

# AMAZING CHARTS END USER LICENSE AGREEMENT (EULA)

## Terms and Conditions

By downloading and/or using Amazing Charts, or any of the applications, services, programs, installers, utilities, databases, third-party products, or files contained with it (herein collectively referred to as the "Program"), or by using any services offered by AmazingCharts.com, Inc., you agree that you have read, understood, agree to, and will abide by, all terms of this Agreement. We recommend you read this Agreement completely as you are agreeing to the terms of this agreement as well as agreeing to our online user agreement when you download, install, or use any portion of the Program or related Amazing Charts services.

The user agrees that this Program and associated services is intended to serve as a rapidly accessible, concise initial resource and not as a complete reference resource. It does not include information concerning every therapeutic agent, diagnosis, laboratory or diagnostic test or procedure available. The product is clinically oriented and is intended to be used only by medically licensed providers who are physicians and/or other competent and duly authorized/licensed healthcare professionals who will rely on their own discretion and judgment in medical diagnosis and treatment. Neither Amazing Charts, nor related third party providers, directly or indirectly practice medicine or dispense medical services and, as such, assumes no liability for data or function contained in this Program or services. The licensee assumes full responsibility for the appropriate use of medical information contained in the product and agrees to hold Amazing Charts, and its third party providers harmless from any and all claims or actions arising from licensee's use of the product.

## Trial Period

Amazing Charts is for Active Healthcare Practitioners and their employed staff Only. PERSONS NOT INTENDING TO EVALUATE AMAZING CHARTS FOR USE IN THEIR OWN MEDICAL PRACTICE (E.G., PATIENTS, LAY PUBLIC, ATTORNEYS) WHO WISH TO DOWNLOAD THE SOFTWARE MUST FIRST RECEIVE WRITTEN PERMISSION FROM AMAZINGCHARTS.COM, INC. AND PAY AN UPFRONT LICENSE FEE OF 10 TIMES THE THEN STATED LICENSE FEE FOR THE SOFTWARE. FOR THESE PERSONS, NO TRIAL PERIOD IS PERMITTED AND LICENSING IS ONLY PROVIDED AFTER PAYMENT AND BACKGROUND VERIFICATION. Non-healthcare person who download the Software or use it before receiving a written license and authority from Amazing Charts AND paying the aforementioned license fee will be subject to legal liability, and will be prosecuted to the full extent of the law.

By agreeing to the terms of this Agreement, users who are evaluating the Amazing Charts software for their medically-related healthcare practice, have the right to download and use the Program for an initial trial period of approximately 70 days. The downloaded Program includes a time limit mechanism to prevent it from operating after a period of approximately 70 days from when it is installed on a computer. The Program MAY NOT provide reminders that operation will imminently cease. **If you wish to use the Program beyond the initial trial period, you agree to pay the currently stated license fee and annual maintenance fees. All Fees are non-refundable.** Upon payment, you will receive a registration code ("Registration Code") that must be entered into the Program to allow it to continue to operate.

## Continuing Use Beyond The Trial Period

At regular intervals, the downloaded program will connect to the Amazing Charts servers via an Internet connection and automatically verify current services and verify that the client is in good standing (i.e., has paid for the license, annual maintenance fees, and any other service fees which have been ordered AND has not had their license revoked). Without this

intermittent verification, Amazing Charts may cease to operate. Use of Amazing Charts without a broadband Internet connection will limit the ability of the program to automatically verify and may require additional user intervention.

### **Property**

This Program and all related materials are the copyrighted property of AmazingCharts.com, Inc. Except as noted below, the Program and all intellectual property rights therein are owned by AmazingCharts.com Inc. You are authorized to use the Program for your own internal use. You are prohibited from selling, leasing or licensing the Program or any portion thereof to any unauthorized party, or using it to process the work of any other party. You are prohibited from creating derivative works based on the Program the Program, disassembling or reverse engineering the Program, or removing any copyright notice from it. You may only make copies of the Program for backup or archival purposes. It is your responsibility to ensure that anyone who has authorized access to the Program complies with the provisions of this Agreement.

