Site License for ‘Woodhead Publishing Online’ (WPO), Woodhead Publishing Limited’s Online Publishing Platform

This Site License is to be signed by members of the CAUL Electronic Information Resources Consortium.

THIS LICENSE IS AGREED on the ___________ day of _________________ (month) ____________(year)

BETWEEN

1 WOODHEAD PUBLISHING LIMITED, 80 High Street, Sawston, Cambridge, CB22 3HJ, United Kingdom ("the Publisher")

and

2 [FULL CONTRACTUAL NAME] of [full address] ("the Licensee"):

WHEREAS the Publisher holds the rights granted under this License

AND WHEREAS the Licensee desires to use the rights and the Publisher desires to grant to the Licensee the license to use the rights for the Fee, subject to the terms and conditions of this License.

IT IS AGREED AS FOLLOWS: -

1. KEY DEFINITIONS

1.1 In this License, the following terms shall have the following meanings: -

Agents provide purchasing services to the Licensee acting as the Licensee’s agent and not as a reseller. These services are provided by the Agent (or other intermediary) to purchase Licensed Materials from the Publisher.

Authorized Users current members of the faculty and other staff employed by the Licensee (whether on a permanent, temporary, contract or visiting basis) and individuals who are currently studying or working for the Licensee, who are permitted to access the Licensee’s Secure Network from within the Premises or from such other places where Authorized Users work or study (including but not limited to Authorized Users’ offices and homes, halls of residence and student dormitories) and who have been issued by the Licensee with a password or other authentication together with other persons who are permitted to access the Licensee’s Secure Network but only from computer terminals within the Premises.
Commercial Use
Use for the purposes of monetary reward (whether by or for the Licensee or an Authorized User) by means of sale, resale, public display, communication to the public, reproduction, public performance, distribution, loan, transfer, hire or other form of exploitation of the Licensed Materials. Neither recovery of direct costs by the Licensee from within the Licensee’s organisation, nor use by the Licensee or by an Authorized User of the Licensed Materials in the course of research funded by a commercial organization, is deemed to be Commercial Use.

Course Packs
A collection or compilation of printed materials (e.g. book chapters, journal articles) assembled by members of staff of the Licensee for use by students in a class for the purposes of instruction.

Electronic Reserve
Electronic copies of materials (e.g. book chapters, journal articles) made and stored on the Secure Network by the Licensee for use by students in connection with specific courses of instruction offered to its students.

Fee
The Fee set out in Schedule 1 or in new Schedules to this License which may be agreed by the parties from time to time.

Learning Object
a self-contained unit of learning, education or training comprising information content, learning activities and metadata designed to achieve a stand-alone learning objective.

Licensed Materials
the electronic material as set out in Schedule 1 or in new Schedules to this License that may be agreed by the parties from time to time including such ancillary materials that are owned or controlled by the Publisher and produced specifically to complement, supplement and support the said electronic material or any part of the same including podcasts, data sets, blogs, images, music, games, tests and quizzes.

Premises
The physical premises of the library, libraries or other location operated by the Licensee, including Domain name(s) and IP addresses/ranges, as set out in Schedule 2.

Secure Network
A network (whether a standalone network or a virtual network within the Internet) which is only accessible to Authorized Users whose identity is authenticated at the time of log-in and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Licensee.

Server
The server, either the Publisher’s server or a third party server designated by the Publisher, on which the Licensed Materials are mounted and may be accessed.
Site(s)  In Australia or New Zealand, a site is one under a single administration. An institution that has multiple locations that are administered centrally is considered a single site. Remote access is permissible where authorised users are authenticated by the institution’s or the library’s proxy servers. Access at an institutions’ overseas campuses would be negotiated on a case-by-case basis.

Text Mining  a machine process by which information may be derived by identifying patterns and trends within natural language through text categorisation, statistical pattern recognition, concept or sentiment extraction, and the association of natural language with indexing terms.

Term  The period between the commencement and termination of this agreement.

Virtual Learning Environment  A software system designed to manage and support teaching and learning in education, including systems variously referred to as Course Management Systems, Learning Management Systems, Learning Support Systems, Managed Learning Environments, and similar names.

