

CONTRACT FOR THE SUPPLY OF PRODUCTS TO ACADEMIC INSTITUTIONS

SECTION I CONTRACT FORM

1 THE PARTIES

LICENSOR DETAILS	
Full legal entity name	The Chancellor, Masters, and Scholars of the University of Cambridge acting through its department Cambridge University Press & Assessment ("Licensor")
Postal address	Shaftesbury Road, Cambridge, CB2 8EA, United Kingdom
Telephone	+44 (0) 1223 358 331

LICENSEE DETAILS	
Full legal entity name	("Licensee")
Postal address	
Telephone	

2 CONSORTIUM INFORMATION

 2.1 Licensee is a member of the following consortium: **Couperin**.

3 EVIDENCE BASED ACQUISITION PACKAGES

EBA package name	EBA Start Date	EBA End Date	EBA Purchase Fee

4 AGREEMENT TO TERMS

4.1 This Agreement incorporates all the details above, plus the following attached Section(s):

Section I: CONTRACT FORM
 Section II: STANDARD TERMS AND CONDITIONS
 Section III: SPECIAL TERMS AND CONDITIONS
 (together, the "Agreement")

4.2 Licensee and Licensor hereby accept and agree to the terms of this Agreement:

LICENSOR SIGNATURE		
Full legal name of signatory	<i>for and on behalf of The Chancellor, Masters, and Scholars of the University of Cambridge acting through its department Cambridge University Press & Assessment</i>	
Email		
Date		
By signing, I confirm that I (i) am authorised to enter into this Agreement and (ii) agree to all the terms herein on behalf of the Licensor.		

LICENSEE SIGNATURE		
Full legal name of signatory	<i>for and on behalf of</i>	
Email		
Date		
By signing, I confirm that I (i) have read and am authorised to enter into this Agreement and (ii) agree to all the terms herein on behalf of the Licensee.		

SECTION II STANDARD TERMS AND CONDITIONS**1 DEFINITIONS**

1.1 In this Agreement the following words shall have the following meanings:

- 1.1.1 **Authorised User:** (i) any individual who is, at the time, formally affiliated with Licensee (e.g. as a member of staff or a student) and who is authorised by Licensee to access the Secure Network; and/or (ii) any individual granted temporary permission by Licensee to access the Secure Network whilst on Licensee's premises.
- 1.1.2 **Commercial Use:** for the purposes of direct or indirect financial gain (whether by or for Licensee, an Authorised User, or any other person or entity) by means of sale, resale, loan, transfer, hire or other form of exploitation of the Products. For the avoidance of doubt, Commercial Use shall not include use by Licensee or by an Authorised User of the Products in the course of research funded by a commercial organisation or recovery of administrative charges by Licensee from Authorised Users.
- 1.1.3 **Fees:** as applicable, the Subscription Fees, and the Purchase Fees.
- 1.1.4 **Licensee:** the entity detailed in Section I.
- 1.1.5 **Licensors:** The Chancellor, Masters, and Scholars of the University of Cambridge acting through its department Cambridge University Press & Assessment of Shaftesbury Road, Cambridge CB2 8EA, UK.
- 1.1.6 **Online Access:** access to the Products on the Server.
- 1.1.7 **Products:** as applicable, Purchased Products and Subscription Products.
- 1.1.8 **Purchase Fees:** the fees set out in Section I for the supply of Purchased Products.
- 1.1.9 **Purchased Products:** products which Licensee has purchased on a 'perpetual access' basis (i.e. the Licensee pays a one-time licence fee for the right to permanent access to the applicable products, although other charges may also apply).
- 1.1.10 **Secure Authentication:** Athens or Shibboleth (SAML) technology-based authentication, IP ranges, username and password, or such other authentication process agreed between Licensee and Licensors from time to time, and which is consistent with current best practice.
- 1.1.11 **Secure Network:** a network (whether a standalone network or a virtual network within the internet) which is only accessible to Authorised Users whose identities are authenticated by Licensee at the time of login (and periodically thereafter in line with best practice) by Secure Authentication.
- 1.1.12 **Server:** either Licensors's server or a third-party server designated by Licensors on which Products are mounted and via which they may be accessed.
- 1.1.13 **Subscription Fees:** the fees set out in Section I for the supply of Subscription Products during the Subscription Period.
- 1.1.14 **Subscription Period:** the period set out in Section I and during which Licensee and the Authorised Users may access the Subscription Products.
- 1.1.15 **Subscription Products:** products to which Licensee has subscribed for an agreed period.
- 1.1.16 **TDM:** Text and data mining.
- 1.1.17 **Terms of Use:** the permitted uses and restrictions of use of the Products as set out in clauses 3 and 4 of this Section.

