

Part A (Order Schedule), Part B (Licensed Material) and Part C (Licence Terms) below comprise one agreement (**Agreement**) between: (1) **BMJ Publishing Group Limited**, company number 03102371 and whose registered office is at BMA House, Tavistock Square, London WC1H 9JR, United Kingdom (**BMJ**); and (2) the **Licensee** named below.

Background

BMJ is a publisher of medical and allied science journals. Licensee is the collaborative ICT organisation for Dutch education and research. It offers students, lecturers and scientists in the Netherlands access to the best possible internet and ICT facilities. The Licensee wishes to:

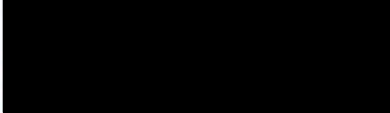
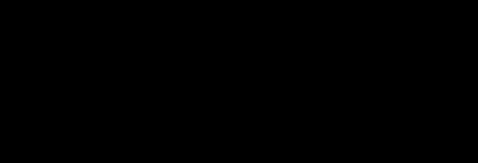
- (a) procure perpetual access, on behalf of the Authorised Users of Participating Institutions (as defined below) to BMJ journals; and
- (b) obtain waivers of article processing charges for Authorised Users who wish to publish articles in BMJ journals.

BMJ has agreed to provide such access and waivers on the terms set out in this Agreement.

Part A. Order Schedule

Currency:	Sterling										
Fee and payment terms:	<p>In each Subscription Year, the Licensee shall pay the Fee instalment as follows:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Subscription Year</th> <th>Fee instalment</th> </tr> </thead> <tbody> <tr> <td>2019</td> <td>£ 210,962.40</td> </tr> <tr> <td>2020</td> <td>£ 219,400.00</td> </tr> <tr> <td>2021</td> <td>£ 228,176.00</td> </tr> <tr> <td>Total Fee payable</td> <td>£ 658,538.40</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Payment terms shall be 30 days after the date of invoice unless otherwise stated on the invoice. • BMJ shall be entitled to issue an invoice for the first Subscription Year at any point following signature to this Agreement. • Where the Subscription Term is multi-year, BMJ shall be entitled to issue invoices for each Subscription Year after the first Subscription Year no earlier than 60 days prior to the commencement of the relevant Subscription Year. 	Subscription Year	Fee instalment	2019	£ 210,962.40	2020	£ 219,400.00	2021	£ 228,176.00	Total Fee payable	£ 658,538.40
Subscription Year	Fee instalment										
2019	£ 210,962.40										
2020	£ 219,400.00										
2021	£ 228,176.00										
Total Fee payable	£ 658,538.40										
APC Waiver Cap:	<p>In each Subscription Year, APCs for authors who are Authorised Users shall be waived until the APC Waiver Cap for that year is reached as follows:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Subscription Year</th> <th>APC Waiver Cap</th> </tr> </thead> <tbody> <tr> <td>2019</td> <td>£ 232,058.64</td> </tr> <tr> <td>2020</td> <td>£ 241,340.00</td> </tr> <tr> <td>2021</td> <td>£ 250,993.60</td> </tr> <tr> <td>Total value of APCs waived:</td> <td>£ 724,392.24</td> </tr> </tbody> </table>	Subscription Year	APC Waiver Cap	2019	£ 232,058.64	2020	£ 241,340.00	2021	£ 250,993.60	Total value of APCs waived:	£ 724,392.24
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2019	£ 232,058.64										
2020	£ 241,340.00										
2021	£ 250,993.60										
Total value of APCs waived:	£ 724,392.24										
Licensed Materials:	Those journals listed in Part B.										
Licensee:	<p>SURFmarket B.V. with registered office at Moreelsepark 48, Utrecht, The Netherlands (SURF)</p> <p>Primary contact: [REDACTED]</p>										



Participating Institutions:	(1) University of Amsterdam of Spui 21 1012 WX Amsterdam, Netherlands (2) Erasmus University of Burgemeester Oudlaan 50, 3062 PA Rotterdam, Netherlands (3) University of Groningen of 9712 CP Groningen, Netherlands.
Subscription Commencement Date:	1 January 2019
Subscription Term:	Three years from the Subscription Commencement Date.
BMJ signature:	<div style="text-align: right;">  29/3/19 Date </div> Title: Director, BMJ Publishing Group Limited
Licensee's signature:	<div style="text-align: right;">  1/4/2019 Date </div> for and on behalf of SURFmarket B.V.



Part B:

1. The Licensed Materials comprise the following BMJ Journals:

ADC: Education & Practice	ESMO Open
ADC: Fetal & Neonatal	European Journal of Hospital Pharmacy
Annals of the Royal College of Surgeons of England	Evidence-Based Mental Health
Annals of the Rheumatic Diseases	Evidence-Based Nursing
Archives of Disease in Childhood	Frontline Gastroenterology
BMJ Case Reports	Gut
BMJ Evidence-Based Medicine	Heart
BMJ Global Health	In Practice
BMJ Innovations	Injury Prevention
BMJ Leader	Journal of Clinical Pathology
BMJ Nutrition, Prevention & Health	Journal of Epidemiology & Community Health
BMJ Open	Journal of Investigative Medicine
BMJ Open Diabetes Research & Care	Journal of ISAKOS
BMJ Open Gastroenterology	Journal of Medical Ethics
BMJ Open Neurology	Journal of Medical Genetics
BMJ Open Ophthalmology	Journal of NeuroInterventional Surgery
BMJ Open Quality	Journal of Neurology, Neurosurgery & Psychiatry
BMJ Open Respiratory Research	Journal of the Royal Army Medical Corps
BMJ Open Science	Lupus Science & Medicine
BMJ Open Sport & Exercise Medicine	Medical Humanities
BMJ Paediatrics Open	Occupational and Environmental Medicine
BMJ Quality & Safety	Open Heart
BMJ Sexual & Reproductive Health	Postgraduate Medical Journal
BMJ Simulation & Technology Enhanced Learning	Practical Neurology
BMJ Supportive & Palliative Care	RMD Open
British Journal of Ophthalmology	RAPM
British Journal of Sports Medicine	Sexually Transmitted Infections



Drug and Therapeutics Bulletin	Stroke and Vascular Neurology
Emergency Medicine Journal	The BMJ
Tobacco Control	Thorax
Trauma Surgery & Acute Care Open	Vet Record Case Reports
Vet Record	Vet Record Open
World Journal of Pediatric Surgery	

2. Locations and Participating Institutions' IP Addresses

(1) University of Amsterdam - Spui 21, 1012 WX AMSTERDAM, Netherlands

145.109.0.0 - 145.109.127.255
 145.117.0.0 - 145.117.255.255
 145.18.0.0 - 145.18.255.255
 146.50.0.0 - 146.50.255.255

Domains:
 amc.nl
 amc.uva.nl
 uva.nl
 acta.nl

(2) Erasmus University - Burgemeester Oudlaan 50, 3062 PA ROTTERDAM, Netherlands

130.115.0.0 - 130.115.255.255
 145.5.0.0 - 145.5.255.255
 154.59.124.38
 156.83.0.0 - 156.83.255.255

Domains:
 erasmusmc.nl
 rsm.nl
 eur.nl
 iss.nl

(3) University of Groningen - Broerstraat 4, 9712 CP GRONINGEN, Netherlands

129.125.0.0 - 129.125.255.255
 192.87.23.64 - 192.87.23.127

Domains:
 rug.nl
 umcg.nl



Part C: Licence and APC Waiver Terms

1. Key Definitions

1.1. In this Agreement, the following terms shall have the following meanings:

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

APC: the article processing charge BMJ charges authors in relation to the publication of open access articles in BMJ's journals.

APC Waiver Cap: the maximum amount of APC payments that BMJ has agreed to waive in each year of the Subscription Term, as set out in Part A Order Schedule.

Authorised Users: full time or part-time employees, independent contractors or students of each Participating Institution using computer terminals within the Locations who are authorised by that Participating Institution to have access to the Licensed Material. Authorised Users shall include Walk-In Users only for the purposes of access to the Licensed Material.

