

IET DIGITAL LIBRARY ORGANISATION LICENCE AGREEMENT (SUBSCRIPTION)

This Agreement is made between:

- 1) **THE INSTITUTION OF ENGINEERING AND TECHNOLOGY**, a charity registered in England and Wales and in Scotland with charity numbers 211014 and SC038698 respectively, whose registered address is at Savoy Place, London, WC2R 0BL (the “IET”); and
- 2) **[INSERT NAME]**, a company registered in [insert], with company registration number [insert], whose registered address is at [insert] (the “Licensee”)

This Agreement is made on the last date on which both parties have signed below (“**Effective Date**”) and includes the details listed in Table A and the Terms and Conditions attached.

TABLE A

| | |
|---------------------------|---|
| Authorised Site(s) | [insert addresses for all permitted sites] |
| Fees | Year 1: £ [Year 2: £ Year 3:£] |
| Licence Commencement Date | [insert date] |
| Licence Term | [x] year[s] |
| Licensed Materials | [insert name of package purchased] or [the publications as set out in Schedule 1] |
| Payment Profile | [e.g. Annually in advance] |

| Signed by an authorised representative for and on behalf of the IET | | Signed by an authorised representative for and on behalf of the Licensee | |
|---|--|--|--|
| Name | | Name | |
| Position | | Position | |
| Signature | | Signature | |
| Date | | Date | |

Please mail the completed and signed Licence, or direct any questions, to:

IET Digital Library
Michael Faraday House
Stevenage
Herts, SG1 2AY
United Kingdom

Email: ietdl@theiet.org
Telephone: +44 (0) 1438 765552

TERMS AND CONDITIONS

1 Grant of Licence

- 1.1 Subject to these Terms and Conditions, and in consideration of payment by the Licensee of the Fees, the IET grants to the Licensee a non-exclusive, non-transferable licence to access the IET Digital Library (the “**Platform**”) and to access, view and make use of the content available in the Licensed Materials from the Licence Commencement Date (or payment of the first annual Fee, if later) until this Agreement is terminated (the “**Licence**”). The Licence is further subject to any guidelines that may from time to time be issued by the IET with respect to the Platform and/or Licensed Materials.
- 1.2 An exception to this Licence is where the author of a publication contained within the Licensed Materials has chosen to publish using one of the open access publishing options, in which case those licence terms will apply to that publication.

2 Scope of Licence

- 2.1 The Licence granted under clause 1 permits the following users to access the Platform and Licensed Materials at the Authorised Sites as set out in Table A above:
- 2.1.1 employees of the Licensee;
 - 2.1.2 students of the Licensee officially registered at the Authorised Sites;
 - 2.1.3 Walk in Users (as defined below); and
 - 2.1.4 persons with legal access to the Licensee’s collections and facilities, via the Licensee’s Secure Network (as defined below).
- (“**Authorised Users**”), provided that such Authorised Users may only access the Platform and Licensed Materials via the Licensee’s Secure Network (as defined below).
- 2.2 For the purpose of this Licence, “Walk-In Users” are persons who are permitted by the Licensee to access its information services from their own computer terminals at the Authorised Sites. For the avoidance of doubt, Walk-In Users may be given means to access the Platform and Licensed Materials by a wireless network provided that such wireless network is secure so as to prevent any unauthorised third party accessing the Licensed Materials (the “**Licensee’s Secure Network**”).

3 IP Addresses

- 3.1 The Licensee shall provide to the IET the IP addresses from which the Authorised Users shall access the Platform and Licensed Materials. It is the Licensee’s responsibility to ensure that the IP addresses provided to the IET are complete, accurate and up-to-date at all times.
- 3.2 Following verification by the IET of the IP addresses provided, the Licensee and Authorised Users shall be permitted to access the Platform and Licensed Materials by automatic recognition of such IP addresses at any time, subject to these Terms and Conditions.