2 LICENCE

- 2.1 Subject to payment of the Purchase Fees, Licensors grants Licensee a non-exclusive and non-transferable right to use and access the Purchased Products in accordance with the terms of this Agreement. Where Licensors is no longer able to provide Online Access on a permanent basis, it shall provide a copy of the Purchased Products in pdf format (or such other electronic format as Licensors in its sole discretion determines) and Licensee agrees and acknowledges that the use of any such electronic copy shall always be subject to the terms of this Agreement.
- 2.2 Subject to the payment of the Subscription Fees, Licensors grants Licensee a non-exclusive and non-transferable right to use and access the Subscription Products in accordance with the terms of this Agreement.
- 2.3 Subject to clause 2.4 of this Section, any journal volume to which Licensee has paid to have Online Access for the Subscription Period shall continue to be accessible to Licensee via Online Access after that Subscription Period has expired, provided that this Agreement is not terminated by the Licensors under clause 10.2 of this Section. This continuing access shall not apply to any content provided free of charge as an additional benefit to online subscribers. The terms of this Agreement shall continue to apply to any journal volume to which access is granted after its Subscription Period has expired.
- 2.4 Where Licensors is no longer able to provide Online Access to the Subscription Products on a permanent basis, it shall provide a copy of the applicable Subscription Products in pdf format (or such other electronic format as Licensors in its sole discretion determines). Licensee accepts and acknowledges that, whilst Licensors cannot guarantee continued access, in the event a journal volume is transferred to another publisher, Licensors shall use commercially reasonable endeavours to negotiate such continued access rights with the new publisher.

3 PERMITTED USES

- 3.1 Subject to the restrictions in clause 4.1 of this Section, and solely for the purposes of research, teaching at Licensee's premises and private study Licensee may allow the Authorised Users to:
 - 3.1.1 access, view, download, store and print the Products; and
 - 3.1.2 incorporate links to the Products in electronic course packs or management systems.
- 3.2 Nothing in this Agreement shall in any way exclude, modify or affect any of Licensee's statutory rights under applicable copyright law.
- 3.3 Authorised Users may download, extract, store and index the Products for the purposes of TDM and may mount, load, integrate and analyse the results of TDM on their personal devices or Secure Network. Any copies of the Products accessed or reproduced by an Authorised User for the purposes of TDM must be deleted once the analysis of the results of the TDM is complete.
- 3.4 Authorised Users may use the results of their TDM in their research and make the results of their TDM publicly available, provided that no Product or part of a Product is reproduced within such research, other than as expressly permitted by applicable law.
- 3.5 For any questions relating to TDM please contact openresearch@cambridge.org.

4 RESTRICTIONS

- 4.1 Except in the course of exercising rights specifically granted in this Agreement or permitted under any applicable Creative Commons licence, neither Licensee nor any Authorised User may:
 - 4.1.1 remove or alter Licensors's copyright notice or other means of identification or disclaimers as they appear on a Product;

- 4.1.2 systematically make printed or electronic copies of any of the Products;
 - 4.1.3 permit access to the Products to anyone who is not an Authorised User;
 - 4.1.4 display or distribute any part of a Product on any electronic network, (including without limitation the internet and the world wide web) other than the Secure Network;
 - 4.1.5 use all or any part of a Product for Commercial Use;
 - 4.1.6 modify, adapt or alter a Product or make available a Product in any other form or medium or create derivative works from a Product without the prior written permission of Licensor;
 - 4.1.7 create a database in electronic or structured manual form by downloading and storing any content from the Products;
 - 4.1.8 attempt to interfere with the proper workings of any online provision of the Products including attempting to circumvent security, tamper with, hack into or otherwise disrupt or compromise the functionality or availability of the Server or other internet-connected device used as part of Licensor's IT system which enables access to the Products;
 - 4.1.9 either individually or collectively download Product content at rate which exceeds 500 pdfs per hour;
 - 4.1.10 use any automated retrieval devices (such as web robots, wanderers, crawlers, spiders of similar devices) save that this is not intended to prevent Licensee from using a federated search engine or discoverability service as part of its library information services; nor
 - 4.1.11 otherwise download, store, reproduce, transmit, display, print, copy, distribute, extract, exploit or use the Products.
- 4.2 The Licensee is not permitted to supply the whole or part of any Product to another institution or library without the Licensor's prior written consent, except to the extent expressly permitted by applicable law.
- 4.3 Licensor reserves the right to withdraw access to the Products in the event of a download rate in excess of the limit in clause 4.1.9 of this Section. The withdrawal of access in such circumstances is generated by an automatic abuse detection process. Upon activation of the process, e-mails including details of the actual download rate detected will be sent to Licensor's administrator, following which Licensor may contact Licensee's administrator to request an investigation. Licensor shall only restore access once the issue has been resolved to its satisfaction.

