PARTICIPATION CONTRACT

PUBLIC LIBRARY OF SCIENCE (PLOS), a California non-profit company whose registered office is at 1160 Battery Street, Koshland Building East, Suite 225, San Francisco, CA 94111, USA ("Publisher"), and

JISC SERVICES LIMITED (OPERATING AS JISC COLLECTIONS) (Company Number 2881024), a company limited by guarantee incorporated in England and Wales whose registered office is at 4 Portwall Lane, Bristol BS1 6NB ("Jisc Collections")

OFFERS to you, the Institution, participation in PLOS’ Community Action Publishing (as described herein) on the terms and conditions as set out in this Participation Contract (“Agreement”).

Acceptance of this Agreement will be by receipt of the Order Confirmation Email (as hereafter defined) by the Publisher and Jisc Collections as part of Licence Subscriptions Manager (as hereafter defined). Acceptance shall be acceptance of all terms and conditions of this Agreement and no variation or counter offer will be accepted by the Publisher or Jisc Collections.

BACKGROUND

1. PLOS is a non-profit open access publisher with a library of open-access journals offered under the Creative Commons Attribution (CC BY) license.

2. As an alternative to article processing charges (“APC”) per article for publishing in PLOS Medicine and PLOS Biology journals, PLOS has instituted a community-supported model whereby members agree to share the costs of editorial and publishing services rendered by PLOS (“Community”) to community members’ affiliated corresponding and contributing authors (“Community Authors”). To participate in either the PLOS Medicine and/or PLOS Biology Community (“Community Action Publishing”), Institutions pay an annual Community Fee to PLOS in exchange for a suite of services that includes the non-metered peer review and publication of papers by Community Authors, among other benefits. The Community Fees will be used by PLOS to cover its annual revenue target for each Community respectively, which will be made publicly available on the plos.org website.

3. Jisc Collections (as hereafter defined) has developed an online ordering service; the ‘Licence Subscriptions Manager’, whereby nominated persons can place, order, and manage subscriptions online on behalf of their institution, which will be used in connection with this Agreement.

4. Jisc Collections and PLOS (“Publisher”) agreed to the Offer and the terms of this Agreement under separate agreement dated 14th October 2020 (“Master Agreement”) whereby Jisc Collections will pay the Publisher a Master Fee for Institution’s Participation in PLOS’ Community Action Publishing.

IT IS AGREED AS FOLLOWS

1. DEFINITIONS

1.1 In this Agreement, the following terms shall have the following meanings:
"Community Author" means an eligible author (contributing and/or corresponding) who is affiliated to or based at the Institution of an article submitted to the Publisher.

"Community Fee" means the applicable fee for Participation in a Community as set out in the Offer and in the Quote (if any).

"Eligible Article" means an article by a Community Author accepted for publication by the Publisher in respect of which the Institution agrees (under the verification process provided for in this Agreement) is covered by the Community Fee.

"Licence Subscriptions Manager" means the online subscription ordering service developed by Jisc Collections, or any such service as may replace Licence Subscriptions Manager. Licence Subscriptions Manager can be found at https://subscriptionsmanager.jisc.ac.uk.

"Offer" means the offer agreed between Jisc Collections and the Publisher for participation in PLOS' Community Action Publishing as set out in Annex 1.

"Open Access Article" means an article or other published content by a Community Author that is accessible or submitted on the basis that it will be accessible immediately, on an open access basis under CC BY terms.

"Order and Acceptance Form" means the form used by Jisc Collections as part of Licence Subscriptions Manager. A sample copy of the form is attached to this Agreement in Annex 2. Once the completed form has been received by Licence Subscriptions Manager, the system automatically generates an Order Confirmation Email to the Institution, Order Confirmation Email to Jisc Collections and an Order Confirmation Email to the Publisher repeating the information on the form regarding the name of the Institution, the start and end date of the Participation Period and confirming the date on which the Institution accepted the terms and conditions of this Agreement.

"Order Confirmation Email" means the email automatically generated by Licence Subscriptions Manager after the Institution has completed the Order and Acceptance Form, confirming that the Institution has placed the order, the start and end date of the Participation Period and that the Institution has agreed to the terms and conditions of this
"Participation" means participation in PLOS' Community Action Publishing.

"Participation Period" means a period from the start date to the expiry date as set out in the Order and Acceptance Form.

"Quote" means the fee quotation specified in the Order Confirmation Emails for the rights granted in this Agreement.

"Transaction Management Charge" means the fee payable to Jisc Collections in connection with arranging and managing this contract as set out in Schedule 1.

"Version of Record" means the final typeset and edited version of the article published in a journal.

1.2 Headings 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.

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.

2. AGREEMENT

2.1 In consideration for the Master Fee payable by Jisc Collections to Publisher, the Publisher will provide the Institution with Participation in PLOS' Community Action Publishing on the terms and conditions as set out in this Agreement.