The CPT five-digit codes and descriptions are the copyrighted property of the American Medical Association (AMA) and are subject to the restrictions set forth in the previous paragraph. The CPT codes are licensed to AmazingCharts.com, Inc.

You may not use the Program, or any of the Medications, ICD, or CPT information contained therein in any public electronic bulletin board, or public computer based information system (including the Internet and World Wide Web).

### **Optional Services**

In addition to the Programs, AmazingCharts.com, Inc. is also offering certain maintenance and support, data backup, electronic prescribing, billing services to its licensees, and other possible services ("Services"). These Services are described, and may be purchased on the AmazingCharts.com Inc. Web site. The terms of this Agreement will apply to the Services, in addition to any specific terms and conditions set forth on the Web site and/or agreements made regarding such services.

### **Service Fees**

You agree to pay AmazingCharts.com, Inc.'s current service charges for any Services you chose to use. These service fees, which are subject to change, are posted on the Web site at AmazingCharts.com. Changes in service fees will be notified to you by posting on the Amazing Charts website. You agree that AmazingCharts.com, Inc. may bill you for the Service fees as posted on the Web site. Should it raise the charge for these Services, you agree to be billed at the new rate, and that these fees will be recurring in nature and charged to you unless you notify AmazingCharts.com, Inc. that you want to terminate a Service at least two weeks prior to billing. **Service fees are non-refundable.**

### **Support**

Support for Amazing Charts is NOT included with the Program. Any support provided, whether purchased or not, is done at the sole discretion of Amazing Charts and is covered by this EULA, including the No Warranty and Limitation of Liability paragraph below.

### **No Warranty**

THE PROGRAM AND SERVICES ARE PROVIDED "AS IS." AMAZINGCHARTS.COM, INC. DOES NOT MAKE ANY WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, CONCERNING THE MERCHANTABILITY, QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROGRAM OR SERVICES. YOU ASSUME ALL RISK OF USE. NO WARRANTY IS GIVEN THAT THE PROGRAM OR SERVICE WILL BE ERROR-FREE, FREE OF VIRUSES, OR

THAT IT WILL NOT ADVERSELY AFFECT YOUR COMPUTER OR OTHER PROGRAMS ON YOUR COMPUTER. AMAZINGCHARTS.COM, INC. DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAM OR SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE PROGRAMS OR SERVICES WILL BE UNINTERRUPTED.

### **Limitation of Liability**

AMAZINGCHARTS.COM, INC. SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES INCURRED ARISING OUT OF THE USE OR THE INABILITY TO USE THE PROGRAM OR SERVICES, OR OUT OF DATA PRODUCED BY THE PROGRAM, ANY LOSS OF DATA, OR ARISING FROM ANY BREACH OF A REPRESENTATION OR WARRANTY, OR FOR ANY CLAIM BY ANY THIRD PARTY, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, EVEN IF AMAZINGCHARTS.COM, INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. AMAZINGCHARTS.COM, INC.'S MAXIMUM LIABILITY FOR ANY REASON WILL BE TO REFUND THE AMOUNT YOU PAID TO IT IN THE TWELVE MONTH PERIOD PRECEDING THE DATE OF THE CAUSE OF ACTION GIVING RISE TO THE CLAIM CONCERNED. THE FOREGOING LIMITATION OF LIABILITY IS AN AGREED ALLOCATION OF RISK THAT IS REFLECTED IN THE FEES, IF ANY, FOR WHICH AMAZING CHARTS SOFTWARE, SERVICES, SITE AND/OR CONTENT IS MADE AVAILABLE BY AMAZINGCHARTS, WITHOUT WHICH THE AVAILABILITY AND/OR PRICE OF WHICH WOULD NECESSARILY DIFFER FROM THOSE OFFERED BY AMAZINGCHARTS.

