

Introduction

This Licence records the terms on which CLA, as agent for NLA ('Licensor'), grants a licence to Schools in the United Kingdom to reproduce articles from NLA Titles and NLA Publisher Websites.

Terms and Conditions

1. DEFINITIONS USED IN THESE TERMS

In this Licence, the following meanings apply:

"Accessible Format Copies"

Has the meaning given to it under clause 7.2 of the Licence;

"Authorised Persons"

(i) in respect of Paper Copies: all students (and, in the case of students aged 16 and under, their parents), teaching and other staff (whether temporary or permanent), and governors of the School;

(ii) in respect of Digital Copies: all those individuals mentioned in (i) above who are permitted by the School to have access to the Secure Network;

"Certificate"

the certificate issued by the Licensor to confirm issue of the Licence to the School;

"CLA"

The Copyright Licensing Agency Limited;

"Commencement Date"

the date noted on the first Certificate;

"Course of Study"

any whole course of study or any module or segment of a student's studies which is normally regarded by the School as a discrete and self-contained unit;

"Digital Copies"

either electronic copies of Material Licensed for Scanning, in whole or part, or copies made in the course of, or as a result of, the access or use by Authorised Persons of Digital Material and which, in both cases, are direct unaltered copies of the work copied or copies retyped verbatim and are made in accordance with the terms of the Licence;

"Digital Material"

text and associated still images from NLA Publisher Websites excluding those marked ND. For the avoidance of doubt, material other than text and associated still images is not included in the Licence nor is any material which is only referred to, or can only be accessed by following an external link, in an NLA Publisher Website where that material is not itself actually included in the NLA Publisher Website;

"FTE Student Total"

the total number of full time equivalent students (to include all full time and part time students) of the School as notified to Licensor either by the representative data source as posted on CLA's website (www.cla.co.uk) such as but not limited to the Department for Education or, if no representative body exists which provides this information, by the School itself calculated in agreement with Licensor;

"Licence"

the licence granted by clause 2;

The Copyright Licensing Agency Ltd

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4 Battle Bidge Lane
London SE1 2HX

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Email cla@cla.co.uk
www.cla.co.uk

CLA Scotland
Tel 0131 272 2711
Email clascotland@cla.co.uk

Registered in England
Reg no. 1690026

"Licence Fee"

the appropriate tariff based on the FTE Student Total as shown on the NLA Price List as applicable to Schools. Licensor reserves the right to vary or increase the fee annually by the CPI.

"Licence Year"

unless advised to the contrary, 1 April in any one year to 31 March in the succeeding year;

"Licensed Copies"

Paper Copies or Digital Copies as appropriate;

"Licensed Material"

any and all Material Licensed for Photocopying, Material Licensed for Scanning and Digital Material;

"Licensor"

NLA acting through its agent CLA;

"Material Licensed for Photocopying"

articles from newspapers, other NLA represented titles and publisher websites included in the list of NLA Titles and NLA Publisher Websites;

"Material Licensed for Scanning"

articles from newspapers, other NLA represented titles and publisher websites included in the list of NLA Titles and NLA Publisher Websites excluding those marked 'ND';

"NLA"

NLA Media Access Limited;

"NLA Titles"

a hard copy newspaper or other NLA represented title included in NLA licences from time to time details of which can be found at www.nlamediaaccess.com;

"NLA Publisher Websites"

the newspaper or other NLA represented title websites included in NLA licences from time to time details of which can be found at www.nlamediaaccess.com;

"NLA Price List"

the list(s) of the NLA's prices from time to time applicable to this School's Licence, details of which can be found at www.nlamediaaccess.com. NLA reserves the right to amend the NLA Price List once in every Licence Year;

"Paper Copies"

photocopies onto paper from original Material Licensed for Photocopying (and copies made therefrom), paper printouts of Digital Copies and photocopies thereof but, in all cases, excluding any copy in electronic form;

"Prescribed Rate"

the rate of interest prescribed from time to time pursuant to the Late Payment of Commercial Debts (Interest) Act 1998;

"Print Disabled Person"

any person who is visually impaired or otherwise disabled and by reason of such visual impairment or disability is unable to read or access a Licensed Copy made under the provisions of this Licence, who would be regarded as a "visually impaired person" in accordance with s.31F (9) of the Copyright, Designs and Patents Act 1988, or, as appropriate, as a disabled person in accordance with s.6 of the Equality Act 2010;

