

# CARER SUPPORT NEEDS ASSESSMENT TOOL (CSNAT) USE LICENCE AGREEMENT

## TERMS AND CONDITIONS

### 1. **Applicability**

- 1.1 These Terms and Conditions together with any schedule or specification or other document referred to or attached to these Terms and Conditions shall together comprise the binding legal agreement (the 'Agreement') between The University of Manchester of Oxford Road, Manchester M13 9PL United Kingdom and The Chancellor, Masters and Scholars of the University of Cambridge acting by and through its Centre for Family Research of Free School Lane, Cambridge CB2 3RQ United Kingdom (the "Universities") and the Licensee. Words defined in these Terms and Conditions shall have the same meaning in any schedule or specification or other document referred to in or attached to these Terms and Conditions.

### 2. **Definitions**

- 2.1 The following terms, unless the context requires otherwise, have the following meanings:

<b>CSNAT</b>	the Carer Support Needs Assessment Tool (or any part thereof)
<b>CSNAT Use Copy</b>	the CSNAT or copies thereof for use by the Licensee
<b>Licence</b>	the licence in respect of the CSNAT granted to the Licensee in Clause 3.1 hereunder
<b>Licensee</b>	means the person or entity acquiring a Licence hereunder or, if there is a separate person or entity acquiring a Licence on behalf of another, the person or entity specifically designated as the Licensee and set forth as such in this Agreement

### 3. **Grant of Licence**

- 3.1 In consideration of the Licensee strictly adhering to the terms of this Agreement to continue to allow the Universities to preserve the integrity of the CSNAT and exercise and enforce their right to restrict copying and use of the CSNAT to controlled conditions, and subject to the terms of this Agreement, the Universities grant to the Licensee for the Term a non-exclusive, non-transferable licence to make or permit copies to be made of the CSNAT in the manner as follows and to use those copies in the Research Study or for Practice Organisation use, the said copies at all times subject to Clauses 4.1 and 4.3:
- 3.1.1 print hard copies of the CSNAT for persons within its organisation involved in the Research Study or Practice Organisation use;
  - 3.1.2 make and circulate electronic copies of the CSNAT to persons within its organisation involved in the Research Study or Practice Organisation use;
  - 3.1.3 incorporate the CSNAT into the Licensee's electronic patient/carers record system to allow for the recording of notes/evaluations/plans; and
  - 3.1.4 if applicable, subject to Clause 5 translate and use the CSNAT in the language/s set out in the SCHEDULE to this Agreement.
- 3.2 Any use of the CSNAT in respect of a different Research Study or Practice Organisation use or Translation as agreed will require a separate licence from the Universities.
- 3.3 The supply of the CSNAT Use Copy under this Agreement does not confer any rights to reproduce the CSNAT for any third party or to distribute or make the CSNAT available for the use of or to the public in any media or form or derivative form.
- 3.4 Where a signatory to this Agreement is authorised to act on behalf of his or her organisation, he or she warrants they have full power and authority to bind their organisation to this Agreement.

#### 4. Intellectual Property

- 4.1 The Licensee shall ensure that all copies of the CSNAT that are made pursuant to this Agreement carry the copyright and moral rights notice as follows:

***Copyright © 2009 University of Cambridge (Centre for Family Research) / The University of Manchester (School of Nursing, Midwifery and Social Work). All rights reserved. Gail Ewing (Cambridge) and Gunn Grande (Manchester) have asserted their moral right to be identified as authors of the CSNAT.***

***Please do not remove this notice from the CSNAT or any copies. Copying and use of the CSNAT is subject to agreement to CSNAT Licence Agreement Terms and Conditions.***

- 4.2 The Licensee agrees that it will not obtain any right, title or interest in or to the CSNAT other than the rights expressly granted under this Agreement.
- 4.3 The Licensee agrees that it shall not amend, change or adapt the layout, format or design of the CSNAT in any way.
- 4.4 The data generated by the Licensee in the course of using the CSNAT for the Research Study or Practice Organisation use shall belong to the Licensee and the Universities shall have no right, title or interest in that data. The Licensee may publish or otherwise disclose the results gained from the use of the CSNAT provided that the Licensee includes the following acknowledgement in such publications:

This study utilises the Carer Support Needs Assessment Tool (CSNAT) devised by Dr Gail Ewing and Prof Gunn Grande (Copyright © 2009 University of Cambridge (Centre for Family Research) / The University of Manchester (School of Nursing, Midwifery and Social Work). All rights reserved.)

