



SUBSCRIPTION AND PERPETUAL ACCESS LICENCE AGREEMENT

Note for Licensee (for explanatory purposes only – this note does not form part of the legally binding agreement)

This is a single agreement to cover all purchases of access to OUP journals and online products offered under this agreement, whether on a subscription basis or on a perpetual access basis. Having a single agreement to cover these purchases should drive efficiencies and create more certainty for both parties.

The agreement operates as a framework, meaning that you can make further purchases from OUP and those purchases will automatically be governed by the terms of this agreement without both parties having to renew this agreement annually and without both parties having to maintain a list of licensed works and start and end dates within a Schedule in the agreement (although we can do this if it is important to you).

To allow this wide flexibility, the agreement must contain terms which deal with the various purchase models available, i.e. journals subscriptions, subscription access, perpetual access, and non-standard subscriptions (see Annexes 1-4 for the clauses which deal with these purchase models). Please don't be alarmed if one or more of the Annexes contains clauses which you feel are not relevant to the particular purchases you are intending to make under this agreement. Clause 6 of the Terms and Conditions makes clear that the terms in each Annex only apply in relation to specific purchases. The same can be said for some of the terms throughout the main Terms and Conditions, e.g. the references to concurrency restrictions only apply where we have agreed that with you in relation to a specific purchase.

If you have any queries about the scope of the agreement, please contact

onlinelicenses@oup.com

COMMERCIAL TERMS

- 1 LICENSOR:** THE CHANCELLOR, MASTERS, AND SCHOLARS OF THE UNIVERSITY OF OXFORD trading as OXFORD UNIVERSITY PRESS of Great Clarendon Street, Oxford OX2 6DP, United Kingdom.
- 2 LICENSEE:** British Society for Heart Failure of Nought, The Farthings
Marcham
Abingdon
OX13 6QD
- 3 LICENSED WORK(S):** The Subscription Licensed Works and/or Perpetual Access Licensed Works set out in Schedule B (as the same may be amended from time to time in accordance with Clause 4.4 of this Agreement) and/or as set out in an invoice relating to this Agreement and/or otherwise agreed

in writing.

- 4 **SITE(S):** The geographical site(s) listed in Schedule C.
- 5 **CHARGES:** The price set out in the Licensor's or the Subscription Agent's invoices concerning (i) access to the Licensed Works and (ii) fees for hosting services, if relevant ("Hosting Charges").
- 6 **SUBSCRIPTION AGENT OR LIBRARY SUPPLIER ("SUBSCRIPTION AGENT"):**
N/A
- 7 **LICENSEE CONTACT DETAILS:**
- | | |
|-------------------|----------------------|
| Name: | Stephanie Edwards |
| E-mail: | stephanie@bsh.org.uk |
| Telephone: | +44 (0)1865 391836 |
- 8 **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of England and Wales. The parties agree to submit to the non-exclusive jurisdiction of the English courts in connection with any disputes arising under this Agreement.

THE LICENSOR AND LICENSEE EACH ACCEPT AND AGREE TO THE TERMS OF THIS AGREEMENT.

Signed by 
Katie Hudson (Feb 11, 2016)

For and on behalf of the **Licensor**

Name: Katie Hudson

Position: Customer Services Supervisor

On behalf of: Simon White/Graham Grant
Head of Sales

Date: Feb 11, 2016

Signed by 
Michelle Glanville (Feb 11, 2016)

For and on behalf of the **Licensee**

Name: Michelle Glanville

Position: BSH Secretariat

Date: Feb 11, 2016

TERMS AND CONDITIONS

1 COMMENCEMENT AND DEFINITIONS

1.1 This Agreement shall be deemed to commence on the earliest of

1.1.1 the earliest Subscription Start Date for Subscription Licensed Works; and

1.1.2 the earliest Perpetual Access Start Date for Perpetual Access Licensed Works;

and shall apply to all orders for Licensed Works placed by the Licensee which are accepted by the Licensor on or after such date. This Agreement shall continue thereafter, subject to earlier termination in accordance with its terms.

1.2 Regardless of when this Agreement commences or terminates, the Licensee and Authorised Users may not use a Licensed Work outside of the Licensed Work Term for that Licensed Work unless expressly permitted to do so by the Licensor. Any such permitted use shall be subject to the terms of the Legal Notice(s) for the relevant Licensed Work(s).

1.3 Any order placed by the Licensee for access to the Licensed Works will constitute an offer by the Licensee to subscribe to or purchase the Licensed Works referred to therein subject to the terms of this Agreement. The Licensee is responsible for ensuring that the terms of its order are complete and accurate.

1.4 An order made pursuant to this Agreement shall only be deemed to be accepted when the Licensor issues a written acceptance of the order.

