

Memorandum of Understanding

between

Springer Nature Customer Service Center, LLC

("Springer Nature")

and

Regents of the University of California, a non-profit academic institution, on behalf of the California Digital Library

("University of California" or "UC")

Springer Nature and Regents of the University of California together ("the Parties")

1. Preamble

With the signing of this Memorandum of Understanding, The Regents of the University of California and Springer Nature are delighted to have reached agreement on the first transformative open access deal for Springer Nature in the United States. This is the largest open access agreement signed in North America to date, and represents a significant milestone in the global open access journey.

2. Journals Included in the UC Agreement

Springer Nature and the University of California desire to enter into an agreement (the "UC Agreement") which shall provide for open access publishing of all journal articles by corresponding authors within the UC system in a broad range of Springer Nature hybrid and fully open access journals, as well as reading access to specific licensed journals, including the complete portfolio of Springer Research Group journals. The UC Agreement will initially cover the following journals, under the terms outlined in Section 3 below:

- Hybrid: Springer journals, Adis journals, Palgrave journals, and hybrid academic journals on nature.com.
- Fully Open Access: Springer journals and BioMed Central journals

Terms for the Nature-branded journals are outlined separately in Section 4.

3. Springer Nature – UC Agreement

The contract period for the UC Agreement is 2020-2023, with 2020 considered a ramp-up year. The following reflects the current status of the negotiations, and includes key terms, which in the current mutual understanding of the Parties will be covered by the UC Agreement:

3.1 Open Access Default

Upon execution of the UC agreement, open access will be implemented as the default option for all accepted articles published by UC corresponding authors, with CC BY as the default license choice, except for those few journals that publish under the CC BY-NC license. Corresponding authors in

hybrid journals will be able to opt out of OA publication if they so choose, and their articles will be published on a subscription basis. Further details are included in the remainder of section 3 below.

In the 2020 ramp-up year, OA publication in the hybrid portfolio will not require payment of an APC (except as detailed in section 3.8(2)), as all applicable license fees have been fully paid by UC. Further details are included in section 3.8 below. Beginning in 2021, APCs will be charged for each OA article published by a UC corresponding author under the Multi-payer Model, as described immediately below.

3.2.1 Multi-payer Model

The basis of the UC Agreement for open access publishing is a model by which UC will pay the first \$1000 of the Article Processing Charges (“APCs”) for articles by UC corresponding authors that are accepted for publication in hybrid and open access journals covered by the agreement. The remainder due on each APC for publishing in journals covered by this agreement (the “APC Remainder”) will be covered either by the authors themselves (utilizing research funds available to them), or by UC when such funds are unavailable. This is referred to as the “Multi-payer Model.”

In the process of identifying themselves as corresponding authors affiliated with UC, authors will indicate whether they have research funds available to pay the APC Remainder or not. If authors indicate that they are unable to pay the APC Remainder, UC will cover the entire APC for the publication of those articles.

3.2.2 Commitment to Build Multi-payer Workflow

Springer Nature commits to developing its acceptance and financial workflow systems in order to provide appropriate author and payment workflows under the UC Agreement by no later than January 2021. The workflow and associated messaging to authors will be developed in cooperation with UC to meet agreed-upon UC goals.

3.3 Fully Open Access Publishing

- The UC Agreement will implement the Multi-payer Model for open access publishing of articles by UC corresponding authors in fully open access journals covered by the agreement that are accepted for publication from January 2021 forward.
- During 2021, the APCs for these journals will be equal to the APCs that were charged to corresponding authors during 2020 (the “2020 Base APCs”). The 2020 Base APCs include a 15% discount for UC as a BioMed Central member.
- In 2022 and 2023, the APCs for these journals will be increased from the 2020 Base APCs by the same percentage as the increase in the list-price APCs between 2021-22 and 2022-23, respectively, up to a maximum of 3.5% each year for each journal. If at any time during the agreement the then-current list price APC is lower than the APC to be charged under the agreement, the current, lower APC will be charged instead.
- From 2021 forward, the total amount paid by UC each year under this section, not including the APC Remainder if paid by authors using research funds, is referred to herein as the “UC Fully OA Spend.”

3.4 Hybrid Open Access Publishing

- The UC Agreement will enable publishing of open access articles under the Multi-payer Model by UC corresponding authors in hybrid journals covered by the agreement.
- During 2021 and 2022, the APCs for these journals will be the same as the APCs for these journals that were charged to UC during 2019.

- In 2023, the APCs for these journals will be increased by 2%. However, if at any time during the agreement the then-current list price APC is lower than the APC to be charged under the agreement, the current, lower APC will be charged instead.
- The UC Agreement will include a maximum and minimum number of articles to be charged to UC for OA articles published by UC corresponding authors per year. The maximum and minimum number of articles applies to the calculation of fees only; no maximum or minimum limits are applied to the number of UC articles that can be published as OA under the agreement.
- This maximum and minimum will be determined by a two-step calculation:
 - o First, the baseline minimum and maximum numbers will be computed based on historical article publishing. The minimum for each year will be 15% below the number of articles published by corresponding authors in either 2019 or 2020, whichever is lower (the “Base Article Number”). The maximum for the three years of the contract may vary as described below, but the base case will be as follows:
 - 2021: 5% above the Base Article Number
 - 2022: 10% above the Base Article Number
 - 2023: 15% above the Base Article Number
 - o Next, the maximum article numbers for each year will be adjusted by a calculation related to the number of authors who, in the relevant year of the contract, were able to provide funding for the APC Remainder (this rate is referred to herein as the “Author Participation.” The base case assumption in the bullets above is that the Author Participation shall be 30% or above and below 40%).
 - If Author Participation is 40% or above and below 50%, the maximum percentage calculated in the first step shall be increased by 5% for that year (“Author Participation Bonus 1”)
 - If Author Participation is 50% or above and below 60%, the maximum percentage calculated in the first step shall be increased by an additional 5% from Author Participation Bonus 1 (“Author Participation Bonus 2”)
 - If Author Participation is 60% or above, the maximum percentage calculated in the first step shall be increased by an additional 5% from Author Participation Bonus 2
 - If Author Participation is below 30%, the maximum percentage calculated in the first step shall be decreased by 5% for that year
- If the number of published OA articles by UC corresponding authors in a particular year does not meet the minimum number of articles set for that year, UC shall make an additional payment equal to the average hybrid APC for UC corresponding authors from the previous year for the number of articles necessary to bring the total to the minimum. In 2021, the average hybrid APC from 2019 (\$3208) shall be used.
- If the number of published OA articles exceeds the maximum number of articles set for that year, for each subsequent published article, the UC portion of the APC (whether \$1000 or the full APC if authors lack research funds to pay the APC Remainder) shall be waived.
- The total amount paid by UC in a year under this section, not including the APC Remainder if paid by authors using research funds, is referred to herein as the “UC Hybrid Spend.”

3.5 Reading Fee

- The UC Agreement will include a yearly base “Reading Fee” of \$750,000 for access to defined “Licensed Journals.”
- The Licensed Journals shall include all subscription and hybrid journals published under the Springer imprints, including Springer journals, Adis journals, Palgrave journals, and hybrid academic journals on nature.com, and shall include all transfers and new launches during the contract period.

- Perpetual access rights to the issues of the Licensed Journals published during the contract period are unlimited in time, but subject to the Springer Nature licensing terms as negotiated between the Parties.
- In addition to the perpetual rights conveyed in this agreement and in prior agreements between Springer Nature or its predecessors and UC, complimentary backfile access to issues of Licensed Journals during the contract period shall include content back to 1997 if available and to the extent Springer Nature's rights in the Licensed Journals permit.
- The Reading Fee shall be adjusted as necessary to ensure that the overall CDL spending controls discussed in the next section are met.

3.6 UC Fee Control Mechanisms

The "Total UC Spend" for any year of the contract shall be composed of the following components for that year:

- UC Fully OA Spend
- UC Hybrid Spend
- Reading Fee

In each year of the contract, the Total UC Spend shall be subject to a fee control mechanism, as set out below. All fee control mechanisms are computed in relation to the license fees paid by UC for Springer journals, Adis Journals, Palgrave journals, and academic journals on nature.com in 2020 ("UC 2020 Spend"). Final calculations under this fee control mechanism shall be computed *after* each of the three components above are known for the year.

- In 2021, if the Total UC Spend exceeds 95% of UC 2020 Spend, the Reading Fee shall be adjusted such that the Total UC Spend equals that target. If the Total UC Spend exceeds that target even after the removal entirely of the Reading Fee, then the UC Fully OA Spend and the UC Hybrid Spend shall be reduced until the Total UC Spend equals that target.
- In 2022 and 2023, if the Total UC Spend exceeds 98% of UC 2020 Spend, the Reading Fee shall be adjusted such that the Total UC Spend equals that target. If the Total UC Spend exceeds that target even after the removal entirely of the Reading Fee, however, there shall be no further adjustments.

3.7 Payments

Payments for the UC Fully OA Spend and the UC Hybrid Spend will be aggregated for bulk payment, rather than paid transactionally at the time of publication. The UC Agreement will include a payment schedule that is mutually developed and agreed to by the Parties.

3.8 2020 Interim Agreements

In addition to the UC Agreement itself, the Parties have agreed on the following in relation to the rest of 2020:

- (1) After the signature of the UC Agreement but before Springer Nature's implementation of the Multi-payer Model, and as soon as reasonably possible for a mechanism to be established for corresponding authors to identify themselves, an open access default will be implemented utilizing Springer Nature's existing approval workflow, such that UC corresponding authors whose articles are accepted for publication in a hybrid journal after the agreement has been signed will be published as open access without additional costs (i.e. no APCs will be charged either to UC or to the author). Authors can choose to opt out of an open access license, and their articles will be published as subscription-only articles. Springer Nature will implement the open access default workflow in cooperation with UC, to ensure smooth functioning of

this mechanism during the portion of 2020 that the full multi-payer workflow is in development.

- (2) Should Springer Nature implement the Multi-payer Model before January 1, 2021, Springer Nature may begin collecting the APC Remainder under the terms of the model (which shall be the APC prices regularly charged to corresponding authors in 2020 for fully OA journals and the APC prices charged in 2019 for hybrid journals, in both cases minus \$1000) from corresponding authors who attest that they have research funds available. If the corresponding author does not have research funds available to cover the APC Remainder, then Springer Nature shall not collect an APC for those articles. No UC Fully OA or Hybrid Spend payments will be charged during this time.

4. Nature Publishing Group Journals

4.1 Nature Journals Subscription Terms

The current business terms between Springer Nature and the Regents of the University of California for the Nature journals will be extended for 2021 at a 0% increase over 2020 prices while parameters for a transformative agreement are developed.

4.2 Transformative Agreement Development

Upon execution of the UC Agreement, Springer Nature and UC will collaborate on the development and implementation of a transformative agreement for the Nature journals, including a multi-payer workflow, in support of Springer Nature's public statements of commitment to Plan S, to be made available at the beginning of 2022.

4.3 Open Science Pilot Study

UC and Springer Nature will engage in an Open Science Pilot Study for the Nature journals to commence in 2021. The pilot design will be jointly developed and finalized by October 1st, 2020, based on a framework proposed by Springer Nature to UC in April 2020.

4.4 Nature Fully OA journals

Multi-payer support for the Nature fully OA journals as described in Section 3.1 may be implemented at any point during the UC agreement, subject to the Parties executing an agreement specifying such.

5. Commitment

The Parties agree that this Memorandum of Understanding represents the current status of the negotiations and includes a first, non-exhaustive list of expected commercial terms and key factors of the UC Agreement on the basis of which the Parties will continue the negotiations. The Parties acknowledge and agree that this Memorandum of Understanding is not legally binding. However, the Parties agree that negotiations will be conducted in good faith and in a mutual, cooperative manner. The terms of the UC Agreement discussed herein, or as may otherwise be agreed by the Parties, will only become effective upon execution of a separate written agreement by both Parties, with a completion date goal of Q3 2020. Nothing in this Memorandum of Understanding shall oblige the Parties to enter into an agreement with the other, and each party shall be free to terminate negotiations without any reason at any time, without liability, and without any claim against the other. The notification of termination must be in writing.



New York & Oakland, 8th of June 2020

Springer Nature

University of California

DocuSigned by:
Charlotte Liu
9D7D81D65A604F4...
09 June 2020

Charlotte Liu
Chief Commercial Officer

DocuSigned by:
Maria Lopes
88CA1FEDD0DA4E8...
08 June 2020

Maria Lopes
VP Institutional Sales Americas

DocuSigned by:
Ivy Anderson
B5F49392D3CE48B...
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Ivy Anderson
Associate Executive Director, CDL

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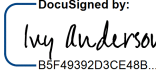
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