



AUSTRALIAN NATIONAL TERMINOLOGY LICENCE AGREEMENT

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IMPORTANT NOTICE – PLEASE READ THE FOLLOWING CAREFULLY

This is a Licence agreement (**Licence Agreement**) between (1) The Australian Digital Health Agency ABN 84 425 496 912 of level 25, 56 Pitt Street Sydney New South Wales 2000 (**Licensor**) and (2) the person or organisation to which the Australian National Terminology is distributed or otherwise made available (**Licensee**). The Australian National Terminology is defined in Appendix A of this Licence Agreement. The licence terms for the Australian National Terminology are set out in this Licence Agreement. The SNOMED CT^{®1} Affiliate Licence is a separate licence agreement for the International Release of SNOMED CT.

By downloading, accessing or using any part of the Australian National Terminology, or exercising any rights granted under this Licence Agreement, the Licensee agrees to be bound by the terms of this Licence Agreement. If the Licensor requires execution of a hard copy of this Licence Agreement by the Licensee, any facsimile or electronic copy of the document purporting to be signed (including by way of digital signature) for and on behalf of the Licensee will be considered valid, and binding on the Licensee.

1. DEFINED TERMS

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

2. GRANT OF LICENCE

2.1. During the term of this Licence Agreement the Licensee must be an Affiliate. This Licence Agreement does not take effect unless and until the Licensee becomes an Affiliate. The Licensor grants the Licensee, subject to the terms of this Licence Agreement, a perpetual (subject to termination in accordance with **clause 5**), worldwide, non-exclusive, non-transferable licence for the term of this Licence Agreement to:

- 2.1.1. use, and permit the Licensee's officers, employees, agents and contractors to use, the Australian National Terminology;
- 2.1.2. create Extensions and Derivatives from the Australian National Terminology and use and modify any such Extensions and Derivatives subject to policies and procedures published by the Licensor and IHTSDO;
- 2.1.3. incorporate the Australian National Terminology, by using and modifying it, into Licensee Products only, and distribute Licensee Products under a sub licence in accordance with **clause 2.1.5**;

¹ SNOMED and SNOMED CT are registered trade marks of the International Health Terminology Standards Development Organisation.

- 2.1.4. modify the manner of formatting of the copy of the SNOMED CT Core distributed to the Licensee as part of the Australian National Terminology; and
 - 2.1.5. subject to **clause 2.5** and **clause 5.10**, grant sub-licences of the Australian National Terminology to the extent necessary for the End Users to use the Licensee Products.
- 2.2. The Licensee may only use and modify the Australian National Terminology, and must ensure that its officers, employees, agents and contractors only use and modify the Australian National Terminology:
- 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 Australian National Terminology and/or data encoded using the foregoing, provided that users of those systems are not able to extract any substantial portion of the Australian National Terminology (including SNOMED CT Core) 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 Licence Agreement to create Extensions and Derivatives from the Australian National Terminology.
- 2.4. The Licensee is not permitted to translate any part of the Australian National Terminology into any other human language without the prior written consent of the Licensor or IHTSDO where applicable.
- 2.5. Each sub-licence 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 Australian National Terminology than the Licensee itself has under this Licence Agreement;
 - 2.5.2. not permit the End User to do any act or thing in respect of the Australian National Terminology that the Licensee is prohibited from doing under this Licence Agreement;
 - 2.5.3. not permit the End User to sub-licence or transfer any of its rights under the sub-licence (unless the End User is also a licensee from the Licensor of the Australian National Terminology, and an Affiliate, in which case that End User shall be entitled to sub-licence further its rights under the sub-licence with the Licensee, subject to the same restrictions as apply to sub-licensing the Australian National Terminology, under the End User's licence agreement with the Licensor, and under the SNOMED CT® Affiliate License Agreement);
 - 2.5.4. terminate automatically upon termination of this Licence Agreement;
 - 2.5.5. provide that the End User may apply directly to the Licensor upon receiving notice that the sub-licence will terminate in accordance with **clause 2.5.4**,

and that the Licensor may in such circumstances (but shall not be obliged to):

- 2.5.5.1. grant the End User a licence in respect of the Australian National Terminology for a limited period in order to enable the End User to continue to use the Licensee Products that are subject to the sub-licence during that period; or
- 2.5.5.2. 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-licence to the Licensor and to IHTSDO and any other person the Licensor considers has a "need to know" or where the Licensor is obliged by applicable laws to make disclosure of that information (including, without limitation to the Licensor's responsible Minister, parliamentary committees and inquiries, the Health Ministers of each Australian government jurisdiction and to the Australian National Audit Office).
- 2.6. If the Licensee becomes aware of any material error or change or correction needed in the Australian National Terminology, the Licensee agrees to advise the Licensor within 30 days of such error, change or correction by following the Licensor's procedures for change notification that the Licensor prescribes in writing and which the Licensor notifies to the Licensee from time to time.
- 2.7. The Licensee shall comply with the Internet security measures that IHTSDO prescribes by Regulations and which the Licensor or IHTSDO notifies to the Licensee from time to time.
- 2.8. The Licensor reserves the right to change the type and format of its machine-readable data in respect of the Australian National Terminology. The Licensor will inform the Licensee of any changes to the type or format of the Australian National Terminology, except in relation to additions of entirely new data elements to the Australian National Terminology, at least 90 days before the Australian National Terminology containing the new type or format is distributed or published.

3. EXTENSIONS AND DERIVATIVES

- 3.1. The Licensee may not create any Standards-Based Extension or any Standards-Based Derivative to or from the Australian National Terminology unless it has first been issued with a Namespace Identifier by or on behalf of IHTSDO.
- 3.2. The Licensee may request that the Licensor issue it, on behalf of IHTSDO, with a Namespace Identifier, and the Licensor shall not unreasonably refuse to request IHTSDO to do so. The Licensee acknowledges that IHTSDO will make decisions about the issuance of Namespace Identifiers in its own discretion 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 of and from the Australian National Terminology that the Licensee creates under this Licence 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 Licence

Agreement. The Licensee may not assign or otherwise transfer those Intellectual Property Rights to any other person unless:

- 3.4.1. that person is an Affiliate and, in the case of Standards-Based Extensions or Standards-Based Derivatives, has a Namespace Identifier issued by IHTSDO; and
 - 3.4.2. the transfer is notified in writing to the Licensor and IHTSDO within thirty (30) days after the assignment/transfer.
- 3.5. The Licensee shall, if requested by the Licensor, assign or otherwise transfer to the Licensor or a party nominated by the Licensor (including IHTSDO) all of its Intellectual Property Rights in such Standards-Based Extensions (or parts thereof) created by the Licensee 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 party nominated by the Licensor (including IHTSDO) all of its Intellectual Property Rights in such Standards-Based Derivatives created by the Licensee as the Licensor may specify.
- 3.7. Upon the assignment/transfer to the Licensor or other assignee/transferee nominated by the Licensor (including IHTSDO), 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 Standards-Based Extension (or part thereof) or Standards-Based Derivative shall also transfer from the Licensee to the Licensor or other transferee nominated by the Licensor (as the case may be);
 - 3.7.2. the Licensor hereby grants a licence back to the Licensee from the Licensor or will use its best endeavours to procure from the assignee/ transferee nominated by the Licensor a licence back to the Licensee (as the case may be) of that Standards-Based Extension (or part thereof) or Standards-Based Derivative, on the same terms as apply to the Australian National Terminology under **clause 2** of this Licence Agreement, until that Standards-Based Extension (or part thereof) or Standards-Based Derivative becomes part of the Australian National Terminology.
- 3.8. For the purpose of this **clause 3**, a transfer of 'moral rights', as part of the assignment/transfer of Intellectual Property Rights for the purpose of this Licence Agreement, is to be effected by the Licensee procuring a consent from the owner of the relevant moral rights in respect of any copyright work, in favour of the Licensor (or any other nominated assignee/transferee) and its successors, assigns and any users of the Australian National Terminology, to do or omit to do anything that, but for such consent, would constitute an infringement of those moral rights. The Licensee must ensure that any such consents are genuinely given and not obtained by duress or the making of any false or misleading statement.

4. MODIFICATIONS TO THE AUSTRALIAN NATIONAL TERMINOLOGY

- 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 Australian National Terminology.
- 4.2. Subject to any express and specific statement to the contrary in the documentation distributed as part of the Australian National Terminology, the Licensee may not modify any of the documentation (including Standards or Specifications) or

software (unless provided in source code form) distributed as part of the Australian National Terminology.

- 4.3. The Licensee may, by written notice, request the Licensor to modify any of the Australian National Terminology. The Licensee acknowledges that IHTSDO must approve any modification to 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 and IHTSDO'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, relevantly, the Licensor or IHTSDO 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.
- 4.4. If the Licensee would like the content of the modification, proposed under **clause 4.3**, 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. 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, the Standards and Regulations. If the developed content meets the Licensor's quality assurance, other governance processes, the Standards and Regulations then the Licensor will give due consideration to incorporating it into the Australian National Terminology.

5. TERM AND TERMINATION

- 5.1. This Licence Agreement shall commence on the date on which it comes into effect in accordance with the notice at the beginning of this Licence Agreement, and shall continue until terminated in accordance with this **clause 5**.
- 5.2. Either party may terminate this Licence Agreement if the other party commits a material breach of any of its obligations under this Licence Agreement (which, in the case of the Licensee, shall include, without limitation, any failure to pay licence fees payable in accordance with this Licence Agreement and any failure to comply with **clauses 2, 3 or 6.2**), in accordance with the following procedure:
 - 5.2.1. the party seeking to terminate the Licence 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;
 - 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; and
 - 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 Licence

Agreement by giving 180 days written notice to the Defaulting Party (the "**Termination Notice**").

- 5.3. Neither party may terminate this Licence Agreement except in accordance with this **clause 5**.
- 5.4. The Licensor may not terminate this Licence Agreement except:
 - 5.4.1. in accordance with **clause 5.2**;
 - 5.4.2. by notice to the Licensee in circumstance where the Licensor ceases to be a member of IHTSDO and there is no replacement organisation to which **clause 12.2** applies;
 - 5.4.3. by notice if the Licensee has notified any issues under **clause 8.6**; or
 - 5.4.4. by notice to the Licensee if the Licensor considers, in its sole opinion, that its reputation or good standing would be adversely affected if this Licence Agreement were not terminated.
- 5.5. The Licensee may terminate this Licence Agreement:
 - 5.5.1. 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**; and
 - 5.5.2. in any other circumstance on giving not less than 90 days' notice.
- 5.6. This Licence Agreement will automatically terminate if the Licensor's "SNOMED CT® Affiliate License Agreement" with IHTSDO terminates for any reason, and the Licensor will notify the Licensee of such termination. The Licensee acknowledges that it must be an Affiliate in order to be entitled to exercise its rights under this Licence Agreement, accordingly this Licence Agreement shall also automatically terminate upon the Licensee ceasing to be an Affiliate.
- 5.7. Upon termination of this Licence Agreement in accordance with this **clause 5**, all licences granted under this Licence Agreement shall automatically and immediately be revoked.
- 5.8. The Licensee shall, by no later than forty five (45) days after termination of this Licence Agreement for any reason, remove all copies of the Australian National Terminology from its computer systems and destroy all copies of electronic, paper copy and other media containing or representing any part of them (including, without limitation, any documents or software provided as part of or in conjunction with the Australian National Terminology). 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 5.8**.
- 5.9. The Licensee shall, as soon as reasonably practicable following either party giving a termination notice for any reason under this **clause 5**, 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.
- 5.10. The Licensee may not grant any new sub-licence under **clause 2.1.5** after either party has given notice under **clauses 5.2, 5.4 or 5.5**.

- 5.11. The Licensor and IHTSDO shall be entitled to publicise the termination of this Licence Agreement to such persons (including Members, other Affiliates and End Users) and in such manner as it sees fit.
- 5.12. **Clauses 5.8, 5.9, 5.10, 5.11, 8 and 10** to **14** inclusive shall survive termination of this Licence Agreement.
- 5.13. Any termination of this Licence Agreement, for any reason, is without prejudice to the accrued rights and liabilities of each party as at the date of termination.
- 5.14. On termination of this Licence Agreement in accordance with **clause 5.6**, the Licensee may apply directly to the IHTSDO upon receiving notice of termination, and IHTSDO may in such circumstances (but is not obliged to):
- 5.14.1. grant the Licensee a licence in respect of the International Release for a limited period in order to enable the Licensee to continue to use the International Release that are subject to this Licence Agreement during that period; or
- 5.14.2. where applicable, give the Licensee an assurance or undertaking that for a limited period the IHTSDO will not seek to prevent the Licensee from using the Australian National Terminology under any other arrangement.

6. NEW VERSIONS AND CHANGES TO LICENCE TERMS

- 6.1. The Licensor shall notify the Licensee when any update to or new version of the Australian National Terminology is made available and there shall be a mechanism for the Licensee to access or obtain copies of the new version of the Australian National Terminology. 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 Australian National Terminology.
- 6.2. The Licensee must promptly incorporate the update to or new version of the Australian National Release, notified by the Licensor, in its own systems and in the Licensee Products:
- 6.2.1. within 30 days of the Licensor's notification, if Licensee accesses or uses the Australian National Terminology in a clinical live or production environment; or
- 6.2.2. within 90 days, in all other cases.
- 6.3. The Licensor may vary the terms of this Licence Agreement by giving written notice to the Licensee. Any such variation shall take effect not less than ninety (90) days (one hundred and forty (140) days in the case of a variation under **clause 7.2**) after the notice is given, as specified in the notice. If the Licensee does not wish this Licence Agreement to continue subject to the variation, the Licensee may terminate this Licence Agreement in accordance with **clause 5.5**, and if the Licensee does so then the variation shall not take effect.

7. LICENCE FEES

- 7.1. At the commencement of this Licence Agreement, no licence fees, charges, usage fees or royalties are payable in respect of the Australian National Terminology.
- 7.2. The Licensor may by virtue of **clause 6.3**, amend this Licence Agreement so that licence fees, charges, usage fees and/or royalties are payable in respect of the Australian National Terminology to the extent necessary to allow the Licensor to recover its costs incurred in connection with its membership of IHTSDO and

activities performed pursuant to that membership and further provide for payment of interest in case of default.

8. PROTECTION OF THE LICENSOR'S AND THE IHTSDO'S INTELLECTUAL PROPERTY

- 8.1. Nothing in this Licence Agreement transfers to the Licensee any right, title or interest in or to the Intellectual Property Rights in the Australian National Terminology or any part of it, or grants the licensee any Licence in respect of the Australian National Terminology or any part of it except as expressly set out in **clause 2**.
- 8.2. Except as set out within **clause 8**, the Licensee shall not:
- 8.2.1. use any trademark or service mark (or any registrations thereof) in any name that includes or that is confusingly similar to the Licensor's trade or service marks or any other similar trade mark;
 - 8.2.2. apply for any trade mark or service mark (or any registrations thereof) in any name that includes the word "LINGO" or any other trade mark of the Licensor or that is confusingly similar to the Licensor's trade or services marks;
 - 8.2.3. abbreviate the Licensor's trade or services marks; or
 - 8.2.4. do anything with respect to the foregoing trade or service marks that damages or could reasonably be deemed to reflect adversely on the Licensor or such trade or service 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-licence granted by the Licensee under **clause 2.1.5**:

"This material includes materials licensed from the Australian Digital Health Agency on condition that all users comply, with respect to those licensed materials, with the terms and conditions on which the Australian Digital Health Agency makes those licensed material available."
 - 8.3.2. specify, in all media on which the Licensee Products are distributed, the version and date of the Australian National Terminology and International Release contained in the Licensee Product.
- 8.4. 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 Licence Agreement) and/or other written materials relating to the Licensee's use of the Australian National Terminology to enable the Licensor, or its nominee, reasonably to ascertain the Licensee's compliance with its obligations under this Licence Agreement. In the absence of circumstances giving the Licensor reasonable grounds to suspect a breach of this Licence Agreement, the Licensor may not give notice under this **clause 8.4** more frequently than once per year.
- 8.5. The Licensee shall maintain such quality standards as with respect to creating, modifying, supplementing, marketing, publishing 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 Standards, Regulations and in the most current version of the Licensor's published guidance resources (if any) with respect

to the Australian National Terminology that are developed and published by the Licensor or IHTSDO from time to time. If any use of the Australian National Terminology (including without limitation use through a Licensee Product) is reasonably determined by the Licensor to be below the standards of quality required under this Licence 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).

- 8.6. If the Licensee uses or modifies the Australian National Terminology for any Licensee Product in a live, clinical environment, the Licensee must ensure that they have in place an overall governance process to identify and monitor any risks or issues relating to the use of the Australian National Terminology or Licensee Products that may affect the health, safety or integrity of any person or Licensee system (Clinical Governance Process). The Licensee must notify the Licensor of any issues identified through the Clinical Governance Process or otherwise where use of the Australian National Terminology or any Licensee Product could affect the health, safety or integrity of any patient or Licensee system.
- 8.7. The Licensee shall maintain a complete, accurate and up-to-date register of all sub-licences 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 and nominees (including the Australian National Audit Office) upon the Licensor giving not less than fourteen (14) days' prior written notice. The register maintained by the Licensee under this **clause 8.7** shall, at a minimum, contain the following information in respect of each sub-licence: the name and registered office of the sub-licensee; the Licensee Product subject to the sub-licence; and the version of any Australian National Terminology included in that Licensee Product. In the absence of circumstances giving the Licensor reasonable grounds to suspect a breach of this Licence Agreement, the Licensor may not give notice under this **clause 8.7** more frequently than once per year.

9. ADDITIONAL LICENSEE OBLIGATIONS

- 9.1. The Licensee:
 - 9.1.1. will give notice to the Licensor of any intention to use or otherwise exploit its rights under this Licence Agreement in respect of a Member Territory or in respect of a geographical area other than the Licensor Territory or another Member Territory; and
 - 9.1.2. will comply with any Regulations published from time to time to the extent they affect the licence granted to the Licensee under this Licence Agreement.
- 9.2. The Licensee agrees that the terms of this Licence Agreement are not confidential.
- 9.3. The Licensee must not, without the prior written consent of the Licensor create, attempt to create, or distribute any material which includes any Namespace Identifiers for the Australian National Terminology other than those present in the Australian National Terminology as made available to the Licensee by the Licensor.
- 9.4. The Licensee agrees to comply, and to ensure that its officers, employees, agents and subcontractors comply with the *Privacy Act 1988* (Cwth) and not to do anything which if done by the Licensor would breach an Australian Privacy Principle, as defined in that Act.

