

READ AND PUBLISH LICENCE AGREEMENT

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(2) **(Name)** a university whose place of business is at (address) (“the Licensee”)

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IT IS AGREED AS FOLLOWS

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- a member of staff of the Licensee (whether permanent or temporary, including retired members of staff and any teacher who teaches students registered with the Licensee);
- Affiliated Users; or
- Library Patrons.

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“Version of Record” means the final typeset and edited version of the Open Access Article published in a journal forming part of the Licensed Material.

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- b) Clause and Annex headings shall not affect the interpretation of this Licence.
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- f) Any words following the terms ‘including’, ‘include’, ‘in particular’, ‘for example’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words term preceding those terms.
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 - v) Alter, edit, abridge or otherwise modify the Licensed Materials or any part of them for any purpose whatsoever or incorporate any part of any Licensed Materials (whether in amended or unamended form) into any other work
 - vi) make any Commercial Use of the Licensed Material (in whole or in part); or
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- a) Licensee shall pay the first annual payment of the Licence Fee, and shall pay each annual payment of the Licence Fee thereafter, in accordance with the provisions of clause 8)c) below, by bank transfer or through a recognised agent.
- b) The Licensee shall be solely responsible for the Licensee's Secure Network, its compatibility with the Websites and The Company of Biologists' network and the ability of Authorised Users to access the Licensed Material via the Licensee's Secure Network.
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- i) Use reasonable endeavours to ensure that Authorised Users are aware of and undertake to respect and not to infringe the intellectual property rights subsisting in the Licensed Materials;
 - ii) Use reasonable endeavours to ensure that Authorised Users and potential Authorised Users are aware of and abide by the terms and conditions of this Licence, the Copyright Policy, the Website Terms and any other access controls as requested by The Company of Biologists;
 - iii) Make access to the Licensed Materials available to Authorised Users only from an IP address authorised by The Company of Biologists;
 - iv) Adopt reasonable measures to prevent access to and improper use of Licensed Materials by unauthorised persons, and take responsibility for terminating any access to the Licensed Materials by Authorised Users making improper use of the Licensed Materials, or having unauthorised access of which the Licensee has notice or knowledge;
 - v) Promptly notify The Company of Biologists in the event that the Licensee becomes aware of any infringement or unauthorised usage of the Licensed Materials, or breach of the terms of this Licence. In the event that Licensee becomes aware of any such infringement, breach or unauthorised use, Licensee shall co-operate in the investigation and pursuit of such infringement, unauthorised use or breach and shall use all reasonable efforts to ensure that such activity ceases and to prevent any reoccurrence; and
 - vi) Supply The Company of Biologists with complete and accurate Registration Information at all times. Licensee shall notify The Company of Biologists of any changes to the Registration Information.
- d) Licensee acknowledges that The Company of Biologists is the owner or licensee of the intellectual property rights subsisting in the Licensed Materials (including but not limited to The Company of Biologists' copyright, trade mark rights and database rights) and that other than as expressly set out in this Licence, no rights to such intellectual property rights are granted to the Licensee or Authorised Users under this Licence.
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- f) The Licensee agrees to inform Eligible Authors that the Licence is in place and that their articles can be made Open Access Articles on acceptance in a Licensed Title forming part of the Licensed Materials.
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- a) The Licensee shall pay The Company of Biologists the Licence Fee in accordance with the amounts specified in Appendix D.
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- d) All sums specified under this Licence, unless otherwise stated, are exclusive of VAT and any other similar or equivalent taxes or duties, where applicable, and any applicable VAT will be payable in addition.
- e) The Licensee shall notify The Company of Biologists (by sending an email to the email address: subscriptions@biologists.com) if, at any time, it wishes to increase the number of Licensed Sites. The Company of Biologists shall review such request and confirm any increase to the Licence Fee. The Company of Biologists shall only grant access to such additional Licensed Sites after:
 - i) the increase to the Licence Fee (if any) has been paid by Licensee in full; and
 - ii) Appendix A has been amended to incorporate details of the additional Licensed Site, which shall then replace the earlier version of Appendix A.
- f) The Company of Biologists has the right to inform the Licensee that it wishes to amend the Licence Fee, on giving the Licensee no less than 90 (ninety) days' written notice prior to 1 January 2025 (or such other later date as may be declared by Plan S), in the event that The Company of Biologists has met the Plan S target of 75% of articles being published as Open Access Articles across the Licensed Materials prior to such notice. The Company of Biologists shall have the right to amend this Agreement such that the Licence Fee shall, from 1 January 2025, or such other date as amended by Plan S, only cover publishing fees and not read fees, at a cost specified by The Company of Biologists, at its sole discretion, subject to agreement by the Licensee and execution of an amendment signed by The Company of Biologists and the Licensee.