Commercial Use: i) copying or downloading any of the Licensed Material or linking to the Licensed Material for further redistribution, sale or licensing, for a fee; ii) copying, downloading or posting of any of the Licensed Materials on a site or service that incorporates advertising with such content; iii) the inclusion or incorporation of any of the Licensed Materials in other works or services (other than legally permitted quotations with an appropriate citation) that is then available for sale or licensing, for a fee; iv) use of any of the Licensed Materials howsoever (other than legally permitted quotations with an appropriate citation) by organisations for promotional or advertising purposes, whether direct or indirect, whether for a fee or otherwise; distribution by or on behalf of pharmaceutical organisations is considered Commercial Use; and v) use of the Licensed Materials for the purposes of monetary reward by means of sale, resale, license, loan, hire, transfer or other form of commercial exploitation.

Fee: the subscription fee payable by the Licensee as set out in Part A Order Schedule.

Licensed Materials: the electronic version of BMJ's journals which the Licensee subscribes to, as set out in Part B to this Agreement.

Locations: Each Participating Institution's premises stated on the Part A Order Schedule plus any additional locations or campus identified in Part B (Licensed Material).

Malpractice: includes giving or receiving any financial or other advantage that may be construed as a bribe, whether for the purpose of the Bribery Act 2010 or any other applicable law.

Parties: BMJ and the Licensee. **Party** shall mean either BMJ or the Licensee, as the case may be.

Subscription Term: the period specified in Part A Order Schedule, unless terminated earlier under clause 9.

Subscription Year: from the Subscription Commencement Date each 12-month period of the Subscription Term

Walk-In User: a visitor to the Location who is permitted to access a Participating Institution's information services from computer terminals within the Locations.

Website: the BMJ website(s) on which the Licensed Material is displayed.

Website Terms and Privacy Policy: the terms and conditions and privacy policies applicable to an Authorised User's use of the Website for the purposes of accessing the Licensed Materials and for submitting an article to be considered for publication in a BMJ journal.

1.2. Any words following the terms *including, include, 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.

2. The Licence

2.1. In consideration of receipt of the Fee, BMJ grants the Licensee and the Participating Institutions a non-exclusive, non-transferable licence for the Subscription Term to permit Authorised Users to access the Licensed Materials on the Website. Such access shall be either: a) from the Locations via valid IP address authentication; or, and subject to clause 2.2, b) remotely where Authorised Users have been issued with the necessary authentication to access the Licensed Materials.

2.2. Walk-In Users shall not be permitted to access Licensed Materials remotely.

2.3. BMJ holds all the intellectual property rights in the Licensed Materials. BMJ reserves the right at any



time to withdraw from the Licensed Materials, any item or part of an item for any reason including where it no longer retains the right to publish, where it has reasonable grounds to believe the content is unlawful, infringing, false, harmful, defamatory, obscene, or otherwise objectionable.

- 2.4. Subject to clauses 2.3, 2.6 and 9.6, BMJ also grants to the Licensee and the Participating Institutions, a non-exclusive, royalty-free, perpetual licence to permit Authorised Users to access all BMJ journal articles (from titles included in the Licensed Material) published during the Subscription Term.
- 2.5. The means by which Participating Institutions shall have perpetual access to such BMJ journal content shall be in a manner as determined by BMJ, but shall be in electronic form. Where any Licensed Materials for which perpetual access is granted is sold, BMJ shall use its reasonable efforts to ensure that the applicable purchaser can provide ongoing access to the Participating Institutions for the affected Licensed Materials.
- 2.6. For the avoidance of doubt the perpetual rights granted to the Licensee in clause 2.4 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, damaged or sold.
- 2.7. The Licensee shall be liable for any act or omission by any Authorised User which, had such act or omission been by the Licensee, would be a breach of the terms of this Agreement.
- 2.8. Access to the Licensed Materials by an Authorised User is conditional on his or her acceptance of, and compliance with, the [Website Terms](#) and [Privacy Policy](#). If an Authorised User fails to abide by the Website Terms and Privacy Policy, BMJ reserves the right in its discretion to suspend or terminate such Authorised User's access to the Licensed Materials immediately without notice or liability.
- 2.9. Where the Licensed Materials includes material published by a third party, the Licensee acknowledges that Authorised Users shall be bound by that third party's terms and conditions in relation to access to and use of the third party Licensed Materials.
- 2.10. Neither the Licensee nor the Participating Institutions shall have any claim of ownership of any intellectual property rights in the Licensed Materials, by reason of the access permitted hereunder.
- 2.11. BMJ confirms to the Licensee that usage statistics covering the online usage of all journal content provided as part of the Licensed Material shall be provided to the Participating Institutions. BMJ further confirms that 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.

3. Permitted Uses of the Licensed Materials

- 3.1. Each Authorised User is permitted to download and use the Licensed Materials only for that Authorised User's personal use.
- 3.2. Authorised Users may incorporate a limited number of articles or abstracts from the Licensed Materials in electronic course packs or other educational materials solely for the benefit of those Authorised Users. Each such use must carry acknowledgement of the source, title, author and publisher.
- 3.3. The Participating Institutions may transcribe any portion of the Licensed Materials into Braille or enlarged type for Authorised Users who are visually impaired.
- 3.4. Notwithstanding any other provision of this Agreement, the Participating Institutions may deliver single articles taken from BMJ Journals to fulfil requests from an academic or other non-commercial libraries located in the Licensee's country as part of the practice commonly known as Inter-Library Loan (ILL).
- 3.5. Prohibited uses: unless otherwise stated in this Agreement, Licensee shall not, and shall procure that no Authorised Users: a) create derivative works of the Licensed Materials (including any translation); b) 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; c) systematically download or print any part of the Licensed Materials; d) knowingly permit anyone other than Authorised Users to access or use the Licensed Materials; e) include, mount or distribute any of the Licensed Materials in other works (other than legally permitted quotations with an appropriate citation); and f) use or distribute the Licensed Materials for Commercial Use; g) 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 Materials.

4. Use of Open Access Licensed Materials

- 4.1. Where Licensed Materials comprise journal articles which are stated to be "Open Access", Authorised Users may reuse such material subject to:
- 4.1.1. the terms of the Creative Commons Attribution licence stated on the applicable webpage or print page to apply to that material (which unless otherwise stated shall be the latest Creative Commons Attribution Non Commercial use licence which can be accessed via <http://creativecommons.org/licenses>); and;
 - 4.1.2. completing the missing parentheses below and attributing such use of the article as follows: *"This material has been published in the [insert journal name or BMJ product name] [give full reference] and can also be viewed on material's original website at [insert link]"*
 - 4.1.3. ensuring all third party rights within all images, diagrams, photographs or other illustrative material, not owned by the authors or BMJ are cleared independently and appropriately and all BMJ or third party trade marks are removed from any derivative works; and
 - 4.1.4. ensuring any translations, have prominently displayed on them the statement: *"This information has been translated and adapted from original English language content produced by BMJ Publishing Group Limited (BMJ). BMJ did not perform the translation. Translated content is provided on an "as is" basis. Translation accuracy, quality or reliability is not guaranteed or implied. Neither BMJ nor its licensors are responsible for any errors and omissions arising from translation and to the fullest extent permitted by law BMJ shall not incur any liability, including without limitation, liability for damages, arising from the translated content. BMJ may update the native English Language content on which the translated content is based from time to time. It is your responsibility to verify the translated content reflects the most recent version. BMJ material is not intended to act as a substitute for the professional judgement of a health professional. Use of BMJ material is at the reader's own risk"*

5. APC Waiver process

- 5.1. Provided that the Licensee pays the Fee in accordance with the terms of this Agreement and subject to clause 5.3, BMJ shall waive the APCs on all articles submitted by Authorised Users that are accepted for publication in any of the Licensed Materials under BMJ's open access arrangements.
- 5.2. The process by which APCs are waived is currently as set out in this clause 5.2, however BMJ reserves the right to change the process at any time on giving written notice to the Licensee. Authorised Users who wish to submit articles to be considered for publication by BMJ, must submit their articles using BMJ's manuscript submission system via the relevant BMJ journal Website. During the submission process, the Authorised User will be required to select their affiliation to one of the Participating Institutions from a drop down list of member institutions. Once BMJ has verified the Authorised User's association to a Participating Institution, BMJ will send the Authorised User an email to confirm that, if accepted for publication, their article will be fast tracked through to production with no payment required. If an Authorised User is unaware of the arrangements for waiving APCs provided by this Agreement to their affiliated institution and does not select a relevant Participating Institution during the submission process, BMJ may notify the Authorised User that their submission may be published without payment of any APC, if BMJ becomes aware of, and verifies, the association.
- 5.3. In each calendar year of the Subscription Term, Authorised Users shall be entitled to have APCs waived up to the value of the APC Waiver Cap as specified for the relevant year in Part A Order Schedule.
- 5.4. If the APC Waiver Cap is reached in any year of the Subscription Term, BMJ shall notify the Licensee that no further APC can be waived for the remainder of that year and APCs must be paid in full before any further articles can be accepted for publication in that year.
- 5.5. Authorised Users who submit articles for publication under BMJ's open access arrangements do so under the terms and conditions and the licences applicable to the relevant journal at the time they submit their articles. Nothing in this Agreement is intended in any way to add to, alter, or detract from, such BMJ terms and conditions and licences. For the avoidance of doubt nothing in this Agreement obliges BMJ to publish an article submitted by an Authorised User.

- 5.6. BMJ agrees that all articles by Authorised Users published in a BMJ journal pursuant to this Agreement, shall be published under the latest version of the Creative Commons Attribution International license (currently CC BY 4.0).
- 5.7. BMJ shall provide each of the Participating Institutions with an identical quarterly report to include the following information:
 - 5.7.1. a list of articles accepted for publication in the previous quarter in respect of which APCs have been waived pursuant to this Agreement;
 - 5.7.2. in relation to each article accepted for publication: name of the submitting author; Participating Institution; article title; journal title; OA license applied; date first published online; journal APC; author email address and if available, the following information will also be included: DOI; clickable DOI; eISSN and print ISSN; and
 - 5.7.3. the difference between the value of the APCs waived in the Subscription Year up to the date of the report and the amount of the APC Waiver Cap for that year.
- 6. Licensee's obligations and liability**
- 6.1. Licensee agrees that it shall:
 - 6.1.1. use its best endeavours to procure that Authorised Users are notified of, and comply with the Website Terms and Privacy Policy and any disclaimers which appear on an applicable Website;
 - 6.1.2. undertake and maintain all reasonable security measures, necessary authentication and verification processes to ensure that only Authorised Users can access the Licensed Materials and shall terminate any unauthorised access of which it becomes aware;
 - 6.1.3. where applicable for BMJ to provide access to the Licensed Materials, provide BMJ with the IP addresses to be used by BMJ to authenticate Authorised Users. Licensee represents that all such IP addresses shall be limited to the Locations. BMJ is not obliged to provide access to the Licensed Materials unless and until it is in receipt of valid IP addresses;
 - 6.1.4. pay the Fee in accordance with the payment terms set out in this Agreement; and
 - 6.1.5. if it becomes aware of intellectual property infringement or unauthorised access to the Licensed Materials, notify BMJ immediately and 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 Materials, without liability.
- 6.2. Where the Licensee is not a legal entity comprising of the Participating Institutions, it warrants that it has the express written consent of all Participating Institutions to enter into this Agreement and sign it on their behalf, and will bring the terms of this Agreement to its attention.
- 6.3. The Licensee shall designate a primary point of contact (as set out in Part A Order Schedule) to act on behalf of the Participating Institutions for the purposes of communicating with BMJ about this Agreement (**Designee**) and BMJ shall be entitled to assume that any communication given by the Designee in connection with this Agreement, shall be made by the Licensee on behalf of all the Participating Institutions. Furthermore, the Licensee agrees that any communication (whether made in writing or otherwise) made by BMJ to the Designee shall be deemed to be a communication to the Participating Institutions.
- 7. Fee and payment**
- 7.1. The Fee is due and payable by the Licensee in accordance with the payment terms stated on the Order Schedule. If no such terms are stated, the payment terms included on each BMJ invoice shall apply. In the event the payment terms on an invoice contradict those stated on the Order Schedule, the terms stated on the invoice shall prevail. The Fee (including each instalment thereof) shall be exclusive of VAT or other sales tax which, if applicable, shall be added at the prevailing rate at the time.
- 7.2. Where applicable, payment of the Fee may be made to a third party agent authorised by BMJ.
- 7.3. The Licensee is responsible for ensuring any third party authorised to make payments on its behalf shall promptly pay BMJ (or BMJ's authorised agent where applicable) the full amounts due under this Agreement.
- 7.4. Each Participating Institution currently has separate, single site, 12-month licence agreements with BMJ to access certain of the Licensed Materials, that expire during 2019, as set out in the list

attached to this Agreement as Appendix 1. To avoid duplication, on receipt of payment of the Fee for 2019 from the Licensee, BMJ agrees to terminate all such agreements and to reimburse each Participating Institution the licence subscription fees (or a pro rata amount as applicable and as shown in Appendix 1) paid by them in respect of the term of each agreement that overlaps with the term of this Agreement.

8. Technical Access

8.1 Subject to clause 8.2, 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.

8.2 Unavailability of any of the Licensed Materials for a period of 24 hours (**Downtime**) may result in a pro-rated refund of the such portion of the Fee as relates to that part of the Licensed Materials and the period of time during which it was unavailable (**Pro Rata Refund**). Force majeure events and any period during which BMJ is carrying out planned maintenance are not included when calculating Downtime. Licensee shall report to BMJ any incidents that it considers Downtime immediately, but in no event later than 24 hours from when Licensee became aware of, or reasonably should have become aware of, the occurrence. Failure to do so shall disentitle Licensee to any refund for that incident under this Agreement. In reporting, Licensee shall provide BMJ sufficient information to investigate the incident, including: date, duration, and description of occurrence. BMJ shall investigate the reported outage and if BMJ determines, in its sole discretion, that it was Downtime and was the responsibility of BMJ, it shall provide Licensee with a Pro Rata Refund.

9. Termination

9.1. Unless otherwise terminated in accordance with this clause 9, access to Licensed Materials under this Agreement shall be provided for the Subscription Term.

9.2. BMJ may terminate this Agreement:

9.2.1. where an act or omission by the Licensee 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 and Privacy Policy which (if capable of remedy) the Licensee fails to remedy within 30 days of notification in writing from BMJ; or

9.2.2. in the event the Licensee default on making payment of the Fee or any applicable renewal fee.

9.3. The Licensee 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 Licensee.

9.4. BMJ may terminate this Agreement if the Licensee becomes insolvent, subject to receivership, liquidation or similar external administration.

9.5. Unless BMJ terminates this Agreement pursuant to clause 9.2, upon termination or expiry of this Agreement: a) access by Authorised Users to the Licensed Materials shall cease except for any perpetual access granted under clause 2.4 which shall remain; and b) any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

9.6. Where BMJ terminates this Agreement pursuant to clause 9.2, the perpetual access granted in clause 2.4 shall be revoked and access to all Licensed Materials by the Authorised Users shall cease.

9.7. Termination or expiry 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.

9.8. Either Party's failure to perform any term of this Agreement as a result of circumstances beyond its control (including typical force majeure events) shall not be deemed a breach of this Agreement.

10. Warranty and BMJ's Liability

10.1. BMJ may provide Authorised Users with links to third-party websites. Where such links exist, BMJ excludes all liability for the content of such websites.

10.2. The Licensed Materials are provided on an "as is" basis and 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. To the fullest extent permitted by law, BMJ and its licensors expressly exclude any representations conditions, warranties and other terms which might



otherwise be implied by statute, common law or otherwise.

- 10.3. The Licensed Materials are not intended to act as a substitute for the professional judgement of a health professional. Use of the Licensed Materials is at an Authorised User's own risk.
- 10.4. The Licensee shall be responsible for notifying all Authorised Users that such users must always read the full disclaimers on the relevant Website. The Licensee (SURF) shall indemnify BMJ and its licensors against any claims, costs, expenses, proceeding, awards and demands made against the BMJ or its licensors by the Participating Institutions or the Authorised Users as a result of, any act or omission by the Licensee.
- 10.5. To the fullest extent permitted by law and other than expressly provided for herein, in no circumstances shall BMJ be liable to any Participating Institution, the Licensee, 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 Materials. Nothing in this Agreement seeks to exclude liability for death or personal injury caused by BMJ's negligence or fraudulent misstatement.
- 10.6. In the event BMJ has any liability under this Agreement, BMJ's (and its licensors') aggregate liability shall not exceed the Fee applicable for access to the Licensed Materials during the 12-month period preceding any claim or notice of damages.
- 11. Data protection**
Each of BMJ and the Licensee shall comply fully with all applicable laws relating to data protection with regard to the collection, processing and use of any personal information about Authorised Users which either Party may obtain by reason of this Agreement.
- 12. Fraud, bribery and corruption**
12.1. The Licensee shall notify BMJ immediately if they become aware of, or has grounds for suspecting, any fraud or Malpractice relating to this Agreement or to the use of the Licensed Materials.
12.2. Without prejudice to any other remedy it may have, if BMJ has grounds for believing that a Licensee or any of the Authorised Users has committed a fraud or Malpractice relating to this Agreement or the Licensed Materials, BMJ may, in its absolute discretion suspend access to the Licensed Materials until it has fully investigated and determined whether or not there has been any fraud or Malpractice.
- 13. General**
13.1. Neither Party shall be liable for failure, default or delay in performing its obligations under this Licence, caused by a force majeure event which shall include any act of God, war, or threatened war, act or threatened act of terrorism, riot, strike, lockout, individual action, fire, flood, drought, tempest or other event beyond the reasonable control of either Party.
13.2. BMJ may assign or transfer any of its rights and obligations under this Agreement, upon written notice to the Licensee. The Licensee may not assign its rights or transfer its obligations herein without the prior written consent of BMJ.
13.3. Alterations to this Agreement are only valid if they are recorded in writing and signed by all Parties.
13.4. In the event that any provision of this Agreement is held to be invalid, the remainder of the provisions shall continue in full force and effect.
13.5. 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.
13.6. 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 other or further exercise of them. Any waiver, to be effective, must be in writing and signed by a duly authorised representative of each Party.
13.7. 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 Order Schedule (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 of the same) or 7 (seven) days from the date of posting.
13.8. Where this Agreement is bilingual the English language version shall prevail.
13.9. To the fullest extent permitted by law, this Agreement constitutes the entire Agreement between BMJ and the Licensee with respect to the Licensed Materials.
- 14. Governing law and jurisdiction**
14.1. To the fullest extent permitted by law this Agreement shall be governed and construed in

accordance with the laws of England and Wales. All claims, disputes and actions, relating to access to and use of the Licensed Materials and the Website shall be determined exclusively by the English courts.

Appendix 1 – Pro Rata Refunds pursuant to clause 7.4 attached

Account	Products	Dates		Amount	Pro-rated due
Erasmus MC	JME (online)	01/07/2018	01/06/2019	£621.61	£310.81
	JMG (online), HEART (online)	01/01/2019	31/12/2019	£2,085.00	£2,085.00
Erasmus MC	EMJ (online)	01/08/2018	31/07/2019	£976.00	£569.33
	ADC (online)	01/01/2019	31/12/2019	£1,353.00	£1,353.00
	BJSM (online)	01/01/2019	31/12/2019	£1,140.00	£1,140.00
	GUT (online)	01/01/2019	31/12/2019	£1,363.00	£1,363.00
	JNNP (online)	01/01/2019	31/12/2019	£1,449.00	£1,449.00
Uva Universiteitsbibliotheek	BMJ Case Reports (online)	01/10/2018	30/09/2019	£1,135.00	£851.25
	TOBAC (online)	01/01/2019	31/12/2019	£849.58	£849.58
	GUT (online)	01/01/2019	31/12/2019	£1,351.00	£1,351.00
	BJSM (online)	01/01/2019	31/12/2019	£950.00	£950.00
	BMJ SPC (online)	01/01/2019	31/12/2019	£371.45	£371.45
University of Groningen	The BMJ (online), BMJ Standard	01/01/2019	31/12/2019	£13,430.00	£13,430.00
	BMJ Case Reports (online)	01/01/2019	31/12/2019	£1,378.00	£1,378.00
					£27,451.42