1.5 In this Agreement, the words or phrases defined on the front page shall have the meanings set out there and the following expressions shall have the following meanings:

- "Affiliate(s)" shall mean any person listed in Schedule C as an "Affiliate" subject to change from time to time in accordance with Clause 3.6;
- "Content-Specific Licence Terms" shall mean, in relation to an article, chapter or any other portion of any Licensed Work, the specific licence terms under which that material is published (for example, but not limited to, a Creative Commons licence), as may be specified on the website of the Licensed Work.
- "Authorised User" shall mean an individual who is authorised by the Licensee to access the Licensee's information services available through the Licensee's Secure Network and who is:
- if the Licensee is an academic or educational institution or public library: (i) affiliated with the Licensee as a current student, faculty member, library patron, employee or contractor; or (ii) physically present on the Licensee's premises; and
 - in all other cases: an employee or contractor of the Licensee or an Affiliate;
- "Commercial Use" shall mean use for the purposes of monetary reward (whether by or for the 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 Licensed Works;

“Concurrency Restriction”	shall mean, for each Licensed Work, respectively, the maximum number of permitted concurrent Authorised Users for that Licensed Work, if applicable, as specified in Schedule B and/or in the relevant invoice and/or as otherwise agreed in writing;
“Journals”	shall mean the online version of Licensor’s journals listed in Schedule A;
“Non-Commercial Text And Data Mining”	shall mean Text And Data Mining for the sole purpose of research for a non-commercial purpose;
"Initial Year"	shall mean, for each Subscription Licensed Work, respectively, the 12 month period, which commences on that Licensed Work’s Subscription Start Date;
“Journals Subscription”	shall mean a purchased subscription for Journals;
“Legal Notice”	shall mean, for each Licensed Work, the legal notice and/or terms of use of that Licensed Work as specified on the website for the Licensed Work in a document linked from the footer or header of the homepage;
“Licensed Work Term”	shall have the meaning ascribed to it in Clause 2.1;
"Licensor Trademarks"	shall mean the designations OXFORD, and OXFORD UNIVERSITY PRESS;
"Material"	shall mean any abstract, article, index, advertising, or other material contained in the Licensed Works and accessed online;
“Non-Standard Licensed Work”	shall mean a Licensed Work which falls within one the descriptions of Non-Standard Licensed Works in Annex 4;
"Password(s)"	shall mean any password(s) given to the Licensee by the Licensor or created by the Licensee to access the Licensed Work(s) and any other passwords required by Authorised Users to access the Secure Network;
“Perpetual Access Licensed Work”	shall mean a Licensed Work which is purchased on a perpetual access basis, as indicated in Schedule B and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
“Perpetual Access Start Date”	shall mean, for each Licensed Work which is a Perpetual Access Licensed Work, respectively, the date on which perpetual access starts for that Licensed Work (as may be specified in Schedule B and/or in the relevant invoice and/or as otherwise agreed in writing);
"Pre-Publication Titles"	shall mean any Licensed Works which have not yet been published as at the date on which the Licensee's order therefor is received by the Licensor;
"Secure Network"	shall mean a network (whether a stand alone network or a virtual network within the Internet, accessible offsite) which is only accessible to Authorised Users. A cache server or any server or network which can be

accessed by unauthorised users is not a Secure Network;

"Server"	shall mean either the Licensor's server or a third party server designated by the Licensor on which the Licensed Works are mounted and through which the Licensee and its Authorised Users may gain access to the Licensed Works by means of the World Wide Web.
"Subscription End Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription ends for that Licensed Work (as may be specified in Schedule B and/or in the relevant invoice and/or as otherwise agreed in writing) or any subsequent date agreed in writing by the parties under the renewal process in this Agreement;
"Subscription Period"	shall mean, for each Subscription Licensed Work, respectively, a period commencing on the Subscription Start Date for that Licensed Work and expiring on the Subscription End Date for that Licensed Work and subject to renewal for successive periods in accordance with this Agreement;
"Subscription Licensed Work"	shall mean a Licensed Work which is purchased on a subscription basis, as specified in Schedule A or Schedule B and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
"Subscription Start Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription starts for that Licensed Work (as may be specified in Schedule B and/or in the relevant invoice and/or as otherwise agreed in writing);
"Text And Data Mining"	shall mean, in relation to any Licensed Work(s) or any portion thereof, performing a computational analysis of anything recorded in that (those) Licensed Work(s) or portion;
"Updates"	shall mean, in relation to a Perpetual Access Licensed Work, updates to that Licensed Work published by the Licensor after the Version Licensed;
"Usage Rights"	shall mean, for each Licensed Work, respectively, the permitted use of that Licensed Work, as described in Clause 2 of this Agreement and in the Legal Notice for that Licensed Work.
"Version Licensed"	shall mean, in respect of a Perpetual Access Licensed Work which consists of an online collection of titles, the version of that Licensed Work specified as the "Version Licensed" in Schedule B or otherwise agreed in writing by the Licensor.

2 GRANT OF LICENCE, USAGE RIGHTS AND LIMITATIONS ON USE

2.1 In this Agreement, "Licensed Work Term" shall mean:

2.1.1 for each Subscription Licensed Work, the Subscription Period for that Licensed Work; and

2.1.2 for each Perpetual Access Licensed Work, a perpetual term from the Perpetual Access Start Date for that Licensed Work.