2. AGREEMENT/LICENSE

The Publisher agrees to grant to the Licensee the non-exclusive and non-transferable right, throughout the world, to give Authorized Users access to the Licensed Materials set out in Schedule 1 via a Secure Network on a Multi-site only for the purposes of research, teaching and private study (such access to be from the Licensee’s site (or remotely) and only using the Domain Names and IP addresses ranges set out in Schedule 2), subject to the terms and conditions of this License, and the payment by the Licensee of the Fee. This License shall commence at the date of this License……………………………… and shall remain in full force and effect without limit of time unless terminated under the provisions of clause 10 of this License.

3. USAGE RIGHTS

3.1 The Licensee, subject to clause 5 below, may:

3.1.1 Make such temporary local electronic copies by means of caching of all or part of the Licensed Materials as are necessary solely to ensure efficient use by Authorized Users and not to make available to Authorized Users duplicate copies of the Licensed Material.

3.1.2 Allow Authorized Users to have access to the Licensed Materials from the Server via the Secure Network.

3.1.3 Provide Authorized Users with integrated access and an integrated author, article title and keyword index to the Licensed Material and all other similar material licensed from other publishers.

3.1.4 Provide single printed or electronic copies of single chapters of book titles in the Licensed Materials at the request of individual Authorized Users.

3.1.5 Display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorized Users or groups of Authorized Users.

Licence date July 2012
3.2 Authorized Users may subject to clause 6 below:

3.2.1 Search, view, retrieve and display the Licensed Materials (in each case for on-screen viewing only).

3.2.2 Print a copy or download and save individual chapters or items of the Licensed Materials for personal non-Commercial Use, in accordance with the terms of this License.

3.2.3 Use individual chapters or parts of the Licensed Materials within Learning Objects for the Licensee’s teaching, learning or training purposes.

3.2.4 Use Text Mining technologies to derive information from the Licensed Materials for their personal non-Commercial Use.

3.3 The Licensee’s library staff may supply to another library, upon request by that library, either a single paper copy (by post or fax) or an electronic copy of an individual document from the Licensed Electronic Products, for the purpose of research or private study. The electronic copy must be supplied by secure electronic transmission (like Ariel) and must be deleted by the recipient library immediately after printing a paper copy of the document for its user.

4. COURSE PACKS, ELECTRONIC RESERVE & VIRTUAL LEARNING ENVIRONMENTS

Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by Licensee and/or its parent institution.

5. PROHIBITED USES

5.1 Neither the Licensee nor Authorized Users may:

5.1.1 remove or alter the authors’ names or the Publisher’s copyright notices or other means of identification or disclaimers as they appear in the Licensed Materials;

5.1.2 systematically print or make electronic copies of multiple extracts or make multiple copies of any part of the Licensed Materials for any purpose other than expressly permitted by this License;

5.1.3 prepare derivative works or download, mount or distribute any part of the Licensed Material on any electronic system or network, including without limitation the Internet and the World Wide Web, other than the Secure Network;

5.1.4 reverse engineer, decompile, alter, abridge or otherwise modify the Licensed Materials or any part of them for any purpose whatsoever, except as expressly provided in this License.

5.2 The Publisher’s explicit written permission must be obtained in order to:

5.2.1 use all or any part of the Licensed Materials for any Commercial Use;
5.2.2 systematically distribute the whole or any part of the Licensed Materials to anyone other than Authorized Users;

5.2.3 publish, distribute or make available the Licensed Materials, works based on the Licensed Materials or works which combine them with any other material, other than as permitted in this License;

5.2.4 alter, abridge, adapt or modify the Licensed Materials, except to the extent necessary to make them perceptible on a computer screen or as otherwise expressly permitted in this License, to Authorized Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

6. PUBLISHER’S UNDERTAKINGS

6.1 The Publisher warrants to the Licensee that the Licensed Materials used as contemplated by this License do not infringe the copyright or any other proprietary or intellectual property rights of any person. The Publisher shall indemnify and hold the Licensee harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and professional fees) arising out of any legal action taken against the Licensee claiming actual or alleged infringement of such rights. This indemnity shall survive the termination of this License for any reason. This indemnity shall not apply if the Licensee has amended the Licensed Materials in any way not permitted by this License.

