

Licence Terms and Conditions

This Agreement is between:

1. The London and South East University Group whose registered address is Old Royal Naval College, Park Row, Greenwich, London SE10 9LS (“Licensor”); and
2. Licensee as defined in ASCOT Registration Form.

Together, (the “Parties”)

Background

- A. Researchers at the Care and Outcomes Research Centre (COrEC, formerly the PSSRU) at the University of Kent (part of London and South East University Group)
- B. developed the Adult Social Care Outcomes Toolkit (ASCOT). The London and South East University Group owns the Intellectual Property Rights therein. This includes the copyright in the toolkit materials as defined below.
- C. Licensee wishes to acquire rights under ASCOT in accordance with the provisions of this Agreement, as updated from time to time.

The Parties agree as follows:

1. Definitions

In this Agreement, the following words shall have the following meanings:

ASCOT: The Adult Social Care Outcomes Toolkit, the ASCOT Measure, any component parts, preference weighted measures, accompanying documentation and any material relating to ASCOT that may be made available from time to time;

ASCOT Registration Form: The completed registration form outlining the Project, to which these Terms and Conditions are attached. The ASCOT Registration Form together with these Licence Terms and Conditions constitute the whole Licence Agreement.

ASCOT Measure: The specific ASCOT measure or measures named in ASCOT Registration Form.

Intellectual Property Rights: Patents, rights to inventions, trademarks, service marks, registered designs, copyrights and related rights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted and applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;

Licence Period: The period set out in ASCOT Registration Form.

Not-For-Profit Use: Use of ASCOT for the benefit of the public without financial gain. Examples of not-for-profit use: (1) A local authority or registered charity wishes to use ASCOT for service quality monitoring. (2) Use of the tool by a not-for-profit business and non-fee charging application. (3) A care provider wishes to use ASCOT in their services. The organisation provides social care services to service users wholly funded by local authorities or a mix of local authority and privately funded. Examples of for-profit-use would be any use of ASCOT to generate income, e.g.: (1) A pharmaceutical company wishing to use ASCOT in Patient Reported Outcome (PRO) measures. (2) Charging a third party a fee for using ASCOT e.g. A software company charging a care provider or local authority a fee for using ASCOT or the inclusion of ASCOT into an existing tool.

Project: As set out in ASCOT Registration Form.

Territory: As set out in ASCOT Registration Form.

Users: Employees, students, independent contractors or visiting researchers of the Licensee.

