



JISC PALS2 Project: Electronic expression of licensing terms: Mapping JISC model licences into an ONIX-PL format

JISC NESLi2 Licence – mapping notes

14 March 2007

The tables in this document, starting on page 2, reproduce the text of the JISC NESLi2 Model Licence, annotated to show how it has been mapped into an ONIX Publications License (ONIX-PL) expression. The licence text used is taken from the latest version, revised 28 November 2006. It is referred to here as the “NESLi2 Model Licence” or simply “the Model Licence”. Cross-references in the tables are to line numbers in the companion document “*070314 JISC NESLi2 XML expression*”.

[Note that it is an ONIX convention that North American spelling is used in element names and controlled values, and generally in format documentation. However, in this introduction and in other text outside of the XML expression we are using the UK spelling of “licence”.]

The mapping is complete except that it does not cover payment terms. Not surprisingly, these vary substantially between different publishers, so that they cannot easily be made part of the model licence expression. A few minor points that have been omitted from the mapping, or that have been interpreted in a specific way after discussion with JISC Collections, are noted in the tables.

There are also a few important issues to which we want to draw attention:

1. As is characteristic in the wording of licence agreements, the Model Licence specifies permitted and prohibited usages in terms of what “the Licensee” or “Authorised Users” may do. By agreement with JISC Collections, we have exactly followed the wording of the Licence in this respect, but we have observed that the same forms of usage are not treated consistently across current versions of the NESLi2 Model Licence and the JISC Model Sub-Licences for datasets and ebooks. The same usage may in one case be assigned to “the Licensee”, and in another to “Authorised Users”. This is something that may require consideration if and when these mappings are used to deliver information about permitted usages at the point of use, through an ERM system or otherwise.
2. It is invariably the case with JISC licences that they have a fixed term and are not renewed. Instead, a new licence is issued for the next subscription period. In many (or most?) cases subscription periods are calendar years. The NESLi2 Model Licence does not explicitly specify a start or end date. Instead, it uses a schedule of the publications covered by the licence, and their volume and issue numbers or dates, as the definition of the subscription period. In this way it is conflating two separate things: the period during which the licensee will have access to an online service through which the publications are delivered, and the set of issues for which the licensee is purchasing not only usage rights during this period, but also permanent archival rights.

By agreement with JISC Collections, the XML expression will include a specified start and end date for the licence as well as defining (as Licensed Content) the resources to be delivered.

3. When the Model Licence expression is used to generate a licence that relates to an individual agreement between JISC Collections and a named publisher, it will be necessary to consider how best to handle elements that are specific to an instance of the licence that applies to an individual subscribing institution. Such elements are the identity of the subscriber, the term of the licence, the resources subscribed (which may be selectable by the subscriber from a repertoire offered by the publisher) and the fees or fee basis. It may be possible to isolate these elements from the rest of the licence so that the latter remains the same across all instances of its use.