4 Back Issues

- 4.1 The IET may (but is not obliged to) grant to the Licensee and Authorised Users access to additional historical material contained on the Platform (“**Back Issues**”) that is not included within the Licensed Materials. Where such access is granted:
- 4.1.1 the Licensee’s and Authorised Users’ use of the Back Issues shall at all times be subject to these Terms and Conditions; and

4.1.2 the IET may withdraw access to the Back Issues at any time it so determines.

5 Licensee's Responsibilities

5.1 The Licensee represents and warrants that:

5.1.1 it shall not allow or permit access to the Platform and/or Licensed Materials to any third party, other than the Authorised Users;

5.1.2 it shall have appropriate security measures in place to ensure that the Platform and/or Licensed Materials cannot be accessed by any third party, other than the Authorised Users;

5.1.3 it shall ensure that the Authorised Users comply with these Terms and Conditions and shall (a) inform the IET immediately if it becomes aware of any breach by an Authorised User of these Terms and Conditions and (b) immediately restrict access to the Platform and/or Licensed Materials to any Authorised User suspected of breaching these Terms and Conditions ; and

5.1.4 it shall, and shall ensure that the Authorised Users, comply with all applicable laws and regulations in relation to the access to the Platform and use of the Licensed Materials and that it has obtained all of the necessary and applicable licences and consents to make use of the Licensed Materials.

6 Permitted Use

6.1 The Licence permits the Licensee and the Authorised Users to:

6.1.1 read, download, save or print content from the Licensed Materials solely for the non-commercial, educational and research purposes of the Licensee and the Authorised Users at the Authorised Site(s); and

6.1.2 quote brief extracts from the content of the Licensed Materials which may be used for "person to person" and non-commercial, non-systematic scholarly exchanges of information purposes only provided that all such extracts are accompanied with an acknowledgement that they have been obtained from the Licensed Materials.

6.2 The Licensee is further permitted to incorporate parts of the Licensed Materials in printed or electronic course packs or in a virtual learning environment for the Authorised Users to use in receiving instruction at the Licensee's institution, provided that: a) such electronic course packs or the virtual learning environment are accessed via the Licensee's Secure Network only; b) the incorporated parts are accompanied with i) an acknowledgement that they have been obtained from the Licensed Materials and Platform; and ii) an acknowledgement of the title, author and publisher of the incorporated parts.

6.3 The Licensed Materials or extracts thereof may not be transmitted in original digital form to any other institution, person or user other than an Authorised User. However, a hard copy printed from the original digital form may be supplied to a not-for-profit institutional library within the same country as the Licensee by mail. The supply of such copies must conform to "fair use" provisions under copyright law.

6.4 The Licensee agrees and acknowledges that any use by the Licensee and Authorised Users, other than as agreed in this Agreement, is a material breach of the terms of this Agreement incapable of remedy and shall result in termination pursuant to clause 12.3.1.

7 Restrictions

7.1 Other than as permitted as in clause 6, the Licensee and the Authorised Users shall not:

- 7.1.1 copy, amend, modify or alter in any way the content of the Platform and/ or Licensed Materials, including removing or altering the authors' names, copyright notices or any other information that appears on the Platform and/or in the Licensed Materials;
 - 7.1.2 systematically make printed or electronic copies of multiple extracts or make multiple copies of any part of the Platform and/or Licensed Materials for any purpose;
 - 7.1.3 systematically or programmatically download (e.g., through the use of automated 'robots' or otherwise) or attempt to download under any circumstances large amounts of content from the Platform, such as full text articles from entire journal issues or extensive search results;
 - 7.1.4 prepare derivative works, download, reproduce, develop, publicly display, mount and/or distribute any part of the Platform and/or Licensed Materials whether in hard copy or on any electronic system or network, including the Internet, other than the Licensee's Secure Network, except as expressly provided in this Agreement;
 - 7.1.5 reverse engineer, translate, decompile, disassemble, alter, abridge or otherwise modify or attempt to do so the content on the Platform, in the Licensed Materials or any part of either for any purpose whatsoever, except as expressly provided in this Agreement or to the extent permitted by the Copyright Database Patent Act 1988; and/or
 - 7.1.6 use the Platform and/or Licensed Materials in connection with any material which contains computer viruses or spyware or malware of any description or with any material which is designed to adversely affect the operation of any computer hardware or software or any communications network.
- 7.2 Unless permitted by clause 6, the Licensee shall obtain the IET's explicit prior written approval (which may be withheld at the IET's sole discretion) in order to:
- 7.2.1 use all or any part of the Platform and/or Licensed Materials for any type of commercial use or gain (including the sale, resale, loan, transfer or such other similar form of exploitation of the Licensed Materials for monetary reward);
 - 7.2.2 systematically distribute the whole or any part of the Platform and/or Licensed Materials to anyone other than the Authorised Users;
 - 7.2.3 publish, distribute or make available the Platform and/or Licensed Materials, works based on the Platform and/or Licensed Materials or works which combine them with any other material, other than as permitted in this Agreement; and/or
 - 7.2.4 alter, abridge, adapt or modify the Platform and/or Licensed Materials, except to the extent necessary to make them perceptible on a computer screen to Authorised Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