"Rightsholder"

any person owning or controlling the relevant rights comprising all or part of the copyright in any Licensed Material;

"School"

a full time UK educational establishment with a normal admission age of under 16 years on whose behalf the Licence Fee has been paid, including academies and free schools, pupil referral centres, resource centres and other educational institutions with the exception of language schools, further and higher education establishments;

"Secure Network"

a network (whether a standalone network or a virtual network within the Internet) which is only accessible to those Authorised Persons who are approved by the School for access to the Secure Network, whose identity is authenticated at the time of login (and periodically thereafter) in a manner consistent with current best practice, and whose conduct is subject to regulation by the School;

All references in this Licence to the singular may include the plural and vice versa as the context so requires and references to any gender shall include both genders.

2. GRANT OF LICENCE

Licensor hereby grants on the terms and conditions herein and for educational and teaching purposes only the non-exclusive right to the School, and, as appropriate, Authorised Persons to:

- 2.1 make, or permit the making of, Paper Copies.
- 2.2 distribute, or permit the distribution of, Paper Copies to Authorised Persons.
- 2.3 create Digital Copies by retyping extracts of Licensed Material onto a computer.
- 2.4 make available, or permit the making available of, Digital Copies to Authorised Persons, in both cases solely within the Secure Network.
- 2.5 make copies, or permit the making and distribution of, Accessible Format Copies in accordance with clause 7.
- 2.6 For the avoidance of doubt, students accessing the Secure Network remotely within the United Kingdom for the purposes of their studies may open and view a Digital Copy and print out a single paper copy therefrom, but students aged sixteen and under may only make Digital Copies under the Licence under the direction of a member of the teaching staff as part of formal teaching or school activities. Students outside the United Kingdom may receive Licensed Copies but nothing herein shall be deemed to authorise any further copying and each overseas student shall be responsible for complying with all local laws.

3. DURATION

The Licence shall come into effect on the Commencement Date and shall continue until terminated in accordance with clause 11.

4. PAYMENT

The Licence Fee, together with VAT thereon, is payable within 30 days from the date of an invoice from Licensor. Licensor reserves the right to charge interest at the Prescribed Rate on any payment after such date.

5. CONDITIONS APPLYING TO THE CREATION AND USE OF LICENSED COPIES

- 5.1 The number of Paper Copies of any one item of Licensed Material taken at any one time shall not exceed the number needed to ensure that there is one Paper Copy for each member of the teaching staff and each student in the class, lesson or course of study within the academic year for which the Paper Copies are intended. Where the Paper Copies are intended for a meeting of Authorised Persons, the number of Licensed Copies shall not exceed the numbers attending that meeting.
- 5.2 The School shall ensure that Licensed Copies do not exceed either singly or in aggregate the greater of five (5) per cent of any newspaper or one article.
- 5.3 No systematic or repeated copying of the same Licensed Material or part thereof for any one class, lesson or course of study within an academic year beyond the limits set out in Clause 5.2 above is permitted.



- 5.4 The Licence does not extend to the making of Licensed Copies outside of the United Kingdom.
- 5.5 With the exception of any part of NLA Publisher Websites that are 'free-to-view', or the NLA's Newspapers for Schools – News Library Service the School must own or have subscribed, to, an original or a copy on which it has paid a copyright fee (which shall include material supplied in either hardcopy or electronic form by a supplier licensed by Licensor to provide such a service such as, but without limitation, press cuttings suppliers) of any Licensed Material it copies, scans or uses under the terms of this Licence).

The making of Licensed Copies shall not directly or indirectly substitute for the purchase of original Licensed Material or for the commissioning, reproduction, hire or any other use of an original artistic work within Licensed Material.

- 5.6 Paper Copies made in each Licence Year may be stored and used throughout the Licence Year and for the remainder of any academic year beginning within the Licence Year, thereafter, all Paper Copies must then be destroyed unless the copies are in a satisfactory condition. Any copies retained for a subsequent academic year must be re-reported in any data collection exercise.

