



## EDUCATIONAL LICENCE AGREEMENT

**THIS AGREEMENT** is made the <sup>th</sup> 4 day of July 2005.

**BETWEEN THE IRISH COPYRIGHT LICENSING AGENCY LIMITED** (hereinafter called "ICLA"), of 25 Denzille Lane, Dublin 2 of the one part

AND **University College**

of Cork

(hereinafter called "the Licensee") of the other part

### WHEREAS:

- A. On behalf of authors and publishers, ICLA grants licences to educational establishments to copy extracts from published works in which copyright subsists.
- B. The licensing scheme of ICLA is certified by the Minister for Enterprise Trade and Employment for the purposes of Section 57 of the Copyright and Related Rights Act 2000.<sup>6</sup>
- C. ICLA has agreed to grant a licence to the Licensee, on the terms and conditions herein contained.

**IT IS HEREBY AGREED** as follows:

### 1. Interpretation.

In this Agreement:

"Licensed Material" means material contained in books, journals and periodicals published in the territories specified in the First Schedule hereto, and in which copyright subsists EXCLUDING the Excluded Works

"Excluded Works" means material contained in works or categories of works appearing on the List of Excluded Works published from time to time by ICLA.

"Licence Certificate" means the certificate issued to the Licensee by ICLA, specifying the term of the Licence and the amount of the Licence fee.

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<sup>6</sup> Copyright and Related Rights (Certification of Licensing Scheme for Reprographic Copying by Educational Establishments) (The Irish Copyright Licensing Agency Limited) Order 2002. S.I. No. 514 of 2002.

“Licence Fee” means the fee specified in the Licence Certificate.

To “copy” means to make or permit the making of a photocopy or any reproduction of Licensed Material on to paper by means of any reprographic process, excluding the making of a reproduction by electronic or digital means. “Copying”, “a copy” and “copies” shall be construed accordingly.

“Premises” means all premises at which the Licensee carries on its activities.

## **2. Grant of Licence**

In consideration of the payment of the Licence fee by the Licensee, and subject to the limitations specified in Clause 3 below, ICLA HEREBY GRANTS to the Licensee, during the term specified in the Licence Certificate, the right for the Licensee:

- to make and permit to be made at the Premises such copies of Licensed Material as the Licensee or the employees or students of the Licensee may require; and
- to make the said copies available to students and staff of the Licensee,

PROVIDED HOWEVER that the said copies are not made in connection with any commercial activity, nor for any purpose other than the educational purpose of the Licensee, its employees or students.

## **3. Limitations.**

3.1. The copying hereby licensed shall not in the case of any one published work exceed five per cent of the work or one chapter (whichever is the greater), save that:

- in the case of an article in a journal or periodical, the whole article may be copied, but not more than one article in any one issue of the publication;
- in the case of a short story or poem of not more than ten pages in length, the whole of the short story or poem may be copied.

3.2. The number of copies hereby licensed of any one item taken at any one time by members of staff for distribution to students shall not exceed the number of students in a class, plus two copies for each teacher or lecturer.

3.3. This Licence does not authorise the copying of complete works, nor the systematic copying of parts of works, nor of the same works on different occasions so as to exceed the limits herein specified.

3.4. This Licence does not extend to the copying of works which are themselves copies, and the production of which was not authorised by the rightsholder or his or her agent or representative, or permitted by copyright legislation in the absence of such authorisation.

3.5. This Licence does not permit the Licensee to republish Licensed Material in any manner or form with the exception of the compilation and distribution to its students of course packs for specific courses; nor to sell, rent, or otherwise deal in Licensed Material for valuable consideration, save that the Licensee may charge a sum to cover the costs of producing the Licensed Material.

3.6. This Licence does not permit any form of reproduction by electronic or digital means.

3.7. This Licence does not authorise the copying of Excluded Works. In the event that the Licensee should wish to copy any such works, permission should be sought from the owner of the copyright in the works.

#### **4. List of Excluded Works**

4.1. ICLA shall furnish to the Licensee the List of Excluded Works, upon the execution of this Agreement, and shall thereafter notify the Licensee of any changes made thereto.

4.2. ICLA shall be entitled, on giving three month's notice to the Licensee, to remove a work, or category of work, from the Licensed Material.

#### **5. Duration**

This Licence shall endure for the period specified in the Licence Certificate.

