

## **1. Grant of License.**

1.1 Subject to the terms of this Agreement, Licensors (Symptom Media) hereby grants to Licensee (Authorized User), a limited, royalty-free, non-exclusive, non-transferable license (the "License") to exhibit or display the Course Collection and/or Film Library on Licensors' Servers at its facility or on monitors at its facility (the "Premises"). For the purpose of this Section 1.1, Licensors' Servers means a combination of software, residing on certain hardware, performing certain processes and functions at Licensors' Premises, which can be used to display the Course Collection and/or Film Library to Licensee (Authorized User) (as defined in Section 5.1 below).

1.2 The term (the "Term") of the License listed on the invoice prepared by Licensors, provided that Licensors shall have the right to revoke the License as to any or all of the Course Collection and/or Film Library immediately upon written notice to Licensee (Authorized User) in the event Licensee (Authorized User) is in breach of this Agreement which has not been cured in accordance with Section 9 below.

1.3 No ownership or copyright in any of the Course Collection and/or Film Library shall pass to Licensee (Authorized User) by the issuance of the License, and, except as expressly stated in this Agreement, Licensors grants Licensee (Authorized User) no right or license, express or implied, to the Course Collection and/or Film Library; provided, however, that nothing in the License is intended to affect such rights in the Course Collection and/or Film Library as Licensee (Authorized User) may otherwise have, whether by contractual arrangement or by law.

1.4 This License is granted for a 7-day free trial period. By accepting this License, you agree that at the end of the 7-day trial period your credit card shall automatically be billed on a month to month basis unless you have canceled this License by going to the "My Account" tab at the top of the Symptom Media website, click "Billing," and then once on this page, click "Cancel your Subscription."

1.5 Cancellation: If you have signed up for a month to month subscription, your subscription is cancellable at anytime. All payments made in accordance with the terms hereof shall be non-refundable. If you have signed up for a long-term subscription, then you may cancel with 30 days' notice; provided that 50% of the fees remaining for your subscription shall be due and payable at the time of cancellation. By way of example, and by no limitation, if you sign up for a 4 month license payable monthly at a reduced rate and then elect to cancel after 2 months, you shall owe Symptom Media a 1 month subscription fee which shall be due and payable upon cancellation. You hereby authorize Symptom Media to charge your credit card for any applicable remaining fees.

## **2. Trademarks.**

Licensee (Authorized User) agrees to refer to the Course Collection and/or Film Library as Symptom Media's or any other trademarks specified by Licensors. Licensee (Authorized User) is hereby granted, a limited, non-exclusive, non-transferable license to use those Licensors' trademarks, logos, service marks, and trade names (collectively, "Trademarks") in the form provided by Licensors in connection with its obligations and rights under this Agreements.

### **3. Payment By Licensee.**

In consideration for the License provided herein, Licensee (Authorized User) shall pay Licensor the license fee ("License Fee"). All fees are non-refundable. Amounts not paid due under this Agreement will accrue interest at the lesser of one and one-half percent per month or the maximum rate permitted under applicable law.

### **4. Delivery of the Course Collection and/or Film Library.**

Subject to the terms herein, Licensor shall deliver to Licensee (Authorized User) by providing the Course Collection and/or Film Library to Licensee (Authorized User) through digital electronic access, granting one username and password located at Symptom Media's website ([www.symptommedia.com](http://www.symptommedia.com)). Licensee (Authorized User) will have thirty days from the delivery date to test and accept the Course Collection and/or Film Library, provided that any use of the Course Collection and/or Film Library during this period which permits Licensee (Authorized User) to access the benefits of the Course Collection and/or Film Library, shall be deemed to constitute acceptance.

### **5. Authorized Use of the Course Collection and/or Film Library.**

5.1 For the purpose of this Agreement, only Licensee and not additional employees (including faculty, staff, affiliated researchers and independent contractors) may exhibit ("Authorized User"). Other employees (including faculty, staff, affiliated researchers and independent contractors), including those located at different locations, but within Licensee's (Authorized User's) company or related or affiliated companies, shall not be considered Authorized Users.

