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 - 1.5.3. despatched by mail or non electronic fax (analogue) and not delivered to the requesting library on-line or by fax which is received on a p.c..

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- 2.1. The Licensees will use their best endeavours to ensure that only Authorised Users are permitted access to the EAA Service.
- 2.2. The Licensees will use their best endeavours to establish and maintain reasonable and appropriate measures to ensure that Authorised Users:
 - 2.2.1. are made aware and understand the restrictions and prohibitions on use of the EAA Service as set out in this Agreement; and
 - 2.2.2. do not use the EAA Service for any purpose prohibited by the terms of this Agreement.
- 2.3. Subject to express provisions to the contrary in this Agreement the Licensees will:
 - 2.3.1. not use the whole or any part of EAA for the purposes of monetary or other reward by means of the sale, resale, loan, transfer, hire or other form of commercial exploitation; and
 - 2.3.2. not systematically supply or distribute the electronic form of the whole or any part of EAA to any person other than an Authorised User; and
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- 2.4. The Licensees will not knowingly do anything to harm any intellectual property rights of IOPP existing in any jurisdiction including but without limitation all copyrights, patents registered and unregistered, trade marks registered and unregistered, design

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- 2.5. The Licensees will not reproduce the whole or any part of EAA, either in electronic or printed form, in any way which might suggest that the content of any of EAA is the property or work of the Licensees or of any Licensee and will not, in particular, use frames or similar technologies to suggest the same.
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- 2.7. The Licensees will not remove, obscure or modify any copyright notices, disclaimers or other notices which appear in the EAA Service.
- 2.8. The Licensees will use their best endeavours to ensure that Authorised Users abide by the terms of this Agreement.
- 2.9. The Licensees will use their best endeavours to monitor compliance by each Authorised User with the terms of this Agreement and immediately on becoming aware of any unauthorised use by an Authorised User or by an unauthorised user of the EAA Service or other breach of this Agreement take all reasonable steps both to ensure that such unauthorised activity ceases and to prevent any recurrence of it including where necessary by terminating that Authorised User's or unauthorised user's access.

3. THE LICENCE PERIOD

The rights and obligations set out in this Agreement are deemed to commence on [.....]. This Agreement will remain in effect on an annual basis subject to receipt of the Price on or before each anniversary of this Agreement (“the Licence Period”).

4. REPORTING AND PAYMENT

- 4.1. IOPP will invoice the Consortium for [] plus any applicable sales tax ("the Price") in consideration of supply of the EAA Service.
- 4.2. All invoices are payable within 30 days of date of invoice.
- 4.3. The Consortium may add new Licensees to this Agreement at a cost to be agreed by the parties (such cost to be agreed) and on addition of such new Licensees Schedule 1 will be deemed to be amended accordingly.
- 4.4. Where pursuant to this Agreement a new Licensee is added IOPP shall provide to the Consortium or the Licensee (as appropriate) an invoice in respect of any additional fees payable under this Agreement and such additional fees shall be payable to IOPP within 30 days of the date of the invoice.

5. WITHDRAWAL OF CONTENT

- 5.1. IOPP reserves the right at any time to withdraw from the EAA service any material:
 - 5.1.1. if IOPP no longer retains the right to publish such material;

- 5.1.2. if in IOPP's sole discretion IOPP on reasonable grounds believes that such material infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable.
- 5.2. In the event that any material is to be withdrawn IOPP will give reasonable written notice to the Consortium.
- 5.3. On receipt of the notice referred to in the preceding Clause the Consortium will ensure that the Licensees will in respect of any withdrawal of material immediately comply with IOPP's reasonable instructions with respect to the destruction, deletion, return or surrender of the withdrawn material.

6. INTELLECTUAL PROPERTY RIGHTS IN THE EAA SERVICE

- 6.1. The Licensees will promptly and fully notify IOPP of:
 - 6.1.1. any actual, threatened, or suspected infringement of any Intellectual Property of IOPP in EAA which comes to their notice; and
 - 6.1.2. any claim by any third party coming to its notice that EAA infringes the Intellectual Property or other rights of any other person.
- 6.2. The Licensees will at the request and expense of IOPP or IOPP's insurers do all such things as may be reasonably required to assist IOPP in taking or resisting any proceedings in relation to any infringement or claim referred to in the preceding clause and in maintaining the validity and enforceability of the Intellectual Property of IOPP in EAA.
- 6.3. In the event of any infringement or unauthorised use as set out in Clause 6.1 by an Authorised User, the Consortium and the Licensees shall take all reasonable steps to cause such Authorised User to cease such activity and to prevent any recurrence thereof and IOPP will be entitled to terminate or demand the termination of such Authorised User's access to the EAA Service.
- 6.4. All rights in EAA whether existing at the date of this Agreement or which may come into existence after the date of this Agreement which are not specifically granted to the Licensees are expressly reserved to IOPP.
- 6.5. The Licensees hereby acknowledge that they will not acquire any interest or other rights in the Intellectual Property of IOPP or other rights of ownership in EAA other than the rights granted hereby and that all such Intellectual Property and rights will remain vested in IOPP.