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- e) On expiry or termination of this Licence for any reason and subject to any express provisions set out elsewhere in this Licence:
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 - ii) clause 5);
 - iii) clause 7);
 - iv) this clause 9);
 - v) clause 13);
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 - vii) clause 18).
- g) Termination or expiry of this Licence shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim

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 - i) DEATH OR PERSONAL INJURY TO THE EXTENT THAT IT RESULTS FROM A PARTY'S NEGLIGENCE, OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS IN THE COURSE OF THEIR ENGAGEMENT; OR
 - ii) A PARTY'S FRAUD OR FRAUD OF ITS EMPLOYEES OR AGENTS IN THE COURSE OF THEIR ENGAGEMENT; OR ANYTHING ELSE WHICH CANNOT BE LIMITED OR EXCLUDED BY LAW.

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- a) Neither party shall have any liability under or be deemed to be in breach of this Licence for any failure to perform any term or condition of this Licence which result from circumstances beyond the reasonable control of such party, including civil commotion, war, trade dispute, strike, failure of electronic or mechanical equipment or communication lines, telephone or other connectivity problems, or damage to or destruction of any network facilities, failure by suppliers, strikes, flood, governmental restrictions, pandemics, epidemics, power, not arising from an act or omission of such party or its employees or contractors ('Force Majeure Event').
- b) Each party shall promptly notify the other party in writing of any Force Majeure Event which is causing delay or failure in performance of such party's obligations under this Licence, or will or is likely to do so, including the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Licence, and use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- c) Provided it has complied with clause 14)b), if a party is prevented, hindered or delayed in or from performing any of its obligations under this Licence by a Force Majeure Event ('Affected Party'), the Affected Party shall not be in breach of this Licence or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- d) If a Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 180 (one hundred and eighty) days, the party not affected by the Force Majeure Event may terminate this Licence by giving 14 days' written notice to the Affected Party.

15) JURISDICTION AND DISPUTE RESOLUTION

- a) This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- b) In the event of any claim or dispute arising out of or in connection with this Licence, including any question regarding its existence, validity or termination, the parties will first attempt to settle such claim or dispute by discussion between the Company Secretary or Director of The Company of Biologists and a Senior Executive of the Licensee (such as the Vice Chancellor if Licensee is an Institution, or a Senior Director if the Licensee is a company). In the event that the dispute is not resolved by such senior executives within thirty (30) days, the parties will then attempt to settle any such dispute between them by mediation in accordance with the Centre for Effective Dispute Resolution (“CEDR”) model mediation procedure. The mediation will take place in London, England and will be initiated by one party giving written notice to the other (“ADR”) notice requesting a mediation. A copy of that request should be sent to CEDR. Unless otherwise agreed between the parties, CEDR shall nominate a mediator.
- c) If the dispute is not settled by mediation within sixty (60) days of the receipt of the mediation request by CEDR pursuant to clause 15)b) above, or such further period as the parties shall agree in writing, the parties irrevocably agree that any dispute arising out of or in connection with the Licence, including a dispute as to validity or existence of the Licence, and/or this clause 15), shall be resolved at the sole option of The Company of Biologists either:
 - i) by binding arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this clause. The language of such arbitration shall be English, the arbitration shall be conducted by a single arbitrator and the seat or legal place of arbitration shall be London, England. In the event of a failure by the Parties to agree on the sole arbitrator within thirty (30) days of one party calling on the other to do so, the arbitrator shall be appointed by the LCIA, and the arbitrator shall be and shall remain independent and impartial of each party; or
 - ii) by proceedings brought in the courts of England, which courts are to have exclusive jurisdiction.

16) NOTICES

- a) Any notice required or admitted to be given by either party to the other hereunder shall be in writing and shall be delivered by hand or email or by pre-paid first-class post or other next Working Day delivery services addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice, and any notice to be given by email to The Company of Biologists shall be sent to subscriptions@biologists.com.
- b) Any notice or communication shall be deemed to have been received:
 - i) if delivered by hand, on signature of a delivery receipt; or
 - ii) if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or
 - iii) if sent by email, on delivery of the email (as evidenced by a delivery receipt) if delivered during working hours on a Working Day, and otherwise on the first Working Day following delivery.
- c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17) THIRD PARTY RIGHTS

- a) A person who is not a party to this Licence is not intended to have any rights to, and shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.
- b) The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Licence are not subject to the consent of any other person, and a person who is not a party to this Licence shall not be entitled to require its consent to any amendment.

18) GENERAL

- a) The Licensee may not assign or sub-license this Licence or any rights granted under it without The Company of Biologists' prior written consent.
- b) If any provision or part-provision of this Licence is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Licence.
- c) This Licence and the Appendices constitutes the entire Licence of the parties about its subject matter and supersedes all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and, except the Copyright Notice which may be updated from time to time by The Company of Biologists, and Appendix A which may be updated in accordance with clause 8)e), may not be amended or modified except by agreement in writing signed by both parties.
- d) Other than expressly set out in this Licence, each of the parties agrees that in entering into this Licence it does not rely on, and shall have no remedy in respect of, any statement, representation or warranty (whether negligently or innocently made and whether or not made in connection with the terms of this Licence) of any person (whether a party to this Licence or not). Notwithstanding the aforesaid, nothing in this clause 18)d) shall operate to limit or exclude any liability for fraud.
- e) Nothing in this Licence shall constitute or imply, or be deemed to constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Licence.
- f) No failure or delay by a party to exercise any right or remedy provided under this Licence or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19) ACCESSIBILITY COMPLIANCE

