

***RSNA License Agreement***

**THIS LICENSE IS AGREED** the \_\_\_\_\_ day of \_\_\_\_\_ 2008

BETWEEN

Radiological Society of North America, Inc. of 820 Jorie Blvd, Oak Brook, IL 60523 (the "Publisher")

and

\_\_\_\_\_ of [full address] (the "Licensee")

**WHEREAS** the Publisher holds the rights granted under this License; and

**WHEREAS** the Licensee desires to use the rights and the Publisher desires to grant to the Licensee the license to use the rights for the Fee, subject to the terms and conditions of this License.

**IT IS AGREED AS FOLLOWS:**

**1. KEY DEFINITIONS**

1.1 In this License, the following terms shall have the following meanings:

- |                         |   |
|-------------------------|---|
| <b>Agent</b>            | A third party appointed by the Licensee to act on the Licensee's behalf, who may undertake any or all of the obligations of the Licensee under this License, as agreed between the Licensee and the Agent.  |
| <b>Authorized Users</b> | Current members of the staff (whether on a permanent, temporary or contract basis) of the Licensee who are permitted to access the Secure Network from within the Licensee's premises or from such other places where Authorized Users undertake their work for the Licensee (including but not limited to Authorized Users' offices and homes) and who have been provided by the Licensee with a password or other authentication. |
| <b>Commercial Use</b>   | Use for the purposes of monetary reward (whether by or for the Licensee or an Authorized User) by means of sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Materials. Use by the Licensee or by an Authorized User of the Licensed Materials in the course of research, product development and related activity in the normal course of business does not constitute Commercial Use.              |

<b>Fee</b>	The Fee set out in Schedule 1 or in new Schedules to this License which may be agreed upon by the parties from time to time.
<b>Licensed Materials</b>	The electronic material as set out in Schedule 1 or in new Schedules to this License that may be agreed upon by the parties from time to time.
<b>Secure Network</b>	A network (whether a standalone network or a virtual network within the Internet) which is only accessible to Authorized Users approved by the Licensee whose identity is authenticated at the time of log-in and periodically thereafter, consistent with current best practice, and whose conduct is subject to regulation by the Licensee.
<b>Server</b>	The server, either the Publisher's server or a third party server designated by the Publisher, on which the Licensed Materials are mounted and may be accessed.
<b>Subscription Period</b>	The initial term of this License, as described in Section 2.2, below, or any subsequent term for which this License may be extended.

## 2. AGREEMENT

- 2.1 The Publisher hereby grants to the Licensee the non-exclusive and non-transferable right, throughout the world, to give Authorized Users access to the Licensed Materials via a Secure Network subject to the terms and conditions of this License, and the Licensee agrees to pay the Fee.
- 2.2 This License shall commence on \_\_\_\_\_, 2007, and shall remain in effect through \_\_\_\_\_, 2009.

## 3. USAGE RIGHTS

- 3.1 The Licensee, subject to Section 4 below, may:
- 3.1.1 Allow Authorized Users to have access to the Licensed Materials from the Server via the Secure Network.
- 3.1.2 Use the Licensed Materials as part of an integrated information service for Authorized Users that will include links between the Licensed Materials and the Licensee's own indexes, third party abstracting and indexing services, and other information resources utilized by the Licensee.
- 3.1.3 Provide single printed or electronic copies of single articles at the request of individual Authorized Users.
- 3.1.4 Display, download or print the Licensed Materials for the purpose of internal testing or for training Authorized Users or groups thereof, and for internal

corporate training programs (in respect of which appropriate acknowledgment of the source shall be made).

3.1.5 Provide print or electronic copies of the Licensed Materials to national or international regulatory authorities for the purposes of, or in anticipation of, regulatory approval or patent and/or trademark applications or other legal or regulatory purposes in respect of the Licensee's products or services.

3.1.6 Provide printed or electronic copies of the Licensed Materials for product, marketing or professional information purposes, subject to the terms specified in Schedule 2.

3.2 Authorized Users may, subject to Section 4, below:

3.2.1 Search, view, retrieve and display the Licensed Materials.

3.2.2 Electronically save parts of the Licensed Materials for personal use.

3.2.3 Print off a copy of individual articles or items of the Licensed Materials.

3.2.4 Distribute a copy of individual articles or items of the Licensed Materials in print or electronic form to other Authorized Users.

#### **4. PROHIBITED USES**

4.1 Neither the Licensee nor Authorized Users may:

4.1.1 Remove or alter the authors' names or the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Materials;

4.1.2 Systematically make print or electronic copies of multiple extracts of the Licensed Materials for any purpose.

4.1.3 Except as provided in Section 3.1.6, provide, by electronic means, to a user at another library or elsewhere, a retained electronic copy of any part of the Licensed Materials;

4.1.4 Mount or distribute any part of the Licensed Material on any electronic network (including without limitation the Internet and the World Wide Web) other than the Secure Network.

