

STANDARD LICENSE AGREEMENT

DISTRIBUTOR

AND

THE NATIONAL LIBRARY OF TECHNOLOGY

[Note: Information that will often vary from case to case is in *italics*.]

This License Agreement ("Agreement") is made between Albertina icome Praha s.r.o., Štěpánská 16, 110 00 Praha 1, registered in the Commercial Register maintained by the Municipal Court in Prague, Section C, File 20775, ID. No.: 49612158 ("Distributor"), acting on behalf of UpToDate, Inc., 230 Third Ave., Waltham, MA 02451, U.S.A. ("Publisher")

and

The National Library of Technology, a State Contribution Organization set up by the Ministry of Education, Youth and Sports, with its principal offices at Technická 6, 160 80 Praha 6 - Dejvice, ID No.: 61387142 ("Licensee")

(Distributor and Licensee together as the "Parties", and separately each as a "Party").

The Licensee acts as a central purchasing body within the meaning of Act No. 134/2016 Coll., on Public Procurement, as amended, for concluding license agreements on behalf of Participating Institutions as listed in Appendix B ("Participating Institutions") as part of the project CzechELib. In the event the Licensee is listed in Appendix B, all and any provision related to Participating Institutions shall be without any limitation applicable also to the Licensee.

The Licensee shall be entitled to grant the necessary authorization or sublicense to Participating Institutions.

In consideration of the mutual promises contained herein and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Representation, Subject of the Agreement, Content of Licensed Materials; Grant of License

1.1. Representation. The Distributor hereby represents and warrants that it has all the authority, competence and license to grant a license to the Licensed Materials to



EUROPEAN UNION
European Structural and Investment Funds
Operational Programme Research,
Development and Education



the Licensee as defined in this Agreement. Where the performance of the Distributor's obligation depends on the activity and/or cooperation of the Publisher, the Distributor shall ensure and is liable for any violation of the rights and/or obligations stipulated herein as a result of the activity or inactivity of the Publisher.

1.2. Subject of the Agreement. The subject of this Agreement is to define the conditions of cooperation and the rights and duties of the Parties while providing Licensed Materials as defined hereunder.

1.3. Licensed Materials. The materials that are the subject of this Agreement are set forth in Appendix A ("Licensed Materials").

1.4. Grant of License. The Distributor hereby grants to the Licensee a non-exclusive, non-transferable (except the following sublicenses or other corresponding authorization), system-wide right to use the Licensed Materials pursuant to this Agreement, limited to the territory of the Czech Republic. The Licensee is entitled to grant the sublicenses or any other corresponding authorization to the Participating Institutions in order to provide the Licensed Materials to the Authorized Users (as defined in Section 4.1 below) of the Participating Institutions in accordance with the terms of this Agreement.

1.5. Ownership of Intellectual Property. All trademarks, service marks, patents, copyrights, trade secrets and other proprietary rights in or related to the Licensed Materials are and will remain the exclusive property of the Publisher or its licensors, whether or not specifically recognized or perfected under local applicable law. The Licensee, the Participating Institutions and Authorized Users will not take any action that jeopardizes Publisher's or its licensors' proprietary rights or acquire any right in the Licensed Materials, except the limited use rights specified herein. The Publisher or its licensors will own all rights in any copy, translation, modification, adaptation or derivation of the Licensed Materials, including any improvement or development hereof.

2. Delivery & Access

2.1. The Distributor will provide the Licensed Materials to the Licensee and to the Participating Institutions in the following manner:

Network Access. The Licensed Materials will be stored at one or more of the Publisher's locations in digital form accessible by telecommunication links between such locations and authorized locations of the Licensee and the Participating Institutions.



3. Fees

3.1. **Fees and Payment.** The Licensee shall pay the Distributor for the license concerning the Licensed Materials pursuant to the terms set forth in Appendix A based on an invoice issued by the Distributor ("Fee"). All Fees are due and payable by the Licensee by the end of April of the respective calendar year, unless otherwise stipulated in Appendix A.

3.2. **Incomplete Payment.** The Licensee may cover the invoice partially if a Participating Institution did not provide its financial contribution in time. In the event of such incomplete payment, the Licensee will notify the Distributor of the intended difference no less than ten (10) days prior to the due date. The Distributor may suspend the IP addresses of such Participating Institution until the Fee is completely paid. In such case the Licensee is not in delay with the payment.

3.3. **Change of number of Participating Institutions listed in Appendix B.** In case any Participating Institution shall lose its status as a Participating Institution or in case any new scientific (or similar) institution shall reveal its intent to become a Participating Institution, the Distributor shall enter into negotiations with the Licensee to amend this Agreement and to correspondingly renegotiate the Fee.

4. Authorized Use of Licensed Materials

4.1. **Authorized Users.** "Authorized Users" are:

- a) **Persons affiliated with the Participating Institutions.** Full and part-time employees (including faculty and staff) of the Participating Institutions and students of the Participating Institutions, regardless of the physical location of such persons. For authorized sites of the Participating Institutions, see Appendix B. Should the Licensee be listed in the Appendix B as the Participating Institution, all provision concerning to the Participating Institution and the Authorized Users shall apply also with respect to the Licensee.
- b) **Walk-ins.** Persons not affiliated with the Participating Institutions who are physically present at the Participating Institutions' site(s) ("Walk-ins").

4.2. **Access by and Authentication of Authorized Users.** Authorized Users of the Participating Institutions shall be granted access to the Licensed Materials pursuant to the following:

- a) **IP Addresses.** Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by the Licensee to the Distributor. The use of proxy servers by the Licensee or Participating Institutions is authorized as long as any proxy server IP addresses provided



limit remote or off-campus access to Authorized Users. Authorized IP Addresses are listed in Appendix C. An updated list will be sent to the Distributor on an annual or as-needed basis without the need to amend this Agreement. Alternatively, if Publisher is utilizing its own and/or third-party system for IP range change notification (such as eg. IP Registry), then updated list may be sent via such system instead. The Publisher and/or the Distributor will use reasonable efforts to cooperate with the Participating Institutions in the implementation of new authentication protocols and procedures (such as Shibboleth) as they are developed during the term of this Agreement. The Licensee will, if necessary, provide cooperation to coordinate or facilitate this process but it will not be liable for correct implementation of such authentication protocols and procedures (which remain the full responsibility of the Publisher and the respective Participating Institution).

- b) **Distributor or Publisher -Administered Authentication.** Where the Distributor or Publisher provides alternative methods of access and authentication beyond the Licensee-administered methods described herein, e.g. by allowing users to establish a personal login from an on-campus IP address (thereby enabling access via username and password when logging in to a website of the Distributor) or device authentication, which affiliates the device or application by use of a token, cookie, or vendor-managed proxy prefix, neither the Licensee nor any Participating Institution will be responsible or liable for claims of breach or validity of such use. Neither the Licensee nor any of the Participating Institutions shall be responsible or liable for the processing of personal data by the Distributor in this matter.
- c) **Personally Identifiable Information (Personal Data) of Authorized Users.** The Licensee, the Distributor and the Publisher together and individually acknowledge and agree that the Licensee neither transfers nor provides any personally identifiable information (personal data) of the Authorized Users to the Distributor. Access to the Licensed Materials is primarily granted via IP Addresses pursuant to Section 4.2a) which prevent any identification of the Authorized User. In case of Distributor or Publisher - Administered Authentication pursuant to Section 4.2b), the Distributor and Publisher are required to ensure lawful processing of any personally identifiable information (personal data). This does not preclude the Licensee to hand over the contact details of the Participating Institutions' contact persons or other personal data where the Licensee has a valid legal basis therefor.

4.3. Authorized Uses. The Participating Institutions and Authorized Users may make all use of the Licensed Materials as is consistent with the applicable law and with this Agreement, including but not limited to the following licensing conditions ("Authorized Uses"). In addition, the Licensed Materials may be used for purposes of research, education or other non-commercial use as follows:

- a) **Display.** The Participating Institutions and Authorized Users shall have the right to electronically display the Licensed Materials.