6.2 The Publisher shall:

6.2.1 make the Licensed Materials as set out in Schedule 1 available to the Licensee from the Server via the Internet access to which is authenticated by Internet Protocol Address, Athens, Shibboleth or other methods specified in Schedule 2. The Publisher will notify the Licensee at least sixty (60) days in advance of any major specification changes applicable to the Licensed Materials. The License will be subject to the prior validation by the Publisher of Internet Protocol (IP) Address or other information supplied by the Licensee in Schedule 2 to enable the Publisher to provide access to the Licensed Material by Authorized Users.

6.2.2 provide the Licensee, within 30 days of the date of this License, with information sufficient to enable the Licensee to access the Licensed Materials, subject to clause 6.3.

6.2.3 use reasonable endeavours to ensure that the Server has adequate capacity and bandwidth to support the usage of the Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this License.

6.2.4 use reasonable endeavours to make the Licensed Materials available to the Licensee and to Authorized Users at all times and on a twenty-four hour basis, save for routine maintenance (which shall be notified to the Licensee in advance wherever possible), and to restore access to the Licensed Materials as soon as possible in the event of an interruption or suspension of the service.

6.3 The Publisher reserves the right at any time to withdraw from the Licensed Materials any book title, item or part of an 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 otherwise objectionable. If such a case arises, the Publisher shall replace the withdrawn item by granting free of charge access to a suitable alternative work (book, item, part of an item). The Publisher shall give written notice to the Licensee of such withdrawal.
6.4 Collection and analysis of data on the usage of the Licensed Materials will assist both the Publisher and the Licensee to understand the impact of this License. The Publisher shall provide to the Licensee, or facilitate the collection by the Licensee, of usage data on the number of chapter titles, abstracts where available, and chapters viewed in full-text, by book title, for the Publisher’s and the Licensee’s private internal use only. Such usage data shall be compiled in a manner consistent with applicable privacy and data protection laws and as may be agreed between the parties from time to time, and the anonymity of individual users and the confidentiality of their searches shall be fully protected. In the case that the Publisher assigns its rights to another party under clause 11.3, the Licensee may at its discretion require the assignee either to keep such usage information confidential or to destroy it.

6.5 Except as expressly provided in this license, the publisher makes no representations or warranties of any kind, express or implied, including, but not limited to, warranties of quality, design, accuracy of the information contained in the licensed materials, merchantability or fitness of use for a particular purpose. The licensed materials are supplied ‘as is’.

6.6 Except as provided in clause 6.1, under no circumstances shall the publisher be liable to the licensee or any other person, including but not limited to authorised users, for any loss of revenue, goodwill, reputation, or profits, or special, exemplary, incidental or consequential damages of any character arising out of the inability to use, or the use of, the licensed materials. Irrespective of the cause or form of action, the publisher’s aggregate liability for any claims, losses, or damages arising out of any breach of this license shall in no circumstances exceed the total fee paid by licensee to the publisher under this license in respect of the licensed materials during which such claim, loss or damage occurred. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies. No reader or purchaser should act on the basis of material contained in the licensed materials without first taking professional advice appropriate to their particular circumstances. Regardless of the cause or form of action, the licensee may bring no action arising from this license more than six (6) months after the cause of action arises.

7. LICENSEE’S UNDERTAKINGS

7.1 The Licensee shall:

7.1.1 use all reasonable endeavours to ensure that all Authorized Users are aware of the importance of respecting the intellectual property rights in the Licensed Materials and of the terms and conditions of this License, and use all reasonable endeavours to notify Authorized Users of the terms and conditions of this License and take all reasonable steps to protect the Licensed Materials from unauthorized use or other breach of this License and to ensure compliance with the terms of this License by Authorised Users;

7.1.2 use all reasonable endeavours to monitor compliance and immediately upon becoming aware of any unauthorized use or other breach, inform the Publisher and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;

7.1.3 issue passwords or other access information only to Authorized Users and use all reasonable endeavours to ensure that Authorized Users do not divulge their passwords or other access information to any third party;
7.1.4 provide the Publisher with information sufficient to enable the Publisher to provide access to the Licensed Material in accordance with its obligation under clause 6.2.1. Should the Licensee make any significant change to such information, it will notify the Publisher not less than ten (10) days before the change takes effect.

