

IHTSDO MEMBER EXCHANGE PARTICIPATION CONDITIONS

IMPORTANT NOTICE – PLEASE READ THE FOLLOWING CAREFULLY

These Conditions govern participation in the International Health Terminology Standards Development Organisation (IHTSDO) Member Exchange, the submission of Contributions to the Member Exchange, and the use of content from the Member Exchange. In these Conditions, a person who submits Contributions to, or uses content from, the Member Exchange is referred to as a "**Participant**".

These Conditions form a contract between each Participant and each other Participant.

By participating in the Member Exchange; submitting Contributions to the Member Exchange; downloading, accessing or using any part of the content from the Member Exchange; or exercising any rights granted under these Conditions, each Participant agrees to be bound by these Conditions.

1. DEFINED TERMS

In these Conditions, terms defined in Appendix A (**Defined Terms**) have the meanings set out in that Appendix. The term "**Participant**" also has the meaning given in the "Important Notice" box above.

2. WHO IS A PARTICIPANT

2.1 The IHTSDO is a Participant and has the rights and obligations of a Participant under these Conditions. The IHTSDO's participation in the Member Exchange cannot be terminated, whether under **clause 9** or otherwise. The IHTSDO also has certain rights and obligations under these Conditions that apply only to the IHTSDO. In the event of any conflict or inconsistency between a right or obligation of the IHTSDO specifically, and a right or obligation of the IHTSDO in its capacity as a Participant, the right or obligation of the IHTSDO specifically takes precedence.

2.2 The following are permitted to be Participants in the Member Exchange:

2.2.1 each IHTSDO Member;

2.2.2 each Affiliate in an IHTSDO Member Territory whose participation in the Member Exchange has been endorsed by that Member and who holds a current and valid Namespace Identifier; and

2.2.3 each Affiliate or other holder of a valid licence to the International Release whose participation in the Member Exchange has been endorsed by the IHTSDO and who holds a current and valid Namespace Identifier.

2.3 For the purposes of **clauses 2.2.2** and **2.2.3**, "endorsed" means endorsed in writing and in such form as the IHTSDO may specify from time to time.

3. USING CONTENT FROM THE MEMBER EXCHANGE

- 3.1 Subject to these Conditions, each Participant is entitled to do the following for the duration of its participation in the Member Exchange:
- 3.1.1 use, and permit the Participant's officers, employees, agents and contractors to use, content from the Member Exchange;
 - 3.1.2 create Extensions and Derivatives from content from the Member Exchange (to the extent that content is terminological content) and use and modify those Extensions and Derivatives;
 - 3.1.3 modify and create derivative works from content from the Member Exchange (other than content to which **clause 3.1.2** applies);
 - 3.1.4 incorporate content from the Member Exchange into Participant Products, use and modify content from the Member Exchange in those Participant Products only, and distribute Participant Products under a sub-licence in accordance with **clause 3.1.5**; and
 - 3.1.5 subject to **clause 9.7**, grant sub-licences of content from the Member Exchange to End Users to the extent necessary for the End Users to use Participant Products.
- 3.2 To the extent that any of the acts referred to in **clauses 3.1.1 to 3.1.5** would, without a licence from any Participant, infringe any right, title or interest of that Participant in or to any Intellectual Property Rights, that Participant grants each other Participant a perpetual (subject to revocation in accordance with **clause 9**), worldwide, non-exclusive, non-transferable licence, for the duration of that other Participant's participation in the Member Exchange, to perform and authorise the performance of that act.
- 3.3 A Participant may only use content from the Member Exchange, and must ensure that its officers, employees, agents and contractors only use content from the Member Exchange:
- 3.3.1 for the Participant's internal business purposes (including the creation by the Participant of Extensions, Derivatives and other Participant Products along with the licensing and distribution by the Participant of Participant Products);
 - 3.3.2 in the development and operation of the Participant's information systems;
 - 3.3.3 for the Participant's research purposes; and/or
 - 3.3.4 in the Participant's browsers that are made available to the general public for accessing and/or retrieving any part of the content of the Member Exchange and/or data encoded using the foregoing, provided that users of those browsers are not able to extract any substantial portion of SNOMED CT or any substantial portion of content from the Member Exchange and provided further that no fee is charged for access to those browsers except where access is incidental to the provision of training or consulting services.