4.2 Publisher's further explicit written permission must be obtained in order to:

4.2.1 Use all or any part of the Licensed Materials for any Commercial Use;

4.2.2 Systematically distribute the whole or any part of the Licensed Materials to anyone other than Authorized Users;

- 4.2.3 Publish, distribute or make available any part of the Licensed Materials, works based on the Licensed Materials, or works which combine any part of the Licensed Materials with any other material, other than as permitted in this License;
- 4.2.4 Alter, abridge, adapt or modify the Licensed Materials, except to the extent necessary to make them perceptible on a computer screen to Authorized Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

## **5. PUBLISHER'S UNDERTAKINGS**

### **5.1 The Publisher shall:**

- 5.1.1 Make the Licensed Materials available to the Licensee from the Server in the media, format and time schedule specified in Schedule 1. The Publisher will notify the Licensee, and the Agent, at least sixty (60) days in advance of any anticipated change of specification in respect of access method, display or any other feature that may affect the manner in which Authorized Users access and make use of the Licensed Materials.
  - 5.1.2 Make available the electronic copy of each journal issue included in the Licensed Materials within seven (7) days after the date of publication of the printed version. Individual articles may be available in electronic form prior to print publication of an issue.
  - 5.1.3 Provide the Licensee, and the Agent, within thirty (30) days of the date of this License, with information sufficient to enable the Licensee to access the Licensed Material.
  - 5.1.4 Make the Licensed Materials available to the Licensee and to Authorized Users at all times and on a twenty-four (24) hour basis, except for interruptions for scheduled routine maintenance or emergency service;
  - 5.1.5 Restore access to the Licensed Materials as soon as possible in the event of an unscheduled interruption or suspension of the service;
- 5.2 The Publisher shall make available to the Licensee, on a regular basis for the Licensee's private internal use only, usage data on the number of abstracts and articles downloaded or printed by Authorized Users. Such usage data shall be compiled in a manner consistent with applicable privacy and data protection laws.
- 5.3 **THE PUBLISHER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, AS TO THE ACCURACY OF THE INFORMATION CONTAINED IN THE LICENSED MATERIALS, MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE. THE LICENSED MATERIALS ARE SUPPLIED 'AS IS'.**

5.4 Under no circumstances shall the Publisher be liable to the Licensee or any other person, including but not limited to Authorized Users, for any special, exemplary, incidental or consequential damages of any character arising out of the inability to use, or the use of, the Licensed Materials. Irrespective of the cause or form of action, the Publisher's aggregate liability for any claims, losses, or damages arising out of any breach of this License shall in no circumstances exceed the Fee paid by Licensee to the Publisher under this License in respect of the Subscription Period during which such claim, loss or damage occurred. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the availability or effectiveness of other remedies.

## **6. LICENSEE'S UNDERTAKINGS**

6.1 The Licensee shall:

6.1.1 Ensure that only Authorized Users are permitted access to the Licensed Materials;

6.1.2 Ensure that all Authorized Users are appropriately notified of the importance of respecting the intellectual property rights in the Licensed Materials and that they are made aware of and undertake to abide by the terms and conditions of this License;

6.1.3 Monitor compliance and immediately upon becoming aware of any unauthorized use or other breach, inform the Publisher and take all steps both to ensure that such activity ceases and to prevent any recurrence;

6.1.4 Provide the Publisher, within thirty (30) days of the date of this Agreement, with information sufficient to enable the Publisher to provide access to the Licensed Material in accordance with its obligation under Section 5.1.3. Should the Licensee make any significant change to such information, it will notify the Publisher not less than ten (10) days before the change takes effect.

6.2 THE LICENSEE HEREBY ACKNOWLEDGES THAT THE PUBLISHER ATTACHES GREAT VALUE TO THE PUBLISHER'S INTELLECTUAL PROPERTY RIGHTS IN THE LICENSED MATERIALS, AND THAT ANY MATERIAL AND PERSISTENT BREACH THEREOF WHICH IS NOT REMEDIED WITHIN THIRTY (30) DAYS OF NOTICE CONSTITUTES A FUNDAMENTAL BREACH OF THIS LICENSE, IN WHICH EVENT, NOTWITHSTANDING SECTION 8, THIS LICENSE SHALL IMMEDIATELY TERMINATE AND THE PUBLISHER SHALL BE ENTITLED TO IMMEDIATE INJUNCTIVE RELIEF AND THE IMMEDIATE REMOVAL OF ALL ELECTRONIC COPIES OF THE LICENSED MATERIALS HELD BY THE LICENSEE OR AUTHORIZED USERS WITHOUT ANY REBATE OF THE FEE AND WITHOUT PREJUDICE TO ANY OTHER RIGHTS OR REMEDIES TO WHICH THE PUBLISHER MAY BE ENTITLED.

6.3 The Licensee agrees to indemnify, defend and hold the Publisher harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and other professional fees) arising out of any claim or legal action taken against the Publisher related to or in any way connected with any use of the Licensed Materials by

the Licensee or Authorized Users or any failure by the Licensee to perform its obligations in relation to this License.

