Contract between the thesis author and the Universitat de les Illes Balears

Palma, \_\_ of \_\_\_\_\_\_\_\_\_\_ of 20\_\_

I

THE PARTIES

**On the one hand,**

The Universitat de les Illes Balears, represented by Ms. **Ana María Rodríguez Guerrero**, holding DNI (ID) no. 43087686S in his capacity of director of the Doctoral School (hereinafter, University).

**And on the other,**

Mr. / Ms. with DNI (ID) no. (hereinafter, the author).

Both parties mutually recognise the legal capacity to agree contracts and undertake the terms therein in the position in which they act, and to this effect,

II

STATE THAT

ONE. The author is the sole exclusive owner of the copyright of the doctoral thesis entitled (hereinafter, the doctoral thesis) on any media and, specifically, via internet or any information channel or destination which is subject to internet assignation, as well as via digital television, cable or any other technology data broadcast form or platform (for example, hertz waves, telematics or transmission via fibre optics).

TWO. The University is an institution subscribed to the Catalonia University Libraries Consortium (hereinafter, CBUC) which has begun, with the collaboration of the Catalonia Supercomputer Centre Consortium (hereinafter, CESCA) and the sponsorship of the Universities, Research and Information Society Department, a project known as TDX which aims to offer university students, lecturers and researchers (hereinafter, users) a full text Catalan doctoral thesis database in electronic format via internet.

THREE. CESCA is a public organisation which fundamentally aims to provide support to research and development activities at all institutions needing internet access and/or the calculation of other provisions, mainly scientific calculation, but also for commercial environments requiring large databases.

FOUR. In reference to the above, both parties are interested in establishing a framework agreement to regulate the cession of transformation, reproduction and public communication rights for the doctoral thesis by the author to the University for the uses specified.

And, by virtue of what has been stated, the parties formalise the present agreement based on the following

III

CLAUSES

1. PURPOSE

1.1. The author freely, and exclusively for research and teaching, cedes the transformation, reproduction and public communication rights for the doctoral thesis to the University on a global level and for the validity period of the present agreement solely for:

(i) The adaptation of the doctoral thesis, whether directly or via third parties, insofar as this is necessary to adapt it to the internet, or any other technology liable to internet assignation, format, image or appearance; as well as the incorporation of watermarking or any other electronic format security system for the doctoral thesis.

(ii) The reproduction of the doctoral thesis in a digital support for its incorporation into an electronic CBUC database, an organisation to which the University belongs, granting the right to store the doctoral thesis on central servers, as well as the right to perform any other necessary temporary reproduction of the doctoral thesis to allow users either visualisation, reproduction or recording onto a PC hard drive or paper for private and/or study or research use.

(iii) The public communication or availability of the doctoral thesis as requested or à la carte, via any channel or addressed to any information destination which is liable to internet assignation (for example, mobile telephony – WAP, Wireless Access Protocol – or UMTS or other similar media such as television or radio with digital television or cable when broadcast via internet).

1.2 In order to make rights transfer set out in clause 1.1. effective, the author must deliver the following documentation to the University in electronic or paper support:

(i) A certificate issued by the Executive Committee of the Doctoral School, showing the title, author, supervisor, presentation and defence date for the doctoral thesis, the mark obtained and the members of the panel.

1. A disk or CD-ROM containing the **full doctoral thesis text** in PDF format or other compatible formats such as Word, HTML or LaTeX. Where possible, it would be useful for the thesis to be presented in different documents, not many, divided in chapters or sections in order to help consultation.
2. A disk or CD-ROM with the thesis abstract (Compulsory information that must go with the thesis) running to a maximum 600 words. It is recommended to present this abstract in Spanish, Catalan and English.

1.3 The author expressly authorises the University to cede the rights subject to the present agreement to the CBUC/CESCS. In any case, the CBUC/CESCA must adapt to what is stated herein and to the agreement it will obligatorily sign with the University itself, and where the CBUC/CESCA uses the doctoral thesis contrary to what is set out in the agreement, the University commits to immediately taking all necessary steps so that this use ceases.