- 3.4 A Participant is not permitted to translate any part of the content of the Member Exchange into any other human language without the prior written consent of the IHTSDO.
- 3.5 Nothing in these Conditions grants a Participant any licence or other right in respect of the International Release. The Participant's rights in respect of the International Release are as set out in Schedule 3 to the IHTSDO's Articles of Association (in the case of Participants who are IHTSDO Members), in the IHTSDO's Affiliate Licence (in the case of Participants who are Affiliates) and in the relevant licence agreement (in the case of licensees other than Affiliates referred to in **clause 2.2.3**).
- 3.6 Each sub-licence granted by the Participant under **clause 3.1.5** must:
- 3.6.1 not grant the End User any greater rights in respect of any content from the Member Exchange than the Participant itself has under these Conditions;
 - 3.6.2 not permit the End User to do any act or thing in respect of any content from the Member Exchange that the Participant is prohibited from doing under these Conditions, the IHTSDO's Articles of Association or the IHTSDO's Affiliate Licence;
 - 3.6.3 not permit the End User to sub-license or transfer any of its rights under the sub-licence (unless the End User is also a Participant, in which case that End User Participant shall be entitled to sub-license further its rights under the sub-licence with the Participant, subject to the same restrictions as apply to sub-licensing content from the Member Exchange under these Conditions);
 - 3.6.4 terminate automatically upon termination of the Participant's participation in the Member Exchange;
 - 3.6.5 provide that the End User may apply directly to the IHTSDO upon receiving notice that the sub-licence will terminate in accordance with **clause 3.6.4**, and that the IHTSDO may in such circumstances (but shall not be obliged to):
 - (a) grant the End User a licence in respect of the content from the Member Exchange sub-licensed by the Participant, for a limited period in order to enable the End User to continue to use the Participant Products that are subject to the sub-licence during that period; or
 - (b) give the End User an assurance or undertaking that for a limited period the IHTSDO and other Participants will not seek to prevent the End User from using the Participant Products; and
 - 3.6.6 permit the Participant to disclose the terms of the sub-licence to other Participants in accordance with **clause 8**.
- 3.7 If the IHTSDO gives an End User an assurance as described in **clause 3.6.5(b)**, each other Participant agrees not to take any action, step or proceeding that would be inconsistent with that assurance.

- 3.8 If a Participant becomes aware of any material error or change or correction needed in any content from the Member Exchange, the Participant agrees to advise the IHTSDO promptly of such error, change or correction by following the IHTSDO's procedures for change notification that the IHTSDO prescribes by Regulations and notifies to the Participant from time to time.
- 3.9 A Participant may not modify any terminological content from the Member Exchange other than content that is designated with the Participant's own Namespace Identifier.
- 3.10 The use of any of the following content from the Member Exchange (including the creation of Extensions and Derivatives from any such content) is subject to and governed by the terms of Schedule 3 to the IHTSDO's Articles of Association (in the case of Participants who are IHTSDO Members), in the IHTSDO's Affiliate Licence (in the case of Participants who are Affiliates) and in the relevant licence agreement (in the case of licensees other than Affiliates referred to in **clause 2.2.3**), including the obligation to pay any applicable fees under any such licence:
- 3.10.1 any content that is part of, or derived from any part of, the International Release; and
- 3.10.2 any content that the IHTSDO, or the Participant who contributed the content to the Member Exchange, designates as falling under **clause 3.10.1**.

4. CREATING EXTENSIONS AND DERIVATIVES FROM CONTENT IN THE MEMBER EXCHANGE

- 4.1 Each Participant shall ensure that all Standards-Based Extensions and Standards Based Derivatives that the Participant creates from content from the Member Exchange are created in accordance with, and comply with, all applicable Standards (including, without limitation, as to the use of Namespace Identifiers). This **clause 4.1** does not apply to Standards-Based Extensions and Standards-Based Derivatives that a Participant creates from its own Contributions to the Member Exchange.
- 4.2 Each Participant shall own all Intellectual Property Rights in all Extensions and Derivatives that the Participant creates from content from the Member Exchange. The Participant may not assign or otherwise transfer those Intellectual Property Rights to any other person unless (i) that person is a Participant 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 IHTSDO within thirty (30) days after the transfer.
- 4.3 The ownership by a Participant of Intellectual Property Rights in an Extension or Derivative, in accordance with **clause 4.2**, is subject to and does not affect the ownership of the Intellectual Property Rights in the Contribution or Contributions from which the Extension or Derivative is created, and is subject to and does not affect any other provision of these Conditions, including, without limitation:
- 4.3.1 the requirement that any End User in respect of any such Extension or Derivative either be licensed directly to use the underlying Contributions or be granted a sub-licence by the Participant to use the underlying Contributions in accordance with **clauses 3.1.5** and **3.6**;

- 4.3.2 the restriction in **clause 3.9**; and
- 4.3.3 the Participant's obligation to pay fees in respect of the Participant's use and sub-licensing of any such Extension or Derivative in accordance with **clause 11**.
- 4.4 A Participant shall, at the time that it distributes an Extension or Derivative (or parts thereof) created from content from the Member Exchange, deploy any such Extension or Derivative in a production system, or are requested by the IHTSDO or an IHTSDO Member to submit any such Extension or Derivative to the Member Exchange, submit that Extension or Derivative to the Member Exchange under the terms specified in **clauses 5, 6 and 7** of these Conditions.

5. CONTRIBUTING CONTENT TO THE MEMBER EXCHANGE

- 5.1 Participants are encouraged to make Contributions to the Member Exchange that will help the global community to achieve the vision outlined in the IHTSDO's Articles of Association.
- 5.2 No Participant is required to make any Contribution to the Member Exchange, except as required under **clause 4.4**.
- 5.3 Each Participant represents and warrants to each other Participant that, in respect of each Contribution made by the Participant to the Member Exchange, the Participant has the necessary permissions and the right to grant to each other Participant the licences related to the Contribution specified in these Conditions. Each Participant shall notify the IHTSDO promptly upon becoming aware that the representation and warranty by that Participant under this **clause 5.3** is incorrect in any respect.
- 5.4 Any Participant who is unable to give the representation in **clause 5.3** in respect of any Contribution must bring the matter to the attention of the IHTSDO before making that Contribution to the Member Exchange.
- 5.5 Each Participant will, provided the Participant complies with these Conditions, remain free to re-use any of his or her Contributions, and neither the IHTSDO nor any other Participant will seek to prevent the Participant from re-using any of his or her own Contributions unless that re-use is in contravention of any other agreement to which the Participant is a party.
- 5.6 In the case of any Contribution that is or becomes a Direct Contribution, only the IHTSDO and the Participant who made that Direct Contribution will have any rights in respect of it under these Conditions. The rights of any other Participant to make use of any Direct Contribution, once incorporated into the International Release, will be as set out in Schedule 3 to the IHTSDO's Articles of Association (if the Participant is an IHTSDO Member) or in the IHTSDO's Affiliate Licence (if the Participant is an Affiliate). Upon a Contribution becoming a Direct Contribution, all licences and other rights granted under these Conditions in respect of that Direct Contribution to any Participant, other than the IHTSDO and the Participant making the Contribution, shall terminate with immediate effect.

- 5.7 Each Participant shall, at the time of making a Contribution to the Member Exchange, follow the IHTSDO's procedures for making Contributions that the IHTSDO prescribes by Regulations and notifies to Participants from time to time, including providing a description of the nature of that Contribution.
- 5.8 If any Participant becomes aware of any material error or change or correction needed in any Contribution that it has made to the Member Exchange, the Participant shall advise the IHTSDO promptly of any such error, change or correction by following the IHTSDO's procedures for change notification that the IHTSDO prescribes by Regulations and notifies to Participants from time to time.
- 5.9 The IHTSDO, at its sole discretion, can decline to include a Contribution in the Member Exchange. The IHTSDO can also remove Contributions from the Member Exchange in accordance with procedures for such removal that the IHTSDO prescribes by Regulations and notifies to Participants from time to time. If the IHTSDO removes any Contribution from the Member Exchange, it may also require any Participant who has licensed or sub-licensed that Contribution (or any part or derivative work of it) to terminate any such licences or sub-licences, and to take such other steps as the IHTSDO may reasonably require.