5 LICENSEE'S RESPONSIBILITIES

- 5.1 Licensee shall provide Licensor on request with all identifying information, including IP address ranges, relating to Licensee and its Secure Network necessary to enable Licensor to set up and activate Online Access. Online Access is conditional upon Licensee supplying this information to Licensor, and to Licensee promptly notifying Licensor of any changes to this information.
- 5.2 Licensee warrants and represents that the range of IP addresses provided further to clause 5.1 of this Section are only assigned to devices within its Secure Network.
- 5.3 Licensee shall:
- 5.3.1 ensure Online Access is only granted to Authorised Users via the Secure Network and that access granted to such users ceases on them ceasing to be an Authorised User;
 - 5.3.2 take all reasonable measures to monitor the use of the Products and shall make Authorised Users aware of the Terms of Use;
 - 5.3.3 ensure that all Authorised Users treat all logins, passwords or other Authorised User identification required for Online Access as confidential and do not disclose them to any other person;
 - 5.3.4 ensure that all Authorised Users only use the Products in compliance with the terms of this Agreement; and
 - 5.3.5 promptly notify Licensor on becoming aware of any unauthorised possession or use or other breach of this Agreement and take appropriate action (including disciplinary action) to ensure that such activity ceases and to prevent any recurrence.
- 5.4 Licensee is responsible for obtaining at its own cost all internet connections, equipment and software necessary to access the Products via the Secure Network. Furthermore, whilst Licensor will use commercially reasonable endeavours to guard against viruses, it does not guarantee or warrant that any Products or Online Access will be free from infections, viruses and/or other code that has contaminating or destructive properties and Licensee is responsible for implementing sufficient procedures and virus checks to satisfy its requirements for the security of data input and output.

6 LICENSOR'S RESPONSIBILITIES

- 6.1 Following activation of Licensee's account Licensor shall, subject to payment of the Fees, use commercially reasonable endeavours to:
- 6.1.1 provide Licensee with Online Access; and
 - 6.1.2 ensure that the Server has sufficient capacity and rate of connectivity to provide Licensee with a level of service which is commensurate with the current standards in the online information industry sector.
- 6.2 Licensor may temporarily suspend Licensee's Online Access for the purposes of maintenance or upgrades but shall use its commercially reasonable endeavours to notify Licensee of such activities and to minimise the period of suspension or interruption.
- 6.3 In relation to any Product made available via Online Access, Licensor reserves the right at any time on notice to Licensee to:
- 6.3.1 make changes or corrections and to alter, update or upgrade any aspect of the Product;
 - 6.3.2 vary the technical specification of the Product or of any software included therein; and
 - 6.3.3 withdraw the Product (or any part of a Product) where it has decided to cease publication of that Product.
- 6.4 Where Licensor withdraws a Product or a part of a Product in accordance with clause 6.3.3 of this Section, if Licensee purchased the withdrawn Product on a perpetual access basis, a copy of the withdrawn Product shall be provided to Licensee in pdf format (or such other electronic format as Licensor in its sole discretion determines), otherwise Licensor may in its sole discretion either offer broadly equivalent replacement materials or a credit in respect of the unexpired portion of the Subscription Fees in relation to the withdrawn Product (or part of a Product). The provision of a pdf copy, replacement or credit (as applicable) shall discharge Licensor's liabilities to Licensee in respect of the withdrawn Product (or part of a Product).
- 6.5 For such period as Licensee is entitled to Online Access, Licensor agrees to provide Licensee with access to usage data and, where available, usage reports detailing the level of use of any Subscription Products by Licensee's Authorised Users per month. Any reports made available shall be COUNTER compliant (or compliant with an equivalent industry standard), and such reports and data will not identify individual Authorised User usage, but will be provided in respect of the IP address ranges given by Licensee further to clause 5.1 of this Section. Licensor will not be able to provide accurate usage data and/or reports if Licensee stores any of the Subscription Products on any cache or proxy server, which is discouraged in any event due to the dynamic nature of the Subscription Products.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 Products, usage data and usage reports are protected by international copyright laws, database rights and other intellectual property rights. Licensor, its affiliates and licensors are the owners of these rights, and this Agreement does not transfer any right, title or interest in the Products to Licensee.
- 7.2 Licensor warrants that use of the Products in accordance with these terms does not infringe the intellectual property rights of any third party.

