

Thank you for your interest in the CLOCKSS Archive community.

This Participating Publisher Agreement (this "Agreement"), effective as of the date set forth on the signature page to this Agreement ("Effective Date"), is made between the publisher identified in Addendum A hereto ("Publisher") and the Digital Distributed Community Archive, a California nonprofit public benefit corporation, located in Stanford, California, U.S.A. ("CLOCKSS," and together with Publisher, "the Parties").

WITNESSETH:

WHEREAS, Publisher is the publisher of scholarly content and desires to assure that certain scholarly content published by Publisher will remain available to the general public once it is no longer available from any publisher;

WHEREAS, CLOCKSS, a community-governed collaboration of publishers and libraries working to achieve a sustainable and globally distributed archive, maintains an archive of published scholarly content in a distributed system with multiple, redundant, geographically-distributed Archive Nodes (the "Archive") with the goal of ensuring that everyone, worldwide, will have access to such scholarly content when it is no longer available from a publisher if otherwise legally permissible;

WHEREAS, Publisher desires to collaborate with CLOCKSS by depositing copies of certain content published by Publisher into the Archive and by helping to build the CLOCKSS community; and

WHEREAS, the Parties desire to state the following terms pursuant to which Publisher will become a Participating Publisher of CLOCKSS (as defined in the CLOCKSS Bylaws),

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Participating Publisher

   A. Publisher is hereby granted status by CLOCKSS as a Participating Publisher.

   B. Publisher agrees to pay to CLOCKSS annually a fee based on publishing revenue (the "Annual Fee") and other fees set forth in Section 7 below and in Exhibit A attached hereto and incorporated herein by reference, and to comply with its other obligations set forth in this Agreement.

2. Deposit of Electronic Copies of Content

   A. Publisher will deposit content ("Content") set forth on Addenda B and C hereto (and other Content as it sees fit) into the CLOCKSS Archive on a schedule agreed to by the Parties. Publisher will deliver Content to CLOCKSS electronically via a method and with a manifest or file naming or directory structure convention agreed to by the Parties. Publisher shall include ISSNs in journals and ISBNs in books, and use Digital Object Identifiers (DOIs) to identify journal articles and book titles, effective 2018.

   B. Publisher agrees to cooperate with CLOCKSS and provide information reasonably requested by CLOCKSS in order to facilitate the delivery and archiving of Content on secure CLOCKSS databases (the "Archived Content"). Publisher agrees to add a

reasonable number of CLOCKSS employees and/or agents to Publisher's subscriber list so that CLOCKSS has online access to Publisher's Content for testing and archiving. Publisher agrees to make available to CLOCKSS in connection with the signing of this Agreement and from time to time thereafter as requested: (i) representative samples of the Content; (ii) information regarding the electronic files containing the Content and samples of the file formats; (iii) documentation related to such files, including the documentation and details with respect to any proprietary file formats, document type definitions (DTD) and/or metadata used in connection with the publication(s); and (iv) other information or assistance that CLOCKSS shall reasonably request.

C. Publisher agrees to use reasonable efforts to inform CLOCKSS prior to making changes to the previously-agreed-to format and delivery of electronic files that may impact the processing of such electronic files by CLOCKSS so that the Parties may avoid or minimize any associated disruption and/or expense.

D. Once Content is deposited in the Archive, such Archived Content cannot be withdrawn either by Publisher or by any subsequent owners of the Archived Content other than due to the failure by CLOCKSS to abide by the CLOCKSS Bylaws or the winding up, dissolution, liquidation, bankruptcy or other termination of operations of CLOCKSS.