Clause	NESLi2 Licence text	Mapping notes
	<p>"Authorised Users" means individuals who are authorised by the Licensee to access the Licensee's information services whether on-site or off-site via Secure Authentication and who are affiliated to the Licensee as a current student (including but not limited to undergraduates and postgraduates), member of staff (whether on a permanent or temporary basis) or contractor of the Licensee. Persons who are not a current student, member of staff or a contractor of the Licensee, but who are permitted to access the Licensee's information services from computer terminals or otherwise within the physical premises of the Licensee ["Walk-In Users"] are also deemed to be Authorised Users, only for the time they are within the physical premises of the Licensee. Walk-In Users may not be given means to access the Licensed Material when they are not within the physical premises of the Licensee. For the avoidance of doubt, Walk-In Users may not be given access to the Licensed Material by any wireless network provided by the Licensee unless such network is a Secure Network.</p>	<p>AuthorizedUser is defined at Line 148 as any of the following: onixPL:LicenseeStudent onixPL:LicenseeStaff onixPL:LicenseeContractorPerson onixPL:WalkInUser LicenseeStudent is defined so that it specifically includes students at all levels, and distance learning students. LicensorContractorPerson is used to differentiate between an organisation that is a contractor to a Licensee and a person that is working as a contractor to a Licensee, either individually or as an employee of a contractor organisation.</p>
	<p>"Commercial Use" means use for the purpose of monetary reward (whether by or for the Licensee or an Authorised User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Work. For the avoidance of doubt, neither recovery of direct cost by the Licensee from Authorised Users, nor use by the Licensee or Authorised Users of the Licensed Work in the course of research funded by a commercial organisation is deemed to constitute Commercial Use. "Licensed Work" should be "Licensed Material"</p>	<p>Expressed as onixPL:CommercialUse, defined in the ONIX-PL Dictionary as "Use for the purpose of monetary reward by means of sale, resale, loan, transfer, hire or other form of exploitation. The recovery of direct cost by a Licensee from an AuthorizedUser, or use by a Licensee or an AuthorizedUser in the course of academic research funded by a commercial organization, does not constitute CommercialUse."</p>
	<p>"Educational Purposes" means for the purpose of education, teaching, distance learning, private study and/or research.</p>	<p>Expressed as onixPL:AcademicUse, defined in the Dictionary as "Use for the purpose of education, teaching, private study and/or academic research". Note that ONIX-PL does not treat distance learning as a distinct purpose but as an extension of the community of Authorized Users.</p>
	<p>"Fee" means the fee as set out in Schedule 1. The fee shall be in line with the offer negotiated and agreed under the [insert product name] Agreement between JISC Collections and the Publisher dated [insert date] as set out in Annex 1 hereto as part of NESLi2.</p>	<p>See Recitals on last page. <i>Handling of Fees still to be determined.</i></p>
	<p>"Intellectual Property Rights" means patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.</p>	<p>Expressed as a GeneralTerm of type onixPL:IntellectualPropertyRights at Line 1294 (with 9.1 and 9.2).</p>

Clause	NESLi2 Licence text	Mapping notes
	" JORUM Repository " means the central repository of learning and teaching material funded by the UK funding bodies.	Defined in the Dictionary as onixPL:JORUM .
	" Licensed Material " means the material listed in Schedule 2.	LicensedContent is defined at Line 174.
	" Secure Authentication " means access to the Licensed Material by Athens or Shibboleth technology based authentication, Internet Protocol ("IP") ranges or by another means of authentication agreed between the Publisher and JISC Collections from time to time.	Incorporated into Usage type onixPL:AccessBySecureAuthentication – see 3.1.3.1
	" Secure Network " means a network which is only accessible to Authorised Users by Secure Authentication. <i>[The words "to Authorised Users" may be redundant: they do not appear in the definitions of "Secure Network" in other JISC licences]</i>	Incorporated into the definitions of onixPL:LicenseeSecureRepository and onixPL:AuthorizedUserSecureRepository , used to express 3.1.3.11 and 3.1.3.12
	" Subscription Period " means the period nominally covered by the volumes and issues of the Licensed Material as identified in Schedule 2, regardless of the actual date of publication. <i>[There is a problem with this definition and the way in which it is used in Clauses 5 and 8. The Licence is trying simultaneously to define (a) a set of volumes and issues to which, in general, permanent rights are being acquired, and (b) a period of time during which the Licensee has access to them through an online service provided by the Licensor. The latter is most often a calendar year. After discussion with JISC, it has been agreed that (a) and (b) should be separately mapped, and that there should be a start and end date for the Licence that is distinct from the date or volume/issue range of the resources licensed.]</i>	The set of resources to which rights are acquired is defined as LicensedContent at Line 174. The term of the Licence is defined as LicenseStartDate and LicenseEndDate at Lines 209 and 217 respectively.
1.2	Headings contained in this Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.	Not mapped
1.3	Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.	Not mapped
2.	LICENCE GRANT	
2.1	The Publisher hereby grants to the Licensee, subject to and in accordance with the terms of this Licence, a non-exclusive licence to access and use the Licensed Material and to allow Authorised Users to access and use the Licensed Material via Secure Authentication for Educational Purposes.	Expressed as LicenseGrant at Line 600. See also Usage onixPL:AccessBySecureAuthentication at Line 666.
2.2	In consideration for the Publisher's licensing of the Licensed Material pursuant to Clause 2.1, the Licensee undertakes to pay to the Publisher the Fee in accordance with the provisions of Schedule 1.	<i>Handling of Fees still to be determined.</i>
3.	PERMITTED USES	
3.1	The Licensee may:	