10. REPRESENTATIONS AND WARRANTIES

- 10.1. To the fullest extent permitted by statute or law, the Licensor excludes all representations, warranties and conditions that would otherwise be implied into this Licence Agreement by statute or law (including, without limitation, all implied warranties of quality or fitness for a particular purpose). Where the Licensor is not able to exclude such a warranty or condition, the Licensor limits, to the extent permitted by statute or law, its liability for a breach of that warranty or condition to one or more of the following at its option:
- 10.1.1. in the case of goods, any one of the following: the replacement of goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; the payment of the cost of having the goods repaired; and
 - 10.1.2. in the case of services: the supplying of the services again; or the payment of the cost of having the services supplied again.
- 10.2. Without limiting **clause 10.1**, the Licensor does not represent or warrant that the Australian National Terminology or any part of it will satisfy any of the Licensee's requirements or is suitable for its purposes, operate in combinations selected by the Licensee or be free from defects or errors. The Licensor provides the Australian National Terminology on an "as is" basis and the Licensee and each End User uses and modifies it at their own risk.

11. LIMITATION OF LIABILITY

- 11.1. To the fullest extent permitted by statute and law, the Licensor 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 Licence Agreement (including, without limitation, in respect of the Licensee's use of or inability to use the Australian National Terminology or any documents, information or software forming part of or supplied in conjunction with the Australian National Terminology):
- 11.1.1. indirect or consequential loss;
 - 11.1.2. special or punitive damages;
 - 11.1.3. loss of profits, loss of savings and loss of revenue;
 - 11.1.4. loss of business, loss of reputation and loss of goodwill; and
 - 11.1.5. loss of data.
- 11.2. Neither the Licensor, IHTSDO, nor any Member or other third party transferee under **clauses 3.5 or 3.6** shall be liable to the Licensee or any other person for any failure by the Licensor, IHTSDO, Member or other third party transferee (as the case may be) to maintain or distribute any Extension (or part thereof) or Derivative transferred to the Licensor, IHTSDO, Member or other third party transferee (as the case may be) in accordance with **clause 3.5 or 3.6**.
- 11.3. The liability of the Licensor arising in any year under or in connection with this Licence Agreement, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall not:
- 11.3.1. in circumstances where licence fees, charges, usage fees or royalties are payable under this Licence Agreement in any event exceed the aggregate of such amounts paid by the Licensee in respect of that year; or

11.3.2. in all other circumstances, exceed a total aggregate sum of five hundred Australian Dollars (\$500) in respect of that year.

11.4. Nothing in this Licence Agreement excludes or limits the liability of either party for:

11.4.1. fraud (including fraudulent misrepresentation); or

11.4.2. death or personal injury caused by the negligence of that party.

12. ASSIGNMENT

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

12.2. The Licensor may assign or otherwise transfer or novate all of its rights and obligations under this Licence Agreement to any person(s) to whom the Licensor transfers the Intellectual Property Rights in respect of which the licences under this Licence Agreement are granted whether by way of transfer or novation to:

12.2.1. a successor organisation or body of the Licensor (with the consent of IHTSDO); or

12.2.2. a person that is to replace the Licensor as a Member of IHTSDO.

13. GENERAL PROVISIONS

13.1. This Licence Agreement contains the entire agreement between the parties relating to the subject matter of this Licence 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 Australian National Terminology.

13.2. Each party acknowledges that, in entering into this Licence 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 Licence Agreement.

13.3. Except as provided in **clause 6.3**, this Licence Agreement may not be varied except in writing signed by both parties and expressed to vary this Licence Agreement.

13.4. Nothing in this Licence 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.

13.5. If any term of this Licence 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 Licence Agreement, or the legality, validity or enforceability in any other jurisdiction of that or any other term of this Licence Agreement.

14. GOVERNING LAW AND JURISDICTION

This Licence Agreement shall be governed by, and construed in accordance with, the laws of the Australian Capital Territory. Australian Courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Licence Agreement.

Appendix A

Defined Terms

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

Affiliate	an affiliate of IHTSDO in accordance with the its Articles of Association (vedtægter) ² ;
Australian Medicines Terminology	A Derivative created by the Licensor from the Licensor's Extension (SNOMED CT-AU) consisting of information that describes medicines: (a) listed or registered by the Australian Therapeutic Goods Administration; (b) listed on the Australian Pharmaceutical Benefits Scheme; and/or (c) otherwise available nationally;
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