3. RESPONSIBILITIES OF THE PUBLISHER

3.1 The Publisher agrees to publish Eligible Articles submitted during the Participation Period under the conditions outlined in this Clause 3.

3.2 The Version of Record of all Eligible Articles that follow the terms of this Agreement shall be:

   (i) made immediately Open Access, as the Version of Record on the Publisher website with no embargo period;

   (ii) published under the terms of the CC-BY licence;

   (iii) deposited by the Publisher on acceptance in PubMed Central.

3.3 Publisher will:

   3.3.1 send Institution a monthly report listing accepted manuscripts from Community Authors in the journal(s) selected in Clause 4.2. The statement will list (as a minimum) the name of the Community Author, the manuscript submission date, the journal title, the article title, the DOI and Journal ISSN.
3.3.2 publish articles by Institution’s Community Authors that have been accepted by PLOS Medicine and/or PLOS Biology during the Participation Period at no additional fee, regardless of whether an article’s contributing authors’ institutions are members of the Community.

3.3.3 provide a twenty-five percent (25%) discount on the applicable non-member fee in cases where the article lists an Institution contributing author but where the corresponding author’s institution is a non-member.

3.3.4 provide Institution with access to PLOS monthly accepted publications reports and access to COUNTER data across all PLOS journals.

3.3.5 acknowledge Institution as a Community partner on the plos.org website.

3.3.6 provide a yearly public report on the status of both Communities which will include (among other things) a list of Community members per journal, contribution (per member) to the target revenue goal, and revenue received by PLOS from non-Community members (non-member fee or other) as applied to the target revenue goal.

3.3.7 provide a five percent (5%) discount on journal APCs for papers transferred from PLOS Medicine and PLOS Biology to another PLOS non-community journal when a corresponding author belongs to a Community member and the author actively requests the discount.

3.4 Publisher will apply the Community Fee to cover the costs for publishing Community author articles each year, plus a ten percent (10%) margin. The Community Fee is based on Publisher’s target revenue and cost recovery strategy per journal for a period of three (3) years starting January 1, 2021. Publisher’s target revenue goal will be made publicly available to Community members on the plos.org website on an annual basis.

3.5 If Community member fees and/or non-member fees collected each year exceed the annual revenue target for either or both Communities, revenue above target (if any) will generate discounts for Community participants the following year.

3.6 Publisher will review manuscripts submitted by Community Authors in accordance with Publisher’s ethical, editorial, and technical standards and requirements, and all related editorial and publication decisions will be made in Publisher’s sole discretion.

3.7 Submission of manuscripts by Community Authors are subject to separate terms and conditions between Publisher and Community Author.

4. RESPONSIBILITIES OF INSTITUTION

4.1 The Institution agrees to:

4.1.1 pay Jisc Collections the applicable Community Fee for the Participation Period in accordance with Annex 1, as well as a Transaction Management Charge.

4.1.2 inform Community Authors that this Agreement is in place and that their Eligible Articles can be made Open Access Articles on acceptance by the Publisher;

4.1.3 use reasonable efforts to ensure that Community Authors shall identify themselves as being eligible, and shall verify the eligibility of an Community Author in the course of the Publisher’s publishing workflow.
4.2 Institution chooses to participate in either or both of the following Communities, as indicated in the Order Confirmation Email:

- PLOS Biology
- PLOS Medicine

4.3 Institution understands that the Community Fee is a flat fee determined by an institution's tier that is payable by all Community members and applies even if the Effective Date of this Agreement is a date other than January 1. If the Effective Date of this Agreement is a date other than January 1, the Community Fee will cover Institution's Author manuscripts submitted to the Communities journal(s) prior to the Effective Date but only if the manuscript is published by Publisher after the Effective Date. To enable an equitable and transparent cost sharing of Publisher’s editorial and publishing services across all Community members, Publisher will not prorate the annual fee to account for a partial calendar term.

5. RESPONSIBILITIES OF JISC COLLECTIONS

5.1 Jisc Collections agrees to:

5.1.1 collect and save the details of the Institution as part of Licence Subscriptions Manager and after acceptance of the terms and conditions of the Participation Contract by such Institutions, notify Publisher of the order;

5.1.2 issue an invoice to Participating Institution upon receipt of its Order and Acceptance Form, in respect of the Community Fee due under this Participation Contract;

5.1.3 share with Publisher a central point of contact at the Institution;

5.1.4 receive payments from Participating Institutions that have completed the Order and Acceptance Form.

6. EDITORIAL INDEPENDENCE

6.1 All parties acknowledge that the Institution is in no way involved with the Publisher's editorial process.

6.2 Nothing herein contained shall oblige the Publisher to publish any article submitted to the Publisher by an Community Author or the Institution. The Institution acknowledges that the selection of material to be published is entirely at the discretion of the Publisher and the Institution waives any claim it may have against the Publisher in the event that the Publisher refuses or declines to publish any material (or part thereof) submitted by an Community Author or the Institution.

