its End User Licences, and the Publisher accepts all such terms and conditions (save those in End User Licences, of which the Publisher opts out). Any such Appointed CMO arrangement shall be subject to the Publisher's right to change or terminate its Publisher Account in accordance with these General Terms and Conditions.

3.6 The following terms apply to rights protection measures taken by Appointed CMOs:

3.6.1 In the event that any of the Appointed CMOs decide it is necessary and proportionate to take action for infringement of rights in general (Infringement Action) and PLS agrees to such action, PLS and the relevant Appointed CMO will consult generally with publishers and the Publisher will use reasonable endeavours to cooperate as necessary with any such Infringement Action. The Publisher grants to PLS the right to authorise the Appointed CMOs to bring Infringement Actions in accordance with s.101A of the Copyright, Designs and Patents Act 1988 (as amended) in order to enforce the rights granted to PLS.

3.6.2 The Publisher shall have no liability for the costs of any Infringement Action or for any action brought by or defended by CLA.

4 PLS Account Manager Settings

4.1 If the Publisher submits a Publisher Account Form and has not previously submitted any mandate to PLS the Publisher's designated company contact will be sent PLS Account Manager log-in details by email on receipt and acceptance of the Publisher Account Form. This will enable access to the Publisher's Settings in PLS Account Manager via the PLS Website.

4.2 If the Publisher has not submitted a Publisher Account Form but has previously submitted a mandate to PLS, the Publisher will continue to be able to access its Settings in PLS Account Manager but the Publisher is nevertheless encouraged to complete and submit a Publisher Account Form to PLS for the reasons set out in clause 3.4.

4.3 The Publisher has the option in the Publisher's Settings in PLS Account Manager to exclude certain Titles, rights, licences and/or territories.

4.4 The Publisher is obliged to review and maintain its Settings in PLS Account Manager, as provided in clause 5.1, whether or not it has submitted a Publisher Account Form.

4.5 Any adjustments to the Settings will take effect as soon as the relevant Appointed CMO can reasonably take account of such adjustment in the relevant End User Licences, subject to the notice periods set out in clause 6.

4.6 The Default Settings are given by way of example or suggestion only. The Publisher should replace any or all Default Settings with its own preferred Settings in PLS Account Manager as appropriate. If the Publisher does not alter a Default Setting the Licensed Rights will be deemed to have been granted by the Publisher on that Default Setting.

4.7 The Default Settings are set by and reviewed from time to time by the relevant Appointed CMO.

5 Obligations of the Publisher

5.1 The Publisher agrees:

5.1.1 to keep the Settings under review and wherever applicable to adjust the Default Settings to reflect the Publisher's chosen Settings;

5.1.2 to ensure the list of Titles is updated in the Settings on a regular basis, including maintaining an accurate record of the following:

- (i) any acquisition, transfer or sale of a Title;
- (ii) free to copy Titles (including Open Access);
- (iii) photocopyable Titles; and
- (iv) Titles of works within an Excluded Category;

5.1.3 to apply territorial restrictions to overseas licensing Settings as appropriate; and

5.1.4 to update all contact information in PLS Account Manager whenever applicable.

5.2 In addition to updating its Settings in PLS Account Manager from time to time as necessary the Publisher agrees to notify PLS separately in accordance with clause 12.6 of:

5.2.1 any change to its choice of Appointed CMO; and

5.2.2 any change in its payment details.

5.3 The Publisher agrees that it is solely responsible for submitting and maintaining correct and up to date information and Settings in PLS Account Manager and in

particular (and without limitation) as regards any exclusion or limitation that may be necessary to the rights granted to PLS under the Publisher Account.

6 Changes to the Publisher Account by the Publisher

6.1 The Publisher has the right at any time (a) to make changes to the Settings in PLS Account Manager and/or (b) to instruct PLS (as above) to transfer the licensing of all or some of the Repertoire to an alternative Appointed CMO, and in either case any such changes shall take effect as soon as reasonably practicable save that:

6.1.1 any exclusion of an individual Title from any End User Licence will take effect on the next quarter day after notice of the exclusion is received by PLS;

6.1.2 any exclusion of a Title from the CLA Higher Education Licence where that Title has been included in a course pack will take effect from the end of the then current academic year;

6.1.3 any transfer of rights to another Appointed CMO will take effect six months from the end of the calendar month in which notice of the transfer is received by PLS; and

6.1.4 where two or more Appointed CMOs have been selected by the Publisher in PLS Account Manager, any transfer between Appointed CMOs of individual Titles within the Repertoire will take effect in the next quarter day after notice of the transfer is received by PLS.