7.1.5 keep full and up-to-date records of all Authorized Users and their access details, IP addresses, and provide the Publisher with details of such additions, deletions or other alterations to such records as are necessary to enable the Publisher to provide Authorized Users with access to the Licensed Materials as contemplated by this License.

7.2 THE LICENSEE AGREES TO INDEMNIFY, DEFEND AND HOLD THE PUBLISHER HARMLESS FROM AND AGAINST ANY LOSS, DAMAGE, COSTS, LIABILITY AND EXPENSES (INCLUDING REASONABLE LEGAL AND PROFESSIONAL FEES) ARISING OUT OF ANY CLAIM OR LEGAL ACTION TAKEN AGAINST THE PUBLISHER RELATED TO OR IN ANY WAY CONNECTED WITH ANY USE OF THE LICENSED MATERIALS BY THE LICENSEE OR AUTHORIZED USERS OR ANY FAILURE BY THE LICENSEE TO PERFORM ITS OBLIGATIONS IN RELATION TO THIS LICENSE, PROVIDED THAT NOTHING IN THIS LICENSE SHALL MAKE THE LICENSEE LIABLE FOR BREACH OF THE TERMS OF THE LICENSE BY ANY AUTHORIZED USER PROVIDED THAT THE LICENSEE DID NOT CAUSE, KNOWINGLY ASSIST OR CONDONE THE CONTINUATION OF SUCH BREACH TO CONTINUE AFTER BECOMING AWARE OF AN ACTUAL BREACH HAVING OCCURRED.

7.3 The Licensee shall, in consideration for the rights granted under this License, pay the Fee within thirty (30) days of receipt of a correctly rendered invoice and, if applicable, within thirty (30) days of receipt of a correctly rendered invoice relating to each subsequent purchase and receipt of such payment shall be a condition of this License coming into effect. For the avoidance of doubt, the Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes at the rates and in the manner from time to time in force in addition to the Fee.

8. **UNDERTAKINGS BY BOTH PARTIES**

8.1 Each party shall use its best endeavours to safeguard the intellectual property, confidential information and proprietary rights of the other party.

9. **USE OF AGENTS**

9.1 The Licensee may use the services of an Agent, or other intermediary (being an agent of Licensee and not a reseller), to purchase the Licensed Materials from the Publisher on Licensee’s behalf in which case the Licensee shall pay the Fee to the Agent if (if required) according to the Agent’s terms and conditions and the Agent shall pass the Fee to the Publisher. The Licensee shall be responsible for the Agent and shall ensure the Agent complies with the terms of this License to the extent relevant to the Agent’s activities.

9.2 Notwithstanding the use of an Agent, the Licensee shall contract directly with the Publisher for the supply of the Licensed Materials and the Licensee shall remain liable under this License.

10. **TERM AND TERMINATION**

10.1 This License shall be terminated:

10.1.1 if the Licensee defaults in making payment of the Fee as provided in this License and fails to remedy such default within thirty (30) days of notification in writing by the Publisher;
10.1.2 if the Publisher commits a material or persistent breach of any term of this License and fails to remedy the breach (if capable of remedy) within thirty (30) days of notification in writing by the Licensee;

10.1.3 if the Licensee commits a wilful, material or persistent breach of the Publisher’s copyright or other intellectual property rights or of the provisions of clause 3 in respect of usage rights or of clause 5 in respect of prohibited uses, or of any other provision of this License;

10.1.4 if either party becomes insolvent or becomes subject to receivership, liquidation, administration or similar.

10.2 On termination all rights and obligations of the parties automatically terminate without prejudice to the parties' accrued right and remedies.