2.2 For each Licensed Work, respectively, Licensor grants the Licensee the non-exclusive and non-transferable right for the Licensed Work Term and subject to any Concurrency Restriction(s) and the terms of the Legal Notice for that Licensed Work (including any Usage Rights specified in the Legal Notice) to allow Authorised Users at the Sites for the purposes of research, teaching, and private study to:

2.2.1 access the Server by means of a Secure Network in order to search the Licensed Work and to view, retrieve, and display portions thereof;

2.2.2 save and print out single copies of portions of the Licensed Work;

2.2.3 if the Licensee is an academic institution, incorporate links to the Licensed Work in electronic course packs and course management systems for use in connection with courses offered by the Licensee for academic credit provided that no person other than an Authorised User may use such links;

2.2.4 if the Licensee is an academic institution, carry out Non-Commercial Text And Data Mining in relation to the Licensed Work or portions thereof, including making and storing copies provided that:

2.2.4.1. such copies are made and stored only to the extent necessary for the purposes of such computational analysis;

2.2.4.2. such copies are not transferred to any other person or used for any other purpose without the Licensor's consent;

2.2.4.3. such copies are destroyed once they are no longer necessary for the relevant computational analysis;

2.2.4.4. the Authorised Users acknowledge the use of the Licensed Work if any results of the computational analysis are published; and

2.2.4.5. the Authorised Users comply with all Licensor usage policies communicated to them or made available to them, including without limitation any security measures and conditions of access;

and, except as permitted by law, in all cases other than an academic institution carrying out Non-Commercial Text And Data Mining, the Licensee shall not carry out any Text And Data Mining without the Licensor's prior consent in writing;

2.2.5 transmit links to the Licensed Work to other Authorised Users; and

2.2.6 provide print or electronic copies of all or any part of the Licensed Work to national or international regulatory authorities for the purposes of, or in anticipation of, regulatory approval and/or trademark applications or other regulatory purposes in respect of the Licensee's products or services.

2.3 For the avoidance of doubt the Licensee and Authorised Users may not:

2.3.1 remove or alter Licensor's copyright notices or other means of identification or disclaimers as they appear in the Licensed Works;

- 2.3.2 systematically make multiple printed or electronic copies of portions of the Licensed Works for any purpose except as permitted by law or as authorised by Licensor;
 - 2.3.3 display or distribute any part of the Licensed Works on any electronic network, including without limitation, the Internet and the World Wide Web, other than the Secure Network;
 - 2.3.4 permit anyone other than Authorised Users to access or use the Licensed Works; and
 - 2.3.5 use all or any part of the Licensed Works for any Commercial Use.
- 2.4 The Licensor reserves the right to withdraw the Licensee's access to any or all Licensed Works which Licensor is hosting or any portion thereof in the event that it reasonably believes that one, some or all of any portion of the Licensed Works is being used otherwise than in accordance with this Agreement (e.g. without limitation, in breach of Clause 2.3.2). In such event, the Licensor will restore access only when the matter has been satisfactorily resolved.
- 2.5 Where the Licensee is an academic library, or library which is part of a non-commercial organisation, then notwithstanding any restriction in Clause 2.3, the Licensor hereby grants the Licensee the non-exclusive right during the Licensed Work Term for each Licensed Work, respectively, to supply (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted after printing) another academic library or library which is part of a non-commercial organisation, for the purposes supplying an Authorised User of the recipient library with a single copy of an electronic original of an individual document from a Licensed Work for the purpose of research or private study and not for Commercial Use,. The Licensor may request reports in respect of the Licensee's use of the Licensed Works in such inter-library loans, provided the confidentiality of user data shall be maintained.
- 2.6 In the case of any conflict or ambiguity between:
- 2.6.1 the Usage Rights specified in this Clause 2 and the Usage Rights specified in the Legal Notice for any Licensed Work, this Clause 2 shall take precedence in respect of that Licensed Work;
 - 2.6.2 the Usage Rights and the Content-Specific Licence Terms for any portion of any Licensed Work, the Content-Specific Licence Terms shall take precedence in relation to that portion of the Licensed Work.

3 RESPONSIBILITIES OF THE LICENSEE

- 3.1 If the Licensor is hosting the Licensed Works, the Licensee will provide the Licensor on request with all identifying information, including IP address ranges, relating to the Licensee and its Authorised Users necessary to enable the Licensor to set up and activate the Licensee's access to the Licensed Works. If required by the Licensor, the Licensee shall enter such information into an online registration system indicated by the Licensor . The Licensee will notify the Licensor or amend such information (where originally entered by the Licensee) promptly following any additions, deletions or other alterations to the information supplied.
- 3.2 The Licensee will obtain at its cost all telecommunications and other equipment and software (including an Internet browser and portable document file reader) together with all relevant software

licences necessary to access the Licensed Works online via the Licensee's Secure Network.

3.3 The Licensee shall:

3.3.1 be responsible for the confidentiality and use of the Password(s);

3.3.2 use reasonable efforts to:

3.3.2.1. ensure its Authorised Users' compliance with the terms of this Agreement;

3.3.2.2. ensure that only Authorised Users are permitted access to the Licensed Works by means of the Licensee's Secure Network;

3.3.2.3. restrict and control unauthorised access to the Licensed Works and to any Licensee user names, passwords or other access control mechanisms provided by the Licensor;

3.3.3 ensure that all Authorised Users are made aware that the Licensed Works are protected by copyright and the Authorised Users' use of the Licensed Works is subject to the restrictions and obligations contained in this Agreement.