6. OWNERSHIP AND LICENCE OF INTELLECTUAL PROPERTY RIGHTS FOR CONTRIBUTIONS

- 6.1 Each Participant retains ownership of any Contributions that it makes to the Member Exchange, except as provided in **clause 6.4** (which applies only to Direct Contributions).
- 6.2 No Participant will have any right, title or interest in any Intellectual Property Rights in any works created, or any inventions made, by or on behalf of other Participants that are based on or derived from that Participant's Contributions (or any part of that Participant's Contributions).
- 6.3 Each Participant ("**Contributing Participant**") agrees that all Intellectual Property Rights in all works created, and all inventions made, by or on behalf of any other Participant that are based on or derived from the Contributing Participant's Contributions (or any part of the Contributing Participant's Contributions) will belong solely to that other Participant. This **clause 6.3** is subject to and does not affect the Contributing Participant's ownership of the Intellectual Property Rights in the Contribution or Contributions on which the works or inventions are based or from which they are derived, and is subject to and does not affect any other provision of these Conditions.
- 6.4 Each Participant assigns to the IHTSDO all of its right, title and interest in all Intellectual Property Rights in all Direct Contributions that are made by that Participant. If there is any copyright in any such Direct Contribution that does not exist when the Participant agrees to be bound by these Conditions, but that comes into existence at a future date, this assignment will have effect as a present assignment of that future copyright.
- 6.5 On the request of the IHTSDO and with the permission of the Participant who made the Contribution, the IHTSDO may make that Contribution (or parts thereof) available to the general public at no charge. The IHTSDO does not require the Participant's permission in the case of a Direct Contribution.

7. FURTHER TERMS RELATING TO INTELLECTUAL PROPERTY RIGHTS

- 7.1 This **clause 7** only applies to Direct Contributions, apart from **clause 7.6** which applies to all Contributions.
- 7.2 An assignment of Intellectual Property Rights in a Direct Contribution under **clause 6.4** includes all rights and benefits relating to the assigned Intellectual Property Rights. This includes the right to sue for damages and to claim any other remedy or relief in respect of any infringement or unauthorised use of those Intellectual Property Rights that occurred before the date of the assignment.
- 7.3 Each Participant waives, and agrees to procure that every other author of the Participant's Direct Contributions waives, all moral rights in the Direct Contributions, and to the extent that it is legally possible, any equivalent or similar rights in any territory of the world. Each Participant's waiver of moral rights under this clause is unconditional and may not be revoked, and the Participant must ensure that the waiver by each other author is also unconditional and irrevocable.
- 7.4 Each Participant agrees not to register or attempt to register any Intellectual Property Rights in any of the Participant's Direct Contributions unless the IHTSDO requests it to do so.
- 7.5 Each Participant will, if the IHTSDO requests, and at the IHTSDO's expense, sign all documents reasonably necessary and do all other things reasonably necessary to give effect to an assignment of Intellectual Property Rights in a Direct Contribution under **clause 6.4**.
- 7.6 Each Participant will, at the IHTSDO's expense, provide all co-operation, information and assistance reasonably requested by the IHTSDO in connection with the IHTSDO bringing or defending any claim, action or demand in relation to any of the Participant's Contributions (including the Intellectual Property Rights in any Direct Contribution assigned under **clause 6.4**).

