



## READ AND PUBLISH AGREEMENT

### PART A: ORDER SCHEDULE

Agreement:	To the fullest extent permitted by law, this read and publish agreement constitutes the entire agreement between: (1) BMJ Publishing Group Limited, company number 03102371, registered office at BMA House, Tavistock Square, London WC1H 9JR, United Kingdom (BMJ); and (2) the Subscriber named below and supersedes any prior terms you may have seen or agreed relating to its subject matter. This Agreement comprises Part A (Order Schedule) and incorporates Part B (Additional Information), Part C (General Terms and Conditions) and Part D (Publication Terms) below, together with any schedules and properly executed variations or addenda.															
Subscriber:	CONSORTIUM OF SWISS ACADEMIC LIBRARIES, c/o SLSP AG, Kasernenstrasse 77 A/B, 8004 Zürich, Switzerland for and on behalf of its Consortia Members (as defined below). Subscriber contact email address: [REDACTED]															
Currency:	Sterling															
Fee:	<p>In each Subscription Year, the Subscriber shall pay the fee as follows:</p> <table><tr><th>Description:</th><th>Subscription Year - 2024</th></tr><tr><td><b>Read and Publish Package</b> including:</td><td></td></tr><tr><td><ul style="list-style-type: none"><li><b>Publish Fee:</b> For access to the Hybrid APC Fund described in Part D1.</li></ul></td><td>£34,900.50</td></tr><tr><td><ul style="list-style-type: none"><li><b>Read Fee:</b> For read-only access to the BMJ Standard Collection as further described in Part D2.</li></ul></td><td>£39,500.28</td></tr><tr><td><b>Read Additional Titles:</b> For those Consortium Members who have chosen to add to their individual subscription package read-only access for certain additional BMJ titles as detailed Part B2.</td><td>£19,237.77</td></tr><tr><td><ul style="list-style-type: none"><li><b>Gold OA Upgrade:</b> For access to the Gold APC Fund described in Part D1.</li></ul></td><td>£10,000</td></tr><tr><td><b>Total Fee:</b></td><td><b>£103,638.55</b></td></tr></table>		Description:	Subscription Year - 2024	<b>Read and Publish Package</b> including:		<ul style="list-style-type: none"><li><b>Publish Fee:</b> For access to the Hybrid APC Fund described in Part D1.</li></ul>	£34,900.50	<ul style="list-style-type: none"><li><b>Read Fee:</b> For read-only access to the BMJ Standard Collection as further described in Part D2.</li></ul>	£39,500.28	<b>Read Additional Titles:</b> For those Consortium Members who have chosen to add to their individual subscription package read-only access for certain additional BMJ titles as detailed Part B2.	£19,237.77	<ul style="list-style-type: none"><li><b>Gold OA Upgrade:</b> For access to the Gold APC Fund described in Part D1.</li></ul>	£10,000	<b>Total Fee:</b>	<b>£103,638.55</b>
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<b>Total Fee:</b>	<b>£103,638.55</b>															
Payment terms:	<p>(i) BMJ will invoice the Subscriber for the Fee (and the Subscriber shall be responsible for payment of each such invoice).</p> <p>(ii) The Subscriber shall pay each invoice submitted to it by BMJ within 30 days after the date of invoice in accordance with the instructions for payment issued in that invoice.</p> <p>(iii) BMJ shall be entitled to issue an invoice for the first Subscription Year at any point following Subscriber’s signature of this Agreement. Where the Term is multi-year, BMJ shall be entitled to issue invoices for each subsequent Subscription Year no earlier than 90 days prior to the commencement of the applicable Subscription Year.</p> <p>(iv) All sums payable under this Agreement are exclusive of value added tax or other applicable sales tax (Tax), and the Subscriber shall in addition pay an amount equal to any such Tax on those sums.</p> <p>(v) All sums payable to BMJ under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of Tax as required by law).</p>															



Licensed Material:	For each individual Consortia Member, the Licensed Material shall include those titles detailed in Part B2 for the relevant Consortia Member.	
Commencement Date:	1 January 2024	
Subscription Site(s):	The addresses set out in Part B1.	
Term:	12 months from the Commencement Date.	
Consortia Members:	Those Consortia Members named in Part B1.	
Opt-In Right:	Subject to the terms of this Agreement, Subscriber may request the addition of a new Consortia Member to this Agreement at any time, provided that any such proposed new Consortia Member shall be a university, educational institution, research organisation or other similar organisation, in Switzerland. Such addition will take effect as an addendum to this Agreement which must be signed by both the Parties confirming the additional Fee payable in respect of that new Consortia Member’s access to the Licensed Materials and further rights according to this Agreement (such as Publishing rights) and the commencement date on which that new Consortia Member may access the Licensed Materials. Where a new Consortia Member is added pursuant to the Opt-In right described above), BMJ will increase the Fee applicable to that Subscription Year with retrospective effect to take account of the addition of the relevant new Consortia Member in line with the pricing guidance below, and BMJ shall be immediately entitled to submit an invoice to that relevant new Consortia Member for the balance of the Fee due and payable as a result of that increase.	
	Guidance for new Consortia Member pricing:	
	Read Fee:	Shall be based on the tier banding according to FTE size (to be checked and validated in collaboration with the Subscriber), the total Read Fee equates to a percentage of the relevant Collection list price, reflecting total value of associated non-open access, non-research content within the associated journals.
	Publish Fee:	Shall be based on the total estimated research output for 2024 (based on averages) multiplied by the 2024 average APC for the relevant Collection journals.
BMJ signature:		27/2/2024 ..... Date
Subscriber signature:		27/2/2024 ..... Date

