

Appendix A

Affiliate License Terms

SNOMED CT® AFFILIATE LICENSE AGREEMENT

IMPORTANT NOTICE – PLEASE READ THE FOLLOWING CAREFULLY

This is a License Agreement between (1) **The International Health Terminology Standards Development Organisation** (forening med begrænset ansvar), an association (foreningen) established under the laws of Denmark, whose principal place of business is at ~~[—]~~, Gammeltorv 4, 1., 1457 Copenhagen K, Denmark (the “**Licensor**”) and (2) the person or organization to which the International Release of SNOMED CT (whether on its own or as part of a Member’s National Release of SNOMED CT) is distributed or otherwise made available (the “**Licensee**”).

By downloading, accessing or using any part of the International Release of SNOMED CT or a Member’s National Release of SNOMED CT, or exercising any rights granted under this License Agreement, the Licensee agrees to be bound by the terms of this License Agreement.

License Fees and other conditions and restrictions apply to the use of the International Release of SNOMED CT in a Non-Member Territory, and to the deployment, distribution and licensing of Licensee Products within a Non-Member Territory. In this regard the Licensee’s attention is drawn in particular to clause 7 (License Fees) and clause 9 (Use in Member Territories and Non-Member Territories).

1. DEFINED TERMS

In this License Agreement, terms defined in Appendix A (**Defined Terms**) have the meanings set out in that Appendix.

2. GRANT OF LICENSE

- 2.1 The Licensor grants the Licensee, subject to the terms of this License Agreement, a perpetual (subject to revocation in accordance with **clause 5**), worldwide, non-exclusive, non-transferable license for the term of this License Agreement to:

- 2.1.1 use, and permit the Licensee’s officers, employees, agents and contractors to use, the International Release;
- 2.1.2 create Extensions and Derivatives from the International Release and use and modify those Extensions and Derivatives;
- 2.1.3 incorporate the International Release into Licensee Products, ~~use and modify the International Release in those Licensee Products only~~, and

distribute Licensee Products under a sub-license in accordance with **clause 2.1.5**;

- 2.1.4 modify the manner of formatting of the copy of the SNOMED CT Core distributed to the Licensee as part of the International Release or as part of a Member's National Release; and
 - 2.1.5 subject to **clause 5.8**, grant sub-licenses of the International Release to End Users to the extent necessary for the End Users to use the Licensee Products.
- 2.2 The Licensee may only use the International Release, and must ensure that its officers, employees, agents and contractors only use the International Release:
- 2.2.1 for the Licensee's internal business purposes (including the creation by the Licensee of Extensions, Derivatives and other Licensee Products along with the licensing and distribution by the Licensee of the Licensee Products);
 - 2.2.2 in the development and operation of the Licensee's information systems;
 - 2.2.3 for the Licensee's research purposes; and/or
 - 2.2.4 in the Licensee's systems (including browsers and data analysis systems) made available to the general public for accessing and/or retrieving any part of the International Release and/or data encoded using the foregoing, provided that users of those systems are not able to extract any substantial portion of SNOMED CT and provided further that no fee is charged for access to those systems except where access is incidental to the provision of training or consulting services.
- 2.3 The Licensee is only permitted under this License Agreement to create Extensions from the International Release and to create Derivatives from the International Release and from those Extensions. The Licensee may only create an Extension or a Derivative from any Member's Extension pursuant to a license agreement with that Member in respect of the Member's National Release.
- 2.4 The Licensee is not permitted to translate any part of the International Release into any other human language without the prior written consent of the Licensor.
- 2.5 Each sub-license granted by the Licensee under clause **2.1.5** must:
- 2.5.1 not grant the End User any greater rights in respect of the International Release than the Licensee itself has under this License Agreement;
 - 2.5.2 not permit the End User to do any act or thing in respect of the International Release that the Licensee is prohibited from doing under this License Agreement;
 - 2.5.3 not permit the End User to sub-license or transfer any of its rights under the sub-license (unless the End User is also an Affiliate, in which case that Affiliate shall be entitled to sub-license further its rights under the sub-license with the Licensee, subject to the same restrictions as apply to sub-

licensing the International Release under the Affiliate's license agreement with the Licensor);

- 2.5.4 terminate automatically upon termination of this License Agreement;
- 2.5.5 provide that the End User may apply directly to the Licensor upon receiving notice that the sub-license will terminate in accordance with **clause 2.5.4**, and that the Licensor may in such circumstances (but shall not be obliged to):
 - (a) grant the End User a license in respect of the International Release for a limited period in order to enable the End User to continue to use the Licensee Products that are subject to the sub-license during that period; or
 - (b) give the End User an assurance or undertaking that for a limited period the Licensor will not seek to prevent the End User from using the Licensee Products; and
- 2.5.6 permit the Licensee to disclose the terms of the sub-license to the Licensor in accordance with ~~clause~~clauses 7 and 8.
- 2.6 If the Licensee becomes aware of any material error or change or correction needed in the International Release, the Licensee agrees to advise the Licensor promptly of such error, change or correction by following the Licensor's procedures for change notification that the Licensor prescribes by Regulations and notifies to the Licensee from time to time.
- 2.7 The Licensee shall comply with the Internet security measures that the Licensor prescribes by Regulations and notifies to the Licensee from time to time.