- b) Digital Copy. The Participating Institutions and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.
- c) Print Copy. The Participating Institutions and Authorized Users may print a reasonable portion of the Licensed Materials.
- d) Recover Copying Costs. The Participating Institutions may impose a reasonable fee on the Authorized Users to cover costs of copying or printing portions of the Licensed Materials by or for Authorized Users.
- e) Caching. The Participating Institutions and Authorized Users are authorized in the course of an automatic process of an internet browser or any other software to make temporary local digital copies of the Licensed Materials in order to ensure proper operation and use of such internet browser or for proper functioning of such software. For the avoidance of doubt, the cached copy is not a derivative work.
- f) Classroom Use. The Participating Institutions and Authorized Users may distribute single copies of individual articles or items of the Licensed Materials in print or electronic form to Authorized Users. For the avoidance of doubt, classroom handouts shall include the distribution of a copy for teaching purposes to all individual Authorized Users in a class at Authorized Sites (Appendix B).
- g) Collections of Information. The Participating Institutions and Authorized Users shall be permitted to extract or use information contained in the Licensed Materials for educational, scientific, or research purposes, including extraction of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.
- h) Course Packs (Print and Electronic). The Participating Institutions and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of a packet of the materials used in the classroom ("Course Packs") or other educational materials.
- i) Course Reserves (Print and Electronic). The Participating Institutions and Authorized Users may use a reasonable portion of the Licensed Materials in connection with specific courses of instruction offered by the Participating Institutions.
- j) Electronic Links. The Participating Institutions and Authorized Users may provide hyperlinks from the Participating Institutions' and Authorized Users'



web page(s) or website(s) to individual units of content within the Licensed Materials.

- k) **Scholarly Sharing.** On an ad hoc basis, Authorized Users may transmit to a third party, in hard copy or electronically, minimal, insubstantial amounts or a portion of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use in the nature of collaboration, comment, or scholarly exchange of ideas but in no case for resale or commercial purposes or in a manner that would substitute for direct access to the Licensed Materials via services offered by the Distributor and Publisher.
- l) **Interlibrary Loan.** Using electronic, paper, or intermediated means, the Participating Institutions may at their discretion fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan ("ILL"). The Distributor agrees and ensures that the Publisher will agree that the electronic form of the Licensed Materials may be used as a source for the ILL whereby articles and/or chapters can be printed and these print copies can be delivered via postal mail, fax, or fax-based service to fulfill ILL requests from an academic, research or other non-commercial library. Requests received from for-profit companies may not be honored. An ILL through secure electronic transmission, as demonstrated by the ARIEL, is permitted. Files transmitted in this manner must carry copyright notices and comply with the applicable law.
- m) **Bibliographic Citations.** The Participating Institutions and Authorized Users may use, with appropriate credit given, figures, tables, and brief excerpts from the Licensed Materials in the Participating Institutions' and Authorized Users' own scientific, scholarly, and educational works. For the avoidance of doubt, the Participating Institutions and Authorized Users may use citation and abstract information in faculty profiling systems, in lists of publications on faculty and institutional web pages, and to create bibliographies, and store a single copy of an individual document being part of the Licensed Materials, including within secure personal bibliographic reference/citation management systems.
- n) **No Diminution of Rights.** Nothing in this Agreement, including but not limited to Authorized Uses, shall be interpreted to diminish the rights and privileges of the Licensee, Participating Institutions or Authorized Users with respect to any of the Licensed Materials, including exceptions or limitations regarding the exclusive rights of copyright owners. In the event that any content included in the Licensed Materials is in the public domain or has been issued under a Creative Commons or other open license, neither the Distributor nor the Publisher shall place access, use or other restrictions on that content beyond those found in the open license, where applicable.



4.4. Export Restrictions. The Licensee, the Participating Institutions and Authorized Users acknowledge that the Licensed Materials and all related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. The Licensee and Participating Institutions will

- a) comply strictly with all legal requirements established under these controls,
- b) cooperate fully with the Distributor or the Publisher in any official or unofficial audit or inspection that relates to these controls, and
- c) not export, re-export, divert or transfer, directly or indirectly, any such item or direct Licensed Materials thereof to Cuba, Iran, North Korea, Syria, Sudan, or any additional country that is embargoed by Executive Order or economic sanctions program, unless the Licensee, Participating institution or Authorized User has obtained prior written authorization of the Distributor, the Publisher, the U.S. Commerce Department and the Office of Foreign Assets Control, U.S. Department of the Treasury. Upon notice to the Licensee, the Publisher may modify this list to conform to changes in the foregoing regulations.

The Licensee and Participating institutions will use all practicable efforts to ensure that the Authorized Users will comply with these Export Restrictions specified in this paragraph.

4.5. Scope of Authorized Use and Access to Licensed Materials.

- a) **Unlimited Access.** Subject to the terms of this Agreement, the Participating Institutions and Authorized Users shall have unlimited and simultaneous user access to the Licensed Materials.

5. Specific Restrictions on Use of Licensed Materials

5.1. Unauthorized Use. The Participating Institutions or Authorized Users shall not knowingly permit anyone other than Authorized Users to access the Licensed Materials. The Participating Institutions shall oblige the Authorized Users not to share or transfer usernames and passwords. Any sharing or transferring of usernames and passwords will be violation of this Agreement. Access to the Licensed Materials by non-Authorized Users is expressly forbidden.

5.2. Modification of Licensed Materials. The Participating Institutions or Authorized Users shall not modify or manipulate the Licensed Materials without the prior written permission of the Publisher.



5.3. Removal of Copyright Notice. The Participating Institutions and Authorized Users may not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

5.4. Commercial Purposes. The Participating Institutions and Authorized Users may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials, fee-for-service use of the Licensed Materials; nor may the Licensee and the Participating Institutions impose special charges on Authorized Users for use of the Licensed Materials beyond reasonable printing or administrative costs. For the avoidance of doubt, research conducted by the Participating Institutions and Authorized Users that is supported by a commercial entity shall not be considered use for commercial purposes.

5.5. CONFIDENTIALITY

- a) Confidentiality. The Licensee and the Participating Institutions acknowledge that the Licensed Materials constitute and incorporate confidential and proprietary information developed or acquired by or licensed by the Publisher. The Licensee and the Participating Institutions will take all reasonable precautions necessary to safeguard the confidentiality of the Licensed Materials, including at a minimum those taken by the Licensee and the Participating Institutions to protect their own confidential information (this includes also obligation of the Licensee and the Participating Institutions to adopt all necessary reasonable and practicable measures in order to ensure that also the Authorized Users will maintain this confidentiality obligation). The Licensee and the Participating Institutions will not allow the removal or defacement of any confidential or proprietary notice placed on the Licensed Materials. The placement of copyright notices on these items will not constitute publication or otherwise impair their confidential nature.
- b) Disclosure. The Licensee and the Participating Institutions will not disclose, in whole or in part, the Licensed Materials or any portion thereof, or other information that has been designated as confidential, to any individual, entity or other person, except to those of the Licensee's or Participating Institution's employees or consultants who require access for the Licensee's or Participating Institution's authorized use of the Licensed Materials, provided such consultants agree in writing to comply with the use and non-disclosure restrictions applicable to the Licensed Materials under this Agreement. The Licensee and the Participating Institutions acknowledge that any unauthorized use or disclosure of the Licensed Materials may cause irreparable damage to Distributor and the Publisher and its licensors. If an unauthorized use or disclosure occurs, the Licensee, Participating Institutions and Authorized Users will immediately notify either the Distributor or the Publisher and take, at the Licensee's expense, all steps which may be available to recover the Licensed Materials and to prevent their subsequent unauthorized use or dissemination. The Licensee and the



Participating Institutions are obliged to adopt all necessary reasonable and practicable measures in order to ensure that also the Authorized Users will maintain these obligations to reasonable and practicable manner.

- c) **Limitation.** The Licensee, Participating Institutions and Authorized Users will have no confidential obligation with respect to any portion of the Licensed Materials that:
 - a. The Licensee, Participating Institutions and Authorized Users knew or independently developed before receiving such Licensed Materials under this Agreement,
 - b. The Licensee, Participating Institutions and Authorized Users lawfully obtained from a third party under no confidentiality obligation, or
 - c. is or becomes available to the public other than as a result of any act or omission by the Licensee, Participating Institutions or Authorized Users or any of its employees or consultants, or
 - d. the Licensee, Participating Institutions or Authorized User is compelled to disclose pursuant to legal process provided by a court of competent jurisdiction. Provided that with respect to (d) above, the Licensee, Participating Institutions or Authorized User will notify the Distributor or the Publisher as promptly as possible after determining that such disclosure is required, and, in any event, before such disclosure is made or permitted notify the Distributor or the Publisher of the intention to make such disclosure in order that the Distributor or the Publisher may have an opportunity to object to such disclosure or to obtain a protective order or other appropriate relief with respect to such confidential information.