Clause	NESLi2 Licence text	Mapping notes
3.1.1	make such local temporary copies of the Licensed Material as are necessary to ensure efficient use of the Licensed Material by Authorised Users, provided that such use is subject to all the terms and conditions of this Licence;	Expressed as Usage onixPL:MakeTemporaryDigitalCopy at Line 615. User is Licensee .
3.1.2	provide Authorised Users with integrated access and an integrated article author, article title and keyword index to the Licensed Material and all other similar material licensed from other publishers;	Expressed as two distinct Usages: onixPL:ProvideIntegratedAccess at Line 632; onixPL:ProvideIntegratedIndex at Line 649. User is Licensee .
3.1.3	allow Authorised Users to:	
3.1.3.1	access the Licensed Material by Secure Authentication in order to search, retrieve, display and view the Licensed Material;	Expressed as Usage onixPL:AccessBySecureAuthentication at Line 666. User is AuthorizedUser .
3.1.3.2	electronically save parts of the Licensed Material;	Expressed as Usage onixPL:SaveDigitalCopy at Line 694. User is AuthorizedUser .
3.1.3.3	print out single copies of parts of the Licensed Material;	Expressed as Usage onixPL:PrintCopy at Line 711. User is AuthorizedUser .
3.1.3.4	incorporate parts of the Licensed Material in printed and electronic course packs, study packs, resource lists and in any other material (including but not limited to multi-media works) to be used in the course of instruction and/or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments) hosted on a Secure Network. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorised Users;	Expressed as three distinct Usages: onixPL:ReproduceInPrintedInstructionalMaterial at Line 737; onixPL:ReproduceInDigitalInstructionalMaterial at Line 757; onixPL:ReproduceInSpecialNeedsInstructionalMaterial at Line 778. User is onixPL:LicenseeStaff .
3.1.3.5	incorporate parts of the Licensed Material in printed or electronic form in assignments and portfolios, theses and in dissertations (“the Academic Works”), including reproductions of the Academic Works for personal use and library deposit. Reproductions in printed or electronic form of Academic Works may be provided to sponsors of such Academic Works. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner;	Expressed as two distinct Usages: onixPL:ReproduceInAcademicWork at Line 799; onixPL:SupplyCopy at Line 820. User is AuthorizedUser .

Clause	NESLi2 Licence text	Mapping notes
3.1.3.6	supply to an authorised user of another library (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing) a single paper copy of an electronic original of an individual document ; [After discussion with JISC, it has been agreed that the words "individual document" can be interpreted as covering any licensed excerpt.]	Expressed as two distinct Usages: onixPL:InterLibrarySupplyPrintOrFax at Line 842; onixPL:InterLibrarySupplyControlledElectronic at Line 863. User is AuthorizedUser .
3.1.3.7	provide single printed or electronic copies of single articles at the request of individual Authorised Users; [After discussion with JISC, it has been agreed that the words "single articles" can be interpreted as covering any licensed excerpt.]	Expressed as Usage onixPL:SupplyCopy at Line 884. User is AuthorizedUser .
3.1.3.8	display, download and print parts of the Licensed Material for the purpose of promotion of the Licensed Material, testing of the Licensed Material, or for training Authorised Users;	Expressed as Usage onixPL:UseForSpecifiedPurpose at Line 913. User is AuthorizedUser .
3.1.3.9	publicly display or publicly perform parts of the Licensed Material as part of a presentation at a seminar, conference, or workshop, or other such similar activity;	Expressed as Usage onixPL:IncludeInPresentation at Line 933. User is AuthorizedUser .
3.1.3.10	make such copies of training material and network such training material as may be required for the purpose of using the Licensed Material in accordance with this Agreement; [After discussion with JISC, it has been agreed that the words "training material" should be interpreted as covering both training material supplied by the Licensor and training material prepared by the Licensee incorporating excerpts from Licensed Material.]	Expressed as Usage onixPL:CopyAndDistribute at Line 950. User is AuthorizedUser .
3.1.3.11	deposit in perpetuity the learning and teaching objects as referred to in Clause 3.1.3.4 in electronic repositories operated by the Licensee on a Secure Network and in the JORUM Repository. The access and use of such learning and teaching objects shall be governed by the terms and conditions of the applicable repository;	Expressed as Usage onixPL:DepositDigitalCopy at Line 968. User is AuthorizedUser .
3.1.3.12	save and/or deposit in perpetuity parts of the Licensed Material in electronic repositories operated by the Licensee and/or by an Authorised User on a Secure Network. Access to and use of such repositories shall be limited to Authorised Users and the UK funding bodies ; and [The "UK Funding Bodies" are included in connection with the possible requirements of Research Assessment exercises. After discussion with JISC, it has been agreed that this should be left as a text reference only, rather than being encoded as an additional usage or user type.]	Expressed as Usage onixPL:DepositDigitalCopy at Line 989. User is AuthorizedUser .