3. EXTENSIONS AND DERIVATIVES

- 3.1 The Licensee may not create any Standards-Based Extension or any Standards Based Derivative unless it has first been issued with a Namespace Identifier by or on behalf of the Licensor.
- 3.2 The Licensee may request that the Licensor issue it with a Namespace Identifier, and the Licensor shall not unreasonably refuse to do so taking into account amongst other things quality assurance, governance processes, Standards and Regulations.
- 3.3 The Licensee shall ensure that all Standards-Based Extensions and Standards Based Derivatives that the Licensee creates under this License Agreement are created in accordance with, and comply with, all applicable Standards (including, without limitation, as to the use of Namespace Identifiers).
- 3.4 Subject to **clauses 3.5** and **3.6**, the Licensee shall own all Intellectual Property Rights in all Extensions and Derivatives that the Licensee creates under this License Agreement. The Licensee may not assign or otherwise transfer those Intellectual Property Rights to any other person unless (i) that person is an

Affiliate and, in the case of Standards-Based Extensions or Standards-Based Derivatives, has a Namespace Identifier; and (ii) the transfer is notified in writing to the Licensor within thirty (30) days after the transfer.

- 3.5 The Licensee shall, if requested by the Licensor, transfer to the Licensor or a Member nominated by the Licensor all of its Intellectual Property Rights in such Standards-Based Extensions (or parts thereof) as the Licensor may specify.
- 3.6 The Licensee shall, if requested by the Licensor and agreed by the Licensee in the Licensee's sole discretion, transfer to the Licensor or a Member nominated by the Licensor all of its Intellectual Property Rights in such Standards-Based Derivatives as the Licensor may specify.
- 3.7 Upon the transfer to the Licensor, or to a Member, of the Intellectual Property Rights in any Standards-Based Extension (or part thereof) or Standards-Based Derivative in accordance with **clauses 3.5 or 3.6**:
 - 3.7.1 responsibility for the maintenance and distribution of that Extension (or part thereof) or Derivative shall also transfer from the Licensee to the Licensor or the Member (as the case may be); and
 - 3.7.2 the Licensor hereby grants a license back to the Licensee from the Licensor or will procure from the Member a license back to the Licensee (as the case may be) of that Extension (or part thereof) or Derivative, on the same terms as apply to the International Release under **clause 2** of this License Agreement, until that Extension (or part thereof) or Derivative becomes part of the International Release or the Member's National Release (as the case may be).

4. MODIFICATIONS TO THE INTERNATIONAL RELEASE

- 4.1 Subject to **clause 2.1.4**, the Licensee may not modify any part of the SNOMED CT Core distributed as part of the International Release or as part of a Member's National Release.
- 4.2 Subject to any express and specific statement to the contrary in the documentation distributed as part of the International Release, the Licensee may not modify any of the documentation (including Specifications) or software (unless provided in source code form) distributed as part of the International Release.
- 4.3 The Licensee may, by written notice, request the Licensor to modify the SNOMED CT Core. Upon receipt of such written notice, the Licensor shall consult with the Licensee and shall give due consideration as to whether the proposed modification should be made based on the Licensor's editorial guidelines and policies. Following due consideration of the matter, including consideration of any information presented by the Licensee, the Licensor shall inform the Licensee whether the proposed modification shall be made and if the Licensor agrees that the proposed modification should be made, the Licensor shall give a non-binding indication of when, reasonably and in good faith, it anticipates that the proposed modification will be made. If the Licensee would like the content of the proposed modification to be developed more quickly than the Licensor has indicated, the Licensee may

itself undertake or procure the undertaking of the development of the content of the proposed modification (outside of any existing Licensor's support services contract). On receipt of the developed content of the proposed modification, the Licensor will then give due consideration as to whether the developed content meets the Licensor's quality assurance, other governance processes, Standards and Regulations. If the developed content meets the Licensor's quality assurance, other governance processes, Standards and Regulations then the Licensor shall incorporate the modification into the SNOMED CT Core according to its schedule which will give due consideration as to when the proposed modification shall be incorporated into the SNOMED CT Core, taking into account other proposals for the modification of the SNOMED CT Core and the work required to include the proposed modification in the SNOMED CT Core.

5. TERM AND TERMINATION

5.1 This License Agreement shall commence on the date on which it comes into effect in accordance with the notice at the beginning of this License Agreement, and shall continue until terminated in accordance with this **clause 5**.

5.2 Either party may terminate this License Agreement if the other party commits a material breach of any of its obligations under this License Agreement (which, in the case of the Licensee, shall include, without limitation, any failure to pay License Fees when due under clause 7) in accordance with the following procedure:

5.2.1 the party seeking to terminate the License Agreement (the "**Terminating Party**") shall serve an escalation notice (the "**Escalation Notice**") on the other party (the "**Defaulting Party**") requiring the Defaulting Party to nominate a member of its senior management team to meet with a member of the Terminating Party's senior management team to seek to resolve in good faith the matter giving rise to the service of the escalation notice^{7.1}.