6. Mutual Performance Obligations

6.1. Notification and Cure of Unauthorized Use. In the event the Licensee and/or any of the Participating Institutions becomes aware of an unauthorized use of the Licensed Materials and cannot promptly remedy it, the Licensee or Participating Institution shall without undue delay notify the Distributor or the Publisher. In the event the Publisher becomes aware of unauthorized use of the Licensed Materials, the Publisher will without undue delay notify the Licensee and the respective Participating Institution.

6.2. Either the Distributor or the Publisher reserves the right in its sole discretion to limit or suspend Authorized Users' access to the Licensed Materials, by electronic self-help or other means and without notice, if either the Distributor or the Publisher reasonably and justifiably believes in good faith that any Authorized User has committed a breach of security or violated the terms of this Agreement. The Publisher or the Distributor are obliged to prove and document such breach of the Authorized User without any reasonable delay to the Licensee and to the respective Participating Institution otherwise the suspended access to the Licensed Materials has to be immediately restored. In the event that such suspension of access to the Licensed Materials turns out to be unjustified, the respective Participating Institution will be pro rata compensated by the Distributor where the



actual compensation will be calculated as a part of the Fee paid by the respective Participating Institutions - the Fee will be divided by the number of calendar days of the period for which the Fee was paid. The compensation will be then calculated as summation of the days (the corresponding amounts) for which the unjustified suspension lasted.

6.3. In the case of unauthorized use pursuant to Section 6.2, the Publisher may temporarily suspend such offending individual Authorized User's access to the Licensed Materials (e.g. by blocking an individual user's IP address), provided that the Publisher immediately notifies the Licensee and the respective Participating Institution of any such suspension, including the reason for the suspension and any supporting details. Such temporary suspensions will be only of the shortest possible duration necessary to terminate the unauthorized use and prevent its resumption. Any unauthorized use that is considered a breach of obligations under this Agreement can serve as a reason for termination of this Agreement pursuant to Section 11.

6.4. The Distributor may suspend access to the Licensed Materials if the Licensee fails to pay any invoice by the due date (taking into consideration Section 3.2) until the invoice is paid. The Distributor may suspend access to the Licensed Materials if the Publisher reasonably and justifiably suspects that the Licensee, Participating Institutions or Authorised Users are engaging activities that violate the law or the terms of this Agreement (the right to suspend such Participating Institution's access to the Licensed Materials may be with, or without, advanced notice to either the Licensee or the Distributor).

7. Performance Obligations

7.1. The Distributor will use reasonable efforts to ensure that its performance will meet or exceed industry standards and practices. Additionally, the Distributor agrees to the following performance standards set out in this Section.

7.2. The Distributor shall acquaint the Publisher with content of this Agreement. The Distributor shall ensure that all Distributor's obligations under this Agreement will be fulfilled and that the Publisher will not prevent such fulfillment. The Distributor may under no circumstances exclude or limit its liability due to any lack of cooperation from the Publisher. The Distributor shall ensure that the Publisher will provide its cooperation in duly and timely manner so all obligations stipulated herein may be orderly fulfilled.

7.3. **Availability of Licensed Materials.** Upon the Effective Date (as specified in Section 9.1) of this Agreement, the Distributor shall ensure that the Licensed Materials become available to the Participating Institutions and Authorized Users.

Note: In case the Effective Date of this Agreement falls after 1 January 2021, the Availability of Licensed Materials must be amended accordingly.



7.4. Persistent Linking. The Distributor shall make reasonable effort to ensure that the Publisher will make reasonable efforts to comply with the most current version of the OpenURL standard (ANSI/NISA Z39.88) and will provide a mechanism for persistent links to content.

7.5. Online Terms and Conditions. In the event that the Distributor or Publisher requires Authorized Users to agree to additional terms relating to the use of the Licensed Materials (commonly referred to as "click-through" or "clickwrap" licenses), or otherwise attempts to impose terms on Authorized Users through online terms and conditions invoked by the mere use or viewing of the Licensed Materials, such additional terms shall only apply to Authorized Users who agreed to the respective additional terms. Such additional terms shall not materially differ from the provisions of this Agreement. In the event of any conflict between the additional terms and this Agreement, the terms of this Agreement shall prevail. The Distributor or Publisher alone shall be liable and responsible for any personal data processing that occurs with respect to these additional online terms and conditions as either the Distributor or Publisher determines the scope and purpose of such personal data processing. For the avoidance of doubt, Authorized Users are not a party to this Agreement.

7.6. Documentation. The Distributor will provide or shall ensure that the Publisher will provide, complete and up-to-date help and operational documentation to the Licensee, Participating Institutions and Authorized Users in an electronic format. Such documentation may be provided by means of the Distributor's and/or Publisher's online system and/or system for administrators.

7.7. Support. The Distributor shall ensure that the Distributor or Publisher will provide activation and installation support, including assisting the Licensee, Participating Institutions and Authorized Users with the implementation of any Publisher software. The Distributor will offer reasonable levels of continuing support to assist the Licensee, Participating Institutions and Authorized Users in the use of the Licensed Materials. The Distributor shall ensure that the Distributor or Publisher will make its personnel available by email [REDACTED] and/or phone [REDACTED] during cross section of the Publisher's and the Licensee's and/or Participating Institutions' regular business hours, Monday through Friday, for feedback, problem-solving, or general questions, and they will respond in a timely manner. If there is a change in a contact for support, either the Distributor or Publisher will notify the Licensee and Participating Institutions of such change. The change is effective by the delivery of the notice to the Licensee and Participating Institutions.

7.8. Training. The Distributor shall ensure that the Distributor or Publisher will, upon agreement and in a reasonable quantity, provide to the Participating Institutions and Authorized Users appropriate on-site or online training regarding the use of the Licensed Materials and any Publisher software. The Distributor shall also ensure that the Distributor or Publisher will provide additional training to the Licensee and Participating Institutions staff if made necessary by any updates or modifications to the Licensed Materials or any Publisher's software.



7.9. **Updates.** The Distributor shall ensure that the Publisher will provide and implement regular system and project updates to the Licensee and Participating Institutions as they become available. No additional fee shall be charged for updates. During the term of the Subscription Period, content will be updated by the Publisher. During this time, UpToDate online may be down for up to 2 hours, and users accessing the Licensed Materials at this time will see a notice that UpToDate online is being updated. The Publisher may, in its sole discretion, provide more frequent updates and enhancements, if applicable, as and when they are released. Nothing in this Agreement obligates the Distributor and the Publisher to furnish more frequent updates or to create enhancements.

7.10. **Quality of Service.** The Distributor shall use reasonable efforts to ensure that the Publisher will use reasonable efforts to ensure that the Publisher's server or servers have sufficient capacity and rate of connectivity to provide the Participating Institutions and their Authorized Users with all the services pursuant to this Agreement at a level exceeding or at least comparable to current standards in the online information provision industry in the Licensee's and Participating Institutions' locale. The Distributor shall ensure that the Publisher will use reasonable efforts to provide continuous service seven (7) days a week with an average of 99.5% up-time per month (Tier 1 service provider). The 0,5 %down-time can include periodic unavailability due to server maintenance; software installation or testing; loading or making available additional Licensed Materials as they become available. The Distributor shall ensure that the Publisher may schedule brief unavailability periods, but will do so only where (a) it has given at least forty-eight (48) hours' prior notice to the Licensee, and (b) in a way and at times that minimize inconvenience to the Licensee, Participating Institutions and its Authorized Users, regardless of when notice has been given.

7.11. **Problems with Licensed Materials.** If the Licensed Materials fail to operate, display, load, or render in conformance with the terms of this Agreement, the Licensee or Participating Institution shall immediately notify the Distributor or the Publisher, and the Distributor shall ensure that the Publisher will promptly use best efforts to restore access to the Licensed Materials as soon as possible. In the event that the non-conformity materially affects the Participating Institutions' or Authorized Users' use of the Licensed Materials, and the Publisher fails to remedy the non-conformity within five (5) business days, the Distributor shall reimburse the Licensee for such problems in an amount that is proportional to the Fee.