2. Grant

- 2.1. *Licence.* In consideration of the acceptance of the provisions of this Licence, Licensor grants Licensee a non-exclusive and non-transferable licence, for Users to use ASCOT solely within Project and for Not-For-Profit Use within Territory, for Licence Period. ASCOT has been developed for specific use and should only be used for that purpose. ASCOT should only be used in adult social care. Where appropriate the Licensee and Users should be trained in the use of the ASCOT Measure prior to using it. Protocols must be provided to the Licensor for any proposed new project using ASCOT, and a new licence set up.
- 2.2. *Access.* Licences granted under this Agreement are personal to Licensee and cannot be shared with any other individual or organisation, unless otherwise provided in this Licence. Licensee shall supervise the use of ASCOT, control access to it and keep it secure. The Licensee remains fully responsible at all times for all acts and omissions of Users and sub-licensees and for ensuring such persons understand and observe this Licence.
- 2.3. *Confidentiality.* The Licensee acknowledges that ASCOT is confidential. Unless required to disclose by law or in connection with legal proceedings the Licensee shall keep ASCOT confidential and secret, together with all know-how, techniques, ideas, principles and concepts which underlie ASCOT and all information supplied by Licensor in relation to ASCOT or which is otherwise identified as confidential. The obligations in this clause do not apply to information which is in or becomes part of the public domain in a lawful manner. The provisions of this clause shall survive the expiry or earlier termination of the Licence Period for a period of 10 years.
- 2.4. *Modifications etc.* Licensee shall not modify, adapt or translate (together "Modify or Modifications") ASCOT unless such Modifications are part of the agreed Project. Modifications may be subject to payment and additional terms. To the extent that any Intellectual Property Rights in any agreed Modifications are capable of prospective assignment, the Licensee now assigns those Intellectual Property Rights to the Licensor; and to the extent that any such Intellectual Property Rights cannot be assigned prospectively, the Licensee will assign those Intellectual Property Rights to the Licensor as and when created.
- 2.5. *Electronic Versions.* Licensee shall be permitted to use ASCOT in an electronic format or as an addition to an existing tool. Licensee will ensure no Modifications are made to ASCOT in doing so. Licensee shall make sure that ASCOT is correctly and clearly named, acknowledged and the ASCOT logo is in as prominent position as any other logo.
- 2.6. *Sub-licensing.* Licensee shall not distribute, sub-licence, sell, lend, provide access (including without limitation via a public-access or internal internet site) to the whole or any part of ASCOT to, or use it to process the work of, any third party, unless such sub-licensing is part of the Project. Licensee shall promptly provide full details of any sub-licence to Licensor. The Licensee is responsible for putting in place an agreement to include obligations equivalent to the obligations on the Licensee under this agreement. Sub-licences will terminate automatically on the termination of this agreement. The Licensee shall be responsible for any breach of the sub-licence by the sub-licensee, as if the breach had been that of Licensee under this agreement, and the Licensee shall indemnify University against any loss, damages, costs, claims or expenses which are awarded against or suffered by the Licensor as a result of any such breach by the sub-licensee.
- 2.7. *No other licence.* Except for the rights expressly set out in this Licence, no licence is granted and all rights (including Intellectual Property Rights), title, interest in and to ASCOT in all formats and media throughout the world now or hereafter are and shall remain the exclusive property of the Licensor and other rights holders. Licensee shall inform Licensor promptly if it becomes aware of any infringement or

potential infringement of any Intellectual Property Rights in ASCOT. The Licence does not include the provision of support or training for the use or Modification of the ASCOT Measure, except for basic technical or use queries. Any further support or training is available on request to the Licensor.. Such additional support may be subject to a separate agreement specific to the support agreed. Any issues encountered with the ASCOT Measure should be reported to the Licensor.

- 2.8. *Acknowledgements.* Licensee shall acknowledge the authors and use of ASCOT in any publication arising from the Project and/ or the use of ASCOT (e.g. report, journal articles, blogs, etc). Licensee shall refer to the guidance on how to reference different ASCOT measures available on the ASCOT website:

<https://research.kent.ac.uk/ascot/toolkit/>

Any references related to new translations of ASCOT will be available upon publications of articles covering the translations. Licensee should consult the ASCOT website

(<https://research.kent.ac.uk/ascot/toolkit/>) for referencing updates prior to publishing outputs.

If quoting ASCOT questions and response options in publications, Licensee shall not quote the full set of questions from any ASCOT Measure. Licensee is allowed to quote the question wording and response options from the first and the last ASCOT domain of the ASCOT Measure used in the Project together with the definitions of the remaining domains. For further details regarding quoting ASCOT, information can be found on the website:

<https://research.kent.ac.uk/ascot/toolkit/>

Licensee has no other right to use the Licensor's name or logo, with the exception of the electronic versions as set out in clause 2.5 of this agreement, and should seek prior written consent of Licensor in each case.

- 2.9 *Data.* Licensee must provide the Licensor, if reasonably requested, with data to demonstrate the impact of ASCOT. Data

requested may include size of the sample, the context of use and the outcome, and/or a statement regarding the impact ASCOT has had or is likely to have on policy, practice, quality of services, etc. as a result of use in the Project.

- 2.10 *Impact.* The Client acknowledges that the University is required by its funders to demonstrate the University's impact on society and agrees to provide to the University any information which the University reasonably requests that is connected to this Licence and Project in order to allow it to demonstrate that impact.