2. GUARANTEES

2.1 The author guarantees (s)he is the owner of the intellectual property rights subject to the present agreement with regards to the doctoral thesis who, subsequently, is fully authorised to sign the present agreement with the University and by committing to the present document does not infringe any right of third parties whether industrial or intellectual, commercial secret or any other.

2.2 Without prejudice to any other right that may correspond to it, the University may terminate the present agreement where a third party avails itself of any right of all or part of the doctoral thesis and/or the author is unable to guarantee the pacific exercise of the rights ceded by virtue of this agreement.

2.3 Each party commits to notifying the other, as soon as they become aware of it, of the existence of any third party claim relating to the doctoral thesis.

3. DURATION

3.1 The present agreement will come into force the day it is signed and has an indefinite duration.

4. UNIVERSITY OBLIGATIONS

4.1 By virtue of the present agreement, the University acquired the right, but not the obligation, of incorporating the doctoral thesis onto the internet.

* 1. When the doctoral thesis is shown on the TDX database, both the author name and the University will appear, as well as any other specific and reasonable statement indicated. The University is obliged to respect this mention and make it appear in the electronic format doctoral thesis

4.3 Although the University solely makes the doctoral thesis available for users of the TDX database for private use and/or research and education purposes, it does not guarantee nor accept any responsibility for the form and manner users make later use of the doctoral thesis.

4.4 The parties recognise and agree that the University does not intend to censure or revise the exactitude and appropriateness of the doctoral thesis, nor may it be obliged to do so; consequently, it is the author in all cases who is responsible for the doctoral thesis content.

5. AUTHOR OBLIGATIONS

5.1 The author must immediately make the University aware of any error or event it becomes aware of relating to the doctoral thesis so that the University may consequently take action.

6. INTELLECTUAL PROPERTY

6.1 Ownership of the intellectual property moral or exploitation rights over the doctoral thesis belongs and will continue to belong to the author. The University solely acquires the rights specifically set out in this agreement and, in particular, those specified in clause 1.

6.2 Subsequently, all rights corresponding to the author in relation to doctoral thesis use not set out in clause one or that must be exercised in different forms and conditions than those expressly set out in this clause are excluded from this agreement and reserved for the author.

6.3 Each of the parties must immediately inform the other of any infraction of intellectual property rights of which it has been informed and lend all its collaboration in defence of these rights.

7. AGREEMENT TRANSFER

7.1 This agreement binds the parties and their successors.

7.2 This agreement creates a relationship of trust between the parties. The author may not transfer this agreement nor any of the rights or obligations to third parties without prior written consent from the University, which may be rejected at its entire discretion. On the other hand, the University may transfer this agreement to the CBUC/CESCA.

8.1 Without prejudice to what is set out in clause 3.1, each of the parties may terminate this agreement where the other fails to complies with any of the obligations deriving from it.

8.2 Where this agreement is terminated for any cause, each of the parties must immediately stop using the rights and signs, the use and exploitation of which have been ceded by the other party. Furthermore, the University must immediately return to the author the materials the latter had delivered to it.

9. JURISDICTION AND APPLICABLE LEGISLATION

9.1 The present agreement is regulated by Spanish legislation and international regulations of which Spain is party. Nonetheless, any exception or limit incorporated into Spanish legislation in favour of libraries or universities will preferentially be applicable, and is not limited or affected by the content of this licence and authorisation agreement.

9.2 Both parties agree that any dispute, discrepancy, question or claim resulting from the execution or interpretation of the present agreement or directly or indirectly relating to it, will be definitively resolved via arbitrage in the framework of the Arbitral Tribunal of Barcelona, to which arbitrage administration and arbiter assignation is charged in accordance with its Regulations and Statutes or, where applicable, any other conflict resolution system set out by the University.

In witness whereof, the parties sign the present agreement in duplicate to a single effect, in the location and on the date shown at the top.

Dr Ana María Rodríguez Guerrero Dr

Director of the Doctoral School

Universitat de les Illes Balears