7 Changes to the Publisher Account by PLS

7.1 If PLS wishes to make substantial amendments or extensions to the licensing or other use of the rights it manages or the services it provides PLS shall first seek approval for such amendments or extensions by PLS Resolution after consultation with publishers in general. If such approval is obtained, PLS will notify the Publisher in its eBulletin and will additionally post full details in PLS Account Manager and shall allow the Publisher sufficient time to make changes to its Settings or terminate its Publisher Account.

7.2 PLS undertakes to inform the Publisher regularly by notices in PLS Account Manager and/or in its eBulletin of any substantial changes to the Licensed Rights.

7.3 In certain instances PLS may circulate a new Default Setting provided by the relevant Appointed CMO, in which case PLS will notify the Publisher of the new Default Setting in PLS Account Manager and in its eBulletin.

8 Termination of Rights by the Publisher

8.1 The Publisher may terminate its Publisher Account at any time by notice to PLS in accordance with clause 12.6, and the termination will take effect six months after PLS's receipt of such notice. The termination of the Publisher Account (including its being superseded by a new or updated form of Publisher Account) for any reason shall be without prejudice to any rights or obligations of the Parties which shall have accrued or become due in respect of the terminated rights prior to the date of termination. In the case of a termination by the Publisher of the entire Publisher Account and all rights granted to PLS such termination:

8.1.1 shall not prejudice the rights or remedies which either Party may have in respect of any breach of the terms of the Publisher Account prior to the date of termination; and

8.1.2 shall not affect this clause 8 or clauses 9 to 13, all of which shall continue in force after such termination.

9 Distribution of Revenue and PLS Administration Fee

9.1 PLS undertakes to pay to the Publisher any applicable share of revenue arising under End User Licences and received by PLS in accordance with the PLS Distribution Charter.

9.2 PLS is entitled to deduct an administration fee from revenue it receives before distribution to rightsholders to cover its costs of operation in accordance with the PLS Distribution Charter.

10 Complaints

PLS undertakes to administer the Licensed Rights at all times in accordance with the PLS Code of Conduct. In the event that the Publisher has any complaint as regards the Publisher Account or the basis on which PLS administers the Licensed Rights the Publisher is referred to the complaints procedure set out in the PLS Code of Conduct.

11 Mediation of Disputes

11.1 If any dispute arises out of the Publisher Account or the allocation of payments made by PLS the Parties will attempt to settle the dispute by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure in London.

11.2 To initiate mediation, a Party must give notice to the other Party requesting a mediation in accordance with clause 11.1 above. A copy of such notice shall be sent to CEDR.

11.3 The mediation shall start no later than 28 days after the date of the written notice described in clause 11.2 above.

11.4 If there is any point on the conduct of the mediation, including 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 11.2 above such point shall, at the request of either or both Parties, be decided on their behalf by CEDR.

11.5 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.

12 General

12.1 PLS may review and by PLS Resolution amend these General Terms and Conditions if, in its reasonable judgment, changes are necessary. Significant changes will be brought to the attention of the Publisher.

12.2 The provisions of this Agreement shall be binding on and enure for the benefit of successors and assigns of the Publisher, including in particular the assignee of relevant rights in the Repertoire.

12.3 PLS shall not be in breach of the Publisher Account nor bear any responsibility or liability for any losses arising out of any delay or failure in the performance of its obligations under the Publisher Account due to events beyond its reasonable control commonly referred to as events of force majeure (including any such events as affect an Appointed CMO) provided that PLS shall promptly notify the Publisher of the nature and reasons for the delay or failure and shall use its reasonable endeavours to mitigate the effects of any default as soon as possible. If any such force majeure event continues for a period of more than three months the Publisher may terminate the Publisher Account by notice to PLS without prejudice to the rights of the parties existing prior to such termination and subject to any relevant notice periods.

12.4 In the event of any conflict or inconsistency between these General Terms and Conditions and any other part of the Publisher Account these General Terms and Conditions shall prevail.

12.5 These General Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the English courts.

12.6 Any notice under or in connection with the Publisher Account shall (unless required to be given in PLS Account Manager) be in writing and will be delivered in person or sent by first class post to PLS at the address on the PLS website or by email to pls@pls.org.uk, and to the publisher at its address as shown on the Publisher's website or by email to the address given by the Publisher on the Publisher Account Form (as either may be subsequently amended). Any such notice shall be deemed to have been

duly given as follows:

- if delivered in person, upon delivery to the relevant address;
- if sent by first class post, two working days after posting; and
- if sent by email, four hours after sending.

A Party shall notify the other of a change to its details by written notification. PLS will additionally post any changes on the PLS website and in its eBulletins.