3.4 The Licensee will notify Licensor immediately if it becomes aware of any of the following: (a) any loss or theft of the Password(s); (b) any unauthorised use of any of the Password(s) or other access control mechanisms; or (c) any breach by an Authorised User of the terms of this Agreement.

3.5 The Licensee shall notify Licensor promptly (i) of the facts and circumstances surrounding any unauthorised access, possession, or use of the Licensed Works, or Licensor intellectual property, or any portion thereof; and (ii) on becoming aware of any claim by any third party that the Licensed Works infringe an intellectual property or proprietary right of any third party.

3.6 The Licensee shall notify the Licensor in writing of any changes to the Affiliate(s). Any additions to the Affiliate(s) may be subject to an increase of the Charges. The Licensor will notify the Licensee of any additional increase to the Charges and invoice the Licensee accordingly and upon receipt of payment the Licensor will grant access to relevant Affiliate(s).

3.7 The Licensee acknowledges that the obligations in this Clause 3 are primarily directed at ensuring the security of the Licensed Works and that the Licensor is reliant on the Licensee fulfilling these obligations to ensure that security. Accordingly, upon the Licensor's request, the Licensee shall terminate access to the Licensed Works of any Authorised User whose actions or omissions constitute a breach of the terms of this Agreement (or would constitute such a breach if they were a party to it) and, further, upon any breach of this Clause 3 by the Licensee, the Licensor reserves the right to terminate or suspend the Licensee's access to the Licensed Works, in addition to any other available remedies.

4 RESPONSIBILITIES OF LICENSOR

4.1 Licensor shall provide the Licensee with a customer number necessary to enable the Licensee to set up and activate the Licensee's online access to the Licensed Works.

4.2 If the Licensor is hosting the Licensed Works, the Licensor shall use all reasonable efforts:

4.2.1 to make the Licensed Works available by means of the World Wide Web to the Licensee throughout the Licensed Work Term for each Licensed Work, respectively;

- 4.2.2 to ensure that the Server has sufficient capacity and rate of connectivity to provide the Licensee with a quality of service consistent with current standards in the World Wide Web on-line information provision industry; and
- 4.2.3 to restore access to the Licensed Works as soon as possible in the event of an interruption or suspension of the service.
- 4.3 Where possible, Licensor agrees to make available to the Licensee monthly usage reports throughout the Licensed Work Term for each Licensed Work which is hosted by the Licensor, detailing the level of use of each Licensed Work by the Licensee's Authorised Users per month, but only to the extent such monthly usage reports are made available by the party hosting the Licensed Work(s) on behalf of the Licensor. The Licensor shall use reasonable endeavours to ensure that such usage reports are compliant with the most recent release of the COUNTER Code of Practice for Journals and Databases (available at http://www.projectcounter.org/code_practice.html). The Licensee acknowledges that the Licensor will not be able to provide accurate usage reports if the Licensee stores the Licensed Work(s) on any cache or proxy server, or accesses the Licensed Work(s) through an agent gateway.
- 4.4 The Licensor reserves the right to withdraw from the Licensed Works and/or cease providing hosting services for 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.
- 4.5 The Licensor reserves the right to suspend access to the Licensed Works in the event of any unauthorised use of the Licensed Works, in addition to any other available remedies.
- 4.6 Throughout the Licensed Work Term for each Licensed Work, if the Licensor is hosting that Licensed Work, Licensor shall itself provide, or arrange for the provision by a third party, of customer support services to the Licensee.

5 PAYMENTS BY THE LICENSEE

- 5.1 In consideration of the rights granted by Licensor under this Agreement, the Licensee shall pay the Charges due to Licensor for each Licensed Work within 30 days of receipt of an appropriate invoice.
- 5.2 The Charges and (for Subscription Licensed Works) any renewal fees are exclusive of value added tax. Notwithstanding any other provision of this Agreement, Licensor shall not be obliged to grant access to a Licensed Work, or continue to grant such access to the Licensee until the Charges or renewal fees for that period have been received by the Licensor.
- 5.3 The Charges and (for Subscription Licensed Works) any renewal fees may be higher than the Charges or renewal fees for the previous 12 month period and may take into account, without limitation, changes to the Affiliates, the Sites, changes to the Licensed Works and the potential number of Authorised Users.
- 5.4 Without waiving or limiting the above-referenced rights and remedies, the Licensor reserves the right to charge interest at the rate of one and one half (1 ½) percent per month on any Charges or (for Subscription Licensed Works) renewal fees that are not paid by the Licensee within thirty (30) days of receiving the Licensor's invoice.
- 5.5 In the event that the Licensee is purchasing the Licensed Works through a Subscription Agent, the Licensee hereby agrees to pay all fees owing to the Licensor hereunder to the Subscription Agent.

