

## SNOMED CT® Canadian National Release License Agreement

This is a Licence Agreement between (1) Canada Health Infoway Inc. (“**INFOWAY**” or “**Licensor**”) as Licensor and (2) the person or organisation to which the Canadian National Release of SNOMED CT (whether on its own or incorporating the International Release of SNOMED CT) is distributed or otherwise made available to the Licensee (the “**Licensee**”).

Prior to becoming a Licensee under this Canadian National Release License Agreement, Licensee must agree to the terms and conditions of the International Health Terminology Standards Development Organisation, (trading as SNOMED International), SNOMED CT Affiliate License Agreement. For more information on the Affiliate License Agreement, please contact Canada Health Infoway Inc. at [standards@infoway-inforoute.ca](mailto:standards@infoway-inforoute.ca).

By downloading, accessing or using any part of the Canadian National Release of SNOMED CT or exercising any rights granted under this Licence Agreement, the Licensee agrees to be bound by the terms of this Licence Agreement. Furthermore INFOWAY may require the execution of a hard copy of this Licence Agreement by the Licensee by a duly authorized signatory of the Licensee.

### 1. DEFINED TERMS AND INTERPRETATION

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

1.2 In the event of any conflict or inconsistency between the English language version and any other language version of this License Agreement, the English language version shall take precedence. For greater certainty, INFOWAY makes both an English and French language version of this Licence Agreement available to Licensees and Licensees can freely choose which language version to accept which may include expressly agreeing to be bound by the English version of this License Agreement after consulting the French version.

### 2. GRANT OF LICENCE

2.1 INFOWAY grants the Licensee, subject to the terms of this Licence Agreement, a perpetual (subject to revocation in accordance with **clause 5**), non-exclusive, non-transferable licence for use in Canada only during the term of this Licence Agreement to:

2.1.1 use, and permit the Licensee’s officers, employees, agents and contractors to use, the Canadian National Release in Canada only (the Territory);

2.1.2 create Extensions and Derivatives from the Canadian National Release and use and modify those Extensions and Derivatives;

2.1.3 incorporate the Canadian National Release into Licensee Products, and distribute Licensee Products under a sub-licence 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 Canadian National Release; and

2.1.5 subject to **clauses 2.5** and **5.7**, grant sub-licenses of the Canadian National 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 Canadian National Release, and must ensure that its officers, employees, agents and contractors only use the Canadian National 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;

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 Canadian National 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 or the Canadian National Release 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; and/or

2.2.5 to transmit to third parties messages that contain patient information encoded using SNOMED CT, provided that the SNOMED CT Content contained within those messages consists solely of SNOMED CT Identifiers and descriptions of SNOMED CT concepts.

2.3 The Licensee is only permitted under this Licence Agreement to create Extensions from the Canadian National Release and to create Derivatives from the Canadian National Release and from those Extensions.

2.4 The Licensee is not permitted to translate into another human language the Canadian National Release without the prior written consent of INFOWAY.

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 Canadian National Release 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 Canadian National Release 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 of INFOWAY of the Canadian National Release, under the same terms and conditions, in which case that licensee End User shall

be entitled to sub-license further its rights under the sub-licence with the Licensee, subject to the same restrictions as apply to sub-licensing the Canadian National Release under the End User's licence agreement with INFOWAY);

2.5.4 terminate automatically upon termination of this Licence Agreement;

2.5.5 provide that the End User may apply directly to INFOWAY upon receiving notice that the sub-licence will terminate in accordance with **clause 2.5.4**, and that INFOWAY may in such circumstance, but shall not be obliged to:

(a) grant the End User a licence in respect of the Canadian National 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-licence during that period; or

(b) provide the End User an assurance or undertaking that for a limited period INFOWAY 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 INFOWAY in accordance with **clauses 7 and 8** and to in turn permit INFOWAY to disclose, any and all such licence terms and related information to SNOMED International and any other person INFOWAY considers has a 'need to know' or where INFOWAY is obliged by applicable laws to make disclosure of that information.