5.2.2 The representatives of the parties identified in accordance with clause 5.2.1 shall meet in good faith to seek to resolve the matter. If they are unable to resolve the matter within 45 days of the date of the Escalation Notice the Terminating Party may serve a formal breach notice (the "**Breach Notice**") on the Defaulting Party requiring it to remedy the breach within 90 days.

5.2.3 If the Defaulting Party does not remedy the breach within 90 days of the date of the Breach Notice the Terminating Party may terminate the License Agreement by giving 180 days' written notice to the Defaulting Party (the "**Termination Notice**").

5.3 ~~The Licensor~~Neither party may ~~not~~ terminate this License Agreement except in accordance with this clause 5-25.

5.4 The Licensee may terminate this License Agreement by giving up to twelve (12) months' prior written notice to the Licensor ~~at any time between the Licensor~~

~~giving notice of a variation under **clause 6.3** and that variation becoming effective in accordance with **clause 6.3**.~~

- 5.5 Upon termination of this License Agreement in accordance with this **clause 5**, all licenses granted under this License Agreement shall automatically and immediately be revoked.
- 5.6 The Licensee shall, by no later than forty five (45) days after termination of this License Agreement for any reason, remove all copies of the International Release from its computer systems and destroy all copies of electronic, paper copy and other media containing or representing any part of the International Release. The Licensee shall, if requested by the Licensor, certify in writing to the Licensor that the Licensee has complied with its obligations under this **clause 5.6**.
- 5.7 The Licensee shall, as soon as reasonably practicable following either party giving a Termination Notice for any reason, and in any event by no later than ninety (90) days after such Termination Notice is given, give written notice of such termination to each End User that the Licensee reasonably believes to be a current user of a Licensee Product and to each Member in each Member Territory in which the Licensee has distributed or licensed any Licensee Product.
- 5.8 The Licensee may not grant any new sub-license under **clause 2.1.5** after either party has given notice under **clauses 5.2** or **5.4**.
- 5.9 The Licensor shall be entitled to publicize the termination of this License Agreement to such persons (including Members, other Affiliates of the Licensor and End Users) and in such manner as it sees fit.
- 5.10 **Clauses 5.6, 5.7, 5.8, 5.9, 5.11, 5.12, 7, 8 and 10 to 14** inclusive shall survive termination of this License Agreement.

5.11 The Licensee shall, by no later than thirty (30) days after termination of this License Agreement for any reason, submit a statement of account in accordance with clause 7.3 in respect of all periods that have not previously been covered by a statement of account under that clause.

5.12 Any termination of this License Agreement, for any reason, is without prejudice to the accrued liabilities of each party as at the date of termination (including, without limitation, any liability of the Licensee to pay License Fees that has accrued as at the date of termination), or to the Licensee's obligation to pay License Fees arising from the statement of account submitted under clause 5.11.

6. NEW VERSIONS AND CHANGES TO LICENSE TERMS

- 6.1 The Licensor shall notify the Licensee when each new version of the International Release is made available and there shall be a mechanism for ~~Licensees~~the Licensee to access or obtain copies of the new version of the International Release. The Licensee shall be liable for any reasonable distribution charge, if

applicable, established by the Licensor for each copy of the new version of the International Release.

- 6.2 Within one-hundred and eighty (180) days after the Licensor has notified the Licensee of the release of a new version of the International Release, the Licensee must upgrade the version of the International Release in its own systems and in the Licensee Products to that new version (or alternatively, if a subsequent version of the International Release is or has been released during the 180-day period, to that subsequent version at the Licensee's option).
- 6.3 The Licensor may vary the terms of this License Agreement by giving written notice to the Licensee. Any such variation shall take effect not less than ninety (90) days after the notice is given, as specified in the notice. If the Licensee does not wish this License Agreement to continue subject to the variation, the Licensee may terminate this License Agreement in accordance with **clause 5.4**, and if the Licensee ~~does so~~ gives notice of such termination before the variation takes effect then the variation shall not ~~take effect~~ apply as between the Licensor and the Licensee.
- 6.4 The College of American Pathologists, as originator of Intellectual Property Rights in the International Release, shall as a licensee have a specific exception to the Licensor's rights in Clause 6.3 in specific circumstances and for a specific fixed term period to be agreed with the Licensor, and the terms of such special exemption shall be deemed part of such licensee's Affiliate License Terms. The Licensor will publish the terms of the special exemption with the Articles.