6 ADDITIONAL TERMS

- 6.1 The terms in Annexes 1, 2, 3 and 4 shall only apply in the following circumstances:
 - 6.1.1 For each Subscription Licensed Work, the terms in Annex 1 shall apply in relation to that Licensed Work.
 - 6.1.2 If the Licensee has purchased a Journals Subscription, the terms in Annex 2 shall apply in relation to that Journals Subscription.
 - 6.1.3 For each Perpetual Access Licensed Work, the terms in Annex 3 shall apply in relation to that Licensed Work.
 - 6.1.4 For each Non-Standard Licensed Work, the relevant terms in Annex 4 shall apply in relation to that Licensed Work.

7 ACKNOWLEDGMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Licensee acknowledges that all copyrights, patent rights, Licensor Trademarks, services marks, database rights, trade secrets and other intellectual property rights relating to the Licensed Works (collectively the "Licensor Intellectual Property"), are owned or controlled by Licensor and that this Agreement does not convey to the Licensee any right, title, or interest therein except for the right to use the Licensed Works in accordance with the terms and conditions of this Agreement.
- 7.2 The Licensee acknowledges that neither it nor any Authorised User may create any derivative work based on the Licensed Works except as permitted by Clause 2.2.4 or with the prior written permission of the Licensor.

8 REPRESENTATIONS AND WARRANTIES

- 8.1 LICENSOR REPRESENTS AND WARRANTS THAT IT HAS THE POWER TO ENTER INTO THIS AGREEMENT AND TO GRANT THE RIGHTS CONFERRED HEREIN TO THE LICENSEE AND THAT THE LICENSED WORKS DO NOT VIOLATE OR INFRINGE UPON ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHT OR CONTRACT RIGHT OF ANY THIRD PARTY.
- 8.2 LICENSOR PROVIDES THE LICENSED WORKS ON AN "AS IS" BASIS. SAVE AS PROVIDED ABOVE AND TO THE EXTENT PERMITTED BY LAW, LICENSOR GIVES NO WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO REPRESENTATION THAT (I) THE LICENSED WORKS WILL BE OF SATISFACTORY QUALITY, SUITABLE FOR ANY PARTICULAR PURPOSE OR FOR ANY PARTICULAR USE UNDER SPECIFIED CONDITIONS, NOTWITHSTANDING THAT SUCH PURPOSE, USE, OR CONDITIONS MAY BE KNOWN TO LICENSOR; OR (II) THAT THE LICENSED WORKS WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION OR THAT ANY ERRORS WILL BE CORRECTED; OR (III) THAT THE MATERIAL PUBLISHED IN THE LICENSED WORKS IS EITHER COMPLETE OR ACCURATE.
- 8.3 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE OR ANY THIRD PARTY FOR ANY LOSS RESULTING FROM A CAUSE OVER WHICH LICENSOR 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.

- 8.4 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR LOSS OF PROFITS INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR CORRUPTION OF DATA, LOSS OF PROGRAMS, LOSSES ARISING FROM INACCURACIES IN, OR CORRUPTION CAUSED BY, THE LICENSED WORKS, LOSS OF BUSINESS OR GOODWILL, OR OTHER DAMAGES OR LOSSES OF ANY NATURE ARISING OUT OF THE USE OF, OR INABILITY TO USE THE LICENSED WORKS.
- 8.5 THE LICENSEE AGREES THAT THE ENTIRE LIABILITY OF LICENSOR TO THE LICENSEE OR AUTHORISED USERS ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, BY STATUTE OR OTHERWISE) IN ANY WAY CONNECTED WITH THE USE OR INABILITY TO USE THE LICENSED WORKS SHALL BE THE REFUND OF ANY SUMS ACTUALLY RECEIVED BY THE LICENSOR UNDER THIS AGREEMENT FOR THE AFFECTED LICENSED WORKS DURING THE TWELVE MONTH PERIOD IN WHICH THE CLAIM ARISES.
- 8.6 THE LICENSEE WARRANTS THAT ALL AFFILIATES ARE CONTROLLED BY THE LICENSEE AND THAT THE LICENSEE SHALL BE LIABLE FOR ANY BREACH OF THIS AGREEMENT BY ANY AFFILIATES OR ANY AUTHORISED USERS OF AFFILIATES.
- 8.7 THE LICENSEE WARRANTS THAT IT HAS IN PLACE APPROPRIATE POLICIES AND DISCIPLINARY PROCEDURES REGARDING THE MISUSE OF ONLINE TOOLS SUCH AS THE LICENSED WORK(S).
- 8.8 THE SIGNATORY FOR LICENSEE OF THIS AGREEMENT REPRESENTS AND WARRANTS TO LICENSOR THAT S/HE HAS THE POWER AND AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF THE LICENSEE, WHICH LICENSEE AGREES TO BE BOUND BY ALL TERMS CONTAINED HEREIN.