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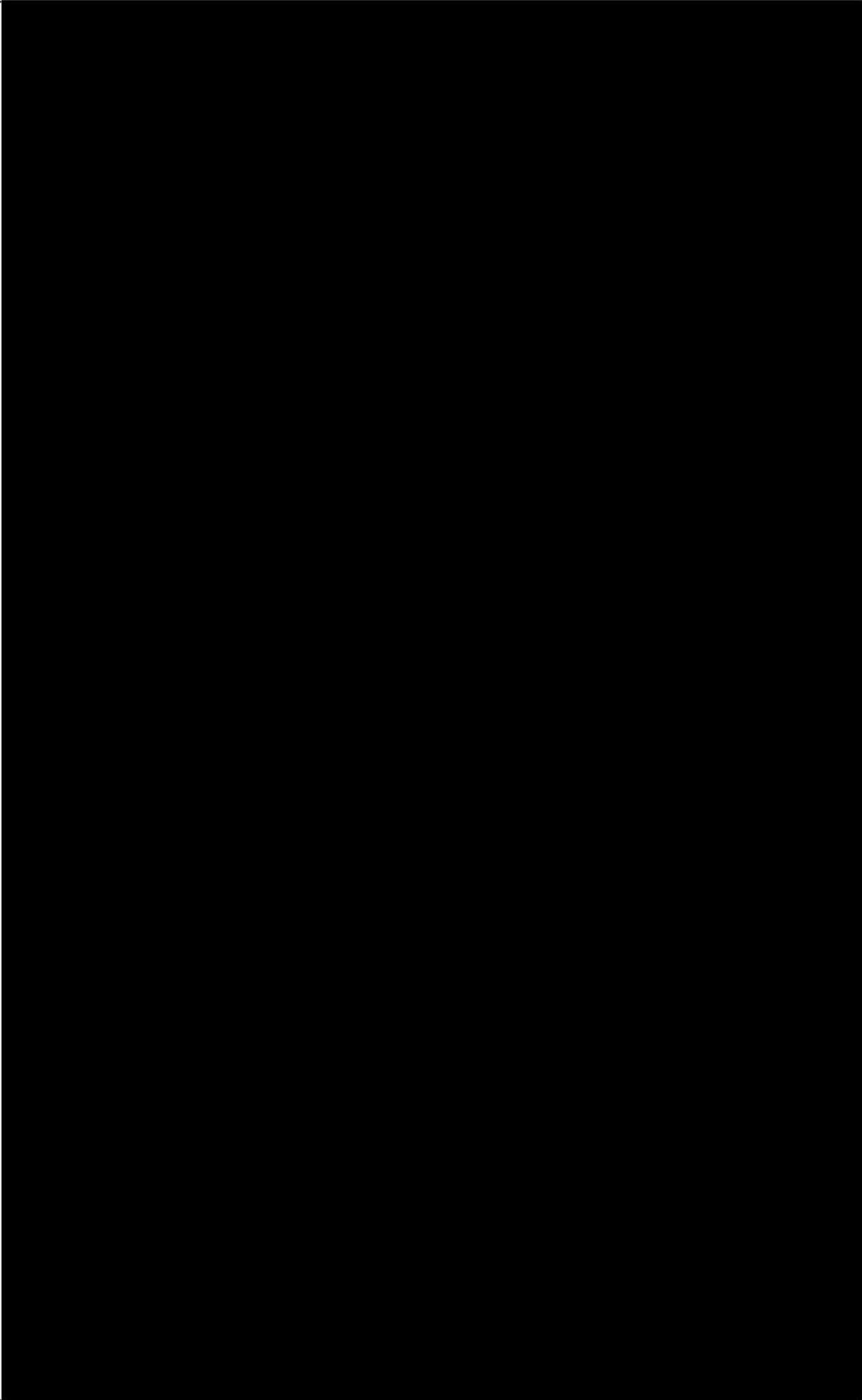
PART B: ADDITIONAL INFORMATION	
PART B1: CONSORTIA MEMBERS AND SUBSCRIPTION SITES	
References to the Consortia Members shall include the member institutions listed in the table below (provided that the number of Consortia Members may be altered by the Subscriber pursuant to the Opt-Out Right and/or Opt-In Right specified in Part A).	
	<div>Consortia Member:</div> <div></div>
1	Universität Basel (University of Basel)
2	Université de Genève (University of Geneva)



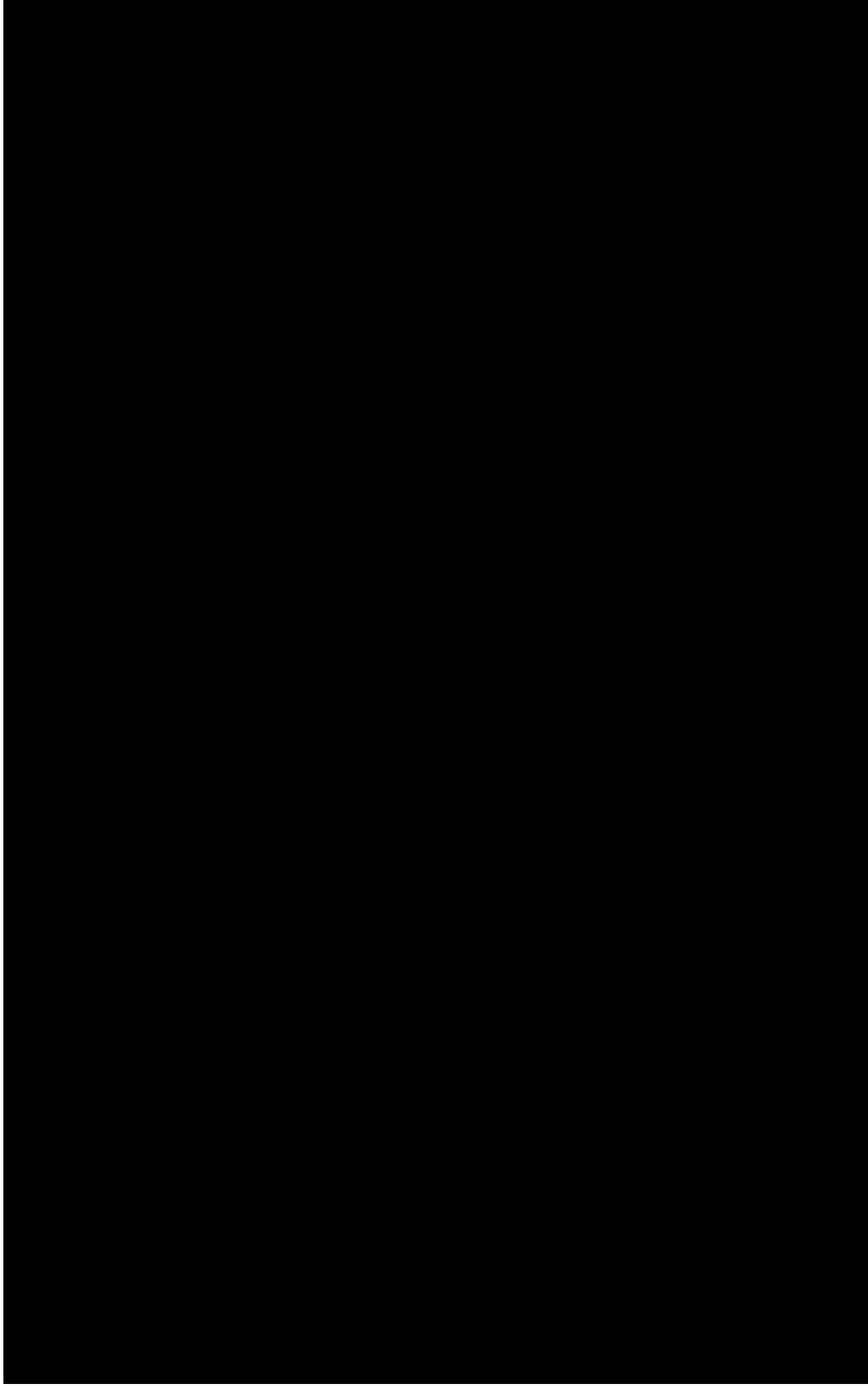
3	Université de Lausanne University of Lausanne)
4	Universität Zürich (University of Zurich)
5	Università della Svizz. Ital. (University of Lugano)