7.12. **INTENTIONALLY OMITTED.**

7.13. **Usage Statistics.** The Distributor shall use reasonable efforts to ensure that the Publisher will provide both composite system-wide use data and itemized data



for the Licensee (usage statistics on a CzechELib project level) on a monthly basis.

7.14. Neither the Distributor nor the Publisher shall provide the Licensee's usage statistics in any form to any third party without the Licensee's prior written consent, unless the third party owns rights in the Licensed Materials; in such case the Distributor shall ensure that the usage statistics will not be provided to any other third party. The Distributor shall not provide and shall ensure that the Publisher will also not provide usage statistics of any Participating Institution in any form to any third party (with the exception of the Licensee) without the Participating Institution's prior written consent, unless the third party owns rights in the Licensed Materials. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy legislation. Neither the Distributor nor the Publisher shall disclose or sell to any third party usage data or information about the Licensee, any Participating Institution or Authorized Users without the Licensee's and/or Participating Institution's prior written consent or unless specifically required by law.

7.15. **Confidentiality of Personally Identifiable Information.** The Distributor agrees and shall ensure that no personally identifiable information, including but not limited to log-ins recorded in system logs, IP addresses of patrons accessing the system, saved searches, any identification data, usernames and passwords, will be shared with third parties, except in cases required by the applicable law. If the Distributor or the Publisher is compelled by law or court order to disclose personally identifiable information of Authorized Users or patterns of use, the Distributor shall provide the Licensee with adequate prior written notice as soon as is practicable, so that the Licensee, Participating Institution or Authorized Users may seek protective orders or other remedies. The Distributor or the Publisher will notify the Licensee and Authorized Users as soon as is practicable if the Distributor's or Publisher's systems are breached and the confidentiality of personally identifiable information is compromised.

7.16. **Notice of the Use of Digital Rights Management Technology.** In the event that the Distributor or Publisher utilizes or implements any type of digital rights management ("DRM") technology to control the access to or usage of the Licensed Materials, the Distributor will provide or shall ensure that the Publisher will provide the Licensee with a description of the technical specifications of the DRM and how it impacts access to or usage of the Licensed Materials. In no event may such DRM technology be used in a way that would limit the usage rights of Participating Institution or any Authorized User as specified in this Agreement or under applicable law. If the use of DRM renders the Licensed Materials substantially less useful to, the Participating Institutions or their Authorized Users, the Licensee may seek to terminate this Agreement for breach pursuant to Section 11.

7.17. **Use of Digital Watermarking Technology.** In the event that either the Distributor or Publisher utilizes any type of watermarking technology for any



element of the Licensed Materials, the Distributor shall use reasonable efforts to ensure that the Publisher agrees that the watermarks may not reduce the readability of the content or degrade image quality. Such watermarks shall not contain user-related information, including but not limited to an account number, IP address, and usernames. If digital watermarking technology is implemented, the Distributor will notify or shall ensure that the Publisher will notify the Licensee at least thirty (30) days in advance of such implementation, and provide the technical specifications for the watermarking technology used. If the use of the watermarking technology renders the Licensed Materials substantially less useful to the Participating Institutions or their Authorized Users, the Licensee may seek to terminate this Agreement for breach pursuant to Section 11.

- 7.18. **Interoperability with Prevailing Web Browsers.** The Distributor shall ensure that the Publisher will use reasonable efforts to ensure that the Licensed Materials are accessible and interoperable with the current versions of the browsers and the technical specifications the Publisher supports.¹
- 7.19. **Branding.** If commercially possible, the Distributor will allow and shall make reasonable efforts to ensure that the Publisher will allow the Licensee and the Participating Institutions to brand the Publisher's platform with the name of the Licensee and/or Participating Institutions Sites at the Licensee's discretion.

8. Licensee Performance Obligations

- 8.1. **License Terms Notification.** The Licensee shall ensure that Participating Institutions will use reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement.
- 8.2. **Protection from Unauthorized Use.** The Licensee shall ensure that Participating Institutions will use reasonable efforts to restrict access to the Licensed Materials to Authorized Users in the case of their unauthorized use of the Licensed Materials.
- 8.3. **Maintaining Confidentiality of Access Passwords.** Where access to the Licensed Materials is to be controlled by the use of passwords, the Licensee shall ensure that Participating Institutions will use reasonable efforts to inform Authorized Users that they should not divulge their numbers and passwords to any third party. The Licensee shall ensure that Participating Institutions will also use reasonable efforts to maintain the confidentiality of any institutional passwords provided by the Distributor or Publisher.

¹ For a current list of those technical specifications valid as of execution hereof please see: <http://www.uptodate.com/help/manual/sysreq>.



8.4. The Licensee shall use all reasonable efforts to ensure that Participating Institutions will comply with the terms of this Agreement and will use the Licensed Materials in accordance with the license terms set out in this Agreement and will observe proper fulfilment of requirements set out in this Agreement. The Licensee shall use all reasonable efforts to ensure that the Participating Institutions will ensure that the Authorized Users only use the Licensed Materials in accordance with the license terms set out in this Agreement.

9. Term

9.1. This Agreement shall become valid on the date of its execution by both of the Parties. This Agreement shall take effect on the date of its publication in the Czech Register of Contracts ("Effective Date").

9.2. This Agreement shall be in effect from the Effective Date through the expiration date as set out in Appendix A unless terminated earlier in accordance with Section 11.

9.3. By a Subscription Period shall be for the purpose of this Agreement understood a calendar year (1 January - 31 December) unless specified differently in Appendix A.

Note: In case the Effective Date of this Agreement falls after 1 January 2021, the Availability of Licensed Materials must be amended accordingly.

10. Renewal

10.1. This Agreement shall be renewable at the end of the current term for a successive one (1)-year term unless either Party gives written notice of its intention to cancel this Agreement no less than ninety (90) days prior to the end of the current term.

11. Termination

11.1. **Early Termination for Financial Hardship.** The Licensee may terminate this Agreement without penalty as of 31 December 2021 if sufficient content acquisitions funds are not allocated to enable the Licensee and/or Participating Institutions, in the exercise of its reasonable administrative discretion, to continue this Agreement. In the event of such financial circumstances, the Licensee will notify the Distributor of the intent to terminate the Agreement at least 30 days before the end of the respective Subscription Period. The Agreement shall terminate on the last day of the respective Subscription Period



without penalty of expense to the Licensee of any kind whatsoever, except as to the portions of payments herein agreed for which funds shall have been appropriated and budgeted or otherwise available.

11.2. **Termination for a Material Breach.** Each Party shall notify the breaching Party of a material breach of this Agreement in writing with a detailed description of the breach. The breaching Party shall have thirty (30) days from the receipt of such notice to use all reasonable means to cure this alleged material breach and to notify the non-breaching Party in writing that a cure has been effected. If the material breach is not cured within the thirty (30)-day period, the non-breaching Party shall have the right with a written notice to immediately and without judicial or administrative resolution partially terminate the Agreement with respect to a certain Participating Institution if the Material Breach arose due to this particular Participating Institution, or terminate the Agreement entirely if the Licensee has materially breached the terms and conditions hereof. Termination of this Agreement is effective immediately by the date of delivery of such a notice. The obligation of the Parties to also remedy any other breach shall not be affected by this provision.

11.3. **Termination of Access.** Upon termination of this Agreement, the Distributor or Publisher may terminate access to the Licensed Materials by the Licensee, Participating Institutions and Authorized users. Upon termination of this Agreement for any reason, all rights granted to the Licensee, Participating Institutions and Authorized users hereunder will cease, and the Licensee and the Participating Institutions will perform necessary reasonable efforts to promptly

- a) purge the Licensed Materials from all of the Licensee's and the Participating Institution's computer systems, storage media and other files,
- b) destroy the Licensed Materials and all copies thereof.

11.4. **Refunds.** In the event of early termination pursuant to this Agreement, except for termination for a material breach by the Licensee pursuant to Section 11.2, the Licensee shall be entitled to a refund of any Fee or pro-rata portion thereof paid by the Licensee for any non-used remaining period of the Agreement calculated from the date of termination.

12. left blank

13. Warranties

13.1. The Distributor represents and warrants that it has, together with the Publisher, all necessary legal and equitable rights, permissions, and clearances to license the Licensed Materials to the Licensee for the purposes and terms set out in this



Agreement, and that the use of the Licensed Materials in accordance with the terms of this Agreement shall not infringe the copyright or other rights of any third party. The Distributor represents and warrants that it is authorized together with the Publisher to fulfill any and all of its obligations set out in this Agreement and that its contractual or other relationship with the Publisher allows it to fulfill these obligations.

13.2. **Accessibility Requirements.** The Distributor represents and warrants that the Licensed Materials comply with the Distributor's and also Publisher's country of origin laws and regulations, and conform to the international accessibility requirements of Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.0 at level AA. The Distributor shall also promptly respond to and use reasonable efforts to resolve any complaint regarding accessibility of Licensed Materials and use reasonable efforts to ensure that necessary measures are taken by the Publisher, if necessary.²

13.3. THE LICENSED MATERIALS CONTAIN OR ARE BASED UPON CONTENT THAT IS AN UPDATED PERIODIC REFERENCE. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS RECEIVE DATA AND INFORMATION FROM MANY INDEPENDENT SOURCES, INCLUDING DRUG MANUFACTURERS AND GOVERNMENT AGENCIES. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS CANNOT, AND DO NOT, INDEPENDENTLY REVIEW, VERIFY, TEST, INVESTIGATE OR SUBSTANTIATE ANY OF THE LICENSED MATERIALS DESCRIPTIONS OR OTHER CONTENT IN THE LICENSED MATERIALS FOR CORRECTNESS, ACCURACY, TIMELINESS OR COMPLETENESS, INCLUDING WITH RESPECT TO ANY LICENSED MATERIALS DESCRIPTIONS, PRICES, OR INFORMATION CONCERNING MEDICAL DEVICES, AND DISCLAIM ALL RESPONSIBILITY FOR ANY ERRORS THEREIN AND FOR ANY ADVERSE CONSEQUENCES RESULTING THEREFROM. IN ADDITION, THE LICENSED MATERIALS MAY NOT NECESSARILY COVER ALL POSSIBLE USES, DIAGNOSES, TREATMENT OPTIONS, DIRECTIONS, PRECAUTIONS, DRUG INTERACTIONS, DOSAGE LIMITATIONS, LOCAL PRACTICES, OR ADVERSE EFFECTS APPLICABLE TO A PARTICULAR DRUG OR TREATMENT OR A PARTICULAR PATIENT. ALTHOUGH THE LICENSED MATERIALS MAY COVER A WIDE RANGE OF PRESCRIPTION AND NON-PRESCRIPTION DRUGS, THE LICENSED MATERIALS DO NOT INCLUDE ALL DRUGS, VACCINES, DEVICES, AND DIAGNOSTIC AGENTS. ACCORDINGLY, AND WITHOUT LIMITING THE FOREGOING, THE ABSENCE OF A WARNING FOR A GIVEN DRUG OR DRUG COMBINATION IS NOT AN INDICATION THAT THE DRUG, DOSAGE, OR DRUG COMBINATION IS SAFE, APPROPRIATE, OR EFFECTIVE FOR ANY PARTICULAR PATIENT. MOREOVER, THE LICENSED MATERIALS THAT MAY BE PROVIDED TO THE LICENSEE, PARTICIPATING INSTITUTIONS AND AUTHORIZED USERS MAY PROVIDE USEFUL INFORMATION ABOUT MEDICATIONS, BUT THE LICENSED MATERIALS ARE LIMITED AND MAY BE CONFUSING TO CERTAIN PATIENTS WHEN NOT INTERPRETED BY A HEALTHCARE PROFESSIONAL. THE LICENSED MATERIALS ARE NOT INTENDED TO BE RELIED THEREON AS ON A SUBSTITUTE FOR THE KNOWLEDGE, EXPERTISE,

² <http://www.w3.org/WAI/guid-tech.html>



SKILL, VERBAL COUNSELING, PHYSICAL DEMONSTRATION OF AN ADMINISTRATION TECHNIQUE, OR JUDGMENT OF PHARMACISTS, PHYSICIANS, OR OTHER HEALTHCARE PROFESSIONALS IN PATIENT CARE.

13.4. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS AND THEIR AFFILIATES MAKE AND THE LICENSEE, PARTICIPATING INSTITUTIONS AND AUTHORIZED USERS RECEIVE NO WARRANTY, CONDITION, OR REPRESENTATION WITH RESPECT TO THE LICENSED MATERIALS, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS, OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF COMPREHENSIVENESS, SATISFACTORY QUALITY, SUITABILITY, AVAILABILITY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT).

13.5. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS MAKE NO WARRANTY THAT THE LICENSED MATERIALS SATISFY GOVERNMENT REGULATIONS REQUIRING DISCLOSURE ABOUT PRESCRIPTION DRUG CONTENT OR THAT ANY CODES, PRICES, OR OTHER DATA CONTAINED IN THE LICENSED MATERIALS ARE ACCURATE, IT BEING UNDERSTOOD THAT THE INFORMATION REFLECTING PRICES IS NOT QUOTATION OR AN OFFER TO SELL OR PURCHASE AND DOES NOT NECESSARILY REPRESENT THE ACTUAL PRICES CHARGED OR PAID IN A SINGLE TRANSACTION OR GROUP OF TRANSACTIONS. NO EMPLOYEE, CONSULTANT, REPRESENTATIVE OR AGENT OF THE DISTRIBUTOR, THE PUBLISHER OR ITS LICENSORS IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES AND LIMITATIONS CONTAINED IN THIS AGREEMENT.

13.6. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS DO NOT ASSUME, AND EXPRESSLY DISCLAIM, ANY OBLIGATION TO OBTAIN AND INCLUDE ANY INFORMATION OTHER THAN THAT PROVIDED IN THE LICENSED MATERIALS. BY MAKING THE LICENSED MATERIALS AVAILABLE, THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS ARE NOT ENDORSING OR ADVOCATING THE USE OF ANY CONTENT OR INFORMATION DESCRIBED IN THE LICENSED MATERIALS, NOR ARE THEY RESPONSIBLE FOR MISUSE OF LICENSED MATERIALS DUE TO, OR OTHER CONSEQUENCE OF, ANY TYPOGRAPHICAL ERROR OR OTHER INACCURACY. ADDITIONAL INFORMATION ON ANY LICENSED MATERIALS MAY BE OBTAINED FROM THE MANUFACTURER. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS DO NOT WARRANT THAT THE LICENSED MATERIALS (OR ANY SERVICES) WILL MEET THE LICENSEE'S, PARTICIPATING INSTITUTION'S OR AUTHORIZED USER'S REQUIREMENTS OR THAT THEIR OPERATION WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. FURTHERMORE, THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS DO NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF THE LICENSED MATERIALS. LICENSED MATERIALS MAY BE PROVIDED WITH THIRD PARTY PLUG-INS OR OTHER THIRD PARTY SOFTWARE, OR MAY BE PROVIDED AS A PLUG-IN FOR, OR OTHERWISE IN ASSOCIATION WITH, THIRD PARTY SOFTWARE. USE OF ANY SUCH THIRD PARTY SOFTWARE WILL BE GOVERNED BY THE APPLICABLE LICENSE AGREEMENT, IF ANY, WITH SUCH THIRD PARTY. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS ARE NOT RESPONSIBLE FOR



ANY THIRD PARTY SOFTWARE AND WILL HAVE NO LIABILITY OF ANY KIND FOR THE LICENSEE'S, PARTICIPATING INSTITUTION'S OR AUTHORIZED USERS' USE OF SUCH SOFTWARE AND MAKE NO WARRANTIES WITH RESPECT THERETO.

13.7. THE LICENSEE ACKNOWLEDGES THAT ACCESS TO THE LICENSED MATERIALS MAY BE SUBJECT TO DELAYS, LATENCY ISSUES, AND LIMITATIONS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, AND THAT THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS ARE NOT RESPONSIBLE FOR ANY OF THE FOREGOING ISSUES. AT TIMES, ACTIONS OR INACTIONS BY THIRD PARTIES PROVIDING INTERNET SERVICE, INCLUDING HOSTING COMPANIES ENGAGED BY THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS, MAY AFFECT IMPAIR OR DISRUPT INTERNET CONNECTIONS AND THE SITE ON WHICH THE LICENSED MATERIALS MAY BE MADE AVAILABLE. THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS DO NOT GUARANTY THAT SUCH EVENTS WILL NOT OCCUR AND DISCLAIM ANY AND ALL LIABILITY RESULTING FROM SUCH EVENTS, USE OF OR ACCESS TO THE LICENSED MATERIALS OR THAT USE OF THE LICENSED MATERIALS WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS ONCE THE LICENSED MATERIALS LEAVE THE CONTROL OF THE DISTRIBUTOR, THE PUBLISHER AND ITS LICENSORS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY, AND THE LICENSEE AND PARTICIPATING INSTITUTIONS MAY HAVE OTHER LEGAL RIGHTS RELATED TO THIS AGREEMENT THAT MAY VARY BY JURISDICTION.