9 TERMINATION

- 9.1 The Licensee may terminate this Agreement at any time for convenience provided that, in such case, no refund of any Charges shall be due.
- 9.2 Either party may terminate this Agreement forthwith 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 request to do so. Without limitation, a breach by the Licensee of the provisions of Clauses 2.3, 3.1, 3.3, 3.4 and 5.1 above would constitute a material breach of this Agreement. The rights in this Clause are in addition to any rights and remedies that may be available in law or equity.
- 9.3 In addition to the rights in Clause 9.2, the Licensor reserves the right to suspend access to any or all Licensed Works or any portion thereof in the event that the Licensee commits a material breach of this Agreement, in addition to any other available remedies.
- 9.4 If the Licensee pays the Charges due under this Agreement via a Subscription Agent, Licensor may terminate this Agreement or suspend access to any or all Licensed Works or any portion thereof without liability to the Licensee in the event the Subscription Agent fails to pay such sums to the Licensor. Licensee acknowledges that its sole remedy in such circumstances is against the Subscription Agent and not the Licensor. The Licensor's rights in this Clause are in addition to any rights and remedies that may be available in law or equity.

10 GENERAL

- 10.1 This Agreement is personal to the Licensee and the rights granted under it do not extend to its subsidiary or parent organisations, nor may such rights be assigned or sublicensed without the prior written consent of the Licensor. The Licensor may assign any or all of its rights and obligations under this Agreement to an affiliate, a successor to its business or a transferee of Licensor's right to publish and distribute any Licensed Work(s). The rights and obligations of this Agreement will bind and benefit any successors and permitted assigns of the parties. Any attempted assignment in violation of this Clause will be null and void and of no force or effect.
- 10.2 Except where expressly stated otherwise, all notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this Agreement, or such other address as the party concerned shall from time to time designate by notice pursuant to this Clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted 10 (ten) days after posting. All notices to Licensor shall be marked for the attention of the Group Legal Director. All notices to the Licensee shall be marked for the attention of the contact named in the cover page of this Agreement.
- 10.3 Subject to Clause 10.4, this Agreement constitutes the entire agreement of the parties about its subject matter, supersedes all prior communications, understandings and agreements (whether written or oral) relating to its subject matter.
- 10.4 Any existing perpetual access agreement between the Licensor and the Licensee shall remain in effect in relation to perpetual access purchases already made under such agreement prior to this Agreement coming into force; provided however that any update(s) to such online products purchased by the Licensee after this Agreement comes into force shall be treated as a Licensed Work and subject to the terms of this Agreement.
- 10.5 Subject to the requirements of any laws local to the parties, this Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. The parties agree to be bound by photocopy, scanned, facsimile, electronic or other copies, which shall have the same effect for all purposes as an ink-signed original.
- 10.6 This Agreement may be amended:
- 10.6.1 by the Licensor, in its sole discretion, provided that the Licensor will use reasonable endeavours such that the Licensee will have thirty (30) days' prior written notice of any such proposed amendment and the Licensee will have the option to terminate this Agreement by delivery to the Licensor of a written notice of the Licensee's election to terminate this Agreement received by the Licensor within sixty (60) days of receipt of such notice; or
- 10.6.2 by agreement in writing executed by both parties.
- Notice of any proposed amendments to this Agreement may be delivered to the Licensee by the Licensor electronically through the Licensor's online customer support account management system.
- 10.7 Neither the Licensee nor the Licensor shall be responsible to the other for any failure to perform any obligation under this Agreement due to Acts of God, war, riot, embargoes, acts of civil or military authorities, fire, flood, typhoon, wind storm, snow storm, blizzard, hurricane, or other cause that is outside the control of the party and could not be avoided by the exercise of due care.

Notwithstanding the occurrence of any of the events set forth in this Clause, the parties shall at all times use reasonable efforts to perform all obligations under this Agreement in a timely manner, taking account of the existing circumstances.

- 10.8 No provision in this Agreement is intended to be enforceable by any third party.
- 10.9 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.
- 10.10 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.

ANNEX 1 – ADDITIONAL TERMS FOR SUBSCRIPTION LICENSED WORKS

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to Subscription Licensed Works, if any, purchased under this Agreement.
2. Except as set out in Annex 2 or Annex 4 or where expressly agreed otherwise in writing, following the expiry of the Subscription Period the Licensee shall not be entitled to continuing access to the Subscription Licensed Work or any portion thereof.
3. For each Subscription Licensed Work, no later than 30 days before the end of the Subscription Period for that Licensed Work, the Licensor will notify the Licensee of the renewal fees for the following 12 month period (or such other period as may be agreed by the parties) and shall invoice the Licensee for this amount. Upon payment of such renewal fees, the Subscription Period for that Licensed Work shall be extended by that further period. Payment for that period shall be due to the Licensor within 30 days from the date of the invoice.