8 Fees and Payment

- 8.1 The IET will invoice the Licensee for, and the Licensee shall pay, the Fees for the first year of the Licence Term as set out in Table A in advance of the Licence Commencement Date. The IET shall be entitled to invoice the Licensee for any subsequent Fees according to the payment profile set out in Table A.
- 8.2 The Licensee shall pay to the IET the relevant Fee as set out in each invoice within 30 days of the date of the invoice.
- 8.3 All Fees payable under this Agreement are net of all Taxes, howsoever arising. The Licensee shall pay any Taxes incurred in connection with the Licensee's use of the Licensed Materials

and/or the rights granted under this Agreement, whether arising in the United Kingdom or in the country of the Licensee. For the purpose of this clause, "Taxes" means any sales tax, value added tax, service tax, import tax, withholding tax and any such similar taxes, levies or duties.

- 8.4 If the Licensee fails to make any payment due to the IET under this Agreement by the due date for payment, then, without limiting any other remedies that the IET may have, the IET shall be entitled at its election to (a) suspend the Licensee's access to the Licensed Materials and/or (b) charge interest on the overdue amounts at the rate of 4% per annum above The Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Licensee shall pay any the interest together with the overdue amount.

9 Intellectual Property Rights

- 9.1 The IET retains all intellectual property rights in the Platform. The intellectual property rights in the Licensed Materials, including all abstracts, material and support material included from time to time in the Licensed Materials, are owned as indicated in the Licensed Materials. The Licensee acknowledges that it has no rights in respect of such intellectual property rights other than the rights to use them in accordance with the terms of this Agreement.
- 9.2 The Licensee acknowledges and agrees that the content provided on the Platform and in the Licensed Materials is protected by the applicable laws on copyright and the Licensee shall not, and shall ensure that the Authorised Users do not, copy or redistribute any of the Licensed Materials content, except as expressly permitted in this Agreement. Any unauthorised copying of or distribution of the Licensed Materials content shall be a violation of applicable copyright law and shall be deemed a material breach of this Licence, incapable of remedy and resulting in termination pursuant to clause 12 (Duration and Termination).

10 Confidentiality

- 10.1 Except as expressly provided in this Agreement, the Licensee shall not with respect to any Confidential Information, at any time, without the express prior written consent of the IET, disclose or otherwise make known or available to any person other than the IET or such of its employees as is or becomes necessary, any of the IET's Confidential Information. The Licensee shall use all reasonable procedures and take all reasonable steps to safeguard the IET's Confidential Information and shall ensure that its officers and employees comply with this clause 10.
- 10.2 The above obligations of confidentiality shall not apply to any Confidential Information which the Licensee can prove by written records:
- 10.2.1 was on or after the date of this Agreement lawfully disclosed to it without restriction by a third party who did not obtain the same (whether directly or indirectly) from the IET;
 - 10.2.2 was lawfully known to the Licensee before the Confidential Information was imparted by the IET;
 - 10.2.3 is or becomes public knowledge (through no fault on the IET's part); or
 - 10.2.4 is required to be disclosed by legislation or regulation or by a court order of a court of competent jurisdiction but only to the extent so required and subject to the Licensee giving the IET reasonable notice and details of any such requirement.
- 10.3 The provisions of this clause 10 shall survive the expiry or termination of this Agreement, howsoever arising.