6. FURTHER CONDITIONS APPLYING TO THE CREATION AND USE OF DIGITAL COPIES

- 6.1 Except as may be permitted by this clause, by clause 7 or by statute, the School shall not edit, amend, manipulate, add to or delete from Digital Copies nor shall it authorise the same, and no digital manipulation, morphing, colour or shade adjustment or otherwise may be made of Digital Copies or Digital Material under the Licence.
- 6.2 Digital Copies may not be placed on the publicly accessible internet or be linked either directly or indirectly by hypertext links (or the like) to or from any external or third party website. Digital Copies may not be stored in open resources (such as, but not limited to electronic reserves, digital libraries or institutional repositories) to the extent that they are accessible to members of the public who are not Authorised Persons.
- 6.3 Except as permitted by the Licence, no other copying, dissemination, publication, communication or making available to the public, repackaging or distribution, in any form of Digital Copies, in whole or in part, is permitted.
- 6.4 Where any work (including an artistic work) appearing within Material Licensed for Scanning or Digital Material incorporates, or has adjacent to it, the identity of the author or creator of the work, no Digital Copy of that work shall be made unless the Digital Copy incorporates the identity of such author or creator.
- 6.5 Without prejudice to its obligations set out in Clause 6.4, the School shall use reasonable endeavours to include, where practicable, in a prominent place in all Digital Copies (or have displayed before viewing) a copyright notice containing at least the identity of the author or creator of the literary or artistic work and the title of the work from which it is made; where material to be scanned, copied, accessed or used already contains a copyright notice placed by a Rightsholder on a document, the School shall not be required to add a further notice to the document.
- 6.6 The School will delete from the hard drives of all its central and local servers any and all Digital Copies which may be stored there upon notice from Licensor that the copyright holder believes that the Licensed Material contained in the Digital Copies infringes copyright or is or may be defamatory, obscene or otherwise unlawful.
- 6.7 Where extracts of Licensed Material are retyped onto a computer pursuant to clause 2.4, the School shall ensure that the retyped extract is a verbatim copy of the Licensed Material and includes the identity of the author and title of the work from which it is extracted.
- 6.8 Notwithstanding anything to the contrary, extracts of Licensed Material and other material generated by teaching staff or students may be combined, parts may be blanked out, relevant parts may be selected, or adapted as a pedagogic exercise only, provided that photographs and illustrations are not being used separately from the original article in which they appeared; and provided in all instances the identity of the author and the title of the original source (and where relevant the fact of adaptation) are clearly identified and the moral rights of the author are observed.

- 6.9 Digital Copies may not be stored on a server, or systematically indexed, with the intention of creating an electronic library or similar educational information resource of extracts of Licensed Material except that:
- 6.9.1 Digital Copies may be stored where necessary for technical or back-up purposes or where the retention of such Digital Copies may be required by law;
 - 6.9.2 Digital Copies may be stored on a server and/or systematically indexed solely for the purposes of, and for the duration of, the class, lesson or course of study for which the Digital Copy was made and intended to be used and shall, in any event, be deleted at the end of the academic year in which the Digital Copy was made;
 - 6.9.3 Notwithstanding clause 6.9.2, if a Digital Copy is required for the subsequent academic year, it may be retained provided it continues to be reported in any data collection exercise. If not required for the subsequent academic year, but likely to be required subsequently, it may be retained provided it is not made available other than to the staff responsible for the management of digital learning resources or similar and if used again must be reported in any data collection exercise.
- 6.10 The School may subcontract the making of Digital Copies to third parties, provided that:
- 6.10.1 the School takes all reasonable steps to ensure that any such third party operates appropriate management and security procedures so as to ensure compliance with the terms of this Licence;
 - 6.10.2 a record is kept of all such subcontracts, and the Digital Copies made thereunder, and that such record is provided on request to the Licensor;
 - 6.10.3 all such subcontracts require the sub-contractor to comply, as appropriate, with the conditions of the Licence relating to Digital Copies and which, in particular, prohibit the sub-contractor from retaining any Digital Copy (or any intermediate copy involved in the production of the same) and shall include a clause conferring on NLA the right to take action directly against any such sub-contractor pursuant to the Contracts (Right of Third Parties) Act 1999; and
 - 6.10.4 the use of a sub-contractor located outside of the United Kingdom shall be deemed not to be a breach of clause 2.6 or 5.4, provided the use of Digital Copies is in the UK only, or in the case of the overseas students referred to in clause 2.6, they are registered with an Educational Establishment in the UK. For the avoidance of doubt, while copies can be made by suppliers or printers overseas, permission to share the copies is restricted to Schools and Authorised Users sharing such copies with students registered to UK institutions.