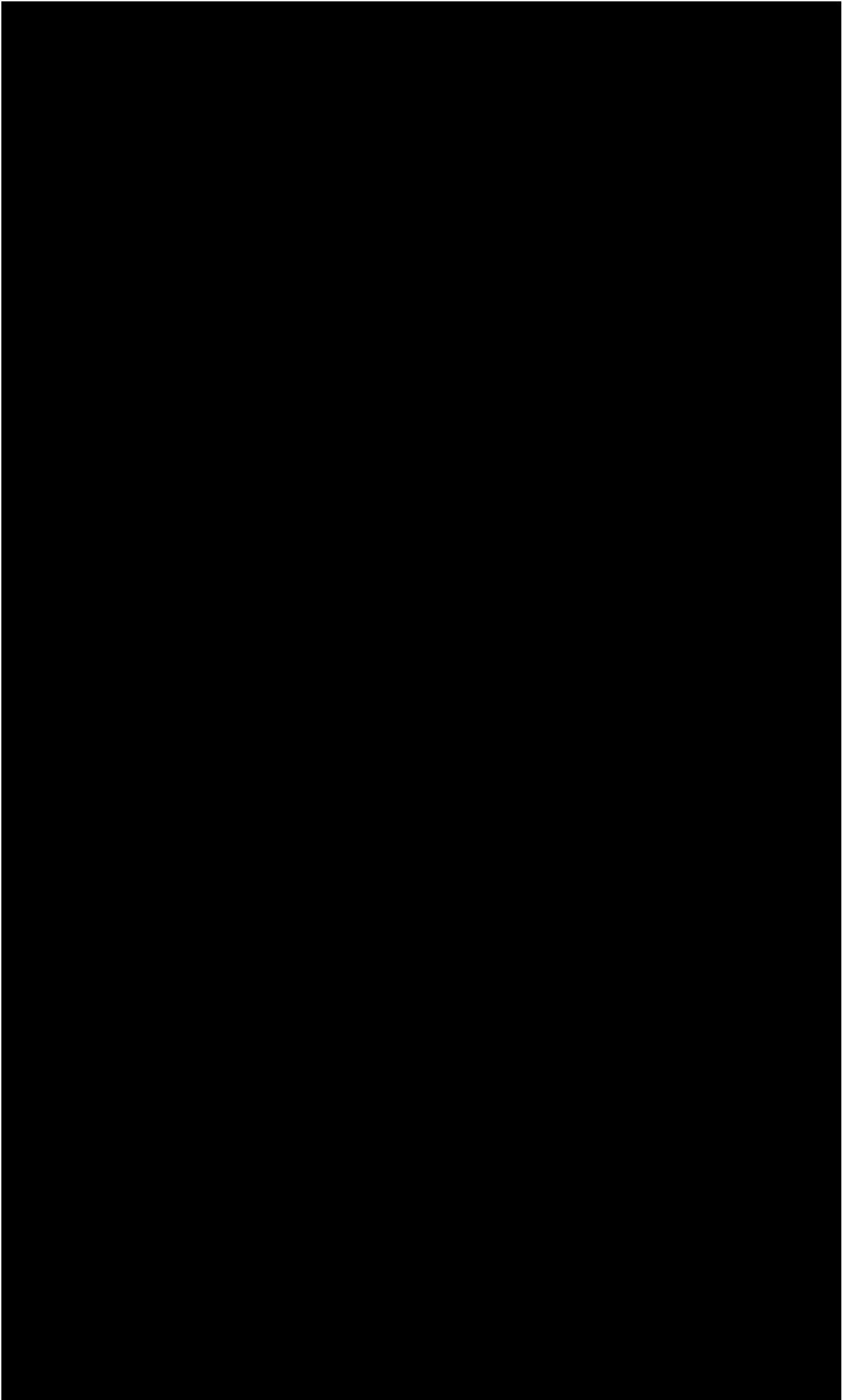


PART B2: LICENSED MATERIAL









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## PART C: GENERAL TERMS AND CONDITIONS

1. **Definitions** In addition to the terms defined in Part A above, the following defined terms are used in this Agreement:

**Agreement:** this document including any schedules and any properly executed variations or addenda.

**Authentication Method:** the means of user authentication determined by BMJ and through which access to Licensed Material is permitted which may include IP address authentication, access token and user registration.

**Authorised Users:** employees, independent contractors and/or students of each Consortia Member who are authorised by a Consortia Member to have access to the Licensed Material from a Subscription Site. Authorised Users includes Walk-In Users.

**DP Laws:** means: (i) the General Data Protection Regulation as it forms part of UK law by virtue of the European Union (Withdrawal) Act 2018, as modified by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419) (**GDPR**); (ii) the Data Protection Act 2018; (iii) the Privacy and Electronic Communications Regulations 2003; and (iv) all other applicable laws in the UK or EU relating to the processing of personal data (each as amended or replaced from time to time). The terms **process**, **data subject** and **personal data** shall have the meanings as defined in the DP Laws.

**Parties:** BMJ and the Subscriber. **Party** shall mean either of them.

**Subscription Year:** each 12-month period of the Term.

**Walk-In User:** a visitor to a Subscription Site who is permitted to access the Consortia Member's information services because of their physical location within that Subscription Site.