Clause	NESLi2 Licence text	Mapping notes
3.1.3.13	save and/or deposit in perpetuity parts of the Licensed Material of which they are the authors on any network including networks open to the public and to communicate to the public such parts via any electronic network, including without limitation the Internet and the World Wide Web, and any other distribution medium now in existence or hereinafter created.	Expressed as Usage onixPL:CopyAndDistributeWithoutRestriction at Line 1010. User is AuthorizedUser .
3.2	This Licence shall be deemed to complement and extend the rights of the Licensee and Authorised Users under the Copyright, Designs and Patents Act 1988 and the Copyright (Visually Impaired Persons) Act 2002 and nothing in this Licence shall constitute a waiver of any statutory rights held by the Licensee and Authorised Users from time to time under these Acts or any amending legislation.	Expressed as a GeneralTerm of type onixPL:StatutoryRightsAffirmation at Line 1125.
4.	RESTRICTIONS	
4.1	Save as provided herein, the Licensee and Authorised Users may not:	
4.1.1	sell or resell the Licensed Material unless the Licensee or an Authorised User has been granted prior written consent by the Publisher to do so;	Expressed as prohibited Usage onixPL:Sell at Line 1027. User is Licensee or AuthorizedUser .
4.1.2	remove, obscure or modify copyright notices, text acknowledging or other means of identification or disclaimers as they appear;	Expressed as prohibited Usage onixPL:RemoveObscureOrModify at Line 1046. User is Licensee or AuthorizedUser . UsedResource is onixPL:ProtectedContent , defined in the Dictionary as "Any copyright notices, attributions or acknowledgements of authorship or ownership of intellectual property, or disclaimers forming part of Licensed Content or of a Licensed Content Excerpt".
4.1.3	alter, adapt or modify the Licensed Material, except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted in this Agreement. For the avoidance of doubt, no alteration of the words or their order is permitted;	Expressed as prohibited Usage onixPL:ModifyExceptAsPermitted at Line 1054. User is Licensee or AuthorizedUser .
4.1.4	display or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, and any other distribution medium now in existence or hereinafter created, other than by a Secure Network unless permitted in this Agreement; or	Expressed as prohibited Usage onixPL:DisplayOrDistributeExceptAsPermitted at Line 1083. User is Licensee or AuthorizedUser .
4.1.5	use all or any part of the Licensed Material for any Commercial Use or for any purpose other than Educational Purposes.	Expressed as prohibited Usage onixPL:UseForSpecifiedPurpose at Line 1102. User is Licensee or AuthorizedUser .

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4.2	This Clause shall survive termination of this Agreement for any reason.	Expressed as GeneralTerm onixPL:TermsSurvivingTermination at Line 1139.
5.	RESPONSIBILITIES OF THE PUBLISHER	
5.1	The Publisher agrees:	
5.1.1	to make the Licensed Material available to the Licensee and Authorised Users from the commencement of the Subscription Period;	Expressed as a SupplyTerm of type onixPL:StartOfService at Line 366.
5.1.2	to use all reasonable endeavours to make the electronic copy of each journal covered by this Agreement available, not later than the start of business hours on the day of publication of the printed version. In the event that for technical reasons this is not possible for any particular journal, as a matter of course, such journal shall be identified at the time of licensing, together with the reasons therefore;	Expressed as a SupplyTerm of type onixPL:PublicationSchedule at Line 384.
5.1.3	to use all reasonable endeavours to make the Licensed Material available to the Licensee and Authorised Users at all times and on a twenty-four hour basis, save for routine maintenance, and to restore access to the Licensed Material as soon as possible in the event of an interruption or suspension of the service;	Expressed as a SupplyTerm of type onixPL:ServiceLevel at Line 398 (with 5.1.5).
5.1.4	to provide for customer support services to Authorised Users via e-mail or phone, including answering e-mail inquiries relating to the use, functionality and content of the Licensed Material within 24 hrs of request;	Expressed as a SupplyTerm of type onixPL:UserSupport at Line 423.
5.1.5	to use all reasonable endeavours to ensure that the relevant server or servers have 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 Agreement;	See 5.1.3.
5.1.6	to provide electronic product documentation to the Licensee free of charge. The Publisher will allow copies of all documentation to be made and distributed by the Licensee to Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement is included;	Expressed as a SupplyTerm of type onixPL:ProductDocumentation at Line 437.
5.1.7	the Publisher agrees to use all best efforts to comply with the Open URL Standard (http://www.niso.org/committees/committee_ax.html and http://www.jisc-collections.ac.uk/about_collections/coll_jiscfactfile/coll_factcards_provlinks.aspx);	Expressed as a SupplyTerm of type onixPL:ComplianceWithOpenURLStandard at Line 451.
5.1.8	the Publisher agrees to use all best efforts to comply with the W3C standards (http://www.w3.org/WAI/Resources/#in and http://www.jisc-collections.ac.uk/about_collections/coll_jiscfactfile/coll_factcards_ws.aspx);	Expressed as a SupplyTerm of type onixPL:ComplianceWithAccessibilityStandards at Line 465.

