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LICENSE AGREEMENT
TO
LEASE NLM DATABASES
IN
MACHINE-READABLE FORM

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(Title)

for an [ ] indefinite period; [ ] one-year (please check appropriate box).

This License Agreement, hereinafter called the "Agreement", contains the terms and conditions by which domestic and foreign Licensees may use databases or portions of databases created by or made available in machine-readable form by the National Library of Medicine (NLM) to provide information services and/or products from the databases.

A. PURPOSE

This Agreement describes the conditions under which the National Library of Medicine (NLM) or its authorized agent(s) permits its databases, databanks, or portions thereof (hereinafter referred to as the "NLM databases") to be used by the individual or organization signing below (hereinafter called the "Licensee").

B. DURATION, TERMINATION AND REVOCATION

Upon execution of this Agreement and payment of the appropriate fees set forth in the current MEDLARS® Pricing Schedule, the Licensee may use machine-readable copies of the NLM databases on a non-exclusive basis.

1. Subject to available governmental funding, Licensees may enter into an indefinite agreement or a one-year agreement which may be renewed for successive one year periods. The Agreement may be terminated by either Party upon ninety (90)-days written notice.

2. Only one License is executed for each Licensee. The Licensee may add other NLM databases under an existing License by completing an Intended Use Worksheet for each new database and sending it to NLM. The Licensee may discontinue receiving one or more databases upon written notification to NLM. Upon discontinuance of a database, the Licensee must clearly notify the users of the information services or products based on that database to cease their use because the data are no longer current. (See Paragraph D.2.I. regarding discontinuing service on MEDLARS products that are superseded by updated or maintained versions.)

3. In the event that NLM makes changes in the structure of a database, the Licensee may terminate this Agreement for that database as set forth in Paragraph H. Licensees terminating under these conditions will be credited or refunded any fees paid, prorated for the remaining term of the License.

4. In the event that the Licensee fails to make payment incurred pursuant to this Agreement, as specified by NLM, within ninety (90) days of receipt of an invoice, or fails to comply with any of the terms and conditions in this Agreement, NLM may revoke this Agreement in writing by sending notice of revocation to the Licensee by registered mail. If the Licensee cures the failure to the reasonable satisfaction of NLM within sixty (60) days of the date of the notice of revocation, this Agreement shall continue in effect without the necessity for renegotiation.

C. <u>LIABILITIES AND WARRANTIES</u>

1. The Licensee agrees that it shall assume liability for its negligent acts and omissions or any injury or damage to the government resulting from the Licensee's use of the NLM databases.

2. The Licensee shall inform its users in writing that:

   "NLM represents that the data provided under this Agreement were formulated with a reasonable standard of care. Except for this representation, and as otherwise specifically provided in this Agreement, NLM makes no representation or warranties, expressed or implied. This includes, but is not limited to, any implied warranty of merchantability or fitness for a particular purpose, with respect to the NLM databases, and NLM specifically disclaims any such warranties and representations."

3. The Licensee assumes full responsibility for all costs associated with its own access to and use, preparation, maintenance, and operation of the NLM databases.

4. The Licensee shall take reasonable measures to ensure that the users of the Licensee's products or services derived from NLM databases accurately report usage information, including the amount of use subject to the foreign surcharge. (See also Paragraphs E.3., G.2., and J.)

5. NLM will supply replacement tapes for tapes that are unreadable if NLM is notified within thirty (30) days after the shipment from NLM. As described in the MEDLARS Pricing Schedule, a charge may be imposed for replacement tapes.

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1. NLM shall:

a. Perform and make available updates and maintenance on its data. In MeSH-based databases, class maintenance is performed annually to correct or update specific classes of data in all records and files where they occur; and individual maintenance is usually performed at least monthly to correct errors or make changes in individual records.

b. Evaluate, including testing, the Licensee's system to determine compliance with the requirements of Paragraphs D.2.a. through D.2.o., and report the results from this testing to the Licensee.

c. Provide the Licensee a non-billed test code to access NLM's publicly available online databases for record verification.

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c. Correct records at the time new records are added, but not less frequently than annually.

d. Provide timely announcements to inform the Licensee's users of significant errata and/or retractions identified by NLM.

e. Perform annual class maintenance on the records in MeSH-based files when MeSH terms are retained in the Licensee's records.