ANNEX 2 – ADDITIONAL TERMS FOR A JOURNALS SUBSCRIPTION

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to a Journals Subscription, if any, purchased under this Agreement.
2. Subject to Clause 3 of this Annex, and notwithstanding the expiry of the Subscription Period the Licensee shall be entitled to continuing access to the Journals or portion(s) thereof that were published for the first time during the Subscription Period on the same terms as this Agreement, provided that the Licensee shall pay any relevant hosting fees, following the same procedure for Hosting Charges set out in Annex 3, Clauses 3(a)-(e).
3. If the Licensor ceases to hold the publication rights of any of the Licensed Works, and is no longer able to provide the access described in Clause 2 of this Annex, the Licensor shall make all reasonable efforts to ensure that continuing access is provided:
 - a. by the new publisher of the relevant Licensed Work; or
 - b. through Portico, CLOCKSS, or a similar 3rd party archive and in such case the Licensor shall provide all relevant details of the Licensee to the 3rd party in order to enable access to the 3rd party archive by the Licensee. Such access will be subject to Licensee fulfilling the 3rd party's terms and condition for access; or
 - c. by providing the Licensee with an electronic copy of the relevant Licensed Works for the purpose of self-hosting by the Licensee. Such provision will be subject to Licensor approval and the parties agreeing additional terms and conditions in connection with the provision and self-hosting of such electronic copy.
4. In this Clause, "Standard Rate Subscription" shall mean a full rate institutional subscription for Journals taken out by a Licensee directly with the Licensor (i.e. not via a consortium or network):
 - a. The Charges are conditional on each Licensee retaining any Standard Rate Subscription that it held directly with the Licensor in the year preceding the Subscription Start Date.
 - b. If a Licensee fails to renew any Standard Rate Subscription or replace any such Standard Rate Subscription with Standard Rate Subscription of an equal or higher value, then the Charges will be increased by an amount equivalent to the online-only subscription rate current at the time of the Subscription Start Date for each cancelled Standard Rate Subscription.
 - c. For the avoidance of doubt, Clause 4(b) of this Annex shall not apply if a Licensee has converted a Standard Rate Subscription to an online-only model rate subscription.

ANNEX 3 – ADDITIONAL TERMS FOR PERPETUAL ACCESS LICENSED WORKS

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to Perpetual Access Licensed Works, if any, purchased under this Agreement.
2. For the avoidance of doubt, in the case of Perpetual Access Licensed Works, the Charges do not include perpetual access to any Updates. Should any Updates be published, they may be purchased by the Licensee, subject to a separate agreement at the relevant time and payment of an additional charge. Any Updates so purchased shall become part of the Licensed Works and subject to the terms of this Agreement.
3. Subject to Clause 4 of this Annex, the provisions relating to hosting services are as follows:
 - a. The Licensor shall calculate the Hosting Charges payable for hosting services on the basis of a rolling twelve (12) month period or such other hosting period as may be specified by the Licensor.
 - b. No later than sixty (60) days before the end of any current hosting period, the Licensor may send the Licensee an invoice for the Hosting Charges for renewal of such hosting services for a further twelve (12) month period or such other period as may be specified by the Licensor. These Hosting Charges may be higher than the Hosting Charges for the then current hosting period. If the Licensee does not pay the Hosting Charges prior to commencement of the hosting period to which they relate, the Licensor may terminate such hosting services on written notice to the Licensee.
 - c. If the Licensor does not wish to continue hosting all or any of the Licensed Works, whether due to ceasing publication of the Licensed Work in question or otherwise, it will give the Licensee not less than ninety (90) days' notice of the termination of such hosting services and will credit the Licensee all hosting fees applicable to the unexpired term of the then current hosting period on a pro rata basis.
 - d. If, having opted to purchase hosting services provided by the Licensor, the Licensee wishes to self-host, it may provide the Licensor with written notice of its intention no later than 90 days prior to the expiration of the then-current hosting period and, subject to Licensor approval, may terminate hosting services at the end of the then-current hosting period.
 - e. If the Licensor terminates such hosting services pursuant to Clauses 3(b) or 3(c) of this Annex, above, or if the Licensee terminates such services pursuant to Clause 3(d) of this Annex, above, or if the Licensee opts to self-host, the Licensor shall enable continuing use of the Licensed Works in question by providing the Licensee an electronic file containing the content of the Licensed Works in XML format, or such other format as the Licensor may determine in its discretion, for the purpose of self-hosting by the Licensee. Such provision will be subject to Licensor approval and the parties agreeing additional terms and conditions in connection with the provision and self-hosting of such electronic copy. For the avoidance of doubt, the Licensor will not be obligated to provide the Licensee with any Licensed Work or part(s) thereof that the Licensor no longer has the right to publish, licence or otherwise distribute in this way. This Agreement shall apply (or shall continue to apply), regardless of who is hosting the Licensed Works, unless expressly stated otherwise herein.
4. Where the Licensor notifies the Licensee that a Perpetual Access Licensed Work is subject to a maintenance fee, no Hosting Charges shall be payable. However, in order to receive Updates for such Licensed Works, the Licensee must pay an annual maintenance fee, as follows:

- a. The Licensor shall calculate the maintenance fees payable for such Licensed Works on the basis of a rolling twelve (12) month period or such other period as may be specified by the Licensor.
 - b. No later than sixty (60) days before the end of any current period, the Licensor may send the Licensee an invoice for the maintenance fee for a further twelve (12) month period or such other period as may be specified by the Licensor. These maintenance fees may be higher than the maintenance fees for the then current period. The Licensee shall not be entitled to receive any Updates in respect of such Licensed Works until all maintenance fees have been paid in respect of those Licensed Works.
5. Except where Licensor is merely acting as a distributor for a third party's content, if the Licensor ceases to hold the publication rights of any of the Perpetual Access Licensed Works, and is no longer able to provide access, the Licensor shall make all reasonable efforts to ensure that continuing access is provided:
- a. by the new publisher of the relevant Licensed Work; or
 - b. through Portico, CLOCKSS, or a similar 3rd party archive and in such case the Licensor shall provide all relevant details of the Licensee to the 3rd party in order to enable access to the 3rd party archive by the Licensee. Such access will be subject to Licensee fulfilling the 3rd party's terms and condition for access; or
 - c. by providing the Licensee with an electronic copy of the relevant Licensed Works for the purpose of self-hosting by the Licensee. Such provision will be subject to Licensor approval and the parties agreeing additional terms and conditions in connection with the provision and self-hosting of such electronic copy.

6. RIGHT OF CANCELLATION: PRE-PUBLICATION TITLES

- a. If the Licensor accepts an order for Perpetual Access Licensed Works which includes any Pre-Publication Titles, the Licensor reserves the right, at any time prior to activating the Licensee's access to such Pre-Publication Titles, to amend or cancel such order (as may be appropriate) to remove any one or more such Pre-Publication Titles from the order and the scope of this Agreement. For the avoidance of doubt, any such amendment or cancellation under this Clause will not extend to or otherwise affect any Licensed Works in respect of which access has already been activated.
- b. If the Licensor amends or cancels an order in accordance with Clause 6(a) of this Annex, its sole liability to the Licensee shall be limited to the repayment by the Licensor of any and all sums received by the Licensor under this Agreement in respect of the Pre-Publication Titles affected by such amendment or cancellation.

ANNEX 4 – ADDITIONAL TERMS FOR NON-STANDARD LICENSED WORKS

1. The terms in this Clause 1 apply only in relation to each Licensed Work which is purchased under this Agreement for a three year subscription term with certain post-subscription access rights, as described in this Clause, and which is, or forms part of, Oxford Medicine Online (or such other Licensed Work which the parties agree is licensed to the Licensee on the basis set out in this Clause). Such Licensed Works are Non-Standard Licensed Works and shall be referred to specifically as “Three Year Non-Standard Subscription Licensed Work(s)”.
 - a. For each Three Year Non-Standard Subscription Licensed Work, no later than 30 days before the end of the Subscription Period for that Licensed Work, the Licensor will notify the Licensee of the renewal fees for the following 3 year period and shall invoice the Licensee for this amount. Upon payment of such renewal fees, the Subscription Period for that Licensed Work shall be extended by a further 3 years. Payment for that period shall be due to the Licensor within 30 days from the date of the invoice.
 - b. Clause 3 of Annex 1 shall not apply in relation to Three Year Non-Standard Subscription Licensed Works.
 - c. Subject to Clause 1(d) of this Annex and notwithstanding the expiry of the Subscription Period for a Three Year Non-Standard Subscription Licensed Work, the Licensee shall be entitled to continuing access to that version of the Licensed Work licensed to it immediately before the date of such expiration, on the same terms as this Agreement, provided that the Licensee shall pay any relevant hosting fees, following the same procedure for Hosting Charges set out in Annex 3, Clauses 3(a)-(e). For the avoidance of doubt, such continuing access shall not extend to any updates to the Licensed Works made by the Licensor on or after the expiry of the Subscription Period and shall not apply if this Agreement is otherwise terminated.
 - d. Except where Licensor is merely acting as a distributor for a third party’s content, if the Licensor ceases to hold the publication rights of any of the Licensed Works, and is no longer able to provide the access described in Clause 1(c) of this Annex, the Licensor shall make all reasonable efforts to ensure that continuing access is provided:
 - i. by the new publisher of the relevant Licensed Work; or
 - ii. through Portico, CLOCKSS, or a similar 3rd party archive and in such case the Licensor shall provide all relevant details of the Licensee to the 3rd party in order to enable access to the 3rd party archive by the Licensee. Such access will be subject to Licensee fulfilling the 3rd party's terms and condition for access; or
 - iii. by providing the Licensee with an electronic copy of the relevant Licensed Works for the purpose of self-hosting by the Licensee. Such provision will be subject to Licensor approval and the parties agreeing additional terms and conditions in connection with the provision and self-hosting of such electronic copy.

SCHEDULE A
JOURNALS

N/A

SCHEDULE B

LICENSED WORKS

SUBSCRIPTION LICENSED WORKS

Subscription Start Date: March 1st 2016

Subscription End Date: February 28th 2017

Oxford Textbook of Heart Failure

PERPETUAL ACCESS LICENSED WORKS

N/A

SCHEDULE C

LICENSEE SITE(S)

British Society for Heart Failure
Nought, The Farthings
Marcham
Abingdon
OX13 6QD

AFFILIATES AND AFFILIATE SITE(S)

Affiliate Name	Affiliate Address (i.e. registered office/head office)	Site(s) (if different, otherwise Site shall be deemed to be the same as the Affiliate Address)
N/A	N/A	N/A