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5.1.9	to make available to the Licensee COUNTER-compliant usage statistics, on at least a quarterly basis (http://www.projectcounter.org and http://www.jisc-collections.ac.uk/about_collections/coll_jiscfactfile/coll_factcards_userstats.aspx); and	Expressed as a SupplyTerm of type onixPL:UsageStatistics at Line 479.
5.1.10	to permit the Licensee to make cancellations and substitutions of the Licensed Material per annum [only applicable for multi-years agreements].	Expressed as a SupplyTerm of type onixPL:ChangesToLicensedContent at Line 493 (with 5.2 and 10.2)
5.2	The Publisher reserves the right at any time to withdraw from the Licensed Material any item or part of an item for which it no longer retains the right to publish and for which the Publisher has been unable to secure the provisions as set out in Clauses 8.7 and 8.8, or any item or part of an item for which the Publisher has reasonable grounds to believe it infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable. The Publisher shall give written notice to the Licensee of such withdrawal. If the withdrawn material represents more than ten per cent (10%) of the Licensed Material the Publisher shall make a pro rata refund of part of the Fee to the Licensee, taking into account the amount of material withdrawn and the remaining unexpired portion of the Subscription Period.	See 5.1.10.
6.	RESPONSIBILITIES OF LICENSEE	
6.1	The Licensee agrees to:	
6.1.1	issue passwords or other access information only to Authorised Users and use all reasonable efforts to ensure that Authorised Users do not divulge their passwords or other access information to any third party;	Expressed as a GeneralTerm of type onixPL:PreventionOfUnauthorizedUse at Line 1153 (with 6.1.3 and 6.2).
6.1.2	provide lists of valid IP addresses to the Publisher and update those lists on a regular basis the frequency of which will be agreed by the parties from time to time;	Expressed as a GeneralTerm of type onixPL:NotificationOfLicenseeIPAddresses at Line 1189.
6.1.3	use all reasonable efforts, including without limitation by use of Secure Authentication, to ensure that only Authorised Users are permitted access to the Licensed Material;	See 6.1.1.
6.1.4	use all reasonable efforts to ensure that all Authorised Users are made aware of and undertake to abide by the terms of this Agreement; and	Expressed as a GeneralTerm of type onixPL:NotificationOfTermsToAuthorizedUsers at Line 1203.
6.1.5	use all reasonable efforts to monitor compliance with the terms of this Agreement and notify the Publisher immediately and provide full particulars on becoming aware of any of the following (a) any unauthorised access to or use of the Licensed Material or unauthorised use of any of Licensee's password(s); or (b) any breach by an Authorised User of the terms of this Agreement.	Expressed as a GeneralTerm of type onixPL:NotificationOfMisuse at Line 1217.