E. At the request of Publisher, CLOCKSS will make reasonable efforts to identify Archived Content that contains information that has been retracted or removed ("Retracted") by Publisher due to potential inaccuracy ("Retracted Content"). Upon a Trigger Event (as defined below) involving such Retracted Content, the CLOCKSS Board (the "Board") shall determine whether such Retracted Content will be included in the Release (as defined below), and if Released, what if any notifications should accompany such Retracted Content. If the CLOCKSS Board determines that the Release of such Retracted Content would present a legal risk to CLOCKSS or Publisher, the Content will not be Released unless CLOCKSS and Publisher are indemnified against any Damages (as defined below). If Released Archived Content is later Retracted, the CLOCKSS Board shall determine what actions, if any, to take, including possible removal of such Retracted Content from public view. If Publisher at any time notifies CLOCKSS that Publisher has made a good-faith determination that the Release of certain Retracted Content may present a legal risk to CLOCKSS or Publisher, and the CLOCKSS Board nevertheless elects to Release such Retracted Content, Publisher shall have no indemnity obligation to CLOCKSS, whether pursuant to Section 10 below or otherwise, to the extent that any Claim (as defined below) arises from CLOCKSS Release of such Retracted Content.

3. Publications Preservation

A. CLOCKSS will securely preserve the Archived Content Publisher deposits with the Archive at multiple libraries serving as independently administered Archive Nodes. CLOCKSS will create, maintain and operate the Archive at its sole expense. CLOCKSS will take reasonable steps to ensure that: (i) Archived Content can be accessed only by authorized employees and agents of CLOCKSS or the Archive Nodes; (ii) each Archive Node continually audits and repairs any data corruption and loss; (iii) each Archive Node applies security and monitoring measures to Archived Content that are equal to or greater than those applied to the Archive Node's institution's own electronic files; (iv) each Archive Node will allow CLOCKSS access to the Archive for security inspections and audits upon request at any reasonable time; (v) each Archive Node will notify CLOCKSS of any breach of its security and monitoring measures and will work to remedy its procedures accordingly; (vi) Archived Content remains safe and secure as technologies evolve; and (vii) on termination of an Archive Node agreement CLOCKSS will ensure return of Publisher's Archived Content from the terminating Archive Node. CLOCKSS will contractually ensure that neither Archive Nodes nor CLOCKSS' host

organizations ("Host Organization(s)") may distribute Archived Content other than in accordance with the terms of this agreement. Host Organizations shall under no circumstances be permitted to charge fees for content access after a trigger event.

B. CLOCKSS will provide copies of Publisher's Archived Content to Publisher at Publisher's request for a fee agreed to by the Parties at such time.

4. Release of Archived Content

A. Archived Content will be preserved in the CLOCKSS Archive as described in Section 3.A. above. The Board will Release (as defined below) Archived Content following the occurrence of a trigger event ("Trigger Event"). A Trigger Event occurs when either: (i) the owner of all rights to the Archived Content (including the copyrights) gives unconditional consent to the release of such Archived Content to the general public, or (ii) the Archived Content is determined in good faith by the Board to be unavailable from any publisher for at least six consecutive months. A determination cannot be made by the Board in good faith unless the Board shall have tried to contact Publisher at least twice no less than thirty (30) days before releasing the triggered Archived Content (as described below) and evaluated all information received from Publisher as to whether a Trigger Event had, in fact, occurred and whether the event was temporary or permanent.

B. Trigger Events include, but are not limited to, situations of non-availability of Archived Content in which:

i. Publisher No Longer in Business. Publisher is no longer in business or is no longer in the business of publishing Content or providing access to previously published Content and there are no successor interests or reversions or transfers of rights;

ii. Title No Longer Offered. Publisher has stopped publishing and is no longer providing access to the Content and there are no successor interests or reversion or transfer of rights;

iii. Back Issues No Longer Available. Publisher has stopped offering or providing access to some or all of the back issues of the Content and there are no successor interests or reversion or transfer of rights; or

iv. Catastrophic Failure. While still publishing Content, Publisher is not able to provide access to the Content electronically due to technical or similar catastrophic and permanent failure.