8. PROTECTION OF IHTSDO'S INTELLECTUAL PROPERTY

- 8.1 The obligations in this **clause 8** do not apply to the IHTSDO.
- 8.2 Nothing in these Conditions transfers to any Participant any right, title or interest in or to the Intellectual Property Rights in the International Release or any part of it.
- 8.3 A Participant shall not:
 - 8.3.1 use any trademark or service mark (or any registrations thereof) other than the IHTSDO's trademarks, in any name that includes the word "SNOMED" or that is confusingly similar to SNOMED CT or any other similar trademark;
 - 8.3.2 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;

- 8.3.3 apply for any trade mark or service mark (or any registrations thereof) in any name that includes the word "IHTSDO", or that is confusingly similar to IHTSDO or any other similar trade mark;
- 8.3.4 abbreviate the marks SNOMED or SNOMED CT; or
- 8.3.5 do anything with respect to the foregoing trade marks that damages or could reasonably be deemed to reflect adversely on IHTSDO or such trade marks.
- 8.4 Each Participant shall:
- 8.4.1 include the following notice on all media on which Participant Products are distributed and on the documentary form of each sub-licence granted by the Participant under **clause 3.1.5**:
- "This material includes content from the International Health Terminology Standards Development Organisation (IHTSDO) Member Exchange which is used with permission. This content is shared on an "as is" basis for advancement of health and health care internationally. This material may also include content of SNOMED Clinical Terms® (SNOMED CT®). All rights reserved. SNOMED CT® was originally created by The College of American Pathologists. "SNOMED" and "SNOMED CT" are registered trademarks of the IHTSDO."
- 8.4.2 specify in all media on which Participant Products are distributed the version (if there is one) and date of the content from the Member Exchange and, if applicable, of the International Release contained in the Participant Products.
- 8.5 Each Participant shall be entitled to use the "SNOMED" and "SNOMED CT" trade marks only on Participant Products distributed and modified in accordance with these Conditions and any services relating thereto but not otherwise and subject to the trade mark utilisation Regulation developed by the IHTSDO and published by the IHTSDO from time to time. All use by a Participant of the "SNOMED" and "SNOMED CT" trade marks, and all goodwill resulting from that use, shall inure to the IHTSDO's benefit.
- 8.6 Each Participant shall maintain quality standards with respect to modifying, supplementing, marketing and distributing Participant Products, and any services relating thereto, that are at least as stringent as the Regulations developed by the IHTSDO and published by the IHTSDO from time to time.
- 8.7 Upon not less than thirty (30) days' written notice from the IHTSDO, each Participant shall provide the IHTSDO with representative samples of materials, software products, advertising, agreements for use of Participant Products (other than the terms of those agreements that are unrelated to the IHTSDO's rights and obligations under these Conditions) and/or other written materials relating to the Participant's use of content from the Member Exchange or the International Release and the IHTSDO's trade marks to enable the IHTSDO reasonably to ascertain the Participant's compliance with its obligations under these Conditions. In the absence of circumstances giving the IHTSDO or any IHTSDO Member reasonable grounds to suspect a breach of these Conditions, the IHTSDO may not give notice to any Participant under this **clause 8.6** more frequently than once per year.

- 8.8 If any use of content from the Member Exchange (including without limitation use through a Participant Product) is reasonably determined by the IHTSDO to be below the standards of quality required under these Conditions, the IHTSDO shall notify the Participant of such deficiency in writing. Upon receipt of such notice, the Participant shall take all necessary steps to correct such deficiency (including such steps as the IHTSDO may reasonably specify) within thirty (30) days.
- 8.9 Each Participant shall maintain a complete, accurate and up-to-date register of all sub-licences granted by the Participant under **clause 3.1.5**, and shall make that register available for inspection during normal business hours by the IHTSDO and its representatives upon the IHTSDO giving not less than fourteen (14) days' prior written notice. The register maintained by a Participant under this **clause 8.9** shall at a minimum contain the following information in respect of each sub-licence: the name and registered office of the sub-licensee; the Participant Product subject to the sub-licence; and the version (if there is one) of the content from the Member Exchange and/or the International Release included in that Participant Product.