3. Warranties and Liability

- 3.1. *Disclaimer.* No warranty, condition, undertaking or term, expressed or implied, statutory or otherwise, is given or assumed by the Licensor, including without limitation as to non-infringement or the condition, performance, satisfactory quality or fitness for purpose of ASCOT or any advice or information given in connection with ASCOT and all such warranties, conditions, undertakings and terms are hereby excluded to the fullest extent permitted by law. Licensee shall in exercising its rights under this Licence, comply with all applicable laws, regulations and other similar instruments in Territory, including laws regulating data protection and data confidentiality, and shall at all times be solely liable and responsible for such due observance and performance.
- 3.2. *Indemnity.* The Licensee shall indemnify the Licensor and its officers, directors, Council members, employees and representatives (together, the "Indemnitees") against all third party Claims that may be asserted against or suffered by any of the Indemnitees and which relate to the use by the Licensee of ASCOT. "Claims" means all demands, claims and liability (whether criminal or civil, in contract, tort or otherwise) for losses, damages, legal costs and other expenses of any nature whatsoever and all costs and expenses (including without limitation legal costs) incurred in connection therewith.

3.3. *Liability of Indemnitees.*

- a. To the extent that any Indemnatee has any liability in contract, tort, or otherwise under or in connection with this Licence, including any liability for breach of warranty, their liability shall be limited in accordance with the following provisions of this clause.
 - b. In no circumstances shall any of the Indemnitees be liable for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the Licensee that is (a) of an indirect, special or consequential nature or (b) any loss of profits, revenue, business opportunity or goodwill.
- 3.4. *Saving.* Nothing in this Licence excludes any person's liability to the extent that it may not be so excluded under applicable law, including any such liability for death or personal injury caused by that person's negligence, or liability for fraud.

4. **Termination**

- 4.1. *Breach.* The Licensor may terminate the Licence Period early by written notice if the Licensee fails to comply with any provision of this Licence, within 14 days of being required to do so in writing.
- 4.2. *Consequences of termination.* Upon termination the Licensee shall immediately stop using ASCOT and shall certify to the Licensor within 5 days that the Licensee has removed all copies from its systems. The expiry or termination of the Licence Period is without prejudice to any other rights or remedies of either party under the Licence or at law and does not affect any rights or obligations which have arisen or accrued up to and including the date of expiry or termination. Clauses 2.3, 3, 4 and 5 shall survive termination or expiry.

5. **General**

- 5.1. *Data Protection.* The Licensor will use your data for the processing of contracts. For further information on how your data will be used please see our privacy notice - <https://research.kent.ac.uk/ris-operations/privacy-notice/>. The Licensor will use your data for licence processing and to demonstrate impact of ASCOT.

- 5.2. *Assignment.* The Licensee shall not assign or otherwise transfer all or any part of this Licence, without the Licensor's prior written consent.

- 5.3. *Law and jurisdiction.* The validity, construction and performance of this Licence shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties hereby submit, except that a party may seek an interim injunction in any court of competent jurisdiction.

- 5.4. *Entire Agreement.* This Licence constitutes the entire agreement and understanding of the Licensor and Licensee relating to the subject matter of this Licence. This Licence cannot be waived or varied except in writing signed by the Licensor. If the whole or any part of a provision of this Licence is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction, unless it alters the basic nature of this Licence or is contrary to public policy.

- 5.5. *Third parties.* Except for the rights of the Indemnitees as provided in clause 3, who may in their own right enforce the provisions of that clause, this Licence does not create any right enforceable by any person who is not a party to it ("Third party") under the Contracts (Rights of Third Parties) Act 1999, but this clause does not affect any right or remedy of a Third Party which exists or is available apart from that Act. The Parties may amend, renew, terminate or otherwise vary all or any of the provisions of this Licence, including clause 3, without the consent of the Indemnitees.

- 5.6. *Notices.* Any notices to be given under this Licence shall be in writing and sent by mail or email only to the following addresses or to such other addresses as the Parties may specify from time to time in writing. They will be deemed to have been received 3 working days after posting or emailing.

For Licensor:

Contract queries: riscontracts@kent.ac.uk

Business Development, Research &
Innovation Services. University of Kent
(part of the London and South East
University Group)