C. The parties acknowledge that copyrights and other intellectual-property rights in items of Archived Content may be owned in whole or part by third parties, including, without limitation, authors, contributors, editors, illustrators and societies (together, "Content Owners"). The parties further acknowledge that digital information in Archived Content may be owned by third parties, including, without limitation, software developers and software publishers (together, "Digital Owners"). Nothing contained in this Agreement shall be construed to supersede, abrogate, amend or otherwise modify any rights of any Content Owners or Digital Owners, regardless of whether a Trigger Event shall have occurred.

D. In determining whether a Trigger Event shall have occurred, the Board may reasonably rely upon a written opinion of an independent third-party expert, provided that the factual and other bases for such opinion are set forth in such detail as to permit the Board to evaluate the strength and accuracy of the opinion and all details of the opinion and the Board's responses to it are maintained in a written record to which Publisher and its

representatives shall be given free and immediate access at any reasonable time during normal business hours.

E. Upon the occurrence of a Trigger Event and the affirmative vote of at least seventy-five percent (75%) of all the members of the Board then in office, and not more than two (2) of those members of the Board object, Archived Content may be copied and transferred from the CLOCKSS Archive to a host organization and made available to the general public without charge ("Release"). CLOCKSS will notify Publisher promptly upon the Release of Content. Released Content use terms and restrictions will be determined by an accompanying Creative Commons license (or equivalent license) chosen either by Publisher or, if Publisher fails to respond within thirty (30) days following receipt by it of the notice described above, by the CLOCKSS Board.

F. Any Released Content may be authorized to be removed from Host Organization(s) and public access by the affirmative vote of at least seventy-five percent (75%) of all the members of the Board then in office ("Removal Authorization"). However, because of the impact of a Removal Authorization, a negative vote of three (3) or more members of the Board then in office, shall override such Removal Authorization leaving the Released Content available to public access, unless the removal is requested by the Publisher, in which case the Released Archived Content shall be removed from Host Organization(s) and public access.

5. Grant of License

A. Subject to the rights of Content Owners and Digital Owners, and of any creditors of Publisher under applicable law, all such interest holders having been disclosed to CLOCKSS, Publisher hereby grants to CLOCKSS a non-exclusive, royalty-free, worldwide license to: (i) ingest Archived Content onto the CLOCKSS Archive and continually audit and repair Content for preservation; (ii) copy Archived Content from the CLOCKSS Archive and transfer to Host Organizations upon its Release; (iii) reproduce, display and publish Released Archived Content (and any trademarks contained in such Archived Content) throughout the world; and (iv) License Released Archived Content freely to third parties pursuant to the terms and restrictions determined in the manner set forth in Section 4.E. above. No other rights are granted hereby by Publisher to CLOCKSS or any third party, and all such other rights are expressly reserved.

6. Intellectual Property Ownership and Notices

A. For the avoidance of doubt, Publisher, Content Owners and Digital Owners shall retain all copyrights in and to the Content, as the case may be. CLOCKSS will retain any visible copyright notices present in the Archived Content whenever Archived Content is delivered to CLOCKSS and archived by it.

B. CLOCKSS shall own all copyrights, trademarks and other intellectual property rights in all information, content, and/or technology created by, or on behalf of, CLOCKSS in connection with this Agreement (together, the "CLOCKSS IP"), expressly excluding, however, any rights in any version of the Archived Content created by CLOCKSS in connection with its archiving obligations hereunder.

7. Fees

A. *Definitions.* As used in this Agreement, "Article" shall be deemed to mean: (i) the use of that term as generally understood in the academic publishing business, or (ii) any digital object that would typically have, or be expected to have, a digital object identifier (DOI) assignment, as appropriate in context, usually as a part of journal. "EBook" shall be deemed to mean: (i) the use of that term as generally understood in the academic

publishing business, or (ii) any digital object that would typically have, or be expected to have, a digital ISBN assignment.

B. *Exhibit A – Fee Schedule.* The CLOCKSS Board sets fees from time to time. The Annual Fee, ingest fees, and any other fees for the current year are set forth in Exhibit A. The CLOCKSS Board may amend Exhibit A annually in its sole discretion by providing notice to Publisher at least 90 days prior to the end of a term. If Publisher objects to such amended fees, it may terminate this Agreement by providing CLOCKSS with notice at least 60 days prior to the end of the term.

C. *Annual Fee.* Publisher shall pay an Annual Fee to CLOCKSS based on its Total Publishing Revenue (as defined below) for the prior fiscal year. The Annual Fee will be billed upon the signing of this Agreement and, thereafter, before the beginning of subsequent calendar years. Payments can be pro-rated for the first year only. Total Publishing Revenue is defined as all publishing revenue from all primary and secondary divisions of Publisher, including, but not limited to, revenue from advertising, books, journals, databases and Article charges. Note: If Publisher is a membership organization, member dues allocated to journal subscriptions will be included in Total Publishing Revenue. If Publisher is a government organization or other institution that publishes scholarly information as an ancillary activity, Total Publishing Revenue includes the higher of either (i) total expenses for publishing operations or (ii) gross publishing revenue.

CLOCKSS will provide its requirements to Publisher for the ingestion of Content (for harvesting and file transfer) along with tools to facilitate ingestion. For each year Publisher is unable to meet these requirements, there will be a surcharge on the Annual Fee as set forth in Exhibit A.

D. *Front File and Frontlist Fees.* Publisher shall also pay fees to CLOCKSS per each journal Article ingested per volume year, and per EBook ingested for each Content volume, per calendar year published in or after the year of the Effective Date of the original Agreement (“Front Files” or “Frontlist EBooks”, as the case may be) as set forth in Exhibit A. Fees for Front Files and Frontlist EBooks will be billed in arrears in January and July and payment will be due within ninety (90) days of the date of such billing.

E. *Back File and Backlist Fees*. Publisher shall also pay fees to CLOCKSS per journal Article ingested and per EBook ingested for Back Files or Backlist EBooks as set forth in Exhibit A.

F. *Setup Fees.* CLOCKSS may charge Publisher a one-time set-up fee (“Setup Fee”) to cover technical labor and other associated costs for ingesting a new format, such as EBooks. The Setup Fee depends on the complexity of the delivery process and format. The minimum Setup Fee is set forth in Exhibit A. A review of the publisher’s website will be conducted and the publisher will be notified of any change to the minimum fee.

An additional Setup Fee may also be applied after the initial plugin has been created and deployed due to a substantial change in the format of Publisher’s Content and in the case that Publisher wishes to deposit Back Files or Backlist EBooks of substantially different format that require additional technical labor and associated costs to ingest. The Setup Fee may also be assessed when a publisher changes hosting platforms.

If Publisher asks CLOCKSS to trigger Content that has not previously been deposited in the CLOCKSS Archive, in addition to standard ingest fees, CLOCKSS may charge Publisher a Setup Fee in its discretion.

G. *Sliding Scale Fees and Fee Caps.* Notwithstanding the foregoing, the CLOCKSS Board may elect to provide for sliding scale fees and for caps to certain fees. Any such sliding scales and caps shall be set forth in Exhibit A.

H. *Wire Fees.* Wire Fees and EFT service charges, both outgoing and incoming, incurred by CLOCKSS should be included in the payment. Previous year's Wire Fees and EFT service charges may be charged in subsequent years at the time of invoicing based on the previous year's Wire Fees and EFT service charges charged to the CLOCKSS Archive, if not included with the original invoice payment.

I. *New Fees*. If any new types of fees are adopted by the Board in the future in addition to those set forth above (or any fee types are eliminated), such additions (or eliminations) shall be set forth in Exhibit A.

J. *Consolidations*. When publishers that participate in CLOCKSS legally combine (either through acquisition or merger), there will be a one-year transition period. Each publisher will be invoiced for Annual Fees and other fees in the year of the combination and for the following year.

8. Term and Termination

A. This Agreement shall be effective as of the Effective Date for a term of one (1) year. This Agreement will renew automatically at the end of the initial term for successive one (1) year renewal terms unless written notice is delivered to the other Party at least sixty (60) days prior to the end of the initial term or the applicable renewal term.

B. Either Party may terminate this Agreement with or without cause on thirty (30) days' written notice to the other Party.

C. Upon termination or expiration of this Agreement, Publisher will have no obligation to pay the Annual Fee for subsequent terms and will be under no obligation to continue to make Content available for archiving as Archived Content. Except as otherwise provided in this Agreement, if there shall be no uncured material breach of this Agreement on the part of CLOCKSS, CLOCKSS shall have the right to continue to preserve any Archived Content received from Publisher and to release such Archived Content upon the occurrence of a Trigger Event. If there shall be an uncured material breach by CLOCKSS (such as by way of example only, a material breach in security or corruption or the stored files), Publisher shall have the right to withdraw its Archived Content, and terminate this Agreement or, if such breach occurs with respect to surviving obligations of CLOCKSS after termination of the Agreement, terminate any post-termination rights of CLOCKSS under the Agreement. For the purposes of this Agreement, a material breach shall be deemed uncured if cure shall not have been made within thirty (30) days following issuance of notice to the breaching party under Section 14.F.

D. Sections 3-6, 8, 9 and 10-14 of this Agreement shall survive termination or expiration of this Agreement. However, upon termination by Publisher due to the uncured material breach of CLOCKSS, all rights granted to CLOCKSS shall terminate, and CLOCKSS shall provide to Publisher proof of destruction of all Archived Content.

9. Representations and Warranties

A. Publisher represents and warrants that (i) except for any CLOCKSS IP and any additions, deletions or other modifications made to Archived Content by or through CLOCKSS, it possesses all rights in the Archived Content necessary to grant CLOCKSS the licenses and other rights contained in this Agreement. Publisher further represents and warrants

that: (ii) it has the right, power and authority to enter into this Agreement; and (iii) it has caused this Agreement to be executed by an authorized representative.

B. CLOCKSS represents and warrants that: (i) it has the right, power and authority to enter into this Agreement; (ii) it has caused this Agreement to be executed by an authorized representative; and (iii) it possesses all rights or necessary licenses in the CLOCKSS IP, and any additions, deletions or other modifications made to Archived Content by or through CLOCKSS, required for full performance by it under this Agreement.

C. CLOCKSS understands that Publisher from time to time may designate specific portion(s) of Content proposed to be archived as Archived Content with respect to which Publisher cannot make the representation set forth in Section 9.A. above because Publisher has made a good faith determination that it does not have the necessary contractual rights or other rights to make the representation, and with respect to which Publisher or CLOCKSS would need to obtain consent from the applicable copyright holder or otherwise obtain any necessary rights. Publisher agrees to cooperate with CLOCKSS to provide such notice as to any portion(s) of such Content with respect to which Publisher cannot make the representation (or can only make the representation as to delivery at a reduced resolution or in accordance with other limitations imposed by third parties) in agreed-upon electronic or digital form as part of the Content or by some other means that shall not, in the good-faith view of Publisher, violate or potentially violate any third-party rights. If Publisher at any time notifies CLOCKSS that Publisher has made a good-faith determination with respect to certain Content that Publisher does not have sufficient rights to grant CLOCKSS all or any part of the rights granted to CLOCKSS under this Agreement (including, without limitation, the right to store or Release such Content) and CLOCKSS nevertheless elects to exercise such rights, Publisher shall have no indemnity obligation to CLOCKSS, whether pursuant to Section 10 below or otherwise, to the extent that any Claim (as defined below) arises from CLOCKSS exercise of such rights in such Content.

