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## **LICENCE GRANTING FIRST COMMERCIAL PUBLICATION RIGHTS IN PRINT AND ELECTRONIC FORMS FOR A JOURNAL ARTICLE**

**This Licence is agreed** the [date] day of [date] 2003

### **Between:**

1. [Names of all authors] of [employers' addresses] ('**the Author[s]**')  
and
2. [Full contractual name of publisher] of [business address] ('**the Publisher**')

**Whereas** the Author[s] [has] [have] created and hold[s] the rights in, a work which [he] [she] [they] wish[es] to be published by the Publisher

**And whereas** the Publisher desires to use some of the rights in order to publish the work as an article in the print and electronic versions of the journal known as [*journal title*]

**And whereas** the Author[s] desire[s] to grant the Publisher the relevant rights to enable this.

### **It is agreed as follows**

#### **1. Definitions**

In the Licence, the following terms shall have the following meanings:

##### **1.1 Pre-refereed Work**

This refers to all versions of the work written by the Author[s] prior to submission to the Publisher for consideration for publication, peer review and editorial processes and to the first version which the Author[s] submit[s] to the Publisher for consideration for publication, peer review and editorial processes.

##### **1.2 Post-refereed Work**

This refers to the finalised version of the work as agreed between the Author[s] and the Publisher, to be published by the Publisher, and includes any and all amendments necessitated by peer review and editorial processes.

##### **1.3 Published Work**

This refers to the version of the Post-refereed Work as physically published, distributed and sold by the Publisher, and incorporates the Publisher's typographical arrangement in the case of the printed version of the Work and the Publisher's specific file formatting in the case of the electronic version of the Work.

##### **1.4 Commercial Use**

Use for the purpose of monetary reward (whether by or for the Author[s]) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Pre-refereed Work and, or the Post-refereed Work.

## 2. Agreement

- 2.1 The Author[s] hereby grant[s] to the Publisher the exclusive and non-transferable right of first commercial publication, distribution and sale of the Post-refereed Work in English [in all languages] in the form of an article in the printed and electronic versions of the serial publication entitled [*insert journal name*] on a worldwide basis. The Author[s] also hereby grant[s] the Publisher the right to authorise Reproduction Rights Organisations (such as the Copyright Licensing Agency and the Copyright Clearance Center) to include the Published Work in their copyright licensing and clearance schemes and to authorise others to reproduce the Published Work for non-commercial purposes.
- 2.2 For the avoidance of doubt, no other rights are granted under this Licence by the Author[s] to the Publisher. Rights which the Author[s] retain[s] include (but are not limited to):
- 2.2.1 all other publication, distribution and exploitation rights in the Pre-refereed Work and the Post-refereed Work. The Author[s] hereby agree[s] to only exercise these rights in respect of Commercial Use at a point in time which is after first commercial publication, distribution and sale of the Post-refereed Work by the Publisher;
  - 2.2.2 the right to post a copy of the Pre-refereed Work and the Post-refereed Work on the Internet including but not limited to the Author's own websites, the Author's employing institutions' websites, 'e-print' servers and web servers which form part of the Open Archives Initiative, either before or after first commercial publication of the Post-refereed Work by the Publisher;
  - 2.2.3 the right to use and make copies of the Pre-refereed Work and the Post-refereed Work in any material form in any educational institution for teaching, learning and research purposes within that institution, on a worldwide basis, either before or after first commercial publication of the Post-refereed Work by the Publisher;
  - 2.2.4 the right to use the Pre-refereed Work and the Post-refereed Work in whole or in part, as the basis for the Author's own further publications or spoken presentations on a worldwide basis. The Author[s] hereby agree[s] to only exercise this right in respect of Commercial Use at a point in time which is after first commercial publication, distribution and sale of the Post-refereed Work by the Publisher.
- 2.3 The Publisher hereby agrees to grant the Author[s] the right to reproduce the typographical arrangement which exists in the printed form of the Published Work to enable the Author[s] to distribute photocopies of the Published Work to registered students and employees of the Author'[s] employing institution[s], and to provide the required number of photocopies of the Published Work in Research Assessment Exercises and Quality Assurance Agency Subject Reviews undertaken at the Author'[s] employing institution[s].
- 2.4 This Licence shall commence on the date that this Licence is agreed between the parties and shall be effective for the legal term of copyright to which the Published Work is entitled.

## 3. Undertakings

- 3.1 The Author[s] warrant[s] to the Publisher that [he] [she] [they] [is] [are] the owner[s] of the intellectual property rights in the Post-refereed Work, that if the Post-refereed Work includes intellectual property which is owned by third parties, any necessary permissions have been obtained in writing from those third parties in order for the Author[s] to be able to grant this Licence, and that the Post-refereed Work contains nothing defamatory, libellous or unlawful, or which violates any living person's privacy or rights under data protection legislation, or which is in breach of confidence.
- 3.2 The Author[s] assert[s] the Moral Right to be identified as the author[s] of the Published Work and the Publisher shall ensure that the name[s] of the author[s][is][are] always clearly associated with the Published Work.

3.3 The Publisher shall ensure that all copies of the Published Work identify the Author[s] as the owner[s] of copyright in the Published Work, other than the typographical arrangement in the printed version of the Published Work.

#### **4. Termination**

4.1 In addition to automatic termination under Clause 2.4, this Licence is terminated if either party gives written notice to the other in the following circumstances:

- 4.1.1 The Publisher fails to commercially publish the Post-refereed Work within a period of [3 months] from the commencement of this Licence;
- 4.1.2 Either party commits a material or persistent breach of any term of this Licence and fails to remedy the breach (if capable of remedy) within thirty (30) days of notification in writing by the other party;
- 4.1.3 Either party becomes insolvent, bankrupt or becomes subject to receivership, liquidation or similar external administration;
- 4.1.4 By an executed written agreement between the parties.

4.2 On termination all rights and obligations of the parties automatically terminate except for:

- 4.2.1 Those specified in Clause 3.1 & 3.2

4.3 Within seven (7) days of the termination of this Licence, the Publisher shall return to the Author[s] or destroy all copies of the Pre-refereed Work and Post-refereed Work in its possession.

#### **5. General**

5.1 This Licence may not be assigned by either party to any other person or organisation, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

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

5.3 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 Licence or to such other address as notified by either party to the other as its address for the service of notices.

**AS WITNESS the hands of the parties the day and year below first written:-**

**For the Author[s]:**

Name (block capitals):  
Employing institution:

Signature:  
Date:

Name (block capitals):  
Employing institution:

Signature:  
Date:

Name (block capitals):  
Employing institution:

Signature:  
Date:

**For the Publisher:**

Name (block capitals):  
Position:

Signature:  
Date: