DRAFT 4: OUP 11.06.25

DATED [6/16/2025] 2025

(1) OXFORD UNIVERSITY PRESS

AND

(2) CALIFORNIA DIGITAL LIBRARY

AGREEMENT FOR THE FUNDING OF OPEN ACCESS PUBLISHING

AGREEMENT DATED 6/16/2025 **BETWEEN**

(1) **THE CHANCELLOR MASTERS AND SCHOLARS OF THE UNIVERSITY OF OXFORD TRADING AS OXFORD UNIVERSITY PRESS** of Great Clarendon Street, Oxford OX2 6DP, England ("the Publisher"); and

(2) **THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,** a non-profit academic institution, with its principal offices at the California Digital library, 1111 Franklin Street, Oakland, CA 94607, USA, also known as California Digital Library ("CDL")

WHEREAS

A. The Publisher carries on the business, *inter alia*, of publishing books and journals.

B. CDL wishes to provide funding for the Publisher to make certain of its published books available under the Open Access Licence.

C. CDL has agreed to pay the Amount per Work for each of the Works made available under the Open Access Licence on the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1 **DEFINITIONS**

In this Agreement the following words shall have the following meanings:

"Amount per Work"	[redacted]
"Open Access Licence"	As selected by the author of the Works , either Creative Commons Attribution Licence (CC BY 4.0). The terms of this license are set out at https://creativecommons.org/licenses/by/4.0/ OR Creative Commons Attribution Non Commercial 4.0 (CC BY-NC). The terms of this license are set out at : https://creativecommons.org/licenses/by-nc/4.0/ OR

	Creative Commons Attribution Non Commercial No Derivatives 4.0 International licence (CC BY-NC-ND 4.0). The terms of this license are set out at http://creativecommons.org/licenses/by-nc-nd/4.0.
“Open Access Works”	those of the Works which the Publisher and CDL, and the authors thereof have agreed to be published under the Open Access Licence, as described in Clause 2.3 below;
"Term"	the duration of this Agreement, as set out in Clause 4 below;
“Total Fee”	The Amount per Work multiplied by the number of Works to be made available by the Publisher under the Open Access Licence pursuant to this Agreement;
"Works"	the works listed in Schedule I

In this Agreement, unless otherwise specified:

1.2.1 headings are for ease of reference only and shall not affect its construction;

1.2.2 references to any Clause, paragraph, recital or Schedule are to those contained in this Agreement and all Schedules to this Agreement are an integral part of this Agreement;

1.2.3 "person" includes any individual, firm, company or other incorporated or unincorporated body;

1.2.4 reference to any statute, bye-law, regulation, rule, delegated legislation or order is to any statute, bye-law, regulation, rule, delegated legislation or order which is in force at the date of this Agreement as amended, modified or replaced from time to time and to any statute, bye-law, regulation, rule, delegated legislation or order replacing or made under any of them.

2 PUBLISHER' S OBLIGATIONS

2.1 The Publisher shall agree with CDL those of the Works to be made available under the Open Access Licence.

2.2 On agreement with CDL pursuant to Clause 2.1 the Publisher shall seek the agreement of the authors of the applicable Works to make them available under the Open Access Licence.

2.3 The Publisher shall make available up to 100 (one hundred) of the Works under the Open Access Licence on its Oxford Scholarship Online platform provided that the Works are agreed for such purpose by (a) CDL and (b) the authors of the Works, and subject to (i) prior receipt of the Total Fee in full pursuant to Clause 4; and (ii) Clause 2.4.

2.4 Notwithstanding Clause 2.3, the Publisher may adjust the total number of the Works made available under the Open Access licence up to a minimum of 95 (ninety-five) and a maximum of 105 (one hundred and five) without breaching this Agreement. In such event the Total Fee shall be reduced or increased accordingly and (as applicable) CDL shall pay the additional amount or the Publisher shall reimburse the amount overpaid to CDL.

2.5 The Publisher shall use its reasonable endeavours to make such Works available under the Open Access Licence by 30 June 2026.

2.6 The Publisher shall deposit a digital copy of those Works made available under the Open Access Licence with the OAPEN Library or an equivalent, and will provide a further digital copy of such Works to CDL in accordance with CDL's reasonable delivery requirements.

2.7 For the Works made available under the Open Access Licence hosted by the Publisher, the Publisher shall use reasonable efforts to make such Works available in accordance with level AA of the Web Content Accessibility Guidelines 2.2 (WCAG) as required by Section 508 of the US Rehabilitation Act, and any other relevant California and UC federal accessibility laws, as applicable to the Publisher. In any event, such Works shall be made available in accordance with any Voluntary Product Accessibility Template form issued by the Publisher in respect of such Works.

2.8 On a quarterly basis during the Term of the Agreement, Publisher will report to the CDL on i) authors who chose to or chose not to make their Works available under the Open Access licence, ii) delivery of Works to OAPEN, and iii) delivery of Works to CDL (as per Clause 2.6). CDL may request additional relevant data points as necessary for a stated business purpose or shared assessment interest, and the Publisher shall consider such requests in good faith.