10. Indemnification

A. Publisher shall indemnify and hold harmless CLOCKSS, its affiliates and its and their directors, officers, employees, agents, successors, assigns, licensees and distributors (its “Indemnified Persons”) against any and all judgments, settlements, penalties, costs and expenses, including reasonable, actual and documented attorneys' fees (any “Damages”), paid or incurred in connection with any action, suit, claim, and/or proceeding (a “Claim”) by any party (i) alleging breach of Publisher's representations and warranties or other obligations herein or (ii) which arises from any Archived Content provided to CLOCKSS by Publisher (including any Claim alleging that any Archived Content contains material that infringes or violates any intellectual property or contractual rights of others or constitutes defamation or invasion of privacy), other than Claims arising from actions by CLOCKSS not contemplated by this Agreement, from Release of Publisher Content after Publisher has notified CLOCKSS of legal risk (pursuant to Section 2.E.) or from the exercise of rights by CLOCKSS or its designee in Content after Publisher has notified CLOCKSS that Publisher may have insufficient rights with respect to such Content (under Section 9.C.).

B. CLOCKSS shall indemnify and hold harmless Publisher and its Indemnified Persons against any and all Damages paid or incurred in connection with any Claims by any party alleging (i) breach of CLOCKSS' representations and warranties herein (ii) copyright infringement due to changes made in archiving or releasing Archived Content that were not contemplated by this Agreement, but specifically excluding any Content properly changed or published by CLOCKSS as contemplated by this Agreement, (provided that nothing herein is intended to permit editorial revisions or modifications to the content of Publication(s) without the prior written consent of Publisher) or (iii) that any of the

services provided or to be provided by CLOCKSS (including without limitation, the technology and business methods and/or processes used in connection therewith, as contemplated by this Agreement) infringes the intellectual property rights of any party, violates any trade secret or contractual right of any party, or violates any obligation of confidentiality owed to a party. In addition, CLOCKSS shall indemnify and hold harmless Publisher and its Indemnified Persons against any and all Damages paid or incurred in connection with any Claims arising from or relating to Release of Publisher Content after Publisher has notified CLOCKSS of legal risk (pursuant to Section 2.E.) or from the exercise of rights by CLOCKSS or its designee in Publisher Content after Publisher has notified CLOCKSS that Publisher may have insufficient rights with respect to such Content (under Section 9.C.).

C. In connection with the foregoing, the indemnified party shall give the indemnifying party prompt written notice of all Claims (provided, however, that failure to give prompt written notice shall not affect the indemnifying party's obligation under this Section 10 except to the extent that its defense of the Claim is materially prejudiced thereby), provide reasonable cooperation in the investigation and defense of same, and permit the indemnifying party to defend and/or settle such matters at its expense with legal counsel of its choice. Except as otherwise provided in this Section 10, each party shall pay its respective costs and/or losses in the event of a claim by a third party relating to the subject matter of this Agreement. An indemnifying party may enter into a settlement with any third party regarding any Claim concerning or relating to this Agreement without the prior consent of the indemnified party so long as such settlement does not attribute fault to the indemnified party or impose any financial or other affirmative or restrictive obligation on the indemnified party. The indemnifying party must obtain consent from the indemnified party before it may enter into a settlement with any third party that attributes fault to the indemnified party or imposes any financial or other affirmative or restrictive obligation on the indemnified party. An indemnified party may participate in the defense of any Claim at its expense with legal counsel of its choice, provided that such indemnified party takes no action prejudicial to the indemnifying party's defense of the Claim.

11. Disclaimer of Warranties

EXCEPT AS OTHERWISE PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY TO THE OTHER, EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CLOCKSS MAKES NO WARRANTIES RESPECTING THE PERFORMANCE AND AVAILABILITY OF ITS ARCHIVE, OR ANY HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, TIME BOMB OR OTHER SUCH COMPUTER PROGRAM. CLOCKSS FURTHER MAKES NO WARRANTY RESPECTING IMPROPER USAGE OF THE CONTENT BY THIRD PARTIES.

12. Disputes

A. This Agreement shall be interpreted and construed according to, and governed by, the laws of the State of California (except that where a state requires that the laws of that state apply to agreements entered into by a state university or other state institution, the reference to "California" shall be deemed replaced with a reference to the applicable state) or United States Federal law, as applicable, excluding any such laws that might direct the application of the laws of another jurisdiction.