- a) The Company of Biologists provides access to Licensed Materials to the Licensee on a software platform provided by a third party ("**Silverchair**"). Silverchair is committed to the creation of software that meets modern accessibility expectations, by applying best practices to target level AA conformance to Web Content Accessibility Guidelines 2.1 (WCAG 2.1) standards of the World Wide Web Consortium Web Accessibility Initiative (W3C WAI). Silverchair tests client websites for accessibility compliance using industry standard WCAG 2.1 validation software.
- b) Notwithstanding the provisions of clause 19)a) above, The Company of Biologists shall not be liable to the Licensee or any of its Authorised Users for failure of the third party's software platform from which the Licensed Materials may be accessed to comply with the Web Accessibility Guidelines 2.1 (WCAG 2.1) standards of the World Wide Web Consortium Web Accessibility Initiative (W3C WAI).

IN WITNESS WHEREOF, The Company of Biologists and the Licensee have caused this Licence to be executed by their duly authorised representatives as of the date set forth below.

For The Company of Biologists Limited

Name

Title

Signature

Date

For

Name

Title

Signature

Date

SAMPLE

APPENDIX A

[SINGLE SITE LICENCE]

The Licence granted hereunder is a single site Licence, a “Single Site”, being the physical premises of the library or libraries operated by the Licensee at a single site. A single site is a single contiguous geographic region from within which the Licensee’s “Authorised Users” and public visitors can access the Licensed Materials over a secure network. A typical single site would have a single billing address for all subscription purchases and all physical locations accessing the Licensed Materials would be located on the same physical campus.

The Single Site licensed hereunder is as follows:

Name of library:

Address:

Contact Name:

Contact Email:

Registration Information (Secure Authentication by IP addresses)

Please answer the following questions regarding your IP addresses

1. Do any of the IP addresses to be registered relate to a Proxy Server? YES / NO
2. Do you allow access to off-site Authorised Users? YES / NO
3. If so, do you have a minimum of Two-Factor Authentication for off-site Authorised Users in place, namely that each Authorised User may only access the Licensed Materials by inputting a username and password? YES / NO

Please list your IP addresses below, annotating any Proxy Servers accordingly

PLEASE NOTE: If the Licensee maintains or provides service to users that are: (i) outside one single geographical contiguous location; and/or (ii) within related or unrelated institutions/agencies/libraries who may or may not share administrative structure, networks or IP address ranges, then the Licensee may need to obtain a multi-site Licence, and any use by the Licensee of the Licensed Materials provided under this Licensee outside of the Licensed Site shall be a material breach of this Licence and The Company of Biologists reserves the right, at its sole discretion, to suspend the Licensee’s access to Licensed Materials while a multi-site Licence is put in place between the parties, or to exercise its rights granted in clause 9) of the Licence.]

OR

[MULTI SITE LICENCE

The Licence granted hereunder is a multi-site Licence, a “Multi-Site Institution” being: a non-contiguous site i.e. a single institution with separate branches or departments that operate independently and may or may not share IP addresses and/or network services with the Licensee OR affiliates, partners or franchises that may or may not operate independently of the Licensee and may or may not be located on the same site and may or may not share IP addresses and/or network services with another site.

The Multi Site Institution licensed hereunder is as follows:

Description of multi-site institution:

1st Site

Name of Licensed premises:

Address of Licensed premises:

Contact Name:

Contact Email:

Registration Information (Secure Authentication by IP addresses):]

Please answer the following questions regarding your IP addresses

1. Do any of the IP addresses to be registered relate to a Proxy Server? YES / NO
2. Do you allow access to off-site Authorised Users? YES / NO
3. If so, do you have a minimum of Two-Factor Authentication for off-site Authorised Users in place, namely that each Authorised User may only access the Licensed Materials by inputting a username and password? YES / NO

Please list your IP addresses below, annotating any Proxy Servers accordingly

2nd Site

Name of Licensed premises:

Address of Licensed premises:

Network Contact Name:

Network Contact Email:

Registration Information (Secure Authentication by IP addresses):]

Please answer the following questions regarding your IP addresses

1. Do any of the IP addresses to be registered relate to a Proxy Server? YES / NO
2. Do you allow access to off-site Authorised Users? YES / NO

3. If so, do you have a minimum of Two-Factor Authentication for off-site Authorised Users in place, namely that each Authorised User may only access the Licensed Materials by inputting a username and password?
YES / NO

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Please continue on a separate sheet if required

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APPENDIX C - The Company of Biologists' journal titles

The term “Licensed Titles” used in this Licence shall mean the following journals:

Development

Journal of Cell Science

Journal of Experimental Biology

Disease Models & Mechanisms

Biology Open

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APPENDIX D - Licence Fees for the Term

Year 1 - (price)

Year 2 - (price)

Year 3 - (price)

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