14. Limitations on Warranties

14.1. Notwithstanding anything else in this Agreement, neither Party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, that arises from the use of the Licensed Materials, or the incompetence of Authorized Users to properly use the Licensed Materials.

14.2. The Distributor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

14.3. Except for the express warranties stated elsewhere in this Agreement, the Distributor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability, or fitness for a particular purpose.

15. Indemnities



15.1. The Distributor shall indemnify and hold harmless the Licensee, the Participating Institutions and Authorized Users from and against any and all liabilities, losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, that arise from actual or alleged infringement of any third-party intellectual property rights regarding the use of the Licensed Materials by the Licensee or any Participating Institution or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. This Section shall survive the termination of this Agreement.

15.2. **Indemnity.** If an action is brought against Licensee or Participating Institutions claiming that the Licensed Materials infringe a copyright or misappropriate a trade secret ("Infringement Claim"), either the Distributor or the Publisher will defend the Licensee at their own expense and, subject to this Section and Section 1.5, pay the damages and costs finally awarded against the Licensee / Participating institution in the infringement action, but only if:

- The Licensee notifies the Distributor or the Publisher promptly upon learning that the claim might be asserted,
- The Distributor or the Publisher or its designee has sole control over the defense of the claim and any negotiation for its settlement or compromise, and
- The Licensee provides the Distributor, the Publisher and its designees with reasonable assistance, information and authority necessary to perform its defense and indemnification obligations.

15.3. **Infringement Remedy.** If an Infringement Claim may have, or has, been asserted, the Licensee and the Participating Institutions will permit the Distributor or the Publisher, at their option and expense, to

- procure the right to continue using the Licensed Materials,
- replace or modify the Licensed Materials to eliminate the infringement while providing functionally equivalent performance, or
- accept the return of the Licensed Materials and refund the Licensee the Fee actually paid to the Distributor for such Licensed Materials, less depreciation based on a five (5) year straight line depreciation schedule.

15.4. **Limitation.** The Distributor or the Publisher will have no indemnity obligation to the Licensee under this Section if the Infringement Claim results from:

- a correction or modification of the Licensed Materials not provided by the Publisher,
- the failure to promptly install the most recent Update of the mobile application, if installation of such Update would have avoided the infringement, or
- the combination of the Licensed Materials with other items not provided by the Publisher, but only if the claim would not have arisen from use of the Licensed Materials alone.

The Distributor and the Publisher acknowledge that this Section states its exclusive remedy and the Distributor, the Publisher and its licensors' sole liability, in connection with any Infringement Claim or claim of misappropriation, unless the



indemnity does not cover all damages incurred to the Licensee or the Participating Institutions or the Authorized Users.

15.5. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES WILL THE DISTRIBUTOR, THE PUBLISHER, ITS LICENSORS OR RELATED PERSONS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF THE LICENSEE, PARTICIPATING INSTITUTIONS OR ITS CUSTOMERS (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, OR USE OF THE LICENSED MATERIALS, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY OR REMEDY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. IN NO EVENT WILL THE AGGREGATE LIABILITY WHICH THE DISTRIBUTOR, THE PUBLISHER, ITS LICENSORS, AND RELATED PERSONS MAY INCUR IN ANY ACTION OR PROCEEDING EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO THE DISTRIBUTOR BY THE LICENSEE FOR THE SPECIFIC ITEM (Licensed Material) THAT DIRECTLY CAUSED THE DAMAGE.

16. Assignment and Transfer

16.1. Neither Party may assign, directly or indirectly, any or all of its rights or obligations under this Agreement without the prior written consent of the other Party, except as otherwise stipulated herein. Neither Party may unreasonably withhold or delay such written consent.

17. Governing Law

Left intentionally blank.

18. Dispute Resolution & Venue

18.1. In the event of any dispute or controversy arising out of or relating to this Agreement, the Parties agree to exercise good faith to resolve the dispute amicably and as soon as possible. In the event that the Parties fail to settle the dispute amicably within thirty (30) days, they shall submit the dispute to informal mediation, as further described below in this paragraph. The Parties shall continue to perform their respective obligations under this Agreement which are not subject to or affected by the dispute. The Party invoking mediation shall inform the other Party with a written notice of its decision to seek informal mediation, and the notice must include a description of the subject to the dispute and a proposed resolution thereof. Designated representatives of both Parties shall attempt to resolve the dispute within five (5) working days starting from the day after the delivery of such notice to the other Party. If the designated representatives cannot resolve the dispute, the Parties shall meet at a mutually agreed location and discuss the dispute and their respective proposals



for resolution to responsible executives of the Parties, who shall act in good faith to resolve the dispute.

18.2. If the dispute is not resolved within thirty (30) days of the meeting among the Parties' executives, either Party may pursue legal action in court. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in Prague, Czech Republic. During such court action, the Parties shall continue to perform their respective obligations under this Agreement which are not subject to or affected by the dispute.

19. Force Majeure

19.1. Neither Party shall be liable for any damage or have the right to terminate this Agreement for any delay or default in performing its duties hereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, acts of terrorism, insurrections, labor strikes or other work stoppages, and/or any other cause beyond the reasonable control of the Party whose performance is affected. Upon the occurrence of such event of force majeure, the Party affected shall promptly notify the other Party in writing setting forth the details of the occurrence of the force majeure event, its expected duration and how that Party's performance may be affected. The affected Party shall resume the performance of its duties as soon as practicable after the force majeure event ceases.

20. Entire Agreement

20.1. This Agreement constitutes the entire agreement of the Parties and supersedes any and all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written. For the avoidance of doubt, additional terms and conditions as defined in Section 7.5 shall not modify the terms of this Agreement.

21. Amendment

21.1. No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of the Parties.

21.2. The Licensee, in compliance with Section 100(1) of Act no. 134/2016 Sb. on public procurement, as amended, reserves the right to change the commitment under this Agreement, which entails a change in the number of licenses, i.e. an increase in the number of licenses, for the purpose of accommodating additional Potential Participating Institutions as the authorizing contracting authorities



with whom the Licensee has entered into a central procurement agreement and a list of which is attached as Annex B. This reservation will be effected, as the case may be, by means of an amendment to this Agreement based on the interest of Potential Participating Institutions mentioned in the preceding sentence to receive performance under this Agreement. The Parties may include the price for the licenses for these Potential Participating Institutions in the Annex B.

22. Severability

22.1. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall replace the invalid, illegal or unenforceable provision with a new provision to achieve the same or, if not possible, the closest possible effect to that of the original invalid, illegal or unenforceable provision and this Agreement as a whole.

23. Waiver of Contractual Right

23.1. Waiver of any right, power or remedy herein shall not be deemed a waiver of any other right, power or remedy herein, nor shall waiver of any right, power or remedy regarding a breach of this Agreement be construed as a continuing waiver of any right, power or remedy regarding other breaches of the same or other provisions of this Agreement.

24. Notices

24.1. All notifications, invitations, information, legal acts and other communications ("Notices") made in the matters of and under this Agreement must be made in writing, the written form being retained if Notices are delivered by e-mail or fax.

24.2. Notices regarding the extent and manner of performance under this Agreement, damages, penalties, debts, contacts and this Agreement as such (for example, the notification about breach or termination) must be delivered in person, by registered post or courier service. Notices delivered personally or by courier service shall be deemed received at the time of receipt or refusal of their receipt. Notices served by registered mail will be deemed delivered on the fifth (5th) business day following their proven posting.

24.3. The Licensee acknowledges that the provisions of this Agreement are intended to inure to the benefit of the Publisher. If the Licensee, Participating Institutions or Authorised Users breach any of these provisions, the Distributor and the Publisher will be entitled to enforce this Agreement directly against the



Licensee, whether in Distributor's or Publisher's name. The Licensee further acknowledges that the Distributor executes this Agreement as principal on its own behalf and, exclusively to accept or otherwise perfect Publisher's rights against the Licensee, as agent on behalf of the Publisher. The Distributor shall have the right, without violating any confidentiality provision or any other provision of this Agreement, to disclose this Agreement to the Publisher or its affiliates.