3 CDL'S OBLIGATIONS

3.1 CDL shall pay the Total Fee by 30 June 2025 or such other date as shall be thirty (30) days from the date of the Publisher's invoice for the Total Fee, subject always to Clauses 2.3 and 2.4.

3.2 If CDL shall fail to pay the Total Fee in respect of any of the Works then the Publisher may, without affecting any other rights it may have under this Agreement, not proceed with making the Works available under the Open Access Licence. In such event, OUP shall have no further obligations to CDL in respect of such Works and shall continue to have all such rights to publish and exploit the Work as it had before the commencement of this Agreement

3.3 CDL agrees and acknowledges that:

3.3.1 any Works made available under the Open Access Licence pursuant to this Agreement will be so made available without prejudice to any other rights the Publisher may have to publish, distribute and exploit the Works; and

3.3.2 if the Publisher supplies, deposits or otherwise makes the Works available through a third party repository or website, the Publisher will have no control over or liability for the dissemination or use of the Works by such third party.

4 TERM

4.1 The term of this Agreement shall commence on the date of this Agreement and terminate on the date the Publisher has made available under the Open Access Licence each of the Works for which CDL has paid the Total Fee.

5 INTELLECTUAL PROPERTY RIGHTS

5.1 As between the parties hereto, all intellectual property rights in the Works and the Publisher's trade marks are vested in, and shall at all times remain the property of, the Publisher.

5.2 The Publisher and CDL do not have and will not acquire pursuant to this Agreement any right, title or interest in or to the other's intellectual property rights or trade marks.

6 WARRANTIES AND INDEMNITY

6.1 Each party to this Agreement hereby warrants that:

6.1.1 it is entitled to enter into this Agreement and perform the undertakings it gives herein; and

6.1.2 it will exercise its rights and carry out its obligations with reasonable care and skill and fully in accordance with all applicable laws and regulations

6.2 Each party will indemnify the other against any loss or damage claims or costs incurred by the other party as a consequence of any breach of any of the other party's warranties given in this Clause 6.

7 ETHICAL CONDUCT

7.1 CDL represents and warrants that it shall not act, or omit to act, in such a way as to give rise to a breach by it, or any of its Affiliates, of any applicable law related to fraud, bribery, corruption or any related matter.

7.2 CDL represents and warrants that it shall not offer, promise, pay, give or authorise (tacitly or otherwise) any financial or other advantage, on behalf of the Publisher:

7.2.3 to any person in order to induce that person improperly to perform a function or activity in connection with a business or organization, a person's employment, or a public function; or

7.2.4 to any Official to influence that Official in connection with obtaining business or a business advantage for them or for any of the Publisher or its Affiliates.

7.3 CDL shall maintain adequate procedures designed to prevent any persons who perform services for them or on their behalf from undertaking the activities described in Clause 7.2 above to obtain or retain business or a business advantage for them or for any of the Publisher or its Affiliates.

7.4 CDL shall promptly report any apparent breach of Clauses 7.1 or 7.2 to the Publisher.

7.5 CDL shall comply with the OUP Partner Code of Conduct, as provided to CDL and as updated by the Publisher from time to time, in the execution of any services for or on behalf of the Publisher.

7.6 The Publisher shall have the right to terminate the Agreement immediately on written notice, without liability, for breach of Clauses 7.1 or 7.2 of this Clause.

7.7 In this Clause 7:

7.7.1 "Official" means (a) an individual who holds a legislative, administrative, or judicial position of any kind of any country or territory, or any subdivision of any country or territory; (b) any person who performs public functions in any branch of any national, local or municipal government or who exercises a public function for any public agency or public enterprise; and (c) an official or agent of a public international organisation, such as the UN or the World Bank;

7.7.2 "Affiliate" shall mean, in relation to a party, a person who is, from time to time, a subsidiary or parent of that party, or is a subsidiary of that party's parent; and

7.7.3 the record keeping, audit and other related provisions set out in Clause 7.8 of this Clause shall continue for six years after termination of the Agreement.

7.8 CDL shall:

7.8.1 maintain accurate and complete records of all expenditures related to performance of the Agreement and the steps taken by the CDL to take adequate procedures pursuant to Clause 7.3 of this Clause and make such records available to the Publisher, its advisors and auditors on reasonable notice;

7.8.2 co-operate with the Publisher and its third party representatives both in relation to any investigation in respect of matters relating to fraud, bribery, corruption or any related matter, and in case of any reasonably suspected breach of this Clause 7; and

7.8.3 answer, in reasonable detail, any written or oral inquiry from the Publisher related to the CDL's compliance with this Clause 7.