10.4 For the purposes of this clause 10, “**Confidential Information**” means any information in whatever form disclosed by the IET to the Licensee, directly or indirectly, which is marked as confidential or which, by its very nature or in the circumstances surrounding disclosure, ought to be treated as confidential including any such information disclosed in connection with the negotiation of this Agreement. Nothing in this clause 10 shall prevent the Authorised Users from accessing the Licensed Materials in accordance with the terms of this Agreement.

11 The IET’s Responsibilities and Disclaimer

11.1 The IET reserves the right to:

11.1.1 carry out maintenance on the Platform as and when it deems necessary and the Licensee acknowledges and accepts that the Licensed Materials may not be accessible during such time; and

11.1.2 withdraw from the Licensed Materials any item or part item for which it no longer retains the right to publish or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or erroneous.

11.2 The IET shall use reasonable efforts to correct any material malfunction in the Platform and/or Licensed Materials which the Licensee has promptly brought to its attention provided that such malfunction has not been caused due to any act or omission, in whole or in part, by the Licensee or any Authorised User.

11.3 The Licensee acknowledges and agrees that the IET is reliant on the internet in order to enable access to the Platform and/or Licensed Materials and as such cannot guarantee that the Licensed Materials will always be available, uninterrupted or error free. As such, the IET shall not be responsible or liable for any delay, downtime, transmission error, software or equipment incompatibilities, force majeure or other failure of performance or any associated losses arising as a result of the Licensee or the Authorised Users being unable to access the Licensed Materials.

11.4 All other warranties, conditions, terms and undertakings of any kind (including without limitation as to quality, performance or fitness for purpose) in relation to the Platform and/or Licensed Materials, express or implied, whether by statute, common law, custom, trade usage, course of dealings or otherwise are hereby excluded to the fullest extent permitted by law.

12 Duration and Termination

12.1 This Agreement shall commence on the Effective Date and shall continue until the end of the Licence Term unless:

12.1.1 it is renewed by the Licensee for a further period (for such fee as agreed between the parties);

12.1.2 either party notifies the other in writing of termination by giving not less than 3 months’ written notice to the other party; or

12.1.3 otherwise terminated in accordance with this clause 12.

12.2 Upon expiry of this Agreement, or where the Licensee terminates this Agreement in accordance with clause 12.1.2, the Licensee may continue to access the Licensed Materials for those years in relation to which the Licensee paid to the IET the Fees (but may not continue to access the Back Issues unless otherwise agreed by the IET). These Terms and Conditions shall continue to apply to such Licensed Materials (and the IET will be able to terminate the Licensee’s access to the Licensed Materials for breach in accordance with these Terms and Conditions).

- 12.3 Without affecting any other right or remedy available to the IET, the IET shall be entitled to terminate this Agreement with immediate effect by serving written notice on the Licensee if the Licensee:
- 12.3.1 is in breach of any of this Agreement and in the case of a breach which it is possible to remedy, the Licensee has not remedied the breach within thirty (30) days of receiving notice from the IET specifying the breach. For the purposes of this clause 12.3.1, a material breach shall not be capable of remedy; or
 - 12.3.2 is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 and/or ceases to carry on business.
- 12.4 If the IET terminates this Agreement under clause 12.2:
- 12.4.1 the Licence granted in clause 1 shall automatically expire and the Licensee and the Authorised Users shall no longer have the right to access the Platform and/or Licensed Materials;
 - 12.4.2 the Licensee and Authorised Users must stop using and at the IET's discretion either promptly return to the IET or delete/destroy any Licensed Materials that have been downloaded, cached, saved, printed or otherwise provided by the IET and the Licensee will certify to the IET that it has done so.
- 12.5 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.
- 12.6 Upon termination of this Agreement:
- 12.6.1 the provisions of any clause expressly stated as or implicitly surviving termination shall continue in force; and
 - 12.6.2 all amounts then owned to the IET shall be immediately become due and payable.