#### **6. Licence Fee**

The Licensee shall pay to ICLA the amount of the Licence Fee specified in the Licence Certificate.

#### **7. Data Collection**

7.1. ICLA may require the Licensee to participate in a data collection audit, to establish the extent of copying and to identify the material selected for copying at the Premises. This data is required by ICLA to determine the distribution of Licence fees to authors and publishers.

7.2. If the Licensee is selected to participate in such an audit:

- ICLA shall use its best endeavours to ensure that the data collection audit is carried out in a way which shall not disrupt the normal activities of the Licensee, nor place an unreasonable burden on the administrative staff of the Licensee;
- The Licensee shall give ICLA all reasonable assistance to assemble the data required;
- The Licensee shall permit the designated representative(s) of ICLA to attend at the Premises in connection with the carrying out of the audit for the period agreed;
- ICLA shall give the Licensee three months notice of the audit, and shall agree with the Licensee in advance as to the method of data collection to be employed for the purpose;
- The data to be furnished by the Licensee will be true and accurate, to the best of the Licensee's knowledge and belief.

7.3. Unless compelled by a competent legal authority, ICLA shall not disclose any information supplied to it under the terms of this clause, other than information in aggregated form from which the Licensee may not be identified.

## **8. Copyright Notices**

The Licensee shall use its best endeavours to ensure that:

- A notice in a form approved by ICLA is placed beside every photocopier at the Premises stating the limits of copying permitted under this Agreement, and by law;
- The name of the author and publisher appears on the front page of each copy made of Licensed Material.

## **9. Indemnity**

Subject as provided below, in any case where the Licensee receives a claim that, when acting under the permission granted by the Licence, the Licensee has infringed the copyright of any person or body, ICLA shall indemnify the Licensee in respect of all reasonable costs, expenses and damages awarded against or incurred by the Licensee, including any ex gratia payment made with the prior written consent of ICLA, PROVIDED HOWEVER:

- the indemnity shall only apply where the Licensee has complied with the Licence and has given ICLA written notice of any claim within 10 working days of the claim being notified to the Licensee;
- the Licensee shall ensure that no admission or offer of payment or indemnity shall be made or given on its own behalf or on behalf of ICLA without the prior written consent of ICLA; and
- the indemnity shall not apply to Excluded Works

## **10. Termination of Licence**

10.1 Either party shall be entitled to terminate this Licence in the event of a material breach of the terms hereof by the other party.

10.2 This Licence shall automatically terminate in the event that the Licensee shall cease to carry on business.

10.3 Termination shall be without prejudice to the antecedent rights of either party hereunder.

10.4 In the event of termination, the Licensee shall remove and destroy all notices relating to the making or use of copies under this Licence, and shall endeavour to ensure that all parties previously entitled to make or use copies under this Agreement are notified of the termination of the Licence.

10.5 In the event of termination due to material breach by ICLA, the Licensee shall be entitled to a refund of part of the Licence Fee in the proportion that the remainder of the Licence Term bears to the full Licence Term.

## **11. Renewal of Licence.**

This agreement may be renewed periodically by the issue of a new Licence Certificate to the Licensee.

**12. Service of Notices**

All notices required to be given hereunder shall be given in writing and shall either be delivered by hand or be sent by prepaid registered post to the address of the relevant party given herein. In the case of a notice sent by post, it shall be deemed to have been served on the second day following posting.

**13. Assignment**

This Licence is personal to the Licensee and may not be assigned to a third party without the prior written consent of ICLA.

**14. Variation**

No variation of the terms of this agreement shall be effective or binding unless the same shall be in writing and signed by the party against whom it is sought to enforce the variation.

**15. Arbitration**

Any dispute between the parties to this agreement concerning any aspect of the agreement may be referred by either party to the decision of the Controller of Industrial and Commercial Property (if empowered to determine such dispute) and otherwise to an arbitrator nominated by the President for the time being of the Irish Business and Employers Confederation.

**16. Governing Law**

This agreement shall be governed by the laws of Ireland.

**IN WITNESS** whereof the parties hereto have set their hands and affixed their seals, the day and year first herein written.

SIGNED on behalf of **ICLA**  
in the presence of:

*Samantha Holman*  
*Ethne Rosenstock*

*For: University College, Cork*

SIGNED on behalf of **University College Cork**  
in the presence of:

*Shane Mallon*  
SECRETARY'S OFFICE

*[Signature]*  
Administrative Secretary