8 **TAX**

8.1 Unless expressly stated to the contrary in this Agreement, all amounts referred to in this Agreement shall be interpreted as being amounts exclusive of value added tax, goods and services tax and any similar sales or excise tax ("Sales Tax"). Any Sales Tax payable in relation to any such amounts shall be added at the prevailing rate, as applicable, and paid by CDL following delivery of a valid invoice from OUP.

8.2 CDL shall pay all amounts due to the Publisher without any deduction and/or withholding other than such amount (if any) it is required to deduct and/or withhold by law and/or upon other direction of any national authority. In the event CDLis required to make such deduction and/or withholding, CDL shall notify the Publisher before any such deduction and/or withholding is made and paid to the authority concerned and further shall at the written request of the Publisher, do all things in its power which may be necessary to enable or assist the Publisher to claim exemption therefrom or the application of a preferential rate under any double taxation and/or similar agreement and/or convention from time to time in force and shall provide the Publisher at the time of payment with such evidence as CDLmay possess and as may be reasonably required by the Publisher as to the deduction and payment of the tax and/or of the sums withheld.

8.3 CDL shall not engage in any activity, practice or conduct which would constitute, or be regarded as, an offence under any law or regulation applicable to it, consisting of the fraudulent, or otherwise unlawful, evasion of any tax.

9 TERMINATION

9.8 Without prejudice to any right or remedy either party may have against the other for breach or non-performance of this Agreement, each party shall have the right to terminate this Agreement by notice in writing to the other party with immediate effect if:

9.8.3 the other party commits a material breach of the terms of this Agreement or, in the case of any such breach capable of remedy, fails to remedy or repeats such breach after receiving written notice from the party seeking to terminate the Agreement to remedy it within a period of at least 30 days;

9.8.4 an order is made or resolution passed for the winding-up or bankruptcy of the other party, any distress or execution is levied on any of its property or effects, a receiver is appointed over any of its assets, the other party compounds or makes any voluntary arrangement with its creditors or any class thereof, or the other party is dissolved or otherwise ceases to exist, or such dissolution or ceasing to exist is imminent, or the other party ceases its usual business operations

9.9 Termination of this Agreement for whatever reason shall not affect the liabilities or obligations of the parties accruing up to the date of termination.

10 **GENERAL**

10.8 Neither party hereto shall have any right without the written consent of the other to make any representations for the other party or to assume or create any obligation or liability on behalf of or in the name of the other party, save as expressly provided in this Agreement. Neither this Agreement nor the relationship entered into between the parties shall comprise a partnership.

10.9 Neither party to this Agreement shall be entitled to assign this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld).

10.10 This Agreement constitutes the entire agreement between the parties in relation to the subject matter hereof and shall supersede all previous communications, representations, agreements or understandings, either oral or written between the parties with respect to the subject matter hereof save that:

10.10.5 this Clause shall not apply to any statement, representation or warranty made fraudulently; and

10.10.6 for the avoidance of doubt this provision does not apply to the Consortium Read and Publish agreement(s) between the Publisher and CDL dated 30 January 2025 in relation to journals.

10.11 If any term condition or other provision of this Agreement is held to be invalid void or unenforceable or to render this Agreement or any part of it void or unenforceable then that provision shall be severable from the remaining terms conditions and provisions of this Agreement which will continue in force and be construed as if such provision had never been contained in this Agreement.

10.12 Neither party shall be liable for any loss damage injury or delay due to any reasonable cause beyond its control including (without prejudice to the generality of the foregoing expression) acts of Government, strikes, lock-outs, fire, lightning, explosion, flood, storm, riot, civil commotion, acts of war, or theft.

10.13 This Agreement shall not be amended, varied or supplemented except in writing signed by duly authorised representatives of both parties.

10.14 No provision of this Agreement is intended to be enforceable by a person who is not a party to this Agreement.

10.15 All notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this Agreement, or such other address as the party concerned shall from time to time designate by notice pursuant to this Clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted, 48 (forty-eight) hours after posting. All notices to OUP shall be marked for the attention of the Director, Open Access Publishing & Strategy, with a copy to the Group Legal Director. All notices to CDL shall be marked for the attention of CDL Acquisitions Coordinator.

10.16

10.17 This Agreement may be executed in any number of identical counterparts and each party agrees that signatures exchanged by facsimile, e-mail, or other digital/electronic means will have the same validity, force and effect hereunder as manual signatures.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first mentioned above

Signed by [redacted] ……………	Signed by [redacted]…………
For and on behalf of	For and on behalf of
THE CHANCELLOR MASTERS AND SCHOLARS OF THE UNIVERSITY OF OXFORD TRADING AS OXFORD UNIVERSITY PRESS	**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**
6/16/2025	6/12/2025
…………………………………………………	…………………………………………………
[redacted]	[ ] [redacted]
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Director, Open Access Publishing & Strategy	[ ] Director of Shared Collections, CDL

[redacted]

Director, Open Access Publishing & Strategy

SCHEDULE I: THE WORKS

[List works here]