- 6.4 The Licensee shall, in consideration for the rights granted under this License, pay the Fee within thirty (30) days of receipt of invoice and, if applicable, within thirty (30) days of receipt of invoice relating to each subsequent Subscription Period. Receipt of such payment shall be a condition of this License coming into effect. For the avoidance of doubt, the Fee shall be exclusive of any sales, use, value added or similar taxes, and the Licensee shall be liable for any such taxes in addition to the Fee. The obligation to pay the Fee for any period when the License was in effect shall survive any termination of this License.

## **7. UNDERTAKINGS BY BOTH PARTIES**

- 7.1 Each party shall use its best efforts to safeguard the intellectual property, confidential information and proprietary rights of the other party. This obligation shall survive any termination of this License.
- 7.2 Neither party shall disclose the terms and conditions or the subject matter of this License (including, without limitation, the content of the Schedules, the list of the Licensed Materials and any usage data compiled and supplied under Section 5.2) or any other information about the other party's business to any third party without the prior written consent of the other party. This provision shall survive the termination of this License, and any information obtained or received which comes within these restrictions shall remain confidential, PROVIDED always that this obligation shall not apply to any information which at the time of disclosure is in the public domain or has been made publicly available at any time by an independent third party which has not obtained it directly or indirectly in breach of any confidentiality agreement with either of the parties hereto.

## **8. TERM AND TERMINATION**

- 8.1 In addition to automatic termination (unless renewed) under Section 2.2, this License shall be terminated:
- 8.1.1 If the Licensee defaults in making payment of the Fee as provided in this License;
- 8.1.2 If either party otherwise commits a material or persistent breach of any term of this License and fails to remedy the breach (if capable of remedy) within thirty (30) days of notification in writing by the other party;
- 8.1.3 If either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 8.2 On termination of this License, all rights and obligations of the parties automatically terminate except as specifically provided in this License, and except for obligations in respect of Licensed Materials to which access continues to be permitted as provided in Section 2.3.

- 8.3 On termination of this License by the Publisher for breach by the Licensee, the Licensee shall immediately cease to distribute the Licensed Materials or make them available to Authorized Users.
- 8.4 On termination of this License by the Licensee for breach by the Publisher, the Publisher shall forthwith refund the proportion of the Fee that represents the paid but un-expired part of the Subscription Period.

## **9. GENERAL**

- 9.1 This License constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this License, whether oral or written.
- 9.2 Alterations to this License and to the Schedules to this License are valid only if they are recorded in writing and signed by both parties.
- 9.3 This License may not be assigned by either party to any other person or organization, nor may either party subcontract any of its obligations, except as provided in this License in respect of the Agent, without the prior written consent of the other party, which consent shall not unreasonably be withheld.
- 9.4 Any notices to be served on either of the parties by the other shall be sent by certified mail or reputable overnight commercial delivery service to the address of the addressee as set out in this License or to such other address as notified by that party as its address for service of notices. A mailed notice shall be deemed to have been received within five (5) business days of mailing.
- 9.5 Neither party's delay or failure to perform any provision of this License, as a result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this License.
- 9.6 The invalidity or unenforceability of any provision of this License shall not affect the continuation or enforceability of the remainder of this License.
- 9.7 Either party's waiver, or failure to require performance by the other, of any provision of this License will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.
- 9.8 This License shall be governed by and construed in accordance with the laws of the State of Illinois, and the parties irrevocably agree that any dispute arising out of or in connection with this License will be subject to and within the jurisdiction of the courts in the State of Illinois.

*Signature Page to Corporate License*

**IN WITNESS WHEREOF**, the parties have executed this License on the date(s) indicated below.

**FOR THE PUBLISHER: Radiological Society of North America, Inc.**

Name: Roberta E. Arnold, MA, MHPE

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Position/Title: Assistant Executive Director, Publications & Communications

**FOR THE LICENSEE: [ \_\_\_\_\_ ]**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Position/Title: \_\_\_\_\_

**SCHEDULE 1**

**LICENSED MATERIALS AND ACCESS METHOD**

A schedule to the License dated \_\_\_\_\_, 2008, between Radiological Society of North America, Inc. and \_\_\_\_\_.

*THE LICENSED MATERIALS*

Title:

Initial Term: \_\_\_\_\_, 2008 through \_\_\_\_\_, 2009

Fee for Initial Term: \_\_\_\_\_

*ACCESS METHOD:*

Authentication via IP address

## **SCHEDULE 2**

### **TERMS FOR PROVISION OF COPIES OF LICENSED MATERIALS BY THE LICENSEE**

As provided in 3.1.6 of this license, licensee may provide printed or electronic copies of the Licensed Materials for product, marketing or professional information purposes, subject to the following terms:

- 1) Licensee does not charge a fee for the copies of the Licensed Materials;
- 2) Licensee does not modify the content of the Licensed Materials;
- 3) Copies of the Licensed Materials retain the Publisher's copyright notice;
- 4) The context in which the copies of the Licensed Materials appear does not imply endorsement of the Licensee's products or services by the Publisher or the Licensed Materials;
- 5) A sample of the copy of the Licensed Materials and a general description of the intended recipients is sent to the Publisher for approval prior to distribution by the Licensee.