7. TERMS OF PUBLICATION

7.1 The Institution acknowledges that before any material submitted by an Community Author or the Institution will be accepted for publication the Community Author or and (if different) the owner of any copyright in such material will be required to agree to the applicable terms and conditions of publication (including without limitation the terms relating to open access).

7.2 Data Protection: All parties agree to comply with all applicable data protection laws. Each party is considered to be a data controller of any data it processes concerning any identifiable person. If any party becomes a data processor for another party, a suitable data protection agreement shall be entered into as necessary.
8. **TERM AND TERMINATION**

8.1 The term of this Agreement will commence thirty (30) days from Institution’s acceptance of these terms and will remain in full force and effect until the end of the Participation Period as set out in such Subscription Order and Acceptance Form, unless terminated earlier as provided for in this Clause.

8.2 Either Publisher or Institution may terminate this Agreement at any time without cause on the anniversary date as set out on the Subscription Order and Acceptance Form (and subsequently in the Order Confirmation Email) by giving the other party sixty (60) days’ notice to that effect. A copy of such notice shall be sent to Jisc Collections.

8.3 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. In the event of termination under this Clause, this Agreement shall terminate the obligations of all three parties.

8.4 This Agreement terminates automatically in the event the of termination or expiration of the Master Agreement between Publisher and Jisc Collections.

9. **FORCE MAJEURE**

9.1 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.

9.2 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 from the date of such notice for so long as such cause of prevention or delay shall continue.

10. **ASSIGNMENT**

10.1 Except as permitted for in this Clause, neither this Agreement nor any of the rights and obligations under it may be assigned by either party. A party may assign their rights and obligations under this Agreement in the event of an acquisition of substantially all of the assets of a part. In such case, this Agreement will bind and inure to the benefit of and be enforceable by the parties, their respective successors, and permitted assigns.

11. **LIABILITY**

11.1 Except as provided for in this Clause, under no circumstances will any party be liable to the other in contract or negligence or otherwise under this Agreement, even if a party has been advised of the possibility of such damages, for:
11.1 In no event will any party’s total liability to the other party for all damages, losses, and causes of action arising out of this Agreement (whether in contract, tort including negligence, warranty or otherwise) exceed the amount paid by Institution during the twelve (12) months immediately preceding the claim or one hundred dollars, whichever is greater. Liability for wilful misconduct shall remain unaffected.

11.2 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.

12. GOVERNING LAW AND DISPUTE RESOLUTION

12.1 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.

12. NOTICES

12.1 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:

   if to the Institution: as stated in the Order and Acceptance Form

   if to Jisc Collections
     Caren Milloy
     Director of Licensing
     Jisc Collections
     15 Fetter Lane
     London EC4A 1EW
     caren.milloy@jisc.ac.uk

   if to the Publisher:
     Sara Rouhi
     Director, Strategic Partnerships
     Public Library of Science
     1160 Battery Street
     Koshland Building East, Suite 225
     San Francisco, CA 94111, USA
     srouhi@plos.org cc: institutionalbilling@plos.org

13. GENERAL
13.1 This Agreement, its Schedules and Annexes constitute the entire agreement between
the parties relating to the Participation 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 all parties in writing.

13.2 The Schedules and Annexes 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 and Annexes.

13.3 The invalidity or unenforceability of any provision of this Agreement shall not affect the
continuation in force of the remainder of this Agreement.

13.4 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.

13.5 The parties will comply with all applicable laws and regulations relating to anti-
corruption and anti-bribery. The parties represent and affirm that no bribes or corrupt
actions have or will be offered, given, received or performed in relation to the
procurement or performance of this Agreement. For the purposes of this clause,
"bribes or corrupt actions" means any payment, gift, or gratuity, whether in cash or
kind, intended to obtain or retain an advantage, or any other action deemed to be
corrupt under the applicable country laws. The Institution will not, directly or indirectly,
make any such payment while this Agreement is in effect.
ANNEX 1: COMMUNITY FEES AND OFFER

1. By completing the Order and Acceptance Form as part of Licence Subscriptions Manager the Institution accepts the terms of this Agreement and accepts that it must pay to Jisc Collections the total sum of the Community Fee for the Participation Period in accordance with the applicable Quote. All prices are exclusive of VAT, which will be payable by the Institution where applicable.

2. The Institution shall pay to Jisc Collections the Transaction Management Charge in accordance with the table below, based on exchange rates at the time of invoicing:

<table>
<thead>
<tr>
<th>Community Fee payable by Institution (p/a) exc VAT</th>
<th>Transaction Management Charge (p/a) exc VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;£1,000</td>
<td>£50</td>
</tr>
<tr>
<td>£1,001 to £10,000</td>
<td>£100</td>
</tr>
<tr>
<td>&gt;£10,001</td>
<td>£200</td>
</tr>
</tbody>
</table>

3. The Community Fee and Transaction Management Charge shall fall due and payable by the Institution within forty-five (45) days on receipt by the Institution of Jisc Collections' invoice.
ANNEX 2: ORDER AND ACCEPTANCE FORM (EXAMPLE)