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	Upon becoming aware of any breach of the terms of this Agreement, the Licensee further agrees promptly to fully investigate and initiate disciplinary procedures in accordance with the Licensee's standard practice and use all reasonable effort to ensure that such activity ceases and to prevent any recurrence.	Expressed as a GeneralTerm of type onixPL:ActionAgainstMisuse at Line 1231.
6.2	The Licensee undertakes to the Publisher that the computer system through which the Licensed Material will be used is configured, and procedures are in place, to prohibit access to the Licensed Material by any person other than an Authorised User, that it shall inform the Authorised Users about the conditions of use of the Licensed Material, and that during the term of this Agreement, the Licensees will make best efforts to bar non-permitted access and to convey appropriate use information to its Authorised Users.	See 6.1.1.
7.	FEE	
7.1	The Publisher will invoice the Licensee for the Fee payable at the address set out below: [insert address of Licensee]	<i>Handling of Fees still to be determined.</i>
7.2	The terms of payments to the Publisher are set out in Schedule 1 hereto.	<i>Handling of Fees still to be determined.</i>
8.	TERM AND TERMINATION	
8.1	This Agreement shall commence at the beginning of Subscription Period and, unless terminated earlier as provided for in this Clause 8, will remain in full force and effect until the end of the Subscription Period.	Not mapped as such: start date and end date are defined as License Related TimePoints: see Definition of "Subscription Period".
8.2	Any party may terminate this Agreement at any time on the material breach or repeated other breaches by the other of any obligation on its part under this Agreement by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach forthwith by written notice to the other party.	Expressed as a GeneralTerm of type onixPL:LicenseTerminationByBreach at Line 1245 (with 8.3 and 8.10). Periods for notice and remedy are specified as General Term Quantity attributes.
8.3	Upon termination of this Agreement by the Publisher due to a material breach or repeated other breaches by the Licensee, the Publisher shall cease to authorise on-line access to the Licensed Material by the Licensee and Authorised Users.	See 8.2.

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8.4	<p>After termination of this Agreement (save for a material breach by the Licensee of its obligations under this Agreement) the Publisher will provide (at the option of the Licensee) the Licensee and its Authorised and Walk-in Users with access to and use of the full text of the Licensed Material which was published and paid for within the Subscription Period, either by i) continuing online access to archival copies of the same Licensed Material on the Publisher's server which shall be without charge; or ii) by supplying archival copies of the same Licensed Material in an electronic medium mutually agreed between the parties which will be delivered to the Licensee or to a central archiving facility operated on behalf of the UK HE/FE community or other archival facility (excluding an archival facility of a STM publisher) without charge; or iii) supplying without charge archival copies via ftp protocol of the same Licensed Material. For the avoidance of doubt access and use of archival copies shall be subject to the terms and conditions as set out in Clauses 3 and 4 of this Agreement.</p>	<p>Expressed as a SupplyTerm of type onixPL:ArchivalAccess at Line 529 (with 8.5 to 8.9).</p>
8.5	<p>The Publisher will provide two options for archival access, and the Licensee may select either: i) the Licensed Material as subscribed to during the term of the Subscription Period or ii) the Licensed Material subscribed to on the day prior to termination of this Agreement.</p>	<p>See 8.4.</p>
8.6	<p>The Licensee is permitted to mount the archival copies of the Licensed Material supplied by the Publisher in accordance with Clauses 8.4 (ii) and 8.4 (iii), communicate, make available and provide access to such Licensed Material via a Secure Network to Authorised Users in accordance with the terms of this Agreement. The Licensee is further permitted to make such copies or re-format the Licensed Material contained in the archival copies supplied by the Publisher in any way to ensure their future preservation and accessibility in accordance with this Licence;</p>	<p>See 8.4.</p>
8.7	<p>In the event that ownership of a part or parts of the Licensed Material is sold by the Publisher or otherwise transferred to another publisher, the Publisher will use all reasonable efforts to retain a non-exclusive copy of the volumes published and make them available free of charge through the Publisher's server or by supplying such material free of charge to the Licensee in accordance with the procedure described in Clause 8.4;</p>	<p>See 8.4.</p>
8.8	<p>In the event that the Publishers ceases to publish a part or parts of the Licensed Material, a digital archive will be maintained of such Licensed Material and be made available free of charge through the Publisher's server or by supplying such material free of charge to the Licensee in accordance with the procedure described in Clause 8.4;</p>	<p>See 8.4.</p>