2.6 If the Licensee becomes aware of any material error or change or correction needed in either the Canadian National Release or the International Release, the Licensee agrees to advise INFOWAY promptly of such error, change or correction by following if available INFOWAY's request for change notification process that INFOWAY prescribes and notifies to the Licensee from time to time. Otherwise the Licensee should provide such notice as promptly and with as much details as possible.

2.7 The Licensee shall implement reasonable measures to ensure that the Canadian National Release (and any part of it) cannot be accessed or downloaded from the Licensee's systems except by authorized users, and shall comply with the security measures that the SNOMED International prescribes and is available from SNOMED International from time to time.

2.8 INFOWAY reserves the right to change the type and format of its machine-readable data in respect of the Canadian National Release. INFOWAY agrees to inform the Licensee of any changes to the type or format of the Canadian National Release at least thirty (30) days before the Canadian National Release containing the new type or format is distributed.

### **3. EXTENSIONS AND DERIVATIVES**

3.1 The Licensee may not in respect of the Canadian National Release create any Standards-Based Extension or any Standards Based Derivative unless it has first been issued with a Namespace Identifier by SNOMED International.

3.2 The Licensee may submit an application for a Namespace Identifier to SNOMED International.

3.3 The Licensee shall ensure that all Standards-Based Extensions and Standards Based Derivatives that the Licensee creates under this Licence Agreement are created and maintained 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 (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 INFOWAY and SNOMED International within thirty (30) days after the transfer.

3.5 The Licensee shall, if requested by INFOWAY, transfer to INFOWAY, or to such other person as INFOWAY may nominate, all of its Intellectual Property Rights (including moral rights) in such Standards-Based Extensions (or parts thereof) as INFOWAY may specify.

3.6 The parties may agree from time to time that the Licensee shall transfer to INFOWAY, or to such other person as INFOWAY may nominate, all of its Intellectual Property Rights (including moral rights) in one or more Standards-Based Derivatives.

3.7 Upon the transfer 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** the following apply:

3.7.1 responsibility for the maintenance and distribution of that Extension (or part thereof) or Derivative shall also transfer from the Licensee to INFOWAY or other transferee nominated by INFOWAY, as the case may be;

3.7.2 in the case of an Extension, the SNOMED CT Content of such Extension shall cease to be a Licensee Extension and shall become part of the Canadian National Release (if transferred to INFOWAY) or of the SNOMED CT Core (if transferred to SNOMED International);

3.7.3 INFOWAY hereby grants a licence back to the Licensee from INFOWAY or may procure from SNOMED International a licence 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 Canadian National Release, under **clause 2** of this Licence Agreement, until that Extension (or part thereof) or Derivative becomes part of the Canadian National Release or the International Release, as the case may be.

3.8 For the purpose of this **clause 3**, a reference to a transfer of ‘moral rights’ is to be read and construed as a reference to the making available of a moral rights consent in respect of any copyright work, in favour of INFOWAY and its successors, nominees, assigns and any users of the INFOWAY Canadian National Release, such consent to be for the doing or omitting to do of

anything that, but for such consent, would constitute an infringement of those moral rights. The Licensee is responsible for obtaining valid consent.

#### **4. MODIFICATIONS TO THE CANADIAN NATIONAL 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 Canadian National Release or as part of the International Release.

4.2 Subject to any express and specific statement to the contrary in the documentation distributed as part of the Canadian National 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 Canadian National Release.

4.3 The Licensee may, by written notice, request INFOWAY to modify the Canadian National Release. Upon receipt of such written notice, INFOWAY shall consult with the Licensee and shall give due consideration as to whether the proposed modification should be made based on INFOWAY's editorial guidelines, policies, Standards and Regulations. Following due consideration of the matter, including consideration of any information presented by the Licensee, INFOWAY shall inform the Licensee whether the proposed modification shall be made and if INFOWAY agrees that the proposed modification should be made, INFOWAY 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 INFOWAY 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 INFOWAY's support services contract). On receipt of the developed content of the proposed modification, INFOWAY will then give due consideration as to whether the developed content meets INFOWAY's quality assurance, other governance processes, Standards and Regulations. If the developed content meets INFOWAY's quality assurance, other governance processes, Standards and Regulations, then INFOWAY will submit the request/content to SNOMED International for consideration for inclusion in SNOMED CT core. If rejected by SNOMED International (not required internationally) Infoway will give due consideration to incorporating it into the Canadian National Release.

#### **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 breach of any of its obligations under this Licence Agreement, which in the case of the Licensee, shall include, without limitation to pay Licensee Fees when due under **clause 7**, in accordance with the following procedure:

5.2.1 if the Defaulting Party does not remedy the breach within ninety (90) days of the date of the Breach Notice the Terminating Party may immediately terminate this License

Agreement. During this ninety (90) day period both parties shall nominate a member of its senior management team to meet to resolve in good faith the matter relating to the breach;

5.2.2 by giving notice of such termination to the Licensee, in the event that INFOWAY is no longer an Affiliate; or

5.2.3 in the same circumstances as SNOMED International may terminate the Affiliate's license under the SNOMED CT Affiliate License Agreement, in accordance with the procedure set out in **clause 5.2.1** above.

5.3 Neither party may terminate this License Agreement except in accordance with this **clause 5**.

5.4 The Licensee may terminate this Licence Agreement by giving up to twelve (12) months' prior written notice to INFOWAY

5.5 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, except as provided in **clause 5.13**.

5.6 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 Canadian National Release from its computer systems and destroy all copies of electronic, paper copy and other media containing or representing any part of the Canadian National Release, except for any copies of the Canadian National Release used solely for purposes of the Licensee exercising its rights under clause 5.13. The Licensee shall, if requested by INFOWAY, certify in writing to INFOWAY 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-licence under **clause 2.1.5** after either party has given notice under **clauses 5.2** or **5.4**.

5.9 INFOWAY and SNOMED International shall be entitled to publicise the termination of this Licence Agreement to such persons (including Members, other than INFOWAY, other Affiliates of SNOMED International 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, 5.13, 6** through **14** inclusive shall survive termination of this Licence 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.

5.13 The Licensee may, following termination of this License Agreement, continue to use the most recent version of the Canadian National Release as at the date of termination (such version, the "Final Permitted Version"), solely for purposes of reading records created prior to the date of termination and encoded using the Final Permitted Version or a prior version of the Canadian National Release. The Licensee has no right under this clause 5.13: (a) to create any record encoded using any version of the Canadian National Release; (b) to modify any SNOMED CT Content in any record encoded using any version of the Canadian National Release; or (c) in respect of any version of the Canadian Release subsequent to the Final Permitted Version.

## 6. NEW VERSIONS AND CHANGES TO LICENCE TERMS

6.1 INFOWAY shall notify the Licensee when each new version of the Canadian National Release is made available and there shall be a mechanism for the Licensee to access or obtain copies of the new version of the Canadian National Release. The Licensee shall be liable for any reasonable distribution charge, if applicable, established by INFOWAY for each copy of the new version of the Canadian National Release.

6.2 Within one-hundred and eighty (180) days after INFOWAY has notified the Licensee of the release of a new version of the Canadian National Release, the Licensee must upgrade the version of the Canadian National Release in its own systems and in the Licensee Products to that new version (or alternatively, if a subsequent version of the Canadian National Release is or has been released during the one-hundred and eighty (180) day period, to that subsequent version).

6.3 INFOWAY 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 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**, and if the Licensee gives notice of such termination before the variation takes effect then the variation shall not apply as between Infoway and the Licensee.

## 7. LICENCE FEES

7.1 At the commencement of this Agreement, no licence fees charges, usage fees or royalties are payable in respect of the Canadian National Release.

7.2 INFOWAY may by virtue of **clause 6.3**, amend this agreement so that licence fees, charges, usages fees and royalties are payable in respect of the Canadian National Release and provide for payment of interest in case of default.

7.3 The Licensee shall, at least once in each calendar year, submit a statement to both SNOMED International and INFOWAY, setting out the Licensee's activities in Non-Member Territories

since the end of the period covered by the previous statement submitted under this **clause 7.3** (or, in the case of the first statement under this **clause 7.3**, since the date on which this License Agreement became effective and with which legal entity), including fees and other amounts payable with respect to License fees in non-member territories in respect of that period. Each such statement shall include the Licensee's calculation of the License Fees and other amounts payable to the Licensor in respect of that period. Each such statement 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 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 Canadian National Release (or any part of it) was first made available to the licensee under that license agreement.

7.4 The Licensee shall provide both SNOMED International and INFOWAY with such information as they may reasonably request for the purpose of verifying any statement submitted.

7.5 SNOMED International shall, following receipt of a statement 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 relates. The Licensee shall pay to SNOMED International 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 SNOMED International may make available to the Licensee 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 Licence Agreement transfers to the Licensee any right, title or interest in or to the Intellectual Property Rights in the Canadian National 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 Infoway's trade marks, in any name that includes the word "INFOWAY" or that is confusingly similar to INFOWAY 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 "INFOWAY", or that is confusingly similar to SNOMED, SNOMED CT or any other similar trade mark;

8.2.3 abbreviate the marks INFOWAY or CANADA HEALTH INFOWAY; or



8.2.4 do anything with respect to the foregoing trade marks that damages or could reasonably be deemed to reflect adversely on Infoway's trade marks and intellectual property rights.

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 licenced from Canada Health Infoway Inc., also known as INFOWAY, on condition that all users comply, with respect to those licenced materials, with the terms and conditions, under which Canada Health Infoway Inc. makes licenced material available. All rights reserved.”

8.3.2 specify in all media on which any Licensee Product is distributed the version and date of the Canadian National Release and 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 the SNOMED CT Affiliate Agreement and this Licence Agreement and any services relating thereto but not otherwise and developed by SNOMED International subject to the trade mark utilisation Regulation developed by SNOMED International and Infoway and published by SNOMED International and INFOWAY 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 SNOMED International'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 policies, Standards and Regulations developed by SNOMED International and INFOWAY as published from time to time, and in accordance with any standards developed and published from time to time by SNOMED International as it relates to SNOMED CT and INFOWAY in regard to the Canadian National Release.

8.6 Upon reasonable written notice from INFOWAY, the Licensee shall provide INFOWAY with such information, documentation and materials (including software) as are reasonably necessary to enable INFOWAY to ascertain the Licensee's compliance with its obligations under this Licence Agreement. In the absence of circumstances giving INFOWAY reasonable grounds to suspect a breach of this Licence Agreement, INFOWAY may not give notice under this **clause 8.6** more frequently than once per year.

8.7 If any use of the Canadian National Release (including without limitation use through a Licensee Product) is reasonably determined by INFOWAY to be below the standards of quality required under this Licence Agreement, INFOWAY 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 INFOWAY may reasonably specify) within (15) fifteen days of receipt of such notice or such longer period as authorized by INFOWAY.

8.8 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 INFOWAY and its representatives upon INFOWAY 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-licence: the legal name and registered office of the sub- licensee; the Licensee Product subject to the sub-licence; and the version of the International Release and Canadian National Release included in that Licensee Product. This will enable the Licensor to:

(a) verify that the Licensee has complied with this License Agreement when entering into sublicences with End Users; and/or

(b) offer support to End Users on termination of this License Agreement.

In the absence of circumstances giving INFOWAY reasonable grounds to suspect a breach of this Licence Agreement, INFOWAY may not give notice under this **clause 8.8** more frequently than once per year.