9. **TERM AND TERMINATION**

- 9.1 A Participant's participation in the Member Exchange shall commence on the date on which the Participant becomes bound by these Conditions in accordance with the "Important Notice" at the beginning of these Conditions, and shall continue until terminated in accordance with this **clause 9**.
- 9.2 A Participant may terminate its rights and obligations under these Conditions by giving not less than thirty (30) days' prior written notice to the IHTSDO.
- 9.3 A Participant's rights and obligations under these Conditions terminate automatically on:
- 9.3.1 cessation of Membership in the IHTSDO in the case of an IHTSDO Member;
 - 9.3.2 termination of the Participant's Affiliate Licence in the case of an Affiliate;
 - 9.3.3 termination of the relevant licence in the case of a non-Affiliate Participant under **clause 2.2.3** of these Conditions;
 - 9.3.4 withdrawal of endorsement by a Member for a Participant under **clause 2.2.2** of these Conditions; or
 - 9.3.5 withdrawal of endorsement by the IHTSDO for a Participant under **clause 2.2.3** of these Conditions.
- 9.4 The IHTSDO may also terminate a Participant's rights and obligations under these Conditions if the Participant commits a material breach of any of its obligations under these Conditions in accordance with the following procedure:
- 9.4.1 the IHTSDO shall serve an escalation notice (the "**Escalation Notice**") on the Participant requiring the Participant to nominate a member of its senior management team to meet with a member of the IHTSDO's senior management team to seek to resolve in good faith the matter giving rise to the service of the escalation notice;

- 9.4.2 the representatives of the parties identified in accordance with **clause 9.4.1** 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 IHTSDO may serve a formal breach notice (the "**Breach Notice**") on the Participant requiring it to remedy the breach within 90 days; and
- 9.4.3 if the Participant does not remedy the breach within 90 days of the date of the Breach Notice the IHTSDO may terminate the Participant's rights and obligations under these conditions by giving 180 days written notice to the Participant (the "**Termination Notice**").
- 9.5 The IHTSDO may not terminate a Participant's rights or obligations under these Conditions except in accordance with **clauses 9.3** and **9.4**.
- 9.6 The termination of a Participant's rights and obligations under these Conditions shall not affect the rights or obligations of any other Participant under these Conditions.
- 9.7 Upon termination of a Participant's rights and obligations in accordance with this **clause 9**:
- 9.7.1 if the Participant is an IHTSDO Member and terminates its rights and obligations under these Conditions in accordance with **clause 9.2**, the Participant's rights under these Conditions shall continue to apply (subject to the Participant continuing to comply with its obligations under these Conditions), but subject to the following restrictions:
- (a) those rights and obligations shall apply only in respect of the content in the Member Exchange as at the date of termination;
 - (b) the Participant may not grant any further sub-licences under **clause 3.1.5** without the prior written permission of the IHTSDO; and
 - (c) the Participant may not create any Standards-Based Extensions or any Derivatives under **clause 3.1.2** without the prior written permission of the IHTSDO; and
- 9.7.2 unless **clause 9.7.1** applies, all licences granted to that Participant under these Conditions shall automatically and immediately be revoked.
- 9.8 A Participant shall, except in respect of its own Contributions or as allowed under clause 9.7.1, by no later than forty five (45) days after termination of its rights and obligations under these Conditions for any reason, remove all copies of content from the Member Exchange from its computer systems and destroy all copies of electronic, paper copy and other media containing or representing any part of the content from the Member Exchange. The Participant shall, if requested by the IHTSDO or an IHTSDO Member, certify in writing to the IHTSDO or that Member that the Participant has complied with its obligations under this **clause 9.8**.
- 9.9 A Participant shall, by no later than ninety (90) days after termination of its rights and obligations under these Conditions, give written notice of such termination to each End User that the Participant reasonably believes to be a current user of Participant Products

and to each Member in each Member Territory in which the Participant has distributed or licensed any of the Participant Product.

9.10 The IHTSDO or any IHTSDO Member shall be entitled to publicise the termination of the rights and obligations of a Participant under these Conditions to such persons (including Members, other Participants, and End Users) and in such manner as it sees fit.

9.11 **Clauses 3.3, 5, 8, 9.8 to 9.10, 11, and 12 to 14** inclusive shall survive termination of these Conditions.

10. **NEW VERSIONS AND CHANGES TO LICENCE TERMS**

10.1 The IHTSDO may vary the terms of these Conditions by giving written notice to each Participant. Any such variation must be approved by a simple majority of the voting members of the General Assembly of the IHTSDO.