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8.9	The archival copies supplied in accordance with Clause 8.4 (ii) and (iii) will contain all textual content of the Licensed Material but may not contain all links and other features and functionality associated with the online version available via the Publisher's server. Access and use of such copies will not attract a fee charged by the Publisher.	See 8.4.
8.10	On termination of this Agreement by the Licensee due to a material breach or repeated other breaches by the Publisher, the Publisher will reimburse the Licensee a pro rata proportion of the then remaining Fee for the unexpired part of the Subscription Period. The Publisher shall not be obligated to return any portion of the Fee for termination by the Publisher due to the Licensee's breach pursuant to Clause 8.2.	See 8.2.
9.	ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS	
9.1	The Licensee acknowledges that all Intellectual Property Rights in the Licensed Material are the property of the Publisher or duly licensed to the Publisher and that this Agreement does not assign or transfer to the Licensee any right, title or interest therein except for the right to access and use the Licensed Material in accordance with the terms and conditions of this Agreement.	Expressed as a GeneralTerm of type onixPL:IntellectualPropertyRights at Line 1297 (with Definition and 9.2).
9.2	For the avoidance of doubt, the Publisher hereby acknowledges that any database rights created by the Licensee as a result of local mounting of the Licensed Material as referred to in Clause 8.6 shall be the property of the Licensee.	See 9.1.
10.	REPRESENTATION, WARRANTIES AND INDEMNIFICATION	
10.1	The Publisher warrants to the Licensee that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to the Publisher and that the Licensed Material used as contemplated in this Agreement does not infringe any Intellectual Property Rights of any natural or legal person.	Expressed as a GeneralTerm of type onixPL:LicensorIntellectualPropertyWarranty at Line 1333.

Clause	NESLi2 Licence text	Mapping notes
	The Publisher agrees that the Licensee shall have no liability and the Publisher will indemnify, defend and hold the Licensee harmless against any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the Licensee in defending against any third party claim of Intellectual Property Rights infringements or threats of claims thereof with respect of the Licensee's or Authorised Users use of the Licensed Material, provided that: (1) the use of the Licensed Material has been in full compliance with the terms and conditions of this Agreement; (2) the Licensee provides the Publisher with prompt notice of any such claim or threat of claim; (3) the Licensee co-operates fully with the Publisher in the defence or settlement of such claim; and (4) the Publisher has sole and complete control over the defence or settlement of such claim.	Expressed as a GeneralTerm of type onixPL:LicensorIndemnityAgainstInfringement at Line 1347.
10.2	The Publisher reserves the right to change the content (including removal of an entire journal on ceasing to have the right to publish), presentation, user facilities or availability of parts of the Licensed Material and to make changes in any software used to make the Licensed Material available at their sole discretion. The Publisher will notify the Licensee of any substantial change to the Licensed Material.	Expressed as a SupplyTerm of type onixPL:ChangesToLicensedContent at Line 493 (with 5.1.10 and 5.2).
10.3	While the Publisher has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, the Publisher makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Licensed Material including (without limitation) the fitness of such information or part for any purposes whatsoever and the Publisher accepts no liability for loss suffered or incurred by the Licensee or Authorised Users as a result of their reliance on the Licensed Material.	Expressed as a GeneralTerm of type onixPL:LicensorWarrantyDisclaimer at Line 1361.
10.4	In no circumstances will the Publisher be liable to the Licensee for any loss resulting from a cause over which the Publisher does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, or operator errors.	Expressed as a GeneralTerm of type onixPL:LimitationOfLiability at Line 1375 (with 10.6, 10.7, and 10.8)
10.5	The Licensee agrees to notify the Publisher immediately, provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with any works contained in the Licensed Material and do all things reasonably required to assist the Publisher in such claims. It is expressly agreed that upon such notification, or if the Publisher becomes aware of such a claim from other sources, the Publisher may remove such work(s) from the Licensed Material. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a material breach of this Agreement.	Expressed as a GeneralTerm of type onixPL:ClaimByThirdParty at Line 1422.