**Website:** the BMJ controlled website(s) and/or mobile applications upon which the Licensed Material is displayed.

**Website Terms:** the terms and conditions and privacy notices which govern the use of that Website.

2. **Interpretation** Any words following the terms *including, such as, in particular, for example* or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms. Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
3. **Licence** In consideration of receipt of the Fee, BMJ grants the Subscriber (on behalf of each Consortia Member):
- 3.1. a non-exclusive, non-transferable licence for the Term to permit each Consortia Member's Authorised Users to access the specified Licensed Material on the Website via the Authentication Method (provided that Walk-In Users shall not be permitted to access Licensed Material remotely); and
  - 3.2. a right to access and utilise the APC Fund during the Term in accordance with Part D of this Agreement.
4. **Intellectual Property** BMJ holds all the intellectual property rights in the Licensed Material. BMJ reserves the right to withdraw from the Licensed Material, any item or part of an item for any reason including where it no longer retains the right to publish, or where it has reasonable grounds to believe the content is unlawful, infringing, false, harmful, or defamatory. Neither the Subscriber nor any Consortia Member shall have any claim of ownership of any intellectual property rights in the Licensed Material by reason of the licence granted above or use by its Authorised Users of the Licensed Material.
5. **Perpetual Rights** Where Licensed Material includes BMJ journals content (but excluding Case Reports), BMJ grants to the Subscriber (on behalf of each Consortia Member), a non-exclusive, royalty-free licence to permit its Authorised Users to access *in perpetuity* those BMJ journal articles included in the Licensed Material which are published during the Term. The means by which each Consortia Member shall have such perpetual access shall be in a manner determined by BMJ but shall be in electronic form. Where any Licensed Material for which perpetual access is granted is sold or where BMJ no longer retains the rights to such material, BMJ shall use its reasonable efforts to ensure that the purchaser or subsequent holder of the rights (as the case may be) will provide ongoing access to the affected articles. Perpetual rights shall not extend to any Licensed Material that is not a BMJ journal or any portion of journal material that has been expunged from the archive, removed pursuant to clause 4 above, damaged or sold. Should any back issues (or archival content) of any journal be accessible to Authorised Users during the Term, these shall not be part of a Consortia Member's perpetual access rights.
6. **Terms of Use**
- 6.1. *Website terms and conditions.* Access to the Licensed Material by Authorised Users is subject to their compliance with the Website Terms. If an Authorised User fails to abide by the Website Terms, BMJ reserves the right to suspend or terminate such Authorised User's access immediately without liability.
  - 6.2. *Third party materials.* Where Licensed Material includes content published by a third party, the Subscriber acknowledges that Authorised Users shall be subject to that third party's terms and conditions in relation to access and use of the third-party material.
  - 6.3. *Accessibility.* Each Consortia Member may transcribe any portion of the Licensed Material into braille or enlarged type for Authorised Users who are visually impaired.
  - 6.4. *Personal use.* Each Authorised User is permitted to download and use the Licensed Material only for that



Authorised User's individual use in accordance with this Agreement.

6.5. *Interlibrary loan and course packs.* Where a Consortia Member is an academic institution, its Authorised Users may:

- 6.5.1. deliver single articles from BMJ Journals to fulfil requests from academic or other non-commercial libraries located in the Consortia Member's country as part of Interlibrary Loan; and
- 6.5.2. incorporate a limited number of BMJ journal articles or abstracts from the Licensed Material in electronic course packs or other educational materials solely for the benefit of those Authorised Users (provided that each such use must carry acknowledgement of the source, title, author and publisher).

6.6. *Open Access Materials.* Where Licensed Material includes journal articles stated to be "Open Access", Authorised Users may reuse such articles subject to the terms of the Creative Commons Attribution licence referred to in the article.

6.7. *Prohibited use.* Use of the Licensed Material for commercial purposes is prohibited under this Agreement. Commercial purposes include:

- 6.7.1. copying or downloading any of the Licensed Material or linking to the Licensed Material for further redistribution, sale or licensing, for a fee;
- 6.7.2. including any of the Licensed Material in other work that is then made available for sale or licensing for a fee;
- 6.7.3. copying, downloading or posting any Licensed Material on a site or service that incorporates advertising with such content;
- 6.7.4. using the Licensed Material for promotional or advertising purposes, whether direct or indirect, whether for a fee or otherwise e.g. distribution by or on behalf of pharmaceutical organisations; or
- 6.7.5. using the Licensed Material for the purposes of monetary gain by means of sale, resale, license, loan, hire, transfer or any other form of commercial exploitation.

6.8. In addition to the above, the Subscriber, Consortia Members and Authorised Users **must not**:

- 6.8.1. create derivative works of the Licensed Material (or make any translation);
- 6.8.2. remove, obscure, or change an author's name or affiliation, BMJ's or its licensor's copyright notices, policies, disclaimers, terms or other means of identification;
- 6.8.3. systematically download or print any part of the Licensed Material;
- 6.8.4. knowingly permit anyone other than Authorised Users to access or use the Licensed Material;
- 6.8.5. include, mount or distribute any of the Licensed Material in other works (other than legally permitted quotations with an appropriate citation);
- 6.8.6. use any web crawler or similar technology to index the Licensed Material; or
- 6.8.7. provide or make available by electronic means to any third party who is not an Authorised User paper or electronic copies of any part of the Licensed Material.

## **7. Subscriber's and Consortia Members' obligations**

7.1. The Subscriber agrees to pay the Fee in the Currency in accordance with the payment terms set out in this Agreement on behalf of its Consortia Members.

7.2. The Subscriber shall use its best endeavours to ensure that each Consortia Member shall:

- 7.2.1. use its best endeavours to procure that Authorised Users are notified of, and comply with the Website Terms and any disclaimers which appear on a Website;
- 7.2.2. undertake and maintain all reasonable security measures, necessary authentication and verification processes to ensure that only Authorised Users can access the Licensed Material and shall terminate any unauthorised access of which it becomes aware; and
- 7.2.3. provide BMJ with the information BMJ reasonably requires to set up access via the Authentication Method (including, where applicable, internet protocol addresses), and BMJ is not obliged to provide access to the Licensed Material unless and until it is in receipt of such information.

7.3. If the Subscriber or any Consortia Member becomes aware of any intellectual property infringement or unauthorised access to the Licensed Material, the Subscriber or the Consortia Member shall notify BMJ immediately and cooperate fully with BMJ in its investigation of such infringement or unauthorised access. The Subscriber and each Consortia Member shall cooperate fully with BMJ in its investigation of such infringement or unauthorised access. If the specific abuser(s) cannot be identified or stopped, BMJ has the right to withhold, suspend, or terminate access to all or any portion of the Licensed Material, without liability.

7.4. Text and Data Mining (TDM):

- 7.4.1. In this clause 7.4 "TDM" shall have the following meaning: downloading, extracting and indexing information automatically from the Licensed Materials and where required, TDM includes mounting, loading and integrating the results on a server used for the Subscriber's and/or its Consortia Members' text-mining system and evaluate and interpret the TDM output for access and use by Authorised Users.





- 7.4.2. Authorised Users are permitted to engage in TDM for internal non-commercial purposes only and subject to the conditions set out in this clause 7.3 and compliance with BMJ's TDM Licence/Policy (currently available at <https://www.bmj.com/company/legal-information/terms-conditions/legal-information/tdm-licencepolicy/>) as updated or amended from time to time.
- 7.4.3. The Subscriber and its Consortia Members shall ensure Authorised Users' compliance with the obligations of this Agreement, including but not limited to security and technical access requirements.
8. **Subscriber and Consortia Members' Liability** Subscriber shall use its best endeavours to ensure that each Consortia Member complies in full with the obligations set out in this Agreement. Each Consortia Member shall be liable for any act or omission by an Authorised User which, had such act or omission been by the Subscriber, would be a breach of the terms of this Agreement. The Subscriber warrants that it has the express written consent of all Consortia Members to enter into this Agreement and sign it on their behalf and that all Consortia Members are aware of and agree to comply with all relevant terms of this Agreement.
9. **Print materials** Where the Licensed Materials specified in Part B2 are said to include copies of the relevant titles in print format, those print versions of BMJ journals will be delivered to the address(es) for the relevant Consortia Member as specified in Part B1 or as otherwise agreed in writing. The costs of delivery are included in the Fee. Unless otherwise agreed in writing, BMJ will deliver all issues printed during the Term starting with the issue current on the Commencement Date. BMJ will make every effort to deliver the print versions of BMJ journals within 30 days of each publication, but cannot be held responsible for postal or customs delays. Any claims for non-delivery must be notified in writing to Customer Services or by email to [support@bmj.com](mailto:support@bmj.com) as soon as possible and any claim notified later than three months after the publication date of the relevant issue will not be upheld where BMJ has evidence that the Licensed Materials were despatched.
10. **Fee and payment** The Fee is due and payable by Subscriber on behalf of its Consortia Members in the Currency in accordance with the payment terms stated in Part A above. If no such terms are stated, the payment terms included on each BMJ invoice shall apply. Where the Licensed Material includes a print publication for delivery overseas, the Consortia Member may be subject to import duties and taxes, which are levied once the package reaches the specified destination. Any additional charges for customs clearance must be borne by the Consortia Member, as applicable. BMJ has no control over these charges and cannot predict what they may be. Submission of an order by the Subscriber for the subscription referred to in this Agreement may be taken on BMJ's behalf by a third-party agent authorised by BMJ. Where applicable, payment of the Fee may also be made to such BMJ agents.
11. **Technical access** BMJ will not have any liability should a Website become unavailable or access to a Website become slow or incomplete due to system back-up procedures, internet traffic volume, upgrades, overload of server requests, network failures or delays, or any other cause which may from time to time make a Website slow, incomplete or inaccessible to Authorised Users. Where a Website is inaccessible to Subscriber (or where Subscriber is contracting on behalf of a consortia, a Consortia Member) for a period exceeding seven (7) consecutive days (excluding any downtime for scheduled or routine maintenance and any problems beyond BMJ's reasonable control), BMJ shall provide it with a service credit equivalent to such period of inaccessibility.
12. **Termination**
- 12.1. Subject to clause 12.5, and unless otherwise terminated in accordance with this termination clause, access to the Licensed Material under this Agreement shall be provided for the Term. Termination or expiration of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry. Either Party may terminate this Agreement if the other Party becomes insolvent, subject to receivership, liquidation or similar external administration.
- 12.2. BMJ may terminate this Agreement where an act or omission by the Subscriber or a Consortia Member or an Authorised User gives rise to a material or persistent breach of any term of this Agreement or any term of the Website Terms which (if capable of remedy) the Subscriber fails to remedy within 30 days of notification in writing from BMJ; or if the Subscriber defaults on making payment of the Fee or any applicable renewal fee.
- 12.3. Unless BMJ terminates this Agreement for the Subscriber or the Consortia Member's breach, upon termination or expiry of this Agreement:
- 12.3.1. access by Authorised Users to the Licensed Material (and the right to receive print copies if applicable) shall cease except for any perpetual access granted under this Agreement; and
- 12.3.2. any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiration of this Agreement shall remain in full force and effect.
- Where BMJ terminates this Agreement for the Consortia Member's breach, any perpetual access rights shall terminate and access to all Licensed Material by Authorised Users shall cease.
- 12.4. The Subscriber may terminate this Agreement where BMJ commits a material or persistent breach of any term of this Agreement and fails to remedy such breach (if capable of remedy) within 30 days of notification in writing from the Subscriber.
- 12.5. Where the Term persists for longer than 12 months, each party shall have the right to terminate this





Agreement at the end of each Year of the Term upon giving not less than 90 days' prior notice to the other party.

### **13. Warranty and liability**

- 13.1. BMJ may provide Consortia Members and Authorised Users with links to third-party websites. Where such links exist, BMJ excludes all liability for the content of such websites. The Licensed Material is provided on an "as is" basis without any warranties including any as to accuracy, completeness, merchantability, quality of metadata, fitness for purpose or otherwise. Any statements made to the contrary are void.
- 13.2. To the fullest extent permitted by law, BMJ and its licensors expressly exclude any representations, conditions, warranties and other terms which are implied by statute, common law or otherwise.
- 13.3. Licensed Material is not intended to act as a substitute for the professional judgement of a health professional. Use of the Licensed Material is at a Consortia Member's or Authorised User's own risk.
- 13.4. The Subscriber shall indemnify BMJ and its licensors against any claims, costs, expenses, proceeding, awards and demands made against the BMJ or its licensors by a Consortia Member, an Authorised User or any other party using the Licensed Material under, or as a result of, the rights granted to the Subscriber or a Consortia Member in this Agreement.
- 13.5. To the fullest extent permitted by law and other than expressly provided for herein, in no circumstances shall BMJ be liable to the Subscriber, to a Consortia Member, to an Authorised User, or to any party, for any indirect, incidental or consequential losses or expenses arising out of this Agreement or an inability to access the Licensed Material or the APC Fund.
- 13.6. Nothing in this Agreement seeks to exclude liability for death or personal injury caused by BMJ's negligence or fraudulent misstatement. If BMJ has any liability under this Agreement, BMJ's aggregate liability shall not exceed the Fee applicable for access to the Licensed Material during the 12-month period preceding any claim or notice of damages.

### **14. Usage statistics and data protection**

- 14.1. Anonymised and aggregated usage statistics covering the online usage of all content included in the Licensed Material shall be made available to the Subscriber and each Consortia Member. Where journals are included in Licensed Material, such usage statistics will adhere to the specifications of the COUNTER Code of Practice, including data elements collected and their definitions, data processing guidelines, usage report content, format, frequency and delivery method.
- 14.2. In accordance with the terms of BMJ's privacy notice (<https://www.bmj.com/company/your-privacy/>), BMJ may make available to the Subscriber and Consortia Members personal data pertaining to individual Authorised Users and their usage of the Licensed Materials.
- 14.3. Where personal data is provided by BMJ, the Subscriber and Consortia Member undertake to use the personal data received from BMJ pursuant to clause 14.2 above strictly for the purposes of assessing the usage of the Licensed Materials, recognising and managing continuing professional development, providing accreditation and/or to provide learning support or learning management to its Authorised Users only, and the Subscriber shall not use the personal data in a manner that could unfairly override the interests or fundamental rights and freedoms of the data subjects.
- 14.4. Before receiving any personal data from BMJ pursuant to clause 14.2, the Subscriber shall ensure that each Consortia Member inform its Authorised Users that their personal data shall be collected by BMJ and shared with them and shall provide its Authorised Users with the following information:
  - 14.4.1. how the relevant Consortia Member and the Subscriber shall process the personal data and its purpose(s) for doing so;
  - 14.4.2. the identities of any third parties with whom either the Subscriber or the relevant Consortia Member may share the personal data; and
  - 14.4.3. any other information required to be provided to the data subject(s) pursuant to applicable law.
- 14.5. Each of BMJ, the Subscriber and each Consortia Member shall comply fully with the DP Laws and all other applicable laws relating to data protection and with regard to the collection, processing and use of any personal information about Authorised Users which either Party or a Consortia Member may obtain by reason of this Agreement. The Subscriber and each Consortia Member shall provide its full assistance to BMJ to enable BMJ to comply with its obligations pursuant to this clause 14.5.
- 14.6. The provisions of this clause 14 will survive termination or expiry of this Agreement and shall remain in full force and effect so long as the Subscriber or any Consortia Member directly or indirectly processes any transferred personal data.

### **15. Confidentiality, registration and redaction**

- 15.1. For the purposes of this Agreement **Confidential Information** means all commercial and financial information (however recorded or preserved) in this Agreement or arising in connection with this Agreement and including (without limitation):
  - 15.1.1. the amount of the Fee (or any part thereof) including any breakdown of the Fee as between each Consortia Member as provided in Part B3 of this Agreement;





- 15.1.2. the amount of the APC Fund described in Part D1 of this Agreement (or any part thereof) and which, for the avoidance of doubt, where applicable shall include the fact that any such APC Fund is said to be 'unlimited'; and
- 15.1.3. any IP addresses, contact names, contact email addresses or other identifiable information.
- 15.2. Notwithstanding clause 15.1 of this Part C, the Parties acknowledge that the Subscriber may, at its own cost and expense, if required under law applicable to the Subscriber or a Consortia Member:
- 15.2.1. register the Agreement (or information contained within the Agreement) with the ESAC Transformative Agreement Registry, Open APC and/or any other websites or platforms from time to time for the registration of transformative agreements and disclose the total fees payable under the Agreement but not individual fees payable by Consortia Members; and
- 15.2.2. make available the Agreement (or information contained within the Agreement) on the Subscriber's or a Consortia Member's institutional website, together, "Registration".
- 15.3. Subject to clause 15.2, the Subscriber undertakes to ensure that any Confidential Information is kept confidential and that it is fully redacted from any copy or other reproduction of this Agreement and from any information, documents or other materials which may be submitted, disclosed or otherwise made available as part of any Registration. The Subscriber undertakes to ensure that each Consortia Member shall comply with the obligations in this clause 15.
- 15.4. The Parties agree and acknowledge that the provisions of this clause 15 are fair and reasonable for the purposes of protecting BMJ's commercially sensitive information. The provisions of this clause 15 shall survive for a period of 5 years from termination or expiry of this Agreement.
- 16. Fraud, bribery and corruption** The Subscriber and Consortia Member shall notify BMJ immediately if it becomes aware of, or has grounds for suspecting, any fraud or any action, including giving or receiving any financial or other advantage, that may be construed as a bribe under applicable law (**Malpractice**), relating to this Agreement or to the use of the Licensed Material. Without prejudice to any other remedy it may have, if BMJ has grounds for believing that the Subscriber, any Consortia Member, or any of the Authorised Users has committed a fraud or Malpractice relating to this Agreement or the Licensed Material, BMJ may, in its absolute discretion suspend access to the Licensed Material until it has fully investigated and determined whether or not there has been any fraud or Malpractice.
- 17. General**
- 17.1. Neither Party shall be liable for failure, default or delay in performing its obligations under this Agreement, caused by a force majeure event such as any act of God, war or threatened war, act or threatened act of terrorism, riot, strike, lockout, fire, flood, drought, tempest or other event beyond the reasonable control of either Party.
- 17.2. BMJ may assign or transfer any of its rights and obligations under this Agreement by giving written notice to the Subscriber. The Subscriber may not assign its rights or transfer its obligations without the prior written consent of BMJ.
- 17.3. Variations to this Agreement are only valid if recorded in writing and signed by both Parties.
- 17.4. If any provision of this Agreement is held to be invalid, the remainder of the provisions shall continue in full force and effect.
- 17.5. No third party shall be entitled to enforce the terms of this Agreement and the Parties hereby exclude any such rights for any third party enforcement.
- 17.6. No delay or failure by either Party to exercise any of its powers, rights or remedies under this Agreement will operate as a waiver of them nor will any single or partial exercise of any such powers, rights or remedies preclude any further exercise of them. Any waiver, to be effective, must be in writing and signed by a duly authorised representative of each Party.
- 17.7. Any notice under this Agreement must be in writing and may be delivered or sent by first class post or email to the offices of the relevant Party set out in Part A (or as otherwise notified from time to time) and such notice shall be deemed to have been received upon successful transmission of email (subject to proof) or 7 (seven) days from the date of posting.
- 17.8. Where this Agreement is bilingual, the English language version shall prevail.
- 17.9. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with its subject matter of formation shall be governed and construed in accordance with the laws of England and Wales. Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.



## PART D: PUBLICATION TERMS

## PART D1: APC FUND(S)

During the Term, the following fund(s) shall be made available to the Subscriber and each Consortium Member for use in accordance with Part D of this Agreement. References in this Agreement to "APC Fund" shall mean the relevant fund, as appropriate, listed below.

<b>Hybrid APC Fund:</b>	The Hybrid APC Fund shall be capped at the Allowance(s) listed below and may only be utilised in connection with those Eligible Journal(s) described below.	
	<b>Allowance:</b>	In the Subscription Year, the Hybrid APC Fund shall be capped at the following amount(s): <b>£34,900.50. This allowance includes 15% discount on the APC list price.</b>
	<b>Eligible Journal(s):</b>	Any BMJ Standard Collection Hybrid Journal title (as listed in Part D2 below).
<b>Gold APC Pre-Paid Account:</b>	The Gold APC Pre-Paid Account may be utilised in connection with those Eligible Journal(s) described below.	
	<b>Pre-paid amount:</b>	In the Subscription Year, any Consortia Member may pre-pay a minimum of <b>£10,000</b> to fund APCs. <b>This allowance includes 15% discount on the APC list price.</b>
	<b>Eligible Journal(s):</b>	Any BMJ Gold OA Journal title (as listed in Part D2 below).