10.2 Any such variation shall take effect not less than ninety (90) days after the notice is given, as specified in the notice. If any Participant does not wish these Conditions to continue subject to the variation, the Participant may terminate its rights and obligations under these Conditions by giving written notice to the IHTSDO, and if the Participant does so then the variation shall not take effect in respect of that Participant.

11. **FEES IN NON-MEMBER TERRITORIES**

11.1 Participants do not owe any fees in respect of use of content from the Member Exchange in IHTSDO Member Territories.

11.2 A Participant who wishes to use or sub-license the use of content from the Member Exchange (or any part or derivative of it) in any non-IHTSDO Member Territory must pay to the IHTSDO a fee for access to the Member Exchange that is equivalent to the fee for use of the International Release under the Affiliate License. The fee payable under this **clause 11.2** is in addition to any Licence Fees paid or payable under the Affiliate Licence.

11.3 All terms specified with respect to Licence Fees for the International Release in section 7 of the Affiliate License, including reporting requirements, also apply to fees payable under **clause 11.2**.

12. **REPRESENTATIONS AND WARRANTIES**

12.1 To the extent permitted by law, no Participant shall be treated as having made or agreed to any representation, warranty or condition in respect of its Contributions that would otherwise be implied by law under these Conditions (including, without limitation, all implied warranties of merchantability or fitness for a particular purpose) with the exception of those made under **clause 5.3**.

12.2 Participants using Contributions, including creating Extensions and Derivatives from Contributions, acknowledge that the IHTSDO and other Participants, to the extent permitted by law, exclude all representations, warranties, and conditions that would otherwise be implied by law under these Conditions (including, without limitation, all implied warranties of merchantability or fitness for a particular purpose).

12.3 Without limiting **clause 12.2**, neither the IHTSDO nor any other Participant represents or warrants that content from the Member Exchange or any part of it will satisfy any of the requirements of any other Participant, operate in combinations selected by the other Participant or be free from defects or errors.

13. **LIMITATION OF LIABILITY**

13.1 Neither the IHTSDO nor any other Participant shall be liable to any other Participant 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 these Conditions (including, without limitation, in respect of any other Participant's use of or inability to use content from the Member Exchange or any part it):

13.1.1 indirect or consequential loss;

13.1.2 special or punitive damages;

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

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

13.1.5 loss of data.

13.2 Neither the IHTSDO nor any other Participant shall be liable to any other Participant or any other person for any failure by the IHTSDO or any other Participant (as the case may be) to maintain or distribute any Extension (or part thereof) or Derivative (or part thereof) including Direct Contributions transferred to the IHTSDO in accordance with **clause 6.4**.

13.3 The liability of the IHTSDO to each Participant arising in any year under or in connection with these Conditions, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall not in any event exceed the fees paid by the Participant under **clause 11** in respect of that year.

13.4 The liability of each Participant (other than the IHTSDO) to each other Participant arising in any year under or in connection with these Conditions, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall not in any event exceed £100 (one hundred pounds sterling).

13.5 Nothing in these Conditions excludes or limits the liability of any party for:

13.5.1 fraud (including fraudulent misrepresentation);

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

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

13.5.4 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).

14. **ASSIGNMENT**

- 14.1 A Participant other than the IHTSDO may not assign, novate or otherwise transfer any of its rights or obligations under these Conditions to any person without the prior written consent of the IHTSDO not to be unreasonably withheld.
- 14.2 The IHTSDO may transfer all of its rights and obligations under these Conditions to any person approved by a simple majority of the General Assembly of the IHTSDO. Without limiting this **clause 14.2**, references to the IHTSDO in **clause 2.1** include any person to whom the IHTSDO's rights and obligations are transferred under this **clause 14.2**.