7. LICENSE FEES

- 7.1 The Licensee shall pay the License Fees to the Licensor in respect of the Licensee's activities in Non-Member Territories. The License Fees shall be payable ~~six-monthly~~ annually in arrear, ~~and each annual fee set out in Appendix B shall be payable in two equal six-monthly installments.~~
- 7.2 All License Fees and other amounts payable to the Licensor under this License Agreement are exclusive of value added tax and any other tax of a similar nature, which shall be payable by the Licensee at the prevailing rate in addition to those amounts.
- 7.3 The Licensee shall, ~~by no later than fourteen (14) days after 1st January and 1st July~~ at least once in each calendar year, submit a statement of account to the Licensor in such manner and form as the Licensor may prescribe from time to time, setting out the Licensee's activities in Non-Member Territories ~~in the preceding six-month period~~ since the end of the period covered by the previous statement of account submitted under this clause 7.3 (or, in the case of the first statement of account under this clause 7.3, since the date on which this License Agreement became effective), and the Licensee's calculation of the License Fees and other amounts payable to the Licensor in respect of that period. ~~If the License Fees for any period are less than \$1,000 (one thousand United States dollars), a statement shall nevertheless be due but no payment shall be due until the period in which the accumulated License~~

~~Fees of \$1,000 or greater are due, at which time the Licensee shall be liable to pay the accumulated License Fees.~~ Each such statement of account shall include, without limitation, a list of all license agreements in respect of Licensee Products that were in force during the period covered by the statement of account and, in relation to each such license agreement, the dates on which: (a) that license agreement was entered into or otherwise became effective; (b) the Licensee Product was first provided or made available to the licensee under that license agreement; and (c) the International Release (or any part of it) was first made available to the licensee under that license agreement.

- 7.4 The Licensee shall provide the Licensors with such information as the Licensors may reasonably request for the purpose of verifying any statement of account submitted to the Licensors under **clause 7.3**.
- 7.5 The Licensors shall, following receipt of a statement of account from the Licensee under **clause 7.3**, submit an invoice to the Licensee setting out the License Fees and other amounts payable by the Licensee in respect of the period to which the statement of account relates. The Licensee shall pay to the Licensors all amounts set out on each invoice submitted under this **clause 7.5** within thirty (30) days of receipt of that invoice. The Licensee shall make payment under this **clause 7.5** by wire transfer or by such other means as the Licensors may make available to the Licensee ~~for~~from time to time.
- 7.6 Interest shall accrue on any outstanding License Fees and other amounts at the rate of the lesser of (a) 500 basis points above the European Inter-Bank Offer Rate (EURIBOR), calculated daily from the date on which payment was due and compounding at the end of each calendar month or (b) the maximum amount allowed under applicable law.

8. PROTECTION OF THE LICENSOR'S INTELLECTUAL PROPERTY

- 8.1 Nothing in this License Agreement transfers to the Licensee any right, title or interest in or to the Intellectual Property Rights in the International Release or any part of it, or grants the Licensee any license in respect of the International Release or any part of it except as expressly set out in **clause 2**.
- 8.2 The Licensee shall not:
- 8.2.1 use any trademark or service mark (or any registrations thereof) other than the ~~Association's~~Licensors' trademarks, in any name that includes the word "SNOMED" or that is confusingly similar to SNOMED CT or any other similar trademark;
 - 8.2.2 apply for any trade mark or service mark (or any registrations thereof) in any name that includes the word "SNOMED", or that is confusingly similar to SNOMED, SNOMED CT or any other similar trade mark;
 - 8.2.3 abbreviate the marks SNOMED or SNOMED CT; or

- 8.2.4 do anything with respect to the foregoing trade marks that damages or could reasonably be deemed to reflect adversely on the Licensor or such trade marks.
- 8.3 The Licensee shall:
- 8.3.1 include the following notice on all media on which the Licensee Products are distributed and on the documentary form of each sub-license granted by the Licensee under **clause 2.1.5**:
- "This material includes SNOMED Clinical Terms® (SNOMED CT®) which is used by permission of the International Health Terminology Standards Development Organisation (IHTSDO). All rights reserved. SNOMED CT®, was originally created by The College of American Pathologists. "SNOMED" and "SNOMED CT" are registered trademarks of the IHTSDO."
- 8.3.2 specify in all media on which ~~the~~any Licensee ~~Products are~~Product is distributed the version and date of the International Release contained in the Licensee Product.
- 8.4 The Licensee shall be entitled to use the "SNOMED" and "SNOMED CT" trade marks only on the Licensee Products distributed and modified in accordance with this License Agreement and any services relating thereto but not otherwise and subject to the trade mark utilization Regulation developed by the Licensor and published by the Licensor from time to time. All use by the Licensee of the "SNOMED" and "SNOMED CT" trade marks, and all goodwill resulting from that use, shall inure to the Licensor's benefit.
- 8.5 The Licensee shall maintain quality standards with respect to modifying, supplementing, marketing and distributing the Licensee Products, and any services relating thereto, that are in accordance with applicable law and are at least as stringent as the Regulations developed by the Licensor and published by the Licensor from time to time.
- 8.6 Upon reasonable written notice from the Licensor, the Licensee shall provide the Licensor with representative samples of materials, software products, advertising, agreements for use of the Licensee Products (other than the terms of those agreements that are unrelated to the Licensor's rights and obligations under this License Agreement) and/or other written materials relating to the Licensee's use of the International Release and the Licensor's trade marks to enable the Licensor reasonably to ascertain the Licensee's compliance with its obligations under this License Agreement. In the absence of circumstances giving the Licensor reasonable grounds to suspect a breach of this License Agreement, the Licensor may not give notice under this **clause 8.6** more frequently than once per year.
- 8.7 If any use of the International Release (including without limitation use through a Licensee Product) is reasonably determined by the Licensor to be below the standards of quality required under this License Agreement, the Licensor shall notify the Licensee of such deficiency in writing. Upon receipt of such notice, the

Licensee shall take all necessary steps to correct such deficiency (including such steps as the Licensor may reasonably specify).