Clause	NESLi2 Licence text	Mapping notes
10.6	Nothing in this Agreement shall make the Licensee liable for breach of the terms of this Agreement by any Authorised User provided that the Licensee did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.	See 10.4.
10.7	Save as provided for in Clause 10.1, neither the Licensee nor the Publisher will be liable to the other in contract or negligence or otherwise for (i) any special, indirect, incidental, punitive or consequential damages (ii) loss of direct or indirect profits, business, contracts, revenue or anticipated savings or for any increased costs or expenses.	See 10.4.
10.8	No party limits its liability for (i) death or personal injury to the extent it results from its negligence, or of its employees or agents in the course of their engagement; and (ii) its own fraud or that of its employees or agents in the course of their engagement.	See 10.4.
11.	FORCE MAJEURE	
11.1	Either party's failure to perform any term or condition of this Agreement as result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities ["Force Majeure"]) shall not be deemed to be, or to give rise to, a breach of this Agreement.	Expressed as a GeneralTerm of type onixPL:ForceMajeure at Line 1436 (with 11.2).
11.2	If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.	See 11.1.
12.	ASSIGNMENT	
12.1	Save as permitted for under this Agreement, neither this Agreement nor any of the rights and obligations under it may be assigned by either party without obtaining the prior written consent of the other party, such consent shall not unreasonably be withheld or delayed. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Agreement and agrees to be bound to all the terms of this Agreement.	Expressed as a GeneralTerm of type onixPL:Assignment at Line 1461.
13.	GOVERNING LAW AND DISPUTE RESOLUTION	

Clause	NESLi2 Licence text	Mapping notes
13.1	This Agreement 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.	Expressed as a GeneralTerm of type onixPL:GoverningLaw at Line 1475.
13.2	The parties agree to use best efforts to resolve disputes in an informal manner, by decision of the Managing Director of the Publisher and the current Vice Chancellor of the Licensee. Where the parties agree that a dispute arising out or in connection with this Agreement would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.	Expressed as a GeneralTerm of type onixPL:DisputeResolution at Line 1493 (with 13.3 to 13.5).
13.3	Any person to whom a reference is made under Clause 13.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.	See 13.2.
13.4	Each party shall provide the expert with such information and documentation as he may reasonably require for the purposes of his decision.	See 13.2.
13.5	The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the parties in equal proportions.	See 13.2.
14.	NOTICES	
14.1	All notices required to be given under this Agreement shall be given in writing in English and sent by courier, or special delivery to the relevant addressee at its address set out below, or to such other address as may be notified by either party to the other from time to time under this Agreement, and all such notices shall be deemed to have been received three (3) days after the date of posting in the case of special delivery or despatch in the case of courier:	Expressed as a GeneralTerm of type onixPL:NoticeProcedure at Line 1540.
	if to the Licensee: [insert details]	Defined as LicenseeAddressForNotices at Line 275.
	if to the Publisher [insert details]	Defined as LicensorAddressForNotices at Line 269.
15.	GENERAL	
15.1	This Agreement and its Schedules constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.	Expressed as a GeneralTerm of type onixPL:EntireAgreement at Line 1562.

Clause	NESLi2 Licence text	Mapping notes
15.2	The Schedules shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Schedules.	Not expressed, since the XML form does not have "Schedules": it is a single structure.
15.3	The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement.	Expressed as a GeneralTerm of type onixPL:NonEnforceability at Line 1580.
15.4	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 or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.	Expressed as a GeneralTerm of type onixPL:NoWaiver at Line 1590.
	SCHEDULE 1: FEE	
	[Include here details of the offer as set out in Annex 1 plus the final fee to be paid by the Licensee.]	<i>Handling of Fees still to be determined.</i>
1.	The Licensee shall cause the Publisher to be paid the total Fee of £ [insert amount] (exclusive of VAT) as payment for the rights granted in this Agreement. Such Fee shall fall due and payable by the Licensee within 45 days on receipt by the Licensee of the Publisher's invoice. The Fee is shown exclusive of VAT, which will be payable in addition by the Licensee where applicable.	<i>Handling of Fees still to be determined.</i>
	SCHEDULE 2: LICENSED MATERIAL	
	The Licensed Material consists of the following: [Do not forget to indicate for each title the Subscription Period.]	See definition of LicensedContent at Line 174.
	ANNEX 1 – OFFER	
	Details of the Offer are available at the secure area of the NESLi2 website at [insert URL] This offer is identical to the offer included in Schedule 1 of the [insert product name] Agreement between [insert name publisher] and JISC Collections dated [insert date].	Expressed as a repeatable LicenseReference at Lines 35 and 42 (both forms of reference may occur in the same Licence).
	IN WITNESS the hands of the above parties on the date first above written: -	
	SIGNED by: _____ (Signature) Name: Position: for and on behalf of [INSTITUTION]	Expressed as LicenseeSignatory at Lines 64 and 137.

Clause	NESLi2 Licence text	Mapping notes
	SIGNED by: _____ (Signature) Name: Position: for and on behalf of [PUBLISHER]	Expressed as LicensorSignatory at Lines 68 and 126.