13 Limitation of Liability

- 13.1 Nothing in this Agreement limits or excludes the IET's liability for:
- 13.1.1 death or personal injury caused by the negligence of the IET;
 - 13.1.2 fraud or fraudulent misrepresentation;
 - 13.1.3 any other liability which cannot be limited or excluded under applicable laws.
- 13.2 Subject to clause 13.1, the IET's maximum liability whether arising in contract, tort, negligence, breach of statutory duty or otherwise in respect of any one claim or series of linked claims shall not exceed, in the aggregate, the total Fees paid by the Licensee in the 12 months prior to the event giving rise to the relevant claim.
- 13.3 Subject to clause 13.1, the IET shall not be liable to the Licensee in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the Licensee (whether direct, indirect, consequential, incidental or special) arising out of or in connection with this Agreement relating to or resulting from:
- 13.3.1 any economic loss or other loss of turnover, profits, business, contracts, use, reputation or goodwill or any deletion, corruption, destruction, loss or removal of data, or any loss or damage suffered by the Licensee;

- 13.3.2 the accuracy, reliability, completeness, suitability, merchantability or fitness for purpose of the Platform and/or Licensed Materials;
 - 13.3.3 any reliance upon or use of or actions taken or not taken or decisions made on the basis of anything contained in the Licensed Materials;
 - 13.3.4 inability at any time to obtain access to any part of the Platform and/or Licensed Materials; and/or
 - 13.3.5 any computer viruses or spyware or malware of any description or any material which might adversely affect the Licensee's operation of any computer hardware or software or any communications network as a result of accessing the Licensed Materials.
- 13.4 The Licensee assumes sole responsibility for all use of the Platform and/or Licensed Materials by the Licensee and Authorised Users. In the event of a breach of this Agreement by the Licensee or Authorised Users, the Licensee agrees to indemnify the IET from and against any claims, liabilities, damages, expenses, and losses arising from, or in connection with that breach.

14 General

- 14.1 The Licensee shall not use any of the IET's trade marks, trade names or logos (save to the extent reasonably required for acknowledgement in accordance with clauses 6.1.2 and 6.2) without obtaining the prior written consent of IET.
- 14.2 This Agreement constitutes the entire agreement between the parties and supersedes any prior communication and all prior arrangements and understandings, whether written or oral, between the parties with respect to the subject matter hereof. The Licensee acknowledges that no representations or promises not expressly contained in this Agreement have been made to it by the IET or any of its servants, agents, employees, members or representatives.
- 14.3 The headings used in this Agreement are for convenience only and are not to be considered in construing the terms of this Agreement. In this Agreement "includes" and "including" and words of similar effect shall be construed as if they were immediately followed by the words "without limitation".
- 14.4 The IET has the right in its entire discretion to change and/or modify these Terms and Conditions from time to time and shall notify the Licensee of such changes. The Licensee's and any Authorised Users' continued use of the Platform and/or Licensed Materials following such notification will signify the Licensee's acceptance of such changes and modifications.
- 14.5 If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.
- 14.6 No person other than the IET and the Licensee has any right under the Contracts (Rights of Third Parties) Act 1999 (UK) to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from pursuant to that Act.
- 14.7 Subject to clause 14.4, no variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 14.8 The Licensee shall not be entitled to assign this Agreement nor any of its rights or obligations hereunder without the prior written consent of the IET.

- 14.9 This Agreement and any dispute or claim relating to it, or its formation, existence, construction, performance, validity or termination shall be governed by and construed in accordance with English Law.
- 14.10 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its formation, existence, construction, performance, validity or termination.

Schedule 1

Licensed Materials

[Insert list – this is only required where the list of Licensed Materials is too long to fit in Table A. If not required, delete the entire Schedule.]