## **9. USE IN MEMBER TERRITORIES AND NON-MEMBER TERRITORIES**

9.1 The Licensee:

9.1.1 will give notice to INFOWAY and SNOMED International of any intention it has to use or otherwise exploit its rights under the SNOMED CT Affiliate Agreement in respect of a territory other than Canada;

9.1.2 will comply with the terms of the SNOMED CT Affiliate Agreement;

9.1.3 authorises INFOWAY to disclose any or all of the terms of this Licence Agreement and related information to SNOMED International or any other person INFOWAY considers has a 'need to know' or where INFOWAY is obliged by applicable laws to disclose such information;

9.1.4 shall notify INFOWAY (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 the SNOMED CT Affiliate Agreement in any Non-Member Territory in respect of which the Licensee has not previously given notice under this clause. The notice shall be in such form and manner as INFOWAY 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 INFOWAY may require but INFOWAY 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 in Non-Member Territories.

9.2 In any case where the Licensee consents to give notice to a Member in accordance with **clause 9.1.4**, the Licensee consents to that Member providing the content of that notice to INFOWAY.

9.3 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:

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

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

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

## 10. ADDITIONAL LICENSEE OBLIGATIONS

10.1 The Licensee must not, without the prior written consent of INFOWAY create, attempt to create, or distribute any material which includes any Namespace Identifiers for the Canadian National Release other than those present in the Canadian National Release as made available to the Licensee by INFOWAY.

## 11. REPRESENTATIONS AND WARRANTIES

11.1 To the fullest extent permitted by statute or law, INFOWAY (including that of its affiliates and representatives) excludes all representations, warranties and conditions that would otherwise be implied into this agreement by statute or law. Where INFOWAY is not legally able to exclude such a warranty or condition, INFOWAY's maximum liability shall be limited to the lesser of (I) actual and direct damages suffered by Licensee, if any; or (II) one hundred Canadian dollars (CAD \$100);

11.2 Without limiting **clause 11.1**, INFOWAY does not represent or warrant that the Canadian National 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 To the fullest extent permitted by statute and law, INFOWAY 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 Canadian National 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 INFOWAY nor SNOMED International shall be liable to the Licensee or any other person for any failure by INFOWAY or SNOMED International (as the case may be) to maintain or distribute any Extension (or part thereof) or Derivative transferred to INFOWAY or SNOMED International (as the case may be) in accordance with **clauses 3 and 5** of this agreement.

12.3 The liability of INFOWAY 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 in any event exceed the lesser of the license fees paid by the Licensee in respect of that year respecting the Canadian National Release or \$100 CAD.

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

12.4.1 fraud (including fraudulent misrepresentation); or

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

### **13. ASSIGNMENT**

13.1 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 INFOWAY.

13.2 INFOWAY may transfer all of its rights and obligations under this Licence Agreement to any person to whom INFOWAY transfers the Intellectual Property Rights in respect of which the licences under this Licence Agreement are granted.

### **14. GENERAL PROVISIONS**

14.1 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 Canadian National Release. Licensees also subject to the terms and conditions of the SNOMED CT Affiliate Agreement with SNOMED International.

14.2 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 on behalf of the other party before the date of this Licence Agreement.

14.3 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.

14.4 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.

14.5 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.

## **15. GOVERNING LAW AND JURISDICTION**

15.1 This Licence Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the applicable laws of Canada.

15.2 The Ontario and applicable Canadian courts located in Toronto shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Licence Agreement (including a dispute regarding its existence, validity or termination), and the parties attorn to the jurisdiction of the courts of Toronto, Ontario.

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

<b>Affiliate</b>	an affiliate of SNOMED International in accordance with the Articles;
<b>Articles</b>	SNOMED International's Articles of Association
<b>Canadian Edition</b>	INFOWAY's Extensions coupled with an International release of SNOMED CT
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