- 8.8 The Licensee shall maintain a complete, accurate and up-to-date register of all sub-licenses granted by the Licensee under **clause 2.1.5**, and shall make that register available for inspection during normal business hours by the Licensor and its representatives upon the Licensor giving not less than fourteen (14) days' prior written notice. The register maintained by the Licensee under this **clause 8.8** shall at a minimum contain the following information in respect of each sub-license: the name and registered office of the sub-licensee; the Licensee Product subject to the sub-license; and the version of the International Release included in that Licensee Product. In the absence of circumstances giving the Licensor reasonable grounds to suspect a breach of this License Agreement, the Licensor may not give notice under this **clause 8.8** more frequently than once per year.

9. ~~COMPLIANCE WITH LOCAL REQUIREMENTS~~USE IN MEMBER TERRITORIES AND NON-MEMBER TERRITORIES

- 9.1 The Licensee may only exercise its rights under this License Agreement in a Member Territory in accordance with such conditions as the Member for that ~~territory~~Member Territory may prescribe from time to time.

- 9.2 Conditions prescribed by a Member under **clause 9.1** may:

9.2.1 include, without limitation, a requirement that the Licensee notify the Member before exercising its rights under this License Agreement in that Member's territory and a requirement that the Licensee enter into a license agreement with the Member in respect of that Member's National Release; and

9.2.2 relate to the International Release, the Member's National Release or any part of either of them.

9.3 The Licensee shall notify the Licensor (and, if the Licensee's registered office or principal place of business is situated in a Member Territory, shall also notify the Member for that Member Territory) in writing before exercising its rights under this License Agreement in any Non-Member Territory in respect of which the Licensee has not previously given notice under this clause 9.3. The notice shall be in such form and manner as the Licensor may prescribe from time to time, and shall include such information about the Licensee's current and proposed activities in that Non-Member Territory as the Licensor may require (but the Licensor may require only the same kinds of information as it requires to be provided by new Affiliates proposing to use, license or deploy the International Release or Licensee Products in Non-Member Territories).

9.4 In any case where the Licensee gives notice to a Member in accordance with clause 9.3, the Licensee consents to that Member providing the content of that notice to the Licensor.

9.5 For purposes of this clause 9, the Licensee exercises its rights under this License Agreement in any Member Territory or Non-Member Territory if, without limitation, it:

9.5.1 performs any act permitted by this License Agreement in that Member Territory or Non-Member Territory (as the case may be);

9.5.2 deploys the International Release (or any part of it) or any Licensee Product in that Member Territory or Non-Member Territory (as the case may be); or

9.5.3 distributes or licenses a Licensee Product for use in, or to any person who is situated in, that Member Territory or Non-Member Territory (as the case may be).

10. AFFILIATE STATUS

10.1 During the term of this License Agreement the Licensee shall be an Affiliate.

10.2 As an Affiliate, the Licensee shall be entitled to participate in the Licensors' ~~Affiliates~~Vendor Liaison Forum, which is a forum in which the Licensee and other Affiliates may communicate with the Licensors and with each other. The Licensors may make Regulations from time to time governing the Licensee's participation in the ~~Affiliates~~Vendor Liaison Forum. New Regulations that the Licensors shall make from time to time governing participation in the ~~Affiliates~~Vendor Liaison Forum shall not remove the Licensee's right to participate in that forum.

11. REPRESENTATIONS AND WARRANTIES

11.1 To the extent permitted by law, the Licensors excludes all representations, warranties and conditions that would otherwise be implied by law in this License Agreement (including, without limitation, all implied warranties of ~~merchantability~~quality or fitness for a particular purpose).

11.2 Without limiting **clause 11.1**, the Licensors does not represent or warrant that the International Release or any part of it will satisfy any of the Licensee's requirements, operate in combinations selected by the Licensee or be free from defects or errors.

12. LIMITATION OF LIABILITY

12.1 The Licensors shall not be liable to the Licensee or to any other person, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, for any of the following arising under or in connection with this License Agreement (including, without limitation, in respect of the Licensee's use of or inability to use the International Release or any part of it):

12.1.1 indirect or consequential loss;

12.1.2 special or punitive damages;

12.1.3 loss of profits, loss of savings and loss of revenue;

12.1.4 loss of business, loss of reputation and loss of goodwill; and

12.1.5 loss of data.

12.2 Neither the Licensor nor any Member shall be liable to the Licensee or any other person for any failure by the Licensor or the Member (as the case may be) to maintain or distribute any Extension (or part thereof) or Derivative transferred to the Licensor or the Member (as the case may be) in accordance with **clauses 3.4** or **3.5**.