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k. Retrieve all records containing a specified value in a data element if the user is desirous of doing so unless the Licensee clearly states specific limitations of the retrieval system in terms of Paragraph D.2.h. above.

l. Take reasonable steps to ensure that users will not continue to access products containing NLM data that have become superseded by updated and/or maintained versions.

m. Provide NLM a non-billed test code to search the Licensee's publicly available online databases or copies of disks and software when products are not available online to NLM staff.

n. Comply with NLM requirements for quality assurance and testing, which includes completing and returning to NLM a self-assessment evaluation.

o. Demonstrate or send a demonstration copy of a proposed CD-ROM product to NLM prior to marketing the product.

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4. The Licensee shall issue the following notice regarding downloading and subsequent re-use of portions of NLM databases obtained from its products, irrespective of the medium on which it is provided. (This excludes TOXLIT and its Backfiles, CHEMLINE, and portions of TOXLINE, where downloading is not permissible without approval from database suppliers.):

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3. The Licensee and its users shall be solely responsible for compliance with any copyright restrictions; NLM assumes no responsibility or liability associated with the Licensee's (or any of the Licensee's users') use and/or reproduction of copyrighted material. Anyone contemplating reproduction of all or any portion of any of the NLM databases should consult legal counsel.

G. PRICING

1. Rates for leasing NLM databases in machine-readable form are prescribed in the MEDLARS Pricing Schedule. Rate changes shall become effective after ninety (90)-days' notice published in the NLM Technical Bulletin.

2. There is a surcharge for foreign use. This surcharge applies to all billed use provided by foreign Licensees, to billed use outside the U.S. by domestic Licensees, and to billed use provided on a Licensee's computer that is located outside the U.S. The surcharge also applies to use on redistributed products in the situations described in this Section. See the MEDLARS Pricing Schedule for details.

3. All fees will be processed through the National Technical Information Service's accounting system, or through another organization designated by the National Library of Medicine.

4. Licensees must make arrangements with the producer of data in TOXLIT and CHEMLINE, Chemical Abstracts Service (CAS); the producers of some of the data in TOXLINE, Biosciences Information Service (BIOSIS), and the American Society of Hospital Pharmacists (ASHP); and the producers of some of the data in CHEMID, U.S. Pharmacopeial Convention, Inc. and Cosmetic Toiletries and Fragrance Association, in advance of leasing that data.

H. CHANGES IN THE SYSTEM

NLM reserves the right to change the types and formats of the data for each database made available under this Agreement. NLM shall notify the Licensee sixty (60) days in advance of any changes planned for the data delivered pursuant to this Agreement. Should such changes occur, the Licensee shall have the right to terminate the Agreement for any database at any time before or up to sixty (60) days after the changes are instituted by notifying NLM in writing by registered mail.

I. TRANSFERABILITY OF LICENSE

NLM agrees that, with its approval in writing, the Licensee may transfer this Agreement to a successor that has acquired substantially all of the Licensee's business or the particular product line for which this Agreement has been entered into by the Licensee. Succession shall include, but not be limited to, acquisition, merger, change of corporate name, or change in the make-up, organization, or identity of the Licensee. The transferee shall also be subject to all of the conditions stated in this Agreement.

The Licensee shall notify NLM in writing within ninety (90) days after such a transfer occurs. NLM may, at its discretion, require that a new agreement be signed by the successor.

J. USER REPORTS

Usage of NLM databases by the Licensee's users and users of NLM databases redistributed or resold by the Licensee must be reported at least annually to NLM by all Licensees using NLM supplied report forms. Testing, customer service, and quality control usage on the Licensee's own system should be included in the reported usage. NLM has an obligation to report total MEDLARS data usage as accurately as possible to the U.S. Congress and collect the foreign surcharge.

K. TECHNICAL SPECIFICATIONS

Once a year, usually immediately prior to year-end processing, the Licensee will be given an opportunity to select the format for the NLM databases to be received during the coming year from among the options NLM makes available.

L. DESIGNATED REPRESENTATIVE

The Licensee shall designate a representative responsible for the administration of this Agreement.

M. AMENDMENTS

This Agreement and its attachments constitute the entire understanding between NLM and the Licensee, and no modification of this Agreement (including changes in fee charges) shall be binding upon either party unless it shall be published in the NLM Technical Bulletin, or unless it is mutually agreed in writing by both sides. A copy of each issue of the NLM Technical Bulletin shall be sent to the designated representative.

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