## PART D2: BMJ STANDARD COLLECTION HYBRID JOURNALS AND BMJ GOLD OA TITLES

<b>BMJ Standard Collection Hybrid Journals:</b>	<b>Title:</b>	<b>Creative Commons Licence:</b>	
		<b>CC-BY*</b>	<b>CC-BY-NC**</b>
	Annals of the Rheumatic Diseases		X
	Archives of Disease in Childhood		X
	Archives of Disease in Childhood: Education & Practice		X
	Archives of Disease in Childhood: Fetal & Neonatal		X
	BMJ Evidence-Based Medicine	X	
	BMJ Quality & Safety	X	
	British Journal of Ophthalmology		X
	British Journal of Sports Medicine	X	
	Emergency Medicine Journal	X	
	Evidence-Based Nursing	X	

	Frontline Gastroenterology		X
	Gut		X
	Heart		X
	Injury Prevention	X	
	Journal of Clinical Pathology	X	
	Journal of Epidemiology & Community Health	X	
	Journal of Medical Ethics	X	
	Journal of Medical Genetics		X
	Journal of NeuroInterventional Surgery		X
	Journal of Neurology Neurosurgery & Psychiatry		X
	Medical Humanities	X	
	Occupational and Environmental Medicine	X	
	Practical Neurology		X
	Sexually Transmitted Infections	X	
	Thorax		X
	Tobacco Control	X	
BMJ Gold OA Journal:	References to "BMJ Gold OA Journal" include the following titles:		
	Title:	Creative Commons Licence:	
		CC-BY*	CC-BY-NC**
	The BMJ	X	
	BMJ Global Health	X	
	BMJ Health & Care Informatics	X	
	BMJ Medicine	X	
	BMJ Neurology Open	X	
	BMJ Nutrition, Prevention & Health	X	
	BMJ Oncology	X	

	BMJ Open	X	
	BMJ Open Diabetes Research & Care	X	
	BMJ Open Gastroenterology	X	
	BMJ Open Ophthalmology	X	
	BMJ Open Oncology	X	
	BMJ Open Quality	X	
	BMJ Open Respiratory Research	X	
	BMJ Mental Health	X	
	BMJ Open Sport & Exercise Medicine	X	
	BMJ Public Health	X	
	BMJ Paediatrics Open	X	
	BMJ Surgery, Interventions & Health Technologies	X	
	Journal for ImmunoTherapy of Cancer	X	
	Lupus Science & Medicine	X	
	Open Heart	X	
	RMD Open	X	
	Stroke & Vascular Neurology	X	
	Trauma Surgery & Acute Care Open	X	

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### PART D3: PUBLICATION TERMS AND CONDITIONS

- Definitions** The following additional defined terms are used in this Part D3:
 

**Accepted Manuscript:** the final draft version of the Eligible Article, which has been accepted for publication in an Eligible Journal and peer reviewed but not copyedited, typeset or published.

**Allowance:** the total value of the relevant APC Fund as specified in D1.

**APC(s):** the article processing charge that BMJ charges for the publication of an Eligible Article as an Open Access Article within an Eligible Journal.

**APC Fund:** those fund(s) described in Part D1 above.

**BMJ's Self-Archiving and Permissions Policy:** BMJ's policy on self-archiving which is currently available via <https://www.bmj.com/company/products-services/rights-and-licensing/author-self-archiving-and-permissions/> (and as may be updated or amended from time to time). BMJ agrees that its licence to publish complies with the SHERPA /



RoMEO green open access policy and permits authors to comply with funders' requirements by allowing the Author's Accepted Manuscript (AAM) to be self-archived in their institutional repository immediately after the online publication date. The AAM can also be placed in PubMed Central (including for deposit by PMC on its international mirror sites) without embargo, unless otherwise stated by the relevant funding body.

**BMJ's Standard Author Licence:** the contract for the relevant Eligible Journal title which is entered into between BMJ and the author(s) of the relevant Eligible Article, a copy of which is currently available via the following URL (as updated from time to time): <https://authors.bmj.com/policies/copyright-and-authors-rights/>

**Eligible Article:** an original article reporting on primary research which: (i) is agreed to be published as an Open Access Article; (ii) is submitted to an Eligible Journal during the Term; and (iii) complies with any other article requirements of the relevant Eligible Journal (as updated from time to time). References to an Eligible Article shall include all text, audio, video and audio-visual material, abstracts, databases, tables, data, diagrams, photographs and other images or illustrative material, all drafts of the Eligible Article, the version of the Eligible Article accepted for publication by BMJ and the Version of Record).

**Eligible Author(s):** an author who is affiliated with a Consortia Member, where **affiliated** means current students enrolled at or accredited to the relevant Consortia Member or who are current teaching and research staff employed by or otherwise accredited to that Consortia Member as at the time of article acceptance. Where an Eligible Article is published by multiple authors, only the corresponding author may qualify as the Eligible Author in respect of that Eligible Article.

**Eligible Journal(s):** in respect of the relevant type of APC Fund, has the corresponding meaning as described in Part D1.

**Open Access Article(s):** an Eligible Article which, in accordance with BMJ's written policies, is agreed with the Eligible Author to be made available to access without charge and which may be reused by third parties in accordance with clause 5 of this Part D3.

**Original Version (Preprint):** the pre-review version of an Eligible Article that is submitted to an Eligible Journal or any earlier draft, which has not been peer reviewed.

**Pre-Paid Account:** the Subscriber's account with BMJ which shall be credited with the amount of at least £10,000 paid by the Subscriber on behalf of a Consortia Member and the balance of which may be used by the Consortia Member's Eligible Authors during the 2024 contract year to satisfy APCs for Eligible Articles submitted to BMJ Gold Open Access Journals.

**Version of Record:** the final version of the relevant Eligible Author's Open Access Article that has been published by BMJ in an Eligible Journal, whether as part of a specified volume, issue or online (for the avoidance of doubt, this does not include any early release article).

## 2. Application of the APC Fund

- 2.1 Eligible Authors may submit their Eligible Article(s) to any Eligible Journal in accordance with the terms for submission applicable to that Eligible Journal (as set out on the relevant BMJ journal website home page). For the avoidance of any doubt, nothing in this Agreement shall affect, alter, or detract from Eligible Authors' obligations to comply in full with BMJ's and the relevant Eligible Journal's policies, procedures, editorial decisions, publication terms and conditions, instructions to authors, licences and any other terms and conditions or requirements made known by BMJ or the editorial team of the relevant Eligible Journal(s).
- 2.2 If an Eligible Article is accepted for publication during the Term, that Eligible Article may be published as an Open Access Article without the Eligible Author having to pay the associated APC. Instead, the amount of the APC that would otherwise have been payable for publication in that title will be deducted (at the applicable Eligible Journal's rate) from the APC Fund or the Pre-Paid Account as appropriate.
- 2.3 The Subscriber and each Consortia Member acknowledge and agree that all Consortia Members will use the same APC Fund, irrespective of their individual contribution to the Publish Fee (or share of the Publish Fee as stated in Part B3).
- 2.4 Where the Allowance of an APC Fund is a fixed amount (as opposed to being 'unlimited') and for the Pre-Paid Account:
  - 2.4.1. the discounted value of all APCs deducted from that APC Fund or the Pre-Paid Account, as appropriate must not exceed the relevant Allowance;
  - 2.4.2. Eligible Authors' discounted APCs shall be deducted from the APC Fund or the Pre-Paid Account, as appropriate, on a "first come, first served basis" in the order of the date that BMJ deducts the relevant APC rate from the APC Fund or the Pre-Paid Account, as the case may be, following acceptance of an Eligible Article (and therefore it is possible that the value of APCs allocated to Eligible Authors from any one Consortia Member may exceed that Consortia Member's proportionate share of the APC Fund or the Pre-Paid Account, as the case may be);
  - 2.4.3. the Subscriber and each Consortia Member acknowledge that the APC Fund and/or the Pre-Paid Account may be exhausted before some Consortia Members' Eligible Authors have had a chance to have any of their research published under this Agreement;
  - 2.4.4. no reimbursements or refunds shall be due if the total number of aggregate APCs deducted during the Term is lower than the value of the Allowance for that APC Fund.
  - 2.4.5. If at the end of the Term, funds remain in the Pre-Paid Account, the Pre-Paid Account may be rolled over into 2025 (provided that, at the end of 2025 the balance of the Pre-Paid Account (if any) shall be lost). In no circumstances shall the Pre-Paid Account or any part of it be refunded to the Subscriber.
- 2.5 The APC Fund and the remaining or unused balance of the Pre-Paid Account is non-exchangeable, non-transferable and