13 Definitions and Interpretation

13.1 In the Publisher Account Form and these General Terms and Conditions the following terms have the meanings set out alongside them below (unless the context requires otherwise):

Appointed CMO: has the meaning given to it in clause 3.5 and currently includes (by way of non-exhaustive list) CLA and NLA;

CLA: means The Copyright Licensing Agency Limited;

CMO: means a collective management organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose;

Default Settings: means the default Settings to the Publisher Account in PLS Account Manager which apply in the absence of an alternative choice by the Publisher. Default

Settings are determined by the relevant Appointed CMO and may be amended from time to time by the relevant Appointed CMO;

End User: means a licensee under any End User Licence issued by PLS or an Appointed CMO;

End User Licence: means any licence issued to an End User by PLS or an Appointed CMO from time to time and approved by PLS Resolution (and any new licences so approved) and End User Licensing shall be understood accordingly;

Excluded Category: means a category of works excluded from the licences issued by CLA or any other Appointed CMO and whose number and definition may be reviewed and changed by PLS Resolution in consultation with the relevant Appointed CMO;

Excluded Titles: means the individual Titles that a Publisher may choose to exclude from the Licensed Rights where applicable by making appropriate entries in the Publisher's Settings in PLS Account Manager;

Licensed Rights: means the rights granted by the Publisher to PLS under the Publisher Account as further described in clause 3.2;

NLA: means NLA media access Limited;

Party: means PLS and/or the Publisher;

PLS: means Publishers' Licensing Services Limited;

PLS Account Manager: means the online service accessible through the PLS Website and through which publishers are able to manage and update the Settings in their Publisher Account;

PLS Board: means the Board of Directors of PLS;

PLS Code of Conduct: means the PLS Code of Conduct as shown on the PLS Website and as may be amended from time to time to reflect regulatory changes and best practice;

PLS Distribution Charter: means the PLS Distribution Charter as shown on the PLS Website which sets out (among other things) the basis on which administrative deductions are made from collective licensing revenues, how PLS allocates revenues, the process by which revenues are distributed, and the exclusions that apply; it may be reviewed and amended from time to time by the PLS Board;

PLS Resolution: means a resolution of the PLS Board or, where appropriate, the PLS members;

PLS Website: means the PLS internet-based website which currently has the URL www.pls.org.uk;

Publisher: means (a) the organisation on whose behalf a Publisher Account is duly

established and (b) an organisation which has not established a Publisher Account but which has submitted a mandate to PLS in an earlier form and, for the avoidance of doubt, in each case includes the organisation's subsidiaries and holding company and any subsidiaries of such holding company as such terms are defined in s.1159 of the Companies Act 2006, as may be amended;

Publisher Account: means the contract between the Publisher and PLS which is formed by the following documents: the Publisher Account Form, these General Terms and Conditions, the PLS Distribution Charter, the PLS Code of Conduct and the Publisher's options and Settings in PLS Account Manager (as may be amended by the Publisher from time to time);

Publisher Account Form: means the form which the Publisher must complete, sign and submit to PLS (and amend and update from time to time as necessary) in order to grant to PLS the rights it requires to administer the Licensed Rights;

Repertoire: means every Title published by the Publisher before or during the term of the Publisher Account or for which it acquires any of the rights referred to in clause 3.2 above except for (a) any Title which belongs to an Excluded Category, (b) any Title which the Publisher has excluded or in the future excludes in the Settings in PLS Account Manager, in either case to the extent of such exclusion and subject to the relevant notice period if applicable, (c) any free to copy and photocopiable Titles, and (d) any Title in which the Publisher has disposed of the relevant rights as from the later of (i) the date of the disposal or (ii) the date on which PLS receives notice of the disposal;

Services: means the rights management and other services provided by or through PLS

to publishers from time to time in which publishers can choose to participate.

The Services currently include:

- Access to Research;
- PLS Permissions;
- Collection of public lending right monies from overseas; and
- Negotiation of re-use fees on behalf of publishers with the BBC.

Settings: means those options and terms which are individually specified by the Publisher in PLS Account Manager including any exclusions of rights, Titles, licences or territories and (where applicable) the rates at which the End User is charged for certain licensed acts;

Title: means a published book, journal, magazine or website.

13.2 The headings above are inserted for convenience only and do not affect the interpretation of these General Terms and Conditions. Any references, express or implied, to statutes or provisions shall be interpreted as references to those statutes or provisions as amended or re-enacted from time to time. The terms 'include' and 'including' shall be construed as illustrative, without limiting the sense or scope of the words preceding them. References to a person include natural persons, companies, partnerships and any other organisations (whether or not in each case having separate legal personality). The singular includes the plural and vice versa.