8 LIMITATION OF LIABILITY

- 8.1 Whilst Licensor shall use commercially reasonable endeavours to provide Online Access, it cannot guarantee that Online Access will operate continually or without interruption, and neither does Licensor guarantee the accuracy of any information and/or content contained in the Products, which are provided on a strictly 'as is' basis. Licensor has no liability for any loss or damage whatsoever sustained by Licensee or any Authorised User as a result of the availability or use of or reliance on the content in the Products.
- 8.2 Save as expressly provided otherwise in this Agreement, Licensor, to the fullest extent permitted by law, excludes all express or implied terms, conditions, warranties and/or representations with regard to the Products including, without limitation, any warranties relating to quality or fitness for purpose.
- 8.3 Licensor shall not be liable for any indirect or consequential loss or damage or for any loss of or corruption of data, loss of programs, profit, anticipated savings, revenue or goodwill (whether direct or indirect) arising out of or in connection with the access, availability, use of or reliance on the Products.
- 8.4 Licensee agrees that the entire liability of Licensor to Licensee and any Authorised User for any claim (whether in contract, tort, misrepresentation, breach of statutory duty or otherwise) arising out of or in connection with the access, availability, use of, or reliance on a Product shall be limited to the Fees paid for that Product in the year in which the liability arose in relation to that Product.
- 8.5 Nothing in this Agreement shall limit or exclude Licensor's liability for death or personal injury resulting from Licensor's negligence or its fraudulent misrepresentation or any other liability which cannot be limited or excluded under applicable law.

9 FEES

- 9.1 The Fees are net of all applicable taxes, including without limitation VAT or other applicable sales taxes, which shall be charged in accordance with the relevant regulations in force at the time of making the taxable supply, and such amounts shall be payable by Licensee in addition to the Fees on receipt of a valid tax invoice.
- 9.2 Licensee shall pay the Fees in full without deduction or withholding in respect of any tax unless required by law. If any such deduction or withholding is required, Licensee shall, when making the payment to which the withholding or deduction relates, pay to Licensor such additional amount as will ensure that Licensor receives the same total amount that it would have received if no such withholding or deduction had been required.
- 9.3 Licensee shall pay the Fees within 30 days of the date of invoice unless different payment provisions are set out in the invoice. Without prejudice to any other right or remedy that Licensor may have, where Licensee fails to pay the Fees and any VAT or other applicable sales tax on the due date, Licensor shall be entitled to:
- 9.3.1 charge interest at a rate of 4% per annum above the base lending rate of Barclays Bank plc, accruing on a daily basis until the date of actual payment; and
- 9.3.2 delay the activation of or suspend access to the Products previously granted until full payment is made of any Fees, and Licensee agrees that the Subscription Period shall not be extended by any period of delay or suspension resulting from late payment.

10 TERM AND TERMINATION

- 10.1 The Subscription Period may be renewed by mutual consent for additional periods upon payment of the agreed Subscription Fees.
- 10.2 Either party may terminate this Agreement (and Licensor may terminate this Agreement in part) immediately by serving written notice on the other in the event that the other party commits a material breach of this Agreement, and in the case of a breach capable of remedy fails to remedy the same within 30 days of a written request to do so. Licensee or an Authorised User's breach of clauses 4 or 5 of this Section shall be deemed a material breach.
- 10.3 Upon termination of this Agreement by the Licensor under clause 10.2 of this Section:
- 10.3.1 Licensee's and Authorised Users' rights to access and use the Products shall immediately terminate and Online Access shall cease;
- 10.3.2 Licensee shall immediately cease using any passwords or other Authorised User identification to access the Products;
- 10.3.3 Licensee shall ensure that all Authorised Users shall do likewise; and
- 10.3.4 Licensor shall not be required to refund any Fees. Any copies of Product information and/ or content shall be deleted from Licensee's records and storage media.
- 10.4 On termination of this Agreement by the Licensee under clause 10.2 of this Section, Online Access to the Products shall continue for the applicable Subscription Period or on a perpetual access basis, as appropriate, unless Licensor is unable to provide such access, in which case the relevant provisions in clause 2.1 of this Section shall apply.

