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1 DEFINITIONS

In these Terms the following words shall have the following meanings:

Authorised User: (i) any current student or member of staff of Licensee 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;

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;

Fees: the fees payable by the Licensee to GOBI (as agent for the Licensor) in accordance with the Purchase Order;

GOBI: GOBI Library Solutions from EBSCO

Licensee: the institution or organisation detailed in the Purchase Order;

Online Access: access to the Products on the Server, via the Site;

Products: licensed works made available by the Licensor via the Site, to which the Licensee has purchased access via GOBI 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);

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Secure Authentication: Athens or Shibboleth (SAML) technology-based authentication, IP ranges, username and password, or such other authentication process agreed between Licensee and Licensor from time to time, and which is consistent with current best practice;

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;

Server: either Licensor’s sever or a third-party sever designated by Licensor on which Products are mounted and on which they may be accessed via the Site;

TDM: Text and data mining; and

Terms of Use: the permitted uses and restrictions of use of the Products as set out in clauses 3 and 4.

2 LICENCE

- 2.1 Subject to payment of the fees, Licensor grants Licensee a non-exclusive and non-transferable right to use and access the Products in accordance with the terms of this Agreement. The Licensor reserves the right to withdraw from the Products any content that it no longer retains the right to provide or that it determines may be unlawful, defamatory, obscene, harmful, false, infringing or otherwise objectionable.

3 PERMITTED USES

General

- 3.1 Subject to the restrictions in clause 4.1, 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 the Server by means of a Secure Network in order to search the Products and to view, retrieve, display, download and store portions thereof;
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- 3.2 Nothing in this Agreement shall in any way exclude, modify or affect any of Licensee’s statutory rights under applicable copyright law.

Text and data mining

- 3.3 For the avoidance of doubt the Licensee and Authorised Users may not carry out any TDM without the Licensor’s prior consent in writing.

4 RESTRICTIONS

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 Licensor’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;
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- 4.1.7 create a database in electronic or structured manual form by downloading and storing any content from the Products;
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- 4.1.9 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
- 4.1.10 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 the Licensor reserves the right to suspend or restrict access to the Products in the event of any unauthorized use of the Products, in addition to other available remedies

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 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 these Terms; 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 Licensors 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, Licensors reserves the right at any time on notice to Licensee to:
- 6.3.1 make changes or corrections, alter, update or upgrade any aspect of the Product;
- 6.3.2 vary the technical specifications of the Product or any software included therein;
- 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 Licensors withdraws a Product or a part of a Product in accordance with clause 6.3.3, if Licensee purchased the withdrawn Product on a perpetual access basis, a copy of the withdrawn Product shall be provided to Licensee in an electronic format, such format as Licensors in its sole discretion determines. The provision of a pdf copy or replacement shall discharge Licensors's liabilities to Licensee in respect of the withdrawn Product (or part of a Product).
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- ## 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. Licensors, 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 Licensors warrants that use of the Products in accordance with these terms does not infringe the intellectual property rights of any third party.
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- 8.2 Save as expressly provided otherwise in this Agreement, Licensors, to the fullest extent permitted by law, excludes all express or implied terms, conditions, warranties and/or representations with regard to the Product, including, without limitation, any warranties relating to the quality or fitness for purpose
- 8.3 Licensors 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 Licensors 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 Licensors's liability for death or personal injury resulting from Licensors's negligence or its fraudulent misrepresentation or any other liability which cannot be limited or excluded under applicable law.
- ## 9 TERM AND TERMINATION
- 9.1 Either party may terminate this Agreement (and Licensors 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 clause 4 or clause 5 shall be deemed a material breach.
- 9.2 Upon termination of this Agreement by the Licensors under clause 9.1:
- 9.2.1 Licensee's and Authorised Users' rights to access and use the Products shall immediately terminate and Online Access shall cease;
- 9.2.2 Licensee shall immediately cease using any passwords or other Authorised User identification to access the Products;
- 9.2.3 Licensee shall ensure that all Authorised Users shall do likewise; and
- 9.2.4 Licensors 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 DATA PROTECTION
- 10.1 Licensors shall be entitled to:
- 10.1.1 hold and process the Licensee's personal data, which may include sensitive or special category personal data as defined in applicable privacy and data protection legislation;
- 10.1.2 make such information available to: (i) business partners, sub-contractors and/or suppliers who provide products or services to Licensors, (ii) our branches, either of whom may be outside of the European Economic Area;

For legal and administrative purposes and in order to fulfil its obligations under this Agreement. This clause 10 shall survive termination of this Agreement.

11 ANTI-BRIBERY AND CORRUPTION

- 11.1 Licensee understands that Licensors acts in accordance with the UK Bribery Act 2010 and other applicable anti-bribery 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 and corruption. The Licensee agrees to promptly notify Licensors of any suspected or known breach of this clause 11.

12 CONFIDENTIALITY

Licensee understands that, in the course of performing its responsibilities under this Agreement, Licensors shall from time to time disclose to Licensee information that is proprietary and/or confidential to Licensors, including but not limited to the terms of this Agreement, market research information and pricing. Licensee agrees to maintain the confidentiality of all information it receives from Licensors that is not readily available from a public source and not to disclose such information in a way that could be prejudicial to Licensors, except as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. This clause 12 shall survive the termination of this Agreement.

13 GENERAL

- 13.1 Licensee may not assign, transfer or sub-license its rights or obligations under this Agreement.
- 13.2 In no circumstances shall Licensors 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.
- 13.3 This Agreement constitutes the entire agreement between the Parties in respect of Products purchased via GOBI SAVE THAT where a party who is a Licensee under this Agreement has, prior to the purchase of any Product via GOBI, entered into an umbrella licence agreement with the Licensors in respect of the purchase of Licensors's products generally ("Previous Agreement"), the terms of the Previous Agreement shall apply to the Licensee's purchase of Products via GOBI, and shall take precedence over these Terms. Without prejudice to the foregoing, 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.
- 13.4 This Agreement may not be amended, varied or supplemented except in writing signed by duly authorised representatives of both the Licensors and the Licensee.
- 13.5 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.
- 13.6 No provision of this Agreement is intended to be enforceable by a person who is not a party to this Agreement.
- 13.7 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 Legal@Bloomsbury.com and if to the Licensee, at the e-mail address on the Purchase Order. 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.
- 13.8 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.
- 13.9 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.
- 13.10 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.
- 13.11 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).

Contact us

In the event of any comments or questions concerning the Terms, please email us at onlinealesus@bloomsbury.com (Americas) or onlinealesuk@bloomsbury.com (outside the Americas).

Thank you for purchasing.