B. In the event of a dispute between the Parties concerning or relating to this Agreement (a "Dispute"), the complaining Party must provide the other Party with written notice of the Dispute, and the Parties agree that they will meet and will use all reasonable efforts and good faith to resolve the Dispute. Each Party agrees to strive to respond to inquiries from the other Party within five (5) business days following receipt.

C. If the Dispute has not been resolved within thirty (30) days following the initial written notice that there is a Dispute (or such additional time to which the Parties may agree in writing), the Parties hereby agree to submit the Dispute to non-binding mediation through the American Arbitration Association or such other mediator as the Parties may agree. Each Party will bear its own costs.

13. Limitation on Liability

PUBLISHER AGREES AND ACKNOWLEDGES THAT THIS AGREEMENT IS INTENDED TO BE PERPETUAL AND IRREVOCABLE AS TO ALL ARCHIVED CONTENT, EXCEPT AS OTHERWISE PROVIDED HEREIN. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE RESPONSIBLE OR LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY OF THE FOLLOWING: ANY LOSS OF PROFITS, EARNINGS, GOODWILL, ECONOMIC LOSS OR DAMAGE OR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE CONCERNING OR RELATING TO THE PARTY'S PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT, OR FROM THE USE, PRESERVATION, OR RELEASE OF THE CONTENT.

14. Miscellaneous

A. *Assignment*. This Agreement will benefit and bind the Parties and, to the extent permitted under this Agreement, their respective subsidiaries, partners, heirs, successors, assigns, licensees and affiliates. Neither Party may assign or transfer their rights and duties under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that in the event that CLOCKSS ceases to operate, CLOCKSS may assign its rights under this Agreement (including its rights to preserve Archived Content and release such Content upon a Trigger Event) to a successor organization or to a non-profit, governmental or other organization chosen by the Board, unless Publisher objects within thirty (30) days following notice of such assignment (which objection shall not be unreasonable).

B. *Integration*. This Agreement contains the entire agreement between the Parties and supersedes any and all previous communications, representations or agreements, verbal or written, relating to the subject matter of this Agreement, including, without limitation, the prior CLOCKSS project agreement dated as of February 22, 2006 to which Publisher or an affiliate may have been a party along with CLOCKSS or a predecessor in interest to CLOCKSS.

C. *Further Assurances*. The Parties agree to execute, acknowledge, and deliver all such further instruments, and to do all such other acts, as may be necessary, or appropriate in order to carry out the intent and purposes of this Agreement subject to each Party's

consent, not to be unreasonably withheld.

D. *Amendments.* Except for Exhibit A, which may be amended prospectively by the CLOCKSS Board in its sole discretion upon notice to Publisher as set forth in Section 7.B, or Addenda A and B and C which may be amended prospectively by Publisher upon notice to CLOCKSS, all other amendments to this Agreement may only be in the form of a writing signed by both Parties.

E. *Force Majeure*. Neither Party shall be liable for Damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Acts of Terrorism, governmental restrictions, wars, insurrections, strikes, fires, floods, work stoppages, unavailability of materials or communications facilities, and/or any other cause beyond the reasonable control of the Party whose performance is affected.

F. *Notices*. All notices under this Agreement shall be in writing and shall be sent via email, First Class U.S. Mail or an internationally recognized courier to the Parties' addresses provided in Addendum A hereto. All notices shall be deemed received one (1) business day after being sent if sent by email or internationally recognized courier or five (5) business days after being sent if sent by the U.S. Postal Service, or ten (10) business days after being sent by U.S. Mail to an address outside the United States.

G. *Waiver*. If either Party waives a breach or default under this Agreement, such waiver is not a waiver by that Party of any subsequent breach or default.

H. *Severability*. If any provision of this Agreement is deemed unlawful or otherwise unenforceable by a court of competent jurisdiction, then such provision is to be severed from this Agreement in order to prevent the entire Agreement from becoming automatically void. The Parties must then meet to determine whether the Agreement should be amended or terminated in light of the severance.