11 DATA PROTECTION

- 11.1 Licensor shall be entitled to:
- 11.1.1 hold and process the Licensee's personal data as defined in applicable privacy and data protection legislation;
- 11.1.2 make such information available to: (i) business partners, sub-contractors and/or suppliers who provide products or services to Licensor; (ii) our branches; either of whom may be outside of the European Economic Area;
- 11.1.3 for legal and administrative purposes and in order to fulfil its obligations under this Agreement. This clause shall survive termination of this Agreement.

12 ANTI-BRIBERY AND CORRUPTION

- 12.1 Licensee understands that Licensor acts in accordance with the UK Bribery Act 2010, Criminal Finances Act 2017 and other applicable anti-bribery and tax evasion laws in the jurisdictions in which it operates. The Licensee (and its related officers and employees) warrants that it shall not engage in any activity, practice or conduct in relation to its performance under this Agreement which would constitute an offence under any applicable law

or regulation relating to anti-bribery, corruption or tax evasion. The Licensee agrees to promptly notify Licensor of any suspected or known breach of this clause.

13 CONFIDENTIALITY

13.1 In the course of negotiating the terms of this Agreement, Licensor shall from time to time disclose to Licensee information that is proprietary or confidential to Licensor. Licensee agrees not to disclose information it receives in pre-contractual negotiations in a way that could be prejudicial to Licensor, except as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. This clause shall survive the termination of this Agreement.

14 GENERAL

14.1 Licensee may not assign, transfer or sub-license its rights or obligations under this Agreement.

14.2 In no circumstances shall Licensor be liable to Licensee or any Authorised User for any delay or failure to perform its obligations due to an event beyond its reasonable control, including but not limited to loss or failure of third party controlled IT equipment and internet connections.

14.3 This Agreement constitutes the entire agreement between the parties and supersedes any previous agreement between the parties relating to its subject-matter. Each party acknowledges and agrees that, in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) other than as expressly set out in this Agreement.

14.4 This Agreement may not be amended, varied or supplemented except in writing signed by duly authorised representatives of both parties.

14.5 If any provision of this Agreement (or any part of any provision) is found by a court to be unenforceable that provision or part provision shall, to the extent required, be deemed not to form part of this Agreement and the validity and enforceability of the other provisions of this Agreement shall not be affected.

14.6 No provision of this Agreement is intended to be enforceable by a person who is not a party to this Agreement.

14.7 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next business day delivery service at its registered office (if a company) or its principal place of business (in any other case) or sent by e-mail, if to Cambridge at generalcounsel@cambridge.org, and if to the Licensee, at the e-mail address in Section I. Any notice shall be deemed to have been duly received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next business day delivery service, at 9.00 am on the second business day after posting or at the time recorded by the delivery service; if sent by e-mail, at 9.00 am on the next business day after transmission. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.8 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other further breach.

14.9 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.

14.10 This Agreement is drafted in the English language. If this Agreement is translated into any other language in the event of conflict the English language version shall prevail.

14.11 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is subject to English Law. The parties submit to the non-exclusive jurisdiction of the English courts to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

SECTION III SPECIAL TERMS AND CONDITIONS**1 ORDER OF PRECEDENCE**

- 1.1 The provisions of this Section are agreed in addition to the Licensor's standard terms and conditions. In the event of any conflict between this Section and any other Section in the Agreement, the terms of this Section take precedence.

2 EVIDENCE BASED ACQUISITION

- 2.1 Evidence Based Acquisition ("**EBA**"): means the selection of titles for purchase from a package of Subscription Products, based on usage statistics. At the end of the Access Period, Licensee will select titles to own on a perpetual access basis.

2.2 Licensee will:

- 2.2.1 Pay EBA Purchase Fee (as a non-refundable deposit) within 30 days of receiving Licensor's invoice.
2.2.2 Send Licensor EBA title selection within 1 month of the end of the EBA period, ensuring the list is equal to the value of the EBA Purchase Fee.

2.3 Licensor will:

- 2.3.1 Provide Licensee with Online Access to a package of Subscription Products (newly published eBooks will be added on an ongoing basis);
2.3.2 Provide Licensee with **quarterly** usage statistics for the Subscription Products and monthly updates to the metadata for the Subscription Products.