24.4. Either Party may from time to time change its delivery address by written Notice to the other Party. Such change is effective from the delivery of such Notice.

24.5. If to the Distributor:

Distributor: Albertina icome Praha s.r.o.
 Address of Distributor: Štěpánská 16
 City of Distributor: Praha 1
 State of Distributor:
 Country of Distributor: Czech Republic
 Postal Code of Distributor: 110 00
 E-mail: [REDACTED]

24.6. If to the Licensee:

Licensing contact:
 Address of Licensee: Head of Licensing Unit
 CzechELib
 National Library of Technology
 Technická 6, 160 80 Praha 6 - Dejvice
 Czech Republic
 E-mail: [REDACTED]

25. Audit Rights

25.1. The Distributor acknowledges that the Licensee can be audited by a respective authority and that the conditions regulating the financing of the Licensee require that the Licensee ensure the necessary cooperation of the Distributor or the Publisher in order to conduct a proper audit of the Licensee. For this purpose, the Distributor is obliged to provide, as well as ensure that the Publisher will also provide, all the necessary cooperation, information, declaration and documents concerning the Licensee to any auditing/controlling body authorized to carry out an audit of the Licensee in compliance with the rules and regulations of the Czech Republic and mandatory rules of the European Union regarding financial control, especially regarding the grants. The Distributor shall also cooperate, as well as ensure that the Publisher will also cooperate, with persons authorized to execute the audit of the Licensee by such auditing bodies. The Distributor and Publisher shall not be entitled to any remuneration, compensation or any other benefit for providing cooperation as described above. This cooperation can include, but shall not be limited to:



- a) providing confirmation when the Licensed Materials became accessible as stipulated;
- b) providing information regarding the fulfillment of the payment terms stipulated in this Agreement or information with respect to a potential outstanding Fee due by the Licensee;
- c) providing information whether the public procurement procedure occurred as recorded in the protocol drawn up by the Licensee;
- d) providing cooperation for the purposes of a potential crime investigation.

25.2. Failure to provide cooperation as described in Section 25. a causing that an effective audit could not be realized shall be deemed a serious breach of this Agreement, and the Licensee may seek to terminate this Agreement for breach pursuant to Section 11. The Distributor is obliged to fully compensate any damage that should arise as a result of failure to perform the duty to cooperate described in Section 25.a. Duties described in Section 25 shall survive the termination of this Agreement.

25.3. The Licensee agrees that the Distributor and the Publisher may audit Participating Institution's use of the Licensed Materials for compliance with these terms at any time, upon reasonable notice and as long as such audit would not constitute or result in any breach of the law by the Participating Institutions. In the event that such audit reveals any use of the Licensed Materials by the Licensee and Participating Institutions other than in full compliance with the terms of the Agreement, the Licensee shall reimburse the Distributor for all reasonable expenses related to such audit in addition to any other liabilities the Licensee may incur as a result of such non-compliance.

26. Execution

26.1. The Agreement itself shall be signed by the authorized signatory of the Distributor.

26.2. This Agreement is drawn up in three counterparts in the English language, each of which has the power of an original. The Distributor shall receive one (1) counterpart and the Licensee shall receive two (2) counterparts.

26.3. The Parties agree that electronically signed versions of this originally executed Agreement are acceptable in lieu of printed signed copies and are to be given full force and effect under the law and each party declares that the electronic execution is valid and effective in the jurisdiction the Party executes the Agreement.





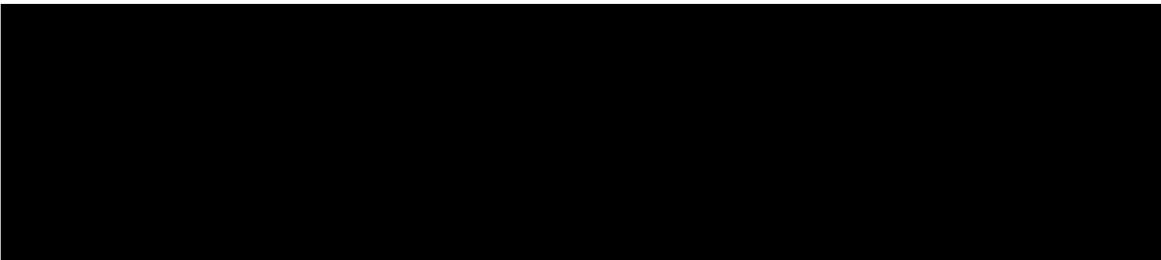
EUROPEAN UNION
European Structural and Investment Funds
Operational Programme Research,
Development and Education



MINISTRY OF EDUCATION,
YOUTH AND SPORTS

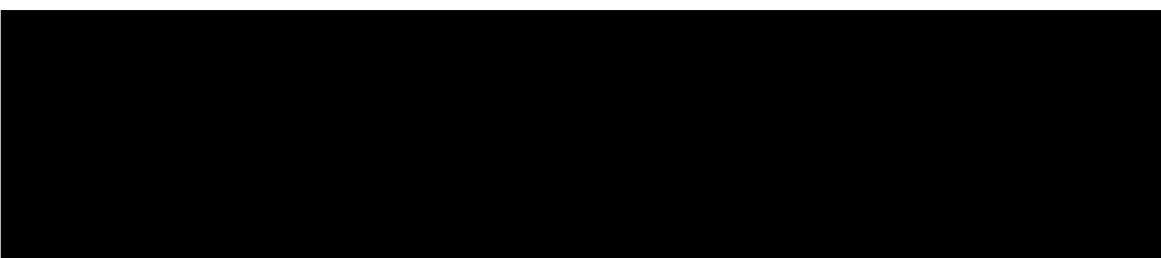
IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective, duly authorized representatives.

DISTRIBUTOR:



executive
Albertina icome Praha s.r.o.
Štěpánská 16
110 00 Praha 1
Czech Republic

LICENSEE:



Director of National Library of Technology
National Library of Technology
Technická 6
160 80 Praha 6 - Dejvice
Czech Republic



EUROPEAN UNION
European Structural and Investment Funds
Operational Programme Research,
Development and Education



- Appendix A: Business Terms

Licensed Materials:

- Name UpToDate Anywhere
- Number of titles, if applicable
- Dates covered, if applicable
- Description an evidence-based clinical resource. It includes a collection of medical and patient information, access to Lexi-comp drug monographs and drug-to-drug interactions, and a number of medical calculators. UpToDate is written by over 7,100 physician authors, editors, and peer reviewers.

Agreement Term: Effective Date - 31 December 2021 + optional 1 January 2022 - 31 December 2022

Access Conditions: Unlimited simultaneous user system-wide access

Authentication: IP authentication (See Appendix C for IP addresses)

Fees and Negotiated Discounts:

- Total Fee 2021-2022: \$139 489,00
- License Fee / year:

| | |
|-------|-------------|
| 2021: | \$65 632,00 |
| 2022: | \$73 857,00 |
- Ongoing Fees, e.g. access fee, if any; indicate any waived fees
- One-time Fees; indicated any waived fees

Payment Terms:

1. The Fee shall be paid to the Distributor's bank account no.: [REDACTED]. Any change of the bank account shall be notified to the Licensee without undue delay. The notice shall be signed by the authorized representative and will become effective upon its delivery to the Licensee.
2. The price for the Licensed Materials shall be paid annually for each commenced calendar year of the duration of the Agreement in the amount set forth therein. The Parties expressly state that the price for the year 2021 shall be paid in the whole amount, regardless of the beginning of the Agreements' effectiveness.
3. All the prices under this Agreement are set forth as final, unchangeable and the maximum allowable.
4. The price for each commenced calendar year of the duration of the Agreement shall be paid in two (2) partial payments within one invoice with the following maturity:
 - Max 50% on 20 February of the given year for which the Licensed Materials are paid (maturity of the first partial payment);
 - Max 50% on 30 April of the given year for which the Licensed Materials are paid (maturity of the second partial payment);



- The above-mentioned maturities are applicable only if the invoice (all the invoices) is delivered to the Licensee no later than fifteen (15) days before the stated maturity of the first part payment, i.e. by 5 February of the given year;
- If the invoice is delivered later, at the latest within fifteen (15) days prior to the due date of the second part payment, i.e. in the term beginning from 5 February to 15 April of the given year, the due date of the first part payment shall be within fifteen (15) days from the date of the provable invoice delivery. The maturity of the second part payment remains unaffected;
- If the invoice is delivered later, the due date of both part payments shall be within fifteen (15) days of the provable invoice delivery date.