- 4.5 The Licensee shall not be permitted to publish copies of the CSNAT or any part of it either in isolation or in conjunction with such results or publications or research reports or for any other purpose.
- 4.6 If the Licensee becomes aware of any unauthorised use or infringement or misuse of the CSNAT, it will promptly notify the Universities and provide all details within its knowledge of such infringement or misuse. The Universities may take such action as they see fit in respect of infringements and misuse and shall have sole control over and conduct of any action that they deem necessary. Should the Universities in their absolute discretion decide to take any action, they will do so at their own cost and the Licensee will have no claim to any sums recovered by the Universities.

#### 5. Translation of the CSNAT

- 5.1 The provisions of this Clause 5 shall apply only if specific language/s the CSNAT is permitted to be translated are stated in the SCHEDULE to this Agreement; otherwise the Licensee shall not be permitted to make a translation/s of the CSNAT.

- 5.2 The Licensee shall be permitted to translate the original English version of the CSNAT into the Language(s) specified in the SCHEDULE, subject to the following:

- 5.2.1 the translation shall be accurate and complete;
- 5.2.2 the CSNAT shall not be condensed or adapted in any way;
- 5.2.3 a copy of the translation must be provided to the Universities upon completion, together with a certificate of accuracy;
- 5.2.4 the copyright of the translation of the CSNAT shall belong the Universities absolutely and the Licensee hereby assigns such copyright to the Universities and agrees to procure all such rights by way of present assignment of future rights in the name of the Universities;
- 5.2.5 the English version and translated version of the CSNAT permitted under this Agreement may only be used in the Research Study or Practice Organisation use for the Term; and
- 5.2.6 the following credit line and copyright notice must appear at the bottom of the translated CSNAT in English and the language of translation. The Words "Copyright" and details of the Universities and the information in square parentheses supplied by the translator must appear in the English language:

Translated in full with permission of the University of Cambridge and the University of Manchester by [name] of the [company, city and country]. Sole responsibility for the accuracy of the translation rests with the translator.

Copyright © [year of first publication of translation]. University of Cambridge (Centre for Family Research) / The University of Manchester (School of Nursing, Midwifery and Social Work). All rights reserved. The original Carer Needs Assessment Tool (CSNAT) in the English language is Copyright © 2009, CSNAT authors Dr Gail Ewing (Cambridge) and Prof Gunn Grande (Manchester) have asserted their moral right to be identified as authors of the CSNAT.

- 5.3 All the provisions of this Agreement will apply equally to a translation of the CSNAT and the term 'CSNAT' in this Agreement shall be interpreted accordingly.

## **6. Warranties and Limitation of Liability**

- 6.1 The Licensee warrants that all the information provided to the Universities on the Permission Request Form to use the CSNAT as incorporated in this Agreement is true, accurate and complete, including in particular, that:

- 6.1.1 the Research Study or Practice Organisation has been accurately described; and
- 6.1.2 the Purpose has been correctly described and only extends to those areas genuinely covered by the Research Study or Practice Use.

- 6.2 The Universities provide the CSNAT on an "as is" basis and all terms, conditions, warranties, representations or guarantees whether express or implied by statute, common law or otherwise relating to delivery, description, performance, quality or fitness for purpose of the CSNAT are hereby excluded.

- 6.2 The Licensee agrees to indemnify the Universities and keep them fully and effectively indemnified against all and any claims, damages, losses or costs arising in any manner howsoever from the Licensee's use of the CSNAT.

- 6.3 To the extent permitted by law, the aggregate liability of the Universities to the Licensee for direct loss in contract, tort or otherwise arising in connection with the supply and use of the CSNAT is limited for one incident or a series of incidents to £1,000.

- 6.4 In no circumstances shall the Universities be liable to the Licensee for any loss of profits, revenue, goodwill, business opportunity or any indirect, consequential, financial or economic loss or damage, costs or expenses whether in contract, tort, negligence, breach of statutory duty or otherwise whatsoever or howsoever arising out of or in connection with the supply or use of the CSNAT.