10.3 On termination of this License by the Publisher for breach of the License by the Licensee (i.e. as specified in clauses 10.1.1, 10.1.3 and 10.1.4), the Licensee shall immediately cease to distribute or make available the Licensed Materials to Authorized Users.

11. GENERAL

This License constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this License, whether oral or written.

11.1 Each party acknowledges that, in entering into this License, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this License. Nothing in this License shall limit or exclude any liability for fraud.

11.2 Alterations to this License and to the Schedules to this License are only valid if they are recorded in writing and signed by both parties.

11.3 This License may not be assigned by either party to any other person or organisation, nor may either party sub-contract any of its obligations or sub-licence its rights (save in the case of the Licensee to Authorised Users, for whom the Licensee remains responsible), except (in the case of the Publisher) in respect of the management and operation of the Server or the provision of any other services under this Licence, without the prior written consent of the other party, which consent shall not unreasonably be withheld.

11.4 If rights in all or any part of the Licensed Materials are assigned to another publisher, the Publisher shall use all reasonable endeavours to ensure that the terms and conditions of this License are maintained.

11.5 Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this License or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within 14 days of posting. Posting of notice by email with notification of receipt shall also be accepted as evidence of posting.

11.6 Neither party's delay or failure to perform any provision of this License, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power,
telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this License.

11.7 The invalidity or un-enforceability of any provision of this License shall not affect the continuation or enforceability of the remainder of this License.

11.8 Either party’s waiver, or failure to require performance by the other, of any provision of this License will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.

11.9 This License does not create any right or benefit enforceable by any person not a party to it (within the meaning of the UK Contracts (Rights of Third Parties) Act 1999) except that a person who is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.

11.10 This License shall be governed by and construed in accordance with English law; the parties irrevocably agree that any dispute arising out of or in connection with this License will be subject to and within the jurisdiction of the courts of England.

WITNESS the hands of the duly authorized representatives of the parties the day and year below first written.

FOR THE PUBLISHER:

Signature: _________________________________

Name (in block capitals): M J WOODHEAD Date: ______________

Position / Title: Managing Director

FOR THE LICENSEE:

Signature: _________________________________

Name (in block capitals): _____________________ Date: ______________

Position / Title: __________________________

SCHEDULE 1

LICENSED MATERIALS, SUBSCRIPTION PERIOD AND FEE
A schedule dated .................................. to the License dated .................................. between Publisher and Licensee

THE LICENSED MATERIALS

The following e-book titles and/or collections by the Licensee:

**Pick ‘n’ Mix Collection/Backlist Collection//2010 Collection/Fee**

ACCESS METHOD

- Authentication via User ID/password and IP Address
- Authentication via IP address
- Authentication via Athens / Shibboleth

AS WITNESS the hands of the duly authorized representatives of the parties the day and year below first written

FOR THE PUBLISHER:

Signature: ________________________________

Name (in block capitals): M J WOODHEAD Date: ______________

Position / Title: Managing Director

Licence date July 2012
SCHEDULE 2

LICENSEE’S LIBRARY PREMISES

A schedule dated ........................................... to the License dated .................................... between Publisher and Licensee

List of addresses of all Library Premises, Domain Name(s) and IP addresses and/or ranges:
Class B Network: first two network numbers plus asterisks for host addresses, i.e.: 125.64.*.*
Class C network: first three network numbers plus an asterisk for host address, i.e.: 125.64.133.*
Single station: all four numbers, i.e. 125.64.133.20; or ranges, i.e. 125.64.133.20-125.64.133.40

<table>
<thead>
<tr>
<th>Library names &amp; addresses</th>
<th>Domain name(s)</th>
<th>IP addresses/ranges</th>
</tr>
</thead>
</table>

Network contact: Name:
Telephone: Fax: E-mail address:

AS WITNESS the hands of the duly authorized representatives of the parties the day and year below first written

FOR THE PUBLISHER:

Signature: ________________________________
Name (in block capitals): M J WOODHEAD Date: ______________

Position / Title: Managing Director

Licence date July 2012
FOR THE LICENSEE:

Signature: ________________________________

Name (in block capitals): _____________________________   Date: ______________

Position / Title: ________________________________