### **Export Controls**

You acknowledge that the Software contains 128-bit, and higher, encryption algorithms and may be subject to restrictions and controls imposed under the export control laws and regulations of the jurisdiction in which you are using the Software and may not be exported, acquired, shipped, transferred or re-exported, directly or indirectly, to (i) any country or region prohibited under such laws and regulations or (ii) any end user who has been prohibited from participating in the export transaction under such laws or regulations. In particular, the Software is subject to regulations respecting export permits and prohibitions on export under the laws of the United States and Canada.

### **Termination**

Once you purchase the license registration key, this License is effective until terminated. This License will automatically terminate if you fail to comply with any term of this License. It will also terminate if you do not continue to subscribe and pay for Amazing Charts Update Services, which are renewable annually on the anniversary of the date you receive the Amazing Chart Registration Code.

You may terminate this License at any time with 2 days notice to AmazingCharts.com, Inc. by sending an e-mail to [TerminateLicense@amazingcharts.com](mailto:TerminateLicense@amazingcharts.com), explaining your situation and why you are terminating the License.

Upon termination of the License for any reason, you agree that you will immediately delete all copies of the Program from your computers and cease using Amazing Charts or any associated services. Upon termination, AMAZINGCHARTS.COM, Inc. WILL DELETE ANY AND ALL BACKUP FILES, BILLING INFORMATION, AND ANY OTHER DATA YOU HAVE PROVIDED TO IT, FROM ITS SERVERS.

### **Confidentiality**

"Confidential Information" means any information (without regard to the medium on which such information may be recorded, whether written, visual, audio, graphic, computerized or otherwise) concerning or relating to your property, business affairs and patients and specifically includes data transmitted from any Protected Server to AmazingCharts' Servers.

Confidential Information shall be held in confidence by AmazingCharts.com, Inc. and shall be used only for the purposes provided for in this Agreement. AmazingCharts.com, Inc. shall use the same degree of care to safeguard your Confidential Information as it utilizes to safeguard its own Confidential Information. AmazingCharts.com, Inc. may comply with any subpoena or similar order related to data on its server, provided that AmazingCharts.com, Inc. notifies you promptly upon receipt thereof, unless such notice is prohibited by law. You shall pay AmazingCharts.com, Inc. reasonable charges for such compliance.

### **HIPAA Requirements**

AmazingCharts.com, Inc. will use its reasonable efforts to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. 1320d ("HIPAA") and any current and future regulations promulgated there under including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "Federal Security Regulations"), the federal security standards contained in 45 C.F.R. Part 142 ("Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all collectively referred to herein as "HIPAA requirements". AmazingCharts.com, Inc. agrees not to use or further disclose any Protected Health Information (as defined in 45 C.F.R. Section 164.501) or Individually Identifiable Health Information (as defined in 42 U.S.C. Section 1320d), other than as permitted by HIPAA Requirements and terms of this Agreement. AmazingCharts.com, Inc. will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the Federal Privacy Regulations.

### **Miscellaneous**

If you violate any terms of this Agreement, AmazingCharts.com, Inc. can immediately terminate your license to the Program and any services provided by AmazingCharts.com, Inc. or third-party providers. In the event of termination, you must immediately cease all use of the Program and remove all files and data for the Program from your systems. All fees are non-refundable. (Refer to Termination above for more information.)

This Agreement is nontransferable, nonexclusive, and for the sole purpose of internal use by you, the licensee, and only within the United States and its territories.

This Agreement shall be governed in accordance with the laws of the State of Rhode Island, excluding its conflicts of laws principles. Any action by you against AmazingCharts.com, Inc. shall be brought in the state courts of Rhode Island, in Providence, Rhode Island.

In the event that a provision of this Agreement is determined to violate any law or is unenforceable, the remainder of this Agreement shall remain in full force and effect.

No failure or delay on the part of AmazingCharts.com, Inc. in exercising any right hereunder will operate as a waiver of, or impair, any such right.

This License expires December 31, 2007. Provision of an updated version of Amazing Charts CPT database and information at AmazingCharts.com is dependent upon continuing contractual relations with the American Medical Association.