- 6.5 The above exclusions shall apply to the fullest extent permissible at law but the Universities do not exclude liability for death or personal injury caused by the negligence of the Universities, their employees or agents or for fraudulent misrepresentation.

## **7. Termination**

- 7.1 Either party may terminate this Agreement if the other party is in breach of any of the terms of this Agreement and in case of a breach capable of remedy fails to remedy such breach within 14 days of receipt of written notice giving full particulars of the breach and of the steps required to remedy it.

- 7.2 The Universities may terminate this Agreement immediately by notice in writing to the Licensee if:

- 7.2.1 the Licensee directly or indirectly disputes or challenges the ownership of copyright in the CSNAT by the Universities; or
- 7.2.2 the Licensee being a company goes into receivership or liquidation (other than for the purposes of amalgamation or reconstruction) or becomes insolvent or makes any composition or arrangement with its creditors (other than as part of a solvent reorganisation); or
- 7.2.3 the Licensee being a partnership or other unincorporated association is dissolved or being a natural person dies.

**8. Effect of Termination**

8.1 On termination of this Agreement, the permission and rights granted in 3.1 cease with immediate effect and the Licensee shall not use or publish or distribute or copy the CSNAT in any way and shall either destroy or delete any copies of the CSNAT in its possession.

8.2 Termination of this Agreement howsoever caused shall not affect:

8.2.1 the rights and obligations of both parties under this Agreement in the period up to termination;

8.2.2 the rights and obligations of both parties under this Agreement which by their nature are due to continue beyond such termination including but not limited to Clauses 4, 6 through 17.

**9. No Assignment or Sub-licence**

9.1 The Licensee may not assign or sub-license any of the rights and obligations in this Agreement.

**10. Variations**

10.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

**11. Entire Agreement**

11.1 This Agreement (which expression includes CSNAT USE LICENCE AGREEMENT TERMS AND CONDITIONS, SCHEDULE and any other schedule or specification or other document referred to or attached to these TERMS AND CONDITIONS) shall supersede all other arrangements or agreements whether oral or in writing between the parties as to the subject matter of this Agreement.

**12. No Partnership or Agency**

12.1 Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**13. Severability**

13.1 If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable, such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement.

**14. Waiver**

14.1 The failure of the Universities to exercise or enforce any rights it may have under this Agreement will not be deemed to preclude any right, relief or remedy available to it should it choose to exercise or enforce those rights.

**15. Rights of Third Parties**

15.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and nothing in this Agreement shall confer or purport to confer on or operate to give any third party any benefit or any right to enforce any term of this Agreement.

**16. Counterparts and Fax and Email Copies**

16.1 This Agreement may be executed in any number of counterparts, each of which shall when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

16.2 Transmission of an executed counterpart of this Agreement (but for the avoidance of doubt not just the signature page) (a) by fax or (b) by email (in PDF, JPEG or other agreed format) shall take effect as

delivery of an executed counterpart of this Agreement. If either method of delivery is adopted, without prejudice to the validity of the Agreement thus made, each Party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

16.3 No counterpart shall be effective until each Party has executed at least one counterpart.

**17. Notices**

17.1 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post or sent by facsimile to the address of the other party set out in this Agreement or sent by email to the email address of the other party (or such other address or email address as may have been notified) provided that in the case of notice served by facsimile or by email, such notice is confirmed by letter posted within 12 hours. Any such notice or other document shall be deemed to have been served:

if delivered by hand – at the time of delivery; if sent by post – upon the expiration of 2 business days after posting (in the UK) if the Licensee address is in the UK or 5 business days if outside the UK; and if sent by facsimile or by email – at 9.00am on the next business day after the facsimile or email was dispatched provided that:

(a) in the case of facsimile transmission, a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine, confirming that the fax was sent to that number and that all pages were successfully transmitted; and

(b) in the case of email transmission

(i) where a delivery receipt has been requested by the sender, that such delivery receipt has been received by the sender; or

(ii) where no delivery receipt has been requested by the sender, that no notification of non-delivery has been received by the sender.

**18. Governing Law and Jurisdiction**

18.1 This Agreement (including without limitation non-contractual disputes or claims relating to this Agreement) shall be governed by and construed in accordance with English law and subject to the exclusive jurisdiction of the English courts.