5.2 Licensee (Authorized User) shall have the limited right to use for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research or analysis. The content and material offered, including without limitation text, graphics, and images ("Content"), are provided for informational purposes only. It is made with the understanding that the Licensor is not engaged in rendering medical, health, psychological, or any other kind of personal professional services. The Content is not intended to be, and must not be taken to be, the practice of medical or counseling care.

5.3 Licensee (Authorized User) shall not: (i) permit anyone other than Licensee (Authorized User) to use the Course Collection and/or Film Library; (ii) modify, edit, make changes to or create a derivative work of the Course Collection and/or Film Library without the express written permission of Licensor; (iii) remove, obscure or modify any copyright or other notices included in the Course Collection and/or Film Library; or (iv) other than as specifically permitted in this Agreement, Licensee (Authorized User) may not use the Course Collection and/or Film Library for commercial purposes, including but not limited to the sale of the Course Collection and/or Film Library or reproduction or distribution of the Course Collection and/or Film Library in any form.

5.4 Notwithstanding anything to the contrary in this Agreement or otherwise, in no event shall the license granted hereunder include, and Licensee acknowledges that the license granted hereunder expressly excludes, any right or license to use, or permit the use of, or sublicense, the

licensed materials Course Collection and/or Film Library for the purpose of training, or facilitating in any way the machine learning (ML), of any artificial intelligence ("AI") model, algorithm, operating system or other function involving AI, whether for research, clinical training, or any other purpose (each such use, a "Prohibited Purpose"). Licensee acknowledges and agrees that any use by Licensee or its Authorized Users of the licensed materials Course Collection and/or Film Library for a Prohibited Purpose shall constitute a material breach of this Agreement.

## **6. Licensee Performance Obligations.**

6.1 Licensee (Authorized User) shall use reasonable efforts to protect the Course Collection and/or Film Library from any use that is not permitted under this Agreement. In the event of any unauthorized use of the Course Collection and/or Film Library by Licensee (Authorized User), Licensors shall terminate Licensee's (Authorized User's) access to the Course Collection and/or Film Library immediately.

6.2 Licensee (Authorized User) grants the right to use its name, affiliated university and logo on Licensors' website, promotional and marketing materials including social media.

## **7. Licensors Performance Obligations.**

7.1 Within two (2) weeks from commencement of this Agreement, Licensors shall make the Course Collection and/or Film Library available to Licensee (Authorized User).

7.2 Licensors reserves the right to withdraw from the Course Collection and/or Film Library any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable.

## **8. Reservation of Rights and Ownership of Intellectual Property.**

All rights in the Course Collection and/or Film Library, other than those specifically granted herein are reserved to Licensors for its own use and benefit. Licensee (Authorized User) is affirmatively prohibited from copying, distributing, and or otherwise exploiting the Course Collection and/or Film Library except as specifically provided for in this Agreement. The Course Collection and/or Film Library and all copies of them, any intellectual property rights in such Course Collection and/or Film Library (whether under patent law, copyright law, moral rights law, trade secret law, trademark law, unfair competition law or similar protections), and any owned by Licensors and notwithstanding this License, shall remain the exclusive property of Licensors and/or its third party licensors. Licensee (Authorized User) acknowledges that it shall not acquire any rights whatsoever in the Course Collection and/or Film Library as a result of Licensee's (Authorized User's) Authorized Use of such Course Collection and/or Film Library. Licensee (Authorized User) agrees that it shall not directly nor indirectly, attack the ownership or validity of Licensors' Course Collection and/or Film Library and/or any intellectual property rights in the Course Collection and/or Film Library.

## **9. Representations and Warranties.**

9.1 Subject to the limitations set forth in this Agreement, Licensor warrants and represents as follows: (i) Licensor has the right, title and interest in and to the Course Collection and/or Film Library, the intellectual property rights in and to the Course Collection and/or Film Library and the right and authority to grant Licensee (Authorized User) the License under this Agreement to use Materials; (ii) Licensor is a duly organized, valid and existing entity under the laws of the state of its formation, and has the power and authority to enter into this Agreement, perform its obligations hereunder, and grant the rights granted hereunder; and (iii) this Agreement has been duly and validly executed by Licensor and constitutes a valid and binding agreement of Licensor, enforceable against Licensor in accordance with its terms.

9.2 Subject to the limitations set forth in this Agreement, Licensee (Authorized User) represents and warrants: (i) Licensee (Authorized User) has the power and authority to enter into this Agreement; and (ii) Licensee will adhere to the terms and conditions of this Agreement and it will not permit uses of the Course Collection and/or Film Library beyond the scope of this License or provide the Course Collection and/or Film Library to any person or entity.

## **10. Termination.**

10.1 Licensor shall have the absolute right to terminate this Agreement, without thereby incurring any liability to Licensee (Authorized User), effective immediately upon Licensee's (Authorized User's) receipt of notice of such termination from Licensor upon any of the following events: (i) Licensee (Authorized User) becomes insolvent or appears unable to pay its debts as they mature; (ii) Licensee (Authorized User) makes an assignment for the benefit of its creditors; (iii) Licensee (Authorized User) seeks relief under any bankruptcy, insolvency or debtors' relief law; (iv) proceedings are commenced against Licensee (Authorized User) or on its behalf under any bankruptcy, insolvency or debtors' relief law and such proceedings have not been vacated or set aside within sixty days from the date of commencement thereof; (v) Licensee (Authorized User) uses the Course Collection and/or Film Library in a manner not consistent with the terms of this Agreement; (vi) Licensee (Authorized User) is in violation of any local, state or national law which it fails to cure as provided by said authorities; or (vii) Licensee (Authorized User) is convicted of any penal law which affects, injures or impugns the integrity of Licensor.

10.2 Either party may terminate this Agreement at any time if the other party has committed material breach of this Agreement. Written notice must be delivered to the other party stating with specificity the basis for the claim of material breach such that the noticed party is given a reasonable opportunity to cure the alleged breach. In the event that the alleged breach remains uncured for a period of thirty days after receipt of written notice thereof, the Agreement shall be deemed terminated.

10.3 Licensee (Authorized User) shall, thereupon, immediately cease use of the Course Collection and/or Film Library and/or to utilize the Trademark or in the identification of the Course Collection and/or Film Library or in any manner whatsoever in connection with the business of Licensee (Authorized User). Licensee (Authorized User) agrees that it will not thereafter represent or advertise that it is a former licensee (Authorized User) of Licensor.

## **11. Limitation of Liability.**

11.1 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, ARISING OUT OF THE -- USE OF OR THE INABILITY TO -- USE THE COURSE COLLECTION AND/OR FILM LIBRARY.

11.2 EXCEPT AS PROVIDED HEREIN, LICENSOR MAKES NO REPRESENTATION OR WARRANTY, AND EXPRESSLY DISCLAIMS ANY LIABILITY WITH RESPECT TO THE CONTENT OF THE COURSE COLLECTION AND/OR FILM LIBRARY, INCLUDING BUT NOT LIMITED TO ERRORS OR OMISSIONS CONTAINED THEREIN. LICENSOR DISCLAIMS ALL RESPONSIBILITY FOR ANY LIABILITY LOSS OR RISK, PERSONAL OR OTHERWISE, WHICH IS INCURRED AS A CONSEQUENCE, DIRECTLY OR INDIRECTLY, OF THE -- USE AND APPLICATION OF ANY OF THE CONTENT CONTAINED HEREIN.