no cash alternative is offered.

### **3. Identification of Eligible Authors and workflow**

- 3.1 BMJ will identify approved Eligible Articles that have been submitted by Eligible Authors and will indicate the availability of this Agreement to Eligible Authors via BMJ's website (currently available <https://authors.bmj.com/open-access/institutional-programme/>, as may be updated or modified from time to time), where Eligible Authors will find information on each Consortia Member's entitlements as part of this Agreement.
- 3.2 Eligible Authors may opt-out of publishing their submitted manuscript as an Open Access Article and in such cases, BMJ is not required to seek the approval of the Consortia Member.
- 3.3 Eligible Authors shall be identified through their applicable Consortia Member's group Ringgold identifier. The Subscriber and each Consortia Member shall provide to BMJ all requested billing and user account details, lists of valid Ringgold identifiers and email domains, for the purpose of setting up each Consortia Member's profile within the CCC Open Access Agreement Manager Tool. BMJ shall have no liability to any Consortia Member or Eligible Author where an APC has paid in error if the Consortia Member to whom the Eligible Author is affiliated has failed to provide the necessary details to BMJ in accordance with this clause.
- 3.4 Where an Eligible Author is not identified on acceptance of their Eligible Article due to an error or omission on BMJ's part (which shall include circumstances where an Eligible Author contacts BMJ's editorial office to request that their affiliation be updated after submission):
  - 3.4.1. if their Eligible Manuscript has already been published by BMJ as a non-Open Access Article then, provided that the Allowance of the applicable APC Fund (or the balance in the Pre-Paid Account, as appropriate) is sufficient to cover the cost of the relevant APC (charged at the applicable Eligible Journal's rate):
    - (i) BMJ will contact the affected Eligible Author and offer them the opportunity to convert their published non-Open Access Article into an Open Access Article; and
    - (ii) if the affected Eligible Author opts to convert their non-Open Access Article into an Open Access Article then BMJ will deduct the cost of the applicable discounted APC from the APC Fund or the Pre-Paid Account, as appropriate; or
  - 3.4.2. if their Eligible Article has already been published by BMJ as an Open Access Article (and an APC has already been paid in full to BMJ in respect of the publication of that Eligible Article) then, provided that the Allowance of the applicable APC Fund is sufficient to cover the cost of the relevant discounted APC (charged at the applicable Eligible Journal's rate) then:
    - (i) BMJ shall deduct the cost of the applicable discounted APC from the APC Fund or the Pre-Paid Account, as appropriate; and
    - (ii) BMJ will contact the Eligible Author to arrange a refund of the APC which was already originally received by BMJ in respect of that Eligible Article (which shall be refunded using the Eligible Author's original method of payment).

### **4. Annual account performance reports**

- 4.1 During the Term, each Consortia Member may at any time access reporting on a self-serve basis via the CCC Open Access Agreement Manager tool to allow them to monitor Open Access Articles published by their Eligible Authors pursuant to this Part D. Reports shall be generated in machine readable, structured format (as comma separated value file format (csv)) and shall include the following information for each Open Access Article published pursuant to this Part D:
  - 4.1.1. bibliographic metadata (including journal title, journal abbreviation, journal ISSN, volume, issue, pages, article title, authors' names, Creative Commons licence type) or DOI;
  - 4.1.2. Eligible Author name including ORCID;
  - 4.1.3. acceptance date; and
  - 4.1.4. publication date.
 BMJ will also deliver article metadata including licence information to CrossRef and other relevant third parties.
- 4.2 Where provided by an Eligible Author, BMJ undertakes to use ORCID (<http://orcid.org/>) throughout the workflow from submission to publication and expose those Eligible Authors' disclosed ORCID ID in Eligible Articles and via Abstracting & Indexing services, CrossRef and other discovery services.
- 4.3 BMJ shall be responsible for updating the DOAJ and SHERPA/RoMEO websites in connection with any Eligible Articles published by BMJ pursuant to this Part D.
- 4.4 BMJ will comply with the last version of NISO's *Recommended Practice on Access and Licensing Indicators* (<https://www.niso.org/standards-committees/access-and-license-indicators>), including, but not limited to, guidance regarding *free\_to\_read* and *license\_reference* metadata fields and regarding mechanisms for distributing metadata.

### **5. Open Access Publication Terms**

- 5.1 Subject to the rights and licences in BMJ's Standard Author Licence, all Intellectual Property Rights in the Eligible Article shall remain with the authors of that Eligible Article (or their employers as the case may be) and each such author shall be permitted to make such use of the Eligible Article as set out in BMJ's Standard Author Licence.
- 5.2 Each Eligible Article accepted for publication in an Eligible Journal title pursuant to this Agreement shall be published by BMJ under the applicable Creative Commons Licence specified in Part D2 unless either:
  - 5.2.1. the research on which an Open Access Article is based is funded by the Wellcome Trust, UK Research and



Innovation, NIH, or any other funder that mandates the use of CC-BY licence (provided that the Eligible Author must advise BMJ at the point of submission of the Eligible Article whether the funding source is one of the aforementioned funding bodies); or

5.2.2. BMJ has expressly agreed that the CC-BY licence shall apply, in which case the Version of Record of an Eligible Article shall be published under the terms of the Creative Commons Attribution 4.0 International Licence (CC BY 4.0) further details of which are available at <https://creativecommons.org/licenses/by/4.0/> or any subsequent versions of that licence as determined by BMJ.

6. **Author self-archiving** Eligible Authors shall be permitted to store a copy of their work in their institutional repository in accordance with the terms and conditions stipulated in BMJ's Self-Archiving and Permissions Policy.