7. PRINT DISABLED PERSONS

- 7.1 The provisions of this clause shall only apply where an Authorised Person is a Print Disabled Person in accordance with clause 7.3.
- 7.2 Notwithstanding the provisions of clause 5.2 the Licensee, and as appropriate, Authorised Persons may make and supply a copy of part or the whole of any work within Licensed Material in an alternative manner or form that gives a Print Disabled Person access to the work, including allowing for the Print Disabled Person to have access as feasibly and comfortably as a person without a visual impairment or any of the disabilities referred to in clause 8.3 (an "Accessible Format Copy"), but a Print Disabled Person must respect the integrity of the work and not include any changes to the work which are not necessary in order to make an Accessible Format Copy for the exclusive use of the Print Disabled Person for whom it is intended on, and subject to, the following conditions:
- 7.2.1 the Licensee must have lawful access to an original copy of any work from which it makes an Accessible Format Copy;

- 7.2.2 each Accessible Format Copy that exceeds the limits set out in clause 5.2 shall contain:
- a) a statement that it is a copy of the original work made under a CLA Licence for the personal use of a Print Disabled Person and that it may not be further copied (including any electronic copying or transmission) or dealt with without permission or save as may be permitted by law; and
 - b) the title, as well as the name of the author and publisher, of the original work and the published edition from which it is copied.
- 7.2.3 the Licensee may only charge for the supply of an Accessible Format Copy an amount which does not exceed the cost of making and supplying it;
- 7.2.4 that the Accessible Format Copy is only for the personal use of a Print Disabled Person (or a person acting on behalf of a Print Disabled Person) who is an Authorised Person; and
- 7.2.5 Accessible Format Copies may only be distributed in the United Kingdom except that Accessible Copies of works published within the United Kingdom may be distributed in the European Union or any third country that is a party to the Marrakesh Treaty 2013.
- 7.3 An Authorised Person is to be regarded as a "Print Disabled Person" for the purposes of this clause if he or she is a person who:
- 7.3.1 is blind;
 - 7.3.2 has a visual impairment which cannot be improved so as to give that person visual function substantially equivalent to that of a person who has no such impairment;
 - 7.3.3 has a perceptual or reading disability, including dyslexia, and is, as a result, unable to read printed works to substantially the same degree as a person without an impairment or disability;
 - 7.3.4 is otherwise unable, due to physical disability, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading; or
 - 7.3.5 would otherwise be regarded as having a disability in accordance with s.6 of the Equality Act 2010.
- 7.4 This clause is without prejudice to and does not purport to prevent or restrict the doing of any act which by virtue of and in accordance with the Copyright, Designs and Patents Act 1988 ("the Act") would not infringe copyright including where the Licensee is an authorised body under the Act, i.e. is an educational establishment or a body that is not conducted for profit, which may make, communicate, make available or lend accessible copies (and make intermediate copies in order to do so) subject to and in accordance with the relevant terms of the Act.

8. NOTIFICATION TO SCHOOL'S STAFF

- 8.1 The School shall ensure that all its staff (and particularly those with responsibility for reprographic and scanning equipment) are made aware of the terms and conditions of the Licence, including the exclusion of certain works and categories of work, and shall take all reasonable action to ensure that all Authorised Persons comply with such terms and conditions. In particular, the School shall ensure where reasonably practicable that copies of any user guidelines, and other relevant support materials as supplied by Licensor or made available on the NLA's or the CLA's website are displayed next to all fixed-location photocopying and/or scanning machines, and next to any and all other reprographic equipment, and are drawn to the attention of all Authorised Persons.
- 8.2 The School shall appoint an Authorised Person as a Licence Co-ordinator to liaise with the Licensor in connection with the administration and implementation of the Licence.