15. **GENERAL PROVISIONS**

- 15.1 These Conditions contain the entire agreement between the parties relating to the subject matter of these Conditions, supersede all previous agreements between the parties relating to that subject matter and set out the entirety of each Participant's rights and obligations in respect of content from the Member Exchange.
- 15.2 Each party acknowledges that, in agreeing to be bound by these Conditions, 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 on which it agreed to be bound by Conditions.
- 15.3 Except as provided in **clause 10**, these Conditions may not be varied except in writing signed by both parties and expressed to vary these Conditions.
- 15.4 Without limiting **clause 15.3**, these Conditions may not be varied by any notice in relation to confidentiality, intellectual property rights, or other proprietary rights on any documents or other materials provided by any Participant. Neither the IHTSDO nor other Participants shall be deemed to agree with the terms of any such notice by accepting any document or other materials from a Participant.
- 15.5 Nothing in these Conditions 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.
- 15.6 If any term of these Conditions 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 these Conditions, or the legality, validity or enforceability in any other jurisdiction of that or any other term of these Conditions.
- 15.7 The Participant agrees that IHTSDO and its Members may appoint third parties to process contact information, details on resources contributed and accessed, and related personal data provided by Participant representatives to the IHTSDO and its Members under or in connection with these Conditions (including without limitation payment details provided in connection with the payment of fees). In connection with any such appointment, personal data provided by the Participant 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.

15.8 The Participant shall comply with the Internet security measures that the IHTSDO prescribes by Regulations and notifies to the Participant from time to time.

15.10 A Participant's rights under these Conditions are not subject to the actual exercise of these rights within a certain period of time.

16. DISPUTES

16.1 Any disputes arising from these Conditions will be settled as follows:

16.1.1 by discussions conducted in good faith by the parties concerned;

16.1.2 should the discussions in **clause 16.1.1** fail, either party can request that the IHTSDO Management Board recommend a resolution to the dispute;

16.1.3 should the process in **clause 16.1.2** fail, either party can request that the IHTSDO General Assembly resolve the dispute.

16.2 Participants agree that decisions of the General Assembly made under **clause 16.1.3** are final.

16.3 Regardless of **clauses 16.1** and **16.2**, the IHTSDO shall not be prevented from taking proceedings in any jurisdiction to protect or enforce any of the IHTSDO's right, title or interest in or to any Intellectual Property Rights. To the extent permitted by law, the IHTSDO may take concurrent proceedings in any number of jurisdictions.

17. GOVERNING LAW

These Conditions shall be governed by, and construed in accordance with, English law.

Appendix A

Defined Terms

In these Conditions, the following defined terms have the following meanings:

Affiliate	an affiliate of the IHTSDO in accordance with the IHTSDO's Articles of Association (vedtægter);
Contribution	any of the following contributed by a Participant to the Member Exchange: (1) records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software and other materials; and (2) inventions, ideas, discoveries, developments, improvements and innovations.
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);
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 of other nomenclature, classification or knowledge structure, and includes a Cross-Map and a Sub-Set;
Direct Contribution	any Contribution (including any proposed SNOMED CT Content and any proposed Specification), or any part of a Contribution, that is incorporated by the IHTSDO into the International Release in a form that is unaltered or substantially unaltered from the form in which it was contributed by the Participant;
End User	a third party user of a Participant Product;
Extension	a 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;
International Release	the release produced and distributed by or on behalf of the IHTSDO, consisting of the SNOMED CT Core, the Specifications and the IHTSDO's Derivatives and other documents and software;
Member (or IHTSDO Member)	a member of the IHTSDO;
Member Territory (or IHTSDO Member Territory)	a territory that is represented by a Member (as published by the IHTSDO from time to time);
Namespace Identifier	a code or that part of a code that identifies the organisation 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;
Participant Products	in respect of each Participant, products distributed or licensed by that Participant that include content from the Member Exchange (or any part of it) and/or any Extensions or Derivatives created by the Participant from such content;
Relationship	a relationship, of a kind defined by the IHTSDO 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 IHTSDO from time to time;

SNOMED CT Identifier	a code, of a kind defined by the IHTSDO in Specifications, for identifying concepts, descriptions and Relationships;
Specification	specifications promulgated by the IHTSDO for products and processing relating to SNOMED CT, including specifications of the internal logic of SNOMED CT, editorial policies, guidelines and characteristics;
Standard	a Specification that is formally adopted by the IHTSDO; 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;
Sub-Set	a sub-set of SNOMED CT Content that is grouped together for one or more purposes.