I. *Counterparts*. This Agreement and any amendments may be executed in one or more counterparts, each of which will be an original and which together will constitute one and the same instrument, and a facsimile signature is deemed to constitute an original signature.

Please complete this Participating Publisher Agreement and return it to CLOCKSS

- By e-mail to info@clockss.org,
- By standard mail – please include two original sets to
    - CLOCKSS Archive, c/o Alicia Wise, Cecil H. Green Library, 557 Escondido Mall, Room 101, Stanford, CA 94305-6004 USA.

	CLOCKSS - The Digital Distributed Community Archive	**PUBLISHER**
Signature		
Name	Alicia Wise	
Title	Executive Director, CLOCKSS	
Date of Signature		

Publishing Revenues:	**Participation Fee:**
	Set-up Fee:

Exhibit A: Fees

All fees are in US dollars.

Annual Fees

Annual Fees for the year commencing January 1, 2027 are set forth below.

Total Publishing Revenue	2027 Annual Fee
Under $250,000	$285.00
$250,000 - $500,000	$565.00
$500,000 - 1 million	$1,335.00
$1 - 5 million	$2,670.00
$5 - 10 million	$5,335.00
$10 - 15 million	$8,010.00
$15 - 20 million	$10,660.00
$20 - 30 million	$13,330.00
$30 - 40 million	$15,995.00
$40 - 50 million	$18,630.00
$50 - 200 million	$20,025.00
Over $200 million	$33,370.00

Annual Surcharge Fee

Annual Publisher surcharge for failure to meet CLOCKSS requirements for the transfer of Content to CLOCKSS: $500 starting in 2018.

Front File and Frontlist Ingestion Fees

Front File Journal per Article Ingest Fee: $0.25 each (Capped at $50,850 per year for journals). There is no fee for the first 100 journal articles.
Frontlist EBook per EBook Ingest Fee: $3.00 each (Sliding scale will apply above 5000 Ebook/$15,000 threshold). There is no fee for the first 10 Ebooks.

Back File and Backlist Ingestion Fees

Back File Journal per Article Ingest Fee: $0.15 each.
Backlist EBook per EBook Ingest Fee: $2.00 each.
For high volumes, a sliding scale may apply.

Set-up Fees

Initial Set-up Fee: $1,000 to $7,500, depending on complexity.
When journals will be triggered, if the publisher is still in business, there will be a set-up fee of $1,000 to $7,500, depending on complexity.

Late Fees

Payment is due and receivable ninety (90) days after the date on any invoice. Payments outstanding for more than ninety (90) days are subject to a monthly 1.5% financing fee.

ADDENDUM A

Publisher Contact Information

Publisher Name:

Address 1:

Address 2:

Primary Contact and Title:

Email Address **Phone Number:**

Invoicing Contact and Title:

Email Address: **Phone Number:**

Technical/Content Contact and Title :

Email Address: **Phone Number:**

Technical contact may be your probject/publisher manager at your host platform.

Journal/Ebook hosting platform:

# of articles published in previous year: **# of articles estimated for current year:**

# of books published in previous year: **# of books estimated for current year:**

CLOCKSS, the Digital Distributed Community Archive

Mailing Address: Cecil H. Green Library, 557 Escondido Mall, Room 101, Stanford, CA 94305-6004 USA

Primary Contact and Title: Alicia Wise, Executive Director

Email Address: awise@clockss.org **Phone Number:** +44 7305795887

Technical /Content Contact and Title: LOCKSS Support Team

Email Address: clockss-publishers@support.lockss.org **Phone Number:** (650) 725-1134

ADDENDUM B

List of Journal Content

If you have supplementary material, give instructions how to access it

Publication Name	ISSN	eISSN	URL	Internal Journal ID (if available)

ADDENDUM C
List of EBook Content

If you have supplementary material, give instructions how to access it

eBook Title	eISBN	URL	Internal Book ID If available