9. DATA COLLECTION

- 9.1 CLA in its capacity as agent for NLA may, no more than once in each year, require the School to participate in a data collection exercise to identify the type of photocopying and scanning of Licensed Material and the use or re-use of Digital Material under the Licence which will assist CLA in distributing the Licence Fee to authors, artists and publishers.
- 9.2 The data collection exercise may, without limitation, take the form of a survey or a record keeping or online reporting exercise or any combination of these, including the recording of the creation of Digital Copies, in accordance with any guidelines on data collection on CLA's website.
- 9.3 If selected by CLA to participate in a data collection exercise, the School shall co-operate with CLA in conducting the data collection exercise and undertakes to ensure that its staff comply with its obligations under this clause.
- 9.4 CLA undertakes not to disclose any information obtained as a result of any data collection except:
 - 9.4.1 as required by a court or other authority of competent jurisdiction;
 - 9.4.2 in aggregated form from which the identity of the School cannot directly be identified; or
 - 9.4.3 to NLA.
- 9.5 Any survey or record-keeping exercise must include all Accessible Format Copies.

10. INDEMNITY

- 10.1 In this clause "Qualifying Claim" shall mean any complaint made in writing that the School acting in pursuance of this Licence has infringed copyright and/or database right in Licensed Material or in the typographical arrangement of the published edition in which Licensed Material is contained.
- 10.2 In the case of any Qualifying Claim Licensor will indemnify the School in respect of all reasonable legal costs, expenses and damages awarded against or incurred by the School (including any ex-gratia payments made with the prior written consent of Licensor), provided the School has complied with the terms of this Licence and has given Licensor notice of any Qualifying Claim within ten (10) working days or, in the case of a claim form, within five (5) working days of the same having been received by the School.
- 10.3 The indemnity conferred by this clause shall not apply:
 - 10.3.1 if the School is in material breach of any term of the Licence; or
 - 10.3.2 during any period, or in respect of matters arising during such period, which the Licence is suspended pursuant to clause 11.
- 10.4 Licensor will take over responsibility for any negotiations for the settlement of any Qualifying Claim and if such Qualifying Claim cannot be resolved by negotiation Licensor shall assume full responsibility for the conduct of the defence of such Qualifying Claim. The School shall co-operate with Licensor in this respect where reasonably requested by Licensor to do so.
- 10.5 The School shall ensure that no admission, or offer of payment or indemnity shall be made or given by or on its behalf or on behalf of Licensor without Licensor's written consent and shall ensure that all correspondence received in connection with a Qualifying Claim is promptly passed to Licensor.

11. BREACH AND TERMINATION

- 11.1 Either Licensor or the School may terminate the Licence upon giving at least 30 days written notice served so as to expire at the end of each Licence Year.
- 11.2 Should the School commit any material breach of any of the terms and conditions of this Licence, such breach to include non-payment of the Licence Fee or on behalf of the School, and remain in such breach 14 days after receiving notice to remedy the same (where the breach is remediable) then Licensor, without prejudice to any of its other rights, may by notice either terminate or suspend the terms of the Licence until Licensor shall be satisfied such breaches will not recur.

- 11.3 Upon termination of the Licence, for whatever reason, the School shall immediately delete all Paper Copies, and from the hard drives of all its central and local servers any and all Digital Copies which may be stored there (save from those Digital Copies the retention of which is required by law), and upon written request from CLA the School shall certify that it has done so.

12. GENERAL

- 12.1 All notices given under the Licence shall, unless otherwise specified, be in writing and be sent by first class post, to the address shown on the Certificate, and in the case of Licensor to: The Copyright Licensing Agency, Shackleton House, 4 Battle Bridge Lane, London SE1 2HX (or any address notified to the School by Licensor), or by email to: education.customers@cla.co.uk, and shall be deemed to have been served on the second working day (which shall exclude weekends and English public holidays) following the date of posting in the case of notices by post and the next working day following the date of sending an email..
- 12.2 The Licence may only be varied if such variance is acknowledged and agreed in writing on behalf of Licensor and the School.
- 12.3 The Licence is personal to the School and may not be assigned or otherwise disposed of in whole or in part.
- 12.4 The Licence shall be governed by English law and the parties agree to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising in relation to the Licence.
- 12.5 The parties do not intend that any term of the Licence shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Licence.
- 12.6 Licensor shall have the right on giving reasonable notice to the School to enter the School's premises to review the implementation of the Licence by the School and their compliance with its terms and to inspect the procedures being used by it.