11.3 THE INFORMATION CONTAINED IN THE COURSE COLLECTION AND/OR FILM LIBRARY IS OF A GENERAL NATURE AND CANNOT SUBSTITUTE FOR THE ADVICE OF A MEDICAL PROFESSIONAL. THE CONTENT PROVIDED MAY NOT APPLY TO LICENSEE'S PATIENTS OR CLIENTELE. LICENSOR SHOULD NOT RELY ON CONTENT OF THE COURSE COLLECTION AND/OR FILM LIBRARY AS A SUBSTITUTE FOR, NOR SHOULD IT REPLACE, PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT. THE INFORMATION CONTAINED IN THE COURSE COLLECTION AND/OR FILM LIBRARY SHOULD NOT BE CONSIDERED COMPLETE AND DOES NOT COVER ALL DISEASES, AILMENTS, PHYSICAL CONDITIONS OR THEIR TREATMENT. LICENSOR DOES NOT RECOMMEND OR ENDORSE ANY SPECIFIC TESTS, PHYSICIANS, CLINICS, PROCEDURES, OPINIONS, PRODUCTS OR OTHER INFORMATION THAT MAY APPEAR IN THE COURSE COLLECTION AND/OR FILM LIBRARY.

11.4 EXCEPT FOR LICENSOR'S FAILURE TO INDEMNIFY LICENSEE UNDER SECTION 12, IN NO EVENT SHALL LICENSOR'S AGGREGATE LIABILITY ARISING UNDER ANY PROVISION OF THIS AGREEMENT REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, TORT, OR OTHER LEGAL THEORY, EXCEED THE TOTAL AMOUNT PAID TO LICENSOR PURSUANT TO THIS AGREEMENT DURING THE SIX (6) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

## **12. Indemnification.**

12.1 Indemnification by Licensors. Licensors will defend, indemnify and hold Licensee (Authorized User) harmless from any third-party suit or action against Licensors to the extent such suit or action is based on a claim that the Course Collection and/or Film Library infringes any copyright, trademark or other intellectual property right held by such third party; and Licensors will pay those damages finally awarded against Licensee (Authorized User) in any

monetary settlement of such suit or action. These obligations do not include any claims that arise from the use of the Course Collection and/or Film Library in violation of this Agreement, or any modification made to the Course Collection and/or Film Library by anyone other than Licensor. In the event that the continued use of the Course Collection and/or Film Library is enjoined by a court of competent jurisdiction, Licensor, at its election will, at its own cost and expense, either: (i) procure for Licensee (Authorized User) the right to continue the use of the Course Collection and/or Film Library; (ii) modify or replace the Course Collection and/or Film Library in such a way that the use thereof does not infringe; or as a last resort in the neither of the foregoing alternatives is reasonably feasible; or (iii) terminate this Agreement by notice to Licensee (Authorized User) and refund to Licensee (Authorized User) an equitable portion of the License Fees.

12.2 Indemnification by Licensee. Licensee (Authorized User) will defend, indemnify and hold Licensor harmless from any third-party claim or suit brought against Licensor, including to the extent such suit or action is based on a claim arising from (i) use of the Course Collection and/or Film Library; (ii) any use of the Course Collection and/or Film Library by Licensee (Authorized User) which deviates from the provisions of this Agreement; (iii) a negligent act or omission of Licensee (Authorized User) in connection with this Agreement; or (iv) material breach of any representation, warranty, covenant or other provision of this Agreement. Licensee (Authorized User) will pay those damages finally awarded against Licensor by a court of competent jurisdiction in any monetary settlement of such suit or action and all reasonable associated costs and expenses, including reasonable counsel fees that are specifically attributable to such claim.

12.3 The indemnity obligations set forth in this Section 12 are contingent upon: (i) the Indemnified Party giving prompt written notice to the Indemnitor of any such claim(s); and (ii) at Indemnitor's request and expense, the Indemnified Party cooperating in the investigation and defense of such claim(s).