5. The invoice shall be issued in the currency specified in the Agreement. In the event that there are multiple currencies specified in the Agreement for each Licensed Material, the Distributor shall issue at least the number of invoices corresponding to the number of currencies. The foreign currency on the invoice(s) shall also be converted into Czech crowns according to the Czech National Bank exchange rate (www.cnb.cz) valid as at the date of the taxable transaction.
6. Invoice - the tax document shall contain all the requisites of a tax document. The invoice shall contain all the requisites set forth by the applicable legislation, especially Act No. 235/2004 Coll., VAT Act, as amended ("VAT Act"). The invoice shall be delivered to the Licensee either originally or electronically to the e-mail address licensing@czechelib.cz. The invoice shall include a summary of all the Licensed Materials pursuant to the Agreement. The invoice shall also be labeled "IPS CzechELib, reg. č. CZ.02.1.01/0.0/0.0/16_040/0003542". The Distributor shall bear any and all costs connected with a change of the exchange rate, including but not limited to any costs which might arise due the invoice containing incorrect or incomplete information.
7. If the invoice does not contain the requisites set forth in this Agreement or by the applicable legislation or these are incorrect or incomplete, the Licensee is entitled to return such invoice to the Distributor for completion/correction. In such case, the term of payment shall be interrupted and the new term of payment shall run from the provable corrected invoice delivery date to the Licensee and pursuant to the rules set forth above. The procedure under the previous sentence may also be repeated. The Distributor shall correct the invoice in each case within 15 days as of notification by the Licensee on incorrect or incomplete invoice. Denial of monetary performance and the related return of an invoice in accordance with this paragraph do not constitute a default in the payment by the Licensee.
8. Fulfillment of any financial duty associated with performance under this Agreement shall be understood as the moment of debiting the full amount from the bank account of the Party.
9. The Distributor is not entitled to require any advance payments under this Agreement.
10. Each Party shall bear its own costs in connection with this Agreement. The bank fees for the bank transfer are shared between the Parties.
11. The Distributor declares that is a VAT payer and that is not an unreliable VAT payer within the meaning of the Section 106a of the VAT Act. In the event that the tax administrator starts a procedure that the Distributor is an unreliable VAT



payer, the Distributor undertakes to notify such fact to the Licensee in writing without undue delay.

12. The Distributor further declares that he fulfills all the conditions set forth in the Section 109 of the VAT Act, i.e. that he has not breached any obligation under the VAT Act which could lead to the liability of the Licensee for the unpaid tax under the Section 109 of the VAT Act. The Distributor undertakes that if there is a threat or even a breach of any Distributor's obligation that could lead to the liability of the Distributor for an unpaid tax, he shall notify such fact in writing to the Licensee without undue delay.
13. Any payments made under this Agreement in favor of the Distributor shall be made to the Distributor's bank account, which is registered with the tax authority within the meaning of the Section 109 of the VAT Act, which the Distributor confirms. In the event that the Distributor becomes an unreliable VAT payer under the preceding paragraphs or there is a threat that the Distributor will become an unreliable VAT payer under the preceding paragraphs, or the Distributor's account shall not be registered with the tax administrator, the Distributor expressly agrees that the VAT from the price under this Agreement shall be paid directly to the tax administrator's account in accordance with the applicable legislation.

The Distributor takes on the risk of a change in circumstances under Section 1765 (1) of Act No. 89/2012 Coll., the Civil Code, as amended.



- Appendix B: Participating Institutions, Potential Participating Institutions and & Fees

Information concerning the fees of the individual Participating Institutions and Potential Participating Institutions contained in this Appendix B is considered business secret pursuant to the provisions of Section 504 of Act No. 89/2012 Coll., the Civil Code, as amended, and are not to be disclosed in the Register of Contracts in accordance with the provisions of Section 3, Paragraph 1 and Paragraph 2 letter b) of Act No. 340/2015 Coll.

The Parties acknowledge that the Licensee is obliged by law to subsequently disclose in the Register of Contracts the individual agreements on provision of access to the Licensed Materials concluded between the Licensee and each Participating Institution. Corresponding fees for individual licenses will not be disclosed.

PARTICIPATING INSTITUTIONS

| Institution - English name | Price 2021 | Price 2021 |
|--|----------------------|---------------------|
| Centre of Cardiovascular and Transplantation Surgery | | |
| Institute for Clinical and Experimental Medicine | | |
| Institute of hematology and blood transfusion | | |
| Masaryk Memorial Cancer Institute | | |
| Total | \$ 65 632,00 | \$ 73 857,00 |
| Total without VAT for both years | \$ 139 489,00 | |

POTENTIAL PARTICIPATING INSTITUTIONS

| Potential Participating (English) | Potential Participating (Czech) |
|---|---|
| Czech University of Life Sciences | Česká zemědělská univerzita v Praze |
| St. Anne's University Hospital Brno | Fakultní nemocnice u sv. Anny v Brně |
| University of South Bohemia in České Budějovice | Jihočeská univerzita v Českých Budějovicích |
| Masaryk University | Masarykova univerzita |
| Mendel University in Brno | Mendelova univerzita v Brně |
| University of Ostrava | Ostravská univerzita |
| University of Pardubice | Univerzita Pardubice |
| University of Veterinary and Pharmaceutical Sciences Brno | Veterinární a farmaceutická univerzita Brno |
| University of Economics, Prague | Vysoká škola ekonomická v Praze |



| | |
|--|--|
| Institute of Mathematics of the Czech Academy of Sciences | Matematický ústav AV ČR, v. v. i. |
| Institute of Computer Science of the CAS, v. v. i. | Ústav informatiky AV ČR, v.v.i. |
| Charles University | Univerzita Karlova |
| ŠKODA AUTO UNIVERSITY | ŠKODA AUTO VYSOKÁ ŠKOLA o.p.s. |
| Technical University of Liberec | Technická univerzita v Liberci |
| Institute of Information Theory and Automation | Ústav teorie informace a automatizace AV ČR, v.v.i. |
| Brno University of Technology | Vysoké učení technické v Brně |
| National Library of Technology | Národní technická knihovna |
| Tomas Bata University in Zlín | Univerzita Tomáše Bati ve Zlíně |
| Institute of Macromolecular Chemistry, Czech Academy of Sciences | Ústav makromolekulární chemie AV ČR, v. v. i. |
| University of Chemistry and Technology, Prague | Vysoká škola chemicko-technologická v Praze |
| University of West Bohemia | Západočeská univerzita v Plzni |
| Comenius National Pedagogical Museum and Library | Národní pedagogické muzeum a knihovna J. A. Komenského |
| Czech Technical University in Prague | České vysoké učení technické v Praze |
| Library of the Czech Academy of Sciences | Knihovna AV ČR, v. v. i. |
| Silesian University in Opava | Slezská univerzita v Opavě |
| Palacky University Olomouc | Univerzita Palackého v Olomouci |
| Police Academy of the Czech Republic in Prague | Policejní akademie České republiky v Praze |
| J. Heyrovský Institute of Physical Chemistry ASCR, v. v. i. | Ústav fyzikální chemie J. Heyrovského AV ČR, v.v.i. |
| Academy of Performing Arts in Prague | Akademie muzických umění v Praze |
| University of Hradec Kralove | Univerzita Hradec Králové |
| VŠB - Technical University of Ostrava | Vysoká škola báňská - Technická univerzita Ostrava |
| Museum of West Bohemia | Západočeské muzeum v Plzni |



- Appendix C: IP Addresses of Participating Institutions

| Institution (English) | Institution (Czech) | IP ranges |
|--|--|-------------------------------------|
| Centre of Cardiovascular and Transplantation Surgery | Centrum kardiovaskulární a transplantační chirurgie Brno | 195.113.192.101 195.113.192.98 |
| Institute for Clinical and Experimental Medicine | Institut klinické a experimentální medicíny | 195.113.187.93 212.67.92.35 |
| Masaryk Memorial Cancer Institute | Masarykův onkologický ústav | 195.113.164.0/25 046.227.012.018 |
| Institute of Hematology and Blood Transfusion | Ústav hematologie a krevní transfuze | 195.113.86.170 |