12.3 The liability of the Licensor arising in any year under or in connection with this License Agreement, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall not in any event exceed the License Fees paid by the Licensee in respect of that year.

12.4 Nothing in this License Agreement excludes or limits the liability of either party for:

12.4.1 fraud (including fraudulent misrepresentation);

12.4.2 death or personal injury caused by the negligence of that party;

12.4.3 any breach of its obligations implied by section 12 of the Sale of Goods Act 1979; or

12.4.4 any other liability that by law cannot validly be excluded or limited (but only to the extent that the liability cannot validly be excluded or limited).

13. **ASSIGNMENT**

13.1 The Licensee may not assign, novate or otherwise transfer any of its rights or obligations under this License Agreement to any person without the prior written consent of the Licensor, not to be unreasonably withheld.

13.2 The Licensor may transfer all of its rights and obligations under this License Agreement to any person to whom the Licensor transfers the Intellectual Property Rights in respect of which the licenses under this License Agreement are granted.

14. **GENERAL PROVISIONS**

14.1 This License Agreement contains the entire agreement between the parties relating to the subject matter of this License Agreement, supersedes all previous agreements between the Parties relating to that subject matter and sets out the entirety of the Licensee's rights in respect of the International Release.

14.2 Each party acknowledges that, in entering into this License Agreement, it has not relied on any representation, warranty, collateral contract or other assurance made by or on behalf of the other party before the date of this License Agreement.

- 14.3 Except as provided in **clause 6.3**, this License Agreement may not be varied except in writing signed by both parties and expressed to vary this License Agreement.
- 14.4 Nothing in this License Agreement shall give either party the ability to act or incur obligations or liability on behalf of the other party or constitutes a joint venture, agency, partnership or employment relationship between the parties.
- 14.5 If any term of this License Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the legality, validity or enforceability in that jurisdiction of any other term of this License Agreement, or the legality, validity or enforceability in any other jurisdiction of that or any other term of this License Agreement.
- 14.6 The Licensee agrees that the Licensor may appoint third parties to process personal data provided by the Licensee to the Licensor under or in connection with this License Agreement (including without limitation payment details provided in connection with the payment of License Fees). In connection with any such appointment, personal data provided by the Licensee may be transferred to, and processed in, a country outside the European Economic Area (EEA). The laws governing the processing of personal data may be less stringent in such a country than in the member countries of the EEA.

15. **GOVERNING LAW AND JURISDICTION**

- 15.1 This License Agreement shall be governed by, and construed in accordance with, English law.
- 15.2 The English courts shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this License Agreement (including a dispute regarding its existence, validity or termination).
- 15.3 **Clause 15.2** is for the benefit of the Licensor only. As a result, the Licensor shall not be prevented from taking proceedings relating to any dispute in any other courts with jurisdiction. To the extent permitted by law, the Licensor may take concurrent proceedings in any number of jurisdictions.

Appendix A

Defined Terms

In this License Agreement, the following defined terms have the following meanings:

Affiliate	an affiliate of the Licensor in accordance with the Licensor's Articles of Association (vedtægter);
Cross-Map	a work consisting of (i) SNOMED CT Content and (ii) content of another nomenclature, classification or knowledge structure, together with a set of relationships between (i) and (ii);
Data Analysis System	a computer system that is used to analyze records or other data that is encoded using SNOMED CT, but not if that system is also a Data Creation System;
Data Creation System	a computer system that is used to create records or other data that is encoded using SNOMED CT;
Derivative	a work consisting of (a) SNOMED CT Content, from the SNOMED CT CORE or an Extension; together with (b) either (i) additional properties and/or information about such SNOMED CT content; and/or (ii) any set of relationships between that SNOMED CT Content and Content <u>content</u> of other nomenclature, classification or knowledge structure, and includes a Cross-Map and a Sub-Set;
End User	a third party user of a Licensee Product;
Extension	A <u>a</u> work consisting of SNOMED CT Content alone that is supplementary to the SNOMED CT Core and that depends on the SNOMED CT Core;
Intellectual Property Rights	patents, trade marks, service marks, copyright (including rights in computer software), moral rights, database rights, rights in designs, trade secrets, know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect in any jurisdiction;
Hospital	a health care facility consisting of multiple Practices and <u>body or organisation</u> providing in-patient <u>secondary and/or tertiary</u> care;
International Release	the release produced and distributed by or on behalf of the Licensor, consisting of the SNOMED CT Core,