12.4 The Indemnified Parties shall afford the Indemnitor the opportunity to participate in any compromise, settlement, litigation or other resolution of a third party claim, or, in the event the Indemnitor elects not to defend such claim, the Indemnified Parties may assume the defense of any such claim or litigation, at Indemnitor's cost and expense, with counsel of Indemnified Parties' own choosing. In the event the Indemnitor elects to assume the defense, the Indemnitor shall afford Indemnified Parties the opportunity to participate fully in such defense at Indemnified Parties' expense.

12.5 Neither party shall compromise, settle or otherwise resolve any such claim or litigation without the other party's prior written consent, which shall not be unreasonably withheld; provided, however, that failure to respond within five (5) business days following receipt of written notice of such proposed compromise shall constitute consent to the proposed compromise, settlement or resolution.

### **13. Assignment.**

Licensee (Authorized User) may not assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of Licensor. Licensor may assign this Agreement to a person or entity that assumes all of its obligations hereunder.

#### **14. Governing Law; Jurisdiction.**

This Agreement shall be construed under and in accordance with the laws of the State of California. Any suit, action or proceeding to determine, construe or enforce any provision of this Agreement, or the rights of any party hereunder, shall be brought in the County of San Diego, State of California, and all parties agree to be subject to the State and Federal courts therein. Licensee (Authorized User) agrees and acknowledges that a breach of this Agreement by Licensee (Authorized User) will result in irreparable harm to Licensor which harm could not be adequately compensated by an award of money damages, and Licensee (Authorized User) therefore agrees and acknowledges that Licensor shall be entitled to injunctive relief.

#### **15. Force Majeure**

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing 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, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. The Term of this Agreement shall be extended for the period of time of any event of force majeure provided that if such event of force majeure continues for more than twelve (12) weeks, either party shall have the right to terminate this Agreement upon written notice to the other.

#### **16. Assignment**

This Agreement shall be binding upon and inure to the benefit of the parties, and their heirs, administrators, successors and permitted assigns. Licensor shall be entitled to assign this Agreement or any portion hereof freely. Licensee (Authorized User) shall not be entitled to assign the License or this Agreement or any portion hereof without the prior written consent of Licensor.

#### **17. Severability.**

If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other portion of this Agreement, and such invalid or unenforceable portion shall be deemed to be amended or deleted from this Agreement to the extent necessary to render such portion valid and enforceable, and as so modified this Agreement shall continue in full force and effect.

#### **18. Notices.**

All notices or remittances which are herein required or either party wishes to serve hereunder, will be given in writing and may be delivered personally to any officer of Licensee (Authorized

User) or Licensor, or as appropriate, by express courier, registered or certified mail (postage and fees prepaid, with return receipt requested).

#### **19. Entire Agreement.**

This Agreement constitutes the entire understanding of the parties relating to the subject matter hereof, and supersedes any and all prior agreements, whether oral or written, express or implied, relating to the subject matter hereof, and shall take precedence over any agreement in conflict herewith. This Agreement may not be modified or amended except in writing signed by both parties and specifically referencing this Agreement. No waiver of any particular right or obligation by either party shall be deemed a waiver of such right or obligation in the future, or of any other right or obligation hereunder.

#### **20. Headings.**

Paragraph headings used in this Agreement are for convenience only and shall not be used to interpret, limit or modify this Agreement.

#### **21. Relationship of the Parties.**

Nothing in this Agreement contained shall be deemed to constitute either of the parties being an agent of the other. Neither party shall hold itself out contrary to the terms of this Agreement and neither party shall become liable by reason of any representation, act or omission of the other contrary to the provisions hereof. Licensee (Authorized User) is in all respects acting an independent contractor.

#### **22. Authorship of Agreement.**

Each party acknowledges that it has had the advice of legal counsel in connection with the preparation, negotiation, execution and delivery of this Agreement. The parties shall both be considered the author of this Agreement. Any ambiguities that exist shall be interpreted equally between the parties and shall not be construed against either party on account that it drafted this Agreement, and this Agreement shall not be interpreted more or less favorably for either party by reason of such party's having drafted all or any portion of this Agreement.