7. WARRANTIES AND LIABILITY

- 7.1. IOPP WARRANTS THAT IT HAS THE RIGHT TO LICENSE THE RIGHTS GRANTED TO THE LICENSEES UNDER THIS AGREEMENT AND THIS WARRANTY IS GIVEN IN LIEU OF ALL WARRANTIES, CONDITIONS, TERMS, UNDERTAKINGS, AND OBLIGATIONS IMPLIED BY STATUTE, COMMON LAW, CUSTOM, TRADE USAGE, COURSE OF DEALING, OR OTHERWISE, ALL OF WHICH ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.
- 7.2. NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THIS AGREEMENT IOPP WILL NOT BE LIABLE TO THE CONSORTIUM OR TO ANY LICENSEE OR

TO ANY AUTHORISED USER FOR ANY INDIRECT OR CONSEQUENTIAL LOSS INCLUDING WITHOUT LIMITATION ANY LOSS OF PROFIT, REVENUE, CONTRACTS, BUSINESS INTERRUPTION OR LOSS OF DATA.

7.3. IN THE EVENT THAT IOPP INCURS ANY LIABILITY WHATSOEVER, SUCH LIABILITY WILL BE LIMITED TO THE PRICE PAID TO IOPP UNDER THIS AGREEMENT.

8. TERMINATION OR SUSPENSION OF LICENSEES

8.1. IOPP may terminate the license and rights granted to the Licensee concerned pursuant to this Agreement by giving notice of termination:

8.1.1. if a Licensee commits a wilful, material or persistent breach of the terms of this Agreement and the Licensee fails to remedy the breach within thirty (30) days notice; or

8.1.2. if the Licensee fails to commence and diligently pursue steps to remedy the breach within thirty (30) days notice.

Notices under this clause 8.1 will be sent by IOPP to both the Consortium and the Licensee concerned.

8.2. IOPP reserves the right to temporarily suspend any Licensee's access to the EAA Service for infringement of IOPP's copyright in EAA or for breach of the terms of this Agreement. Forthwith on suspending such access IOPP shall issue a notice to the Licensee and the Consortium specifying the nature of the breach and the activity causing the breach. IOPP shall forthwith restore access to the Licensee on receipt of notice that such activity has ceased and that the Licensee has made reasonable efforts to protect against reoccurrence of such activity.

9. TERMINATION

Notwithstanding anything else contained herein, this Agreement may be terminated:

9.1. by either party immediately on giving notice in writing to the other if:

9.1.1. the other party commits any material or persistent breach of any term of this Agreement and in the case of a breach capable of being remedied fails within thirty days after the receipt of a request in writing from the other party to remedy the breach; or

9.1.2. the other party becomes insolvent or is wound up or otherwise ceases to operate or on the occurrence of any analogous event under the law of any relevant jurisdiction.

10. FORCE MAJEURE

IOPP will not be under any liability for any loss or for any failure to perform any obligation hereunder due to causes beyond its control including, without limitation, failures in hardware, firmware or third party software, power failure, telecommunications failures, operation, administration and maintenance activities by third parties, damage to or destruction of Internet facilities, industrial disputes of whatever nature, acts of God or hostilities or any other causes, circumstances or

contingencies which prevent or hinder the performance by IOPP of its obligations under this Agreement.

11. GENERAL

- 11.1. Initially access to the EAA Service will be from IOPP's server but IOPP reserves the right to provide access by some other method in the future if technology develops such as to make an alternative access arrangement preferable or if IOPP determines no longer to support the EAA Service on its server.
- 11.2. References in this Agreement to any article, or other such material, will, where the context permits, include any part of that article or material including any table of contents, formula, diagram, drawing or any similar item.
- 11.3. The liability of the Consortium and the Licensees under this Agreement is joint and several.
- 11.4. This Agreement may not be assigned or transferred by the Consortium or any Licensee to any other person nor may the Consortium or any Licensee sub-contract any of its obligations to any other person without the prior consent of IOPP.
- 11.5. Any notice served by a party to this Agreement may be sent by air mail or courier, or may be delivered by hand to the address of the other set out herein and if so sent will be deemed to have been served in respect of air mail or courier ten working days after the date of posting and in respect of hand delivery on receipt.
- 11.6. The failure of any party to enforce any provision on any one occasion will not affect its right to enforce another provision or the same provision on another occasion.
- 11.7. Nothing in this Agreement will create or be deemed to create a partnership or the relationship of principal and agent between the parties and the Licensees will have no right or authority to bind or to make any representation or warranty on behalf of IOPP.
- 11.8. If any provision of this Agreement is void or unenforceable or renders the Agreement or any part of it void or unenforceable then that provision will be severable from the remainder of the Agreement which will continue in force and be construed as if such provision had never been contained therein.
- 11.9. This Agreement will be governed by and construed according to the laws of England and the parties submit to the jurisdiction of the English Courts.

As witness the hands of the parties the day and year first above written.

SCHEDULE 1
THE LICENSEES

Member name and postal address	Contact name and details	IP addresses

Network Information

If you have any problems completing the above, your network support specialist should be able to help. He or she can then contact Institute of Physics Publishing at custserv@iop.org for assistance if necessary.

You can register class B subnets, class C subnets or individual IP addresses (or ranges thereof). We need to know the first two sets of numbers for each class B subnet (e.g. 130.111) or the first three sets of numbers for each class C subnet (e.g. 193.61.240). If you have a range of subnets then please supply them in this format: 193.61.1 to 254. All of the IP addresses you list must be registered so that they can be looked up on regional registries. Please specify the location of each subnet you register (e.g. Physics Department, University of Pennsylvania, Philadelphia, PA).

SIGNED by(signature).....(name)

For and on behalf of IOP Publishing Limited

In the presence of(signature).....(name)

SIGNED by(signature).....(name)

For and on behalf of the Consortium

In the presence of(signature).....(name)