	the Specifications and the Licensor's Derivatives and other documents and software;
License Fees	the license fees set out in Appendix B (License Fees in Non-Member Territories);
Licensee Products	products distributed or licensed by the Licensee that <u>(1) include or interoperate with the International Release (or any part of it) and/or any Extensions or Derivatives created by the Licensee under this License Agreement, or (2) read or write records or other data that is encoded using SNOMED CT;</u>
Member	a member of the Licensor;
Member Territory	a territory that is represented by a Member (as published by the Licensor from time to time);
Namespace Identifier	a code or that part of a code that identifies the organization responsible for creating and maintaining a Standards-Based Extension or a Standards-Based Derivative and is used as an element of SNOMED CT Identifiers;
National Release	in respect of each Member, the release produced and distributed by the Member, consisting of the International Release, the Member's Extensions, the Member's Derivatives and other documents and software;
Non-Member Territory	a territory that is not a Member Territory;
Practice	<u>(a) a single department of a Hospital (subject to paragraph 2.2 of Appendix B); or</u> a single department of a Hospital, or <u>(b) any health care facility body or organisation that provides principally out-patient primary care, including without limitation a pharmacy, an optician's facility, a physiotherapy centre, a general medical practice or a family medical practice;</u>
Qualifying Research Project	a discrete research project that meets all of the following criteria: <ul style="list-style-type: none"> (a) it is supported by a formal proposal that has been peer reviewed; (b) it has been ethically approved in accordance

with the prevailing legislation, regulations and guidelines in effect in the relevant territory;

- (c) it is conducted within a definite timeframe; ~~and~~
- (d) the results of the research are offered for publication in peer-reviewed public journals and are provided to the Licensor free of charge prior to publication;

Regulations

regulations made by the Licensor;

Relationship

a relationship, of a kind defined by the Licensor in Specifications, between concepts (which may be, without limitation, a hierarchical or an associative relationship) or between a concept and a description;

SNOMED CT

the concept-based work of clinical nomenclature and classification with multiple hierarchies and semantic definitions known as SNOMED Clinical Terms (SNOMED CT);

SNOMED CT Content

terminological content, consisting of concepts, descriptions and Relationships, each of which is identified using a SNOMED CT Identifier;

SNOMED CT Core

the SNOMED CT Content that is controlled, maintained and distributed by the Licensor from time to time;

SNOMED CT Identifier

a code, of a kind defined by the Licensor in Specifications, for identifying concepts, descriptions and Relationships;

Specification

specifications promulgated by the Licensor for products and processing relating to SNOMED CT, including specifications of the internal logic of SNOMED CT, editorial policies, guidelines and characteristics;

Sponsored Territory

a Non-Member Territory that has been recognized and designated by the Licensor as a sponsored territory (as published on the Licensor's web site);

Standard

a Specification that is formally adopted by the Licensor; ~~and~~

Standards-Based

in respect of an Extension or a Derivative, an Extension or Derivative the creation of which is the subject of one or more Standards; and

Sub-Set

a sub-set of SNOMED CT Content that is grouped together for one or more purposes.

Appendix B

License Fees in Non-Member Territories

1. Introduction

- 1.1 This Appendix B sets out the license fees payable by the Licensee in respect of its activities in Non-Member Territories.
- 1.2 The license fees set out in this Appendix B do not apply in respect of the Licensee's activities in any Non-Member Territory if that Non-Member Territory is a Sponsored Territory or was a Sponsored Territory at the time when the Licensee's activities in that Non-Member Territory were carried out.
- 1.3 The Licensors may, in its sole discretion, waive the Licensee's obligation to pay any or all of the license fees set out in this Appendix B if the Licensors considers that the Licensee's activities in any Non-Member Territory are in support of charitable or humanitarian causes in that Non-Member Territory. Any waiver by the Licensors under this paragraph 1.3 may be revoked by the Licensors at any time, shall be without prejudice to any of the Licensors's other rights and remedies under this License Agreement and shall not relieve the Licensee of any of its other obligations under this License Agreement.
- 1.4 Beginning in ~~2009~~**2015**, license fees payable by the Licensee in respect of its activities in Non-Member Territories for each financial year shall be adjusted by the same percentage as the General Assembly of the Licensors agrees to adjust the Aggregate Annual Fee (as defined in the Licensors's Articles of Association) relative to ~~fees~~the Aggregate Annual Fee in the previous year.
- 1.5 The license fees in respect of Hospitals that are set out in this Appendix B apply only to Hospitals that are located on a single contiguous physical site. Any Hospital that is located on multiple physical sites shall be treated as falling within paragraph 4 of this Appendix B (and not within paragraphs 2 or 3).**
- 1.6 For purposes of this Appendix B, if a Practice is located on multiple physical sites then each such site is treated as a separate Practice.**
- 1.7 Notwithstanding anything else in this Appendix B, the deployment, distribution or licensing of any software that operates on a mobile device of any kind (including without limitation a mobile phone or tablet device), or any software or service that is accessed via the internet and enables users to extract or download any substantial portion of SNOMED CT, shall be treated as falling within paragraph 4 of this Appendix B (and not within paragraphs 2 or 3).**
- 1.8 The Licensee's obligation to pay license fees in respect of any deployment of the International Release or any Licensee Product is not dependent on that deployment of the International Release or Licensee Product being used in a live or production environment.**

1.9 In any case where the Licensee is exempt from the requirement to pay license fees by reason of a Licensee Product, a Data Analysis System or a Data Creation System being used exclusively in connection with a Qualifying Research Project, the Licensee shall report to the Licensor on the progress of that Qualifying Research Project in such manner as the Licensor may reasonably require. The Licensor may revoke the Licensee's exemption for Qualifying Research Projects provided in this Appendix B if the Licensee fails to comply with this paragraph 1.9.

2. Data Creation Systems

2.1 The Licensee shall pay the following fees in respect of each ~~hospital~~Hospital or Practice in a Non-Member Territory in or to which the Licensee:

- (a) deploys the International Release (or any part of it) or any Licensee Product that contains the International Release (or any part of it) in a Data Creation System, unless that Data Creation System is used exclusively in connection with a Qualifying Research Project; or
- (b) deploys, distributes or licenses a Licensee Product that is or includes a Data Creation System, unless that Licensee Product is used exclusively in connection with a Qualifying Research Project.

Hospital in Band A Territory	US\$ 1,500 <u>1,688</u> per annum baseline fee adjusted as per paragraph 1.4
Hospital in Band B Territory	US\$ 1,000 <u>1,126</u> per annum baseline fee adjusted as per paragraph 1.4
Hospital in Band C Territory	US\$ 500 <u>563</u> per annum baseline fee adjusted as per paragraph 1.4
Practice in Band A, B or C Territory	US\$ 500 <u>563</u> per annum baseline fee adjusted as per paragraph 1.4
Hospital or Practice in Low Income Band	US \$0 per annum baseline fee, adjusted as per paragraph 1.4
Hospital or Practice in other territory	As per paragraph 5.2.

2.2 The total fees payable by the Licensee in respect of a number of Practices ~~in that~~ are departments of a single ~~hospital~~Hospital shall not exceed the fee applicable to the ~~hospital~~Hospital itself. For purposes of this Appendix B, a Practice is treated as a department of a Hospital only if: (a) it is located on the premises of that Hospital; and (b) it is funded solely by that Hospital. In any case where either or both of the conditions in the preceding sentence are not met in respect of any Practice, fees shall be payable in

respect of that Practice in addition to any fees that are payable in respect of any Hospital.

3. Data Analysis Systems

3.1 The Licensee shall pay the fees set out in paragraph 3.4 if the Licensee:

- (a) deploys the International Release (or any part of it) or any Licensee Product that contains the International Release (or any part of it) in a Data Analysis System in a Non-Member Territory, unless that Data Analysis System is used exclusively in connection with a Qualifying Research Project; or
- (b) deploys, distributes or licenses a Licensee Product that is or includes a Data Analysis System in a Non-Member Territory, unless that Licensee Product is used exclusively in connection with a Qualifying Research Project.

3.2 The fees set out in paragraph 3.4 apply in respect of each deployment, distribution or license of the International Release (or any part of it), a Licensee Product or a Data Analysis System, and vary according to the Non-Member Territory in which the deployment, distribution or licensing takes place.

3.3 If any Data Analysis System to which the fees in paragraph 3.4 apply consists of more than one database, the fees applicable to that Data Analysis System shall be multiplied by the number of databases in that Data Analysis System.

3.4 The fees under this paragraph 3 are as follows:

Band A Territory	US\$ 1,500 <u>1,688</u> per annum baseline fee adjusted as per paragraph 1.4
Band B Territory	US\$ 1,000 <u>1,126</u> per annum baseline fee adjusted as per paragraph 1.4
Band C Territory	US\$ 500 <u>563</u> per annum baseline fee adjusted as per paragraph 1.4
Hospital or Practice in Low Income Band	US \$0 per annum baseline fee, adjusted as per paragraph 1.4
Other territory	As per paragraph 5.2.

4. Other Activities

4.1 The Licensee shall notify the Licensor in writing before deploying the International Release (or any part of it) or deploying, distributing or licensing any Licensee ~~Products~~Product (in each case, other than exclusively in connection with Qualifying Research Projects) in, for use in, or to any person situated in, any

Non-Member Territory in a manner that does not fall within paragraphs 2 to 3 of this Appendix B, explaining the Licensee's proposed activities.

- 4.2 Upon receiving notice from the Licensee under this paragraph 4, the Licenser may request, and the Licensee shall provide, such additional information in relation to the Licensee's proposed activities as the Licenser considers reasonably necessary to determine an appropriate license and reasonable fee in respect of the Licensee's proposed activities.
- 4.3 The Licensee shall be liable to pay such license fees as the Licenser may determine in accordance with this paragraph 4.

5. **Non-Member Territory Bandings**

- 5.1 The allocation of a Non-Member Territory into Band A, Band B, Band C, or Low Income Band shall be as determined by the Licenser (based on the Non-Member Territory's relative Gross National Income (GNI) or other measure adopted by the Licenser) and published by the Licenser on its web site.
- 5.2 The Licensee shall notify the Licenser in writing before carrying out any activity of a kind described in paragraphs 2 or 3 of this Appendix B in a Non-Member Territory that has not been allocated by the Licenser under paragraph 5.1. Upon receiving notice from the Licensee under this paragraph 5.2, the Licenser shall allocate the Non-Member Territory as described in paragraph 5.1.