

## SOFTWARE & SERVICES END USER LICENSE AGREEMENT (EULA)

### The Core Concepts

In line with the different way in which we provide our software and services, we (AmazingCharts.com, Inc.) are providing to you (the person(s) using our software or services) an easy-to-understand (and we hope, reasonable) End User License Agreement (EULA). We've summarized the take-home-messages you must understand if you wish to use our products or services.

- 1. Who can use Amazing Charts?** We provide software and services for medical professionals wishing to use our products and who understand the risks, benefits, and limitations of our products as described in this EULA and on our websites. If you are a lawyer, third-party insurer employee, patient, drug-seeker, or anybody else not planning on using the software to generate clinical records in a professional health-care setting, you may NOT download, try, or use our software without written permission from us.
- 2. You use Amazing Charts at your own risk!** We are providing you this product at a significantly discounted cost, and as such we are not liable for any problems that may arise as a result of using our software or services. This program and its associated services are provided "as is." That means that there could be (albeit unlikely) serious programming errors that may result in lost or erroneous data, computer or network problems, or other issues which may interrupt or impact your ability to get your work done correctly or get paid. You use our products and services at your own risk! (Of course, since word-of-mouth is the reason we are so popular, we certainly will use reasonable commercial efforts to solve any problems you experience.)
- 3. Expected Behavior.** AmazingCharts.com encourages open discussion of issues and concerns regarding our software (and our company behavior) on our website at [www.amazingcharts.com/board](http://www.amazingcharts.com/board). In fact, we consider constructive criticism an invaluable means of improving our software and services. That said, users who act in a manner that is detrimental to our ability to provide software and services to clients equally, or those whose actions are at odds with the well-being of our company will not be allowed to continue to use our software or services. Examples of such unacceptable behavior include users who don't pay the licensing fees, users who behave in a manner that our staff finds to be inappropriate or threatening, users who post comments about Amazing Charts or related services that are false, and users using our products in a manner other than which they are intended. Treat us as you would like to be treated, and we'll do the same.
- 4. Cost.** The current pricing for our software and services is clearly published on our website and we do not charge "hidden fees". Users who purchase services that have a recurring charge (e.g., our guardian angel support & maintenance service, Offsite Backup service, etc.) have the opportunity to have their credit

card automatically rebilled for these charges. Since automatic rebilling saves us time and energy, users who pay via credit card will have the price for those services "locked-in" to the current price paid, until such time as the credit card expires or until we have to manually adjust or alter the credit card information. This locked-in price is offered solely as a courtesy, is subject to change at any time, and does not apply to invoicing or any other payment methods that requires us to spend time (and money) collecting payment.

5. **What if you don't abide by this EULA?** We have the right to turn off our software and services after sending you notice of your breach. That said, we certainly will try to amicably resolve any disputes before we revoke the right to use our software and services. Even if your license is revoked, you maintain the right to export patient demographics and notes through the Administration section of the program. The clinical data in Amazing Charts is your data, not ours – even if you've treated us badly and we have revoked your license.
6. **What if we don't abide by this EULA?** You have the right to stop using our products and to stop paying us any recurring charges at any time. You may also sue us (in the state courts of Rhode Island) if you feel we didn't abide by this agreement.

Okay, now the information written in a manner which allows lawyers to deal with the details of the above...

### **Terms and Conditions**

By downloading and/or using Amazing Charts, or any of the applications, services, programs, installers, utilities, contained files, databases, or integrated third-party products (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.

You agree 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 interfaced third party providers, directly or indirectly practice medicine or dispense medical services and, as such, assume no liability for data or function contained in this Program or services, or its use. You assume full responsibility for the appropriate use of medical information contained in the product and agree to hold AmazingCharts.com, Inc., and its third party providers harmless from any and all claims or actions arising from your use of the product.

### **Trial Period**

Amazing Charts software and services are intended 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, laymen, attorneys, insurance companies, or any of their agents) 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, may download and use the Program for an initial trial period of approximately 80 days. The downloaded Program includes a time limit mechanism to prevent it from operating after a period of approximately 80 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 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 (see description below). Without this intermittent verification, the licensed Program may cease to operate. Use of Amazing Charts without an Internet connection will limit the ability of the program to automatically verify itself and may require additional user intervention (i.e., calling into Amazing Charts to obtain a validation code required to continue to use the program).

Amazing Charts includes information that must be regularly updated to reflect the current standards-of-care of medicine and that addresses identified programming errors in earlier versions of our software and services. Thus users are strongly advised to subscribe to our Update & Support services which provide the means to ensure Amazing Charts software and services are up-to-date. Although users are not required to subscribe to this service, failing to do so means that the Amazing Charts software, services, third-party interfaces, and databases will contain outdated and/or erroneous information which may put the user at increased risk of errors and potential loss or corruption of their data from programming errors fixed in subsequent updates. Users who do not subscribe to our Update & Support service do so at their own risk and agree to hold AmazingCharts.com, Inc. harmless for any claims arising from such use of outdated software, services, third-party interfaces, medication, codes, and other databases.

**Good Standing**

AmazingCharts.com, Inc. provides software and services for medical professionals wishing to use our products and who understand the risks, benefits, and limitations of our products as described herein and on our websites.

In addition, AmazingCharts.com, Inc. encourages open discussion of issues and concerns regarding our software (or company behavior) at [www.amazingcharts.com/board](http://www.amazingcharts.com/board). In fact, constructive criticism is considered a critical means for improving our software and services and is not considered to be inappropriate.

That said, users who act in a manner that is deemed by AmazingCharts.com, Inc. to be detrimental to the ability of AmazingCharts.com, Inc. to provide software and services to all clients equally, or those whose actions are detrimental to the continuing well-being of the company will be considered to NOT be in Good Standing, and may have their license to use our software and services revoked.

Examples of such unacceptable behavior include users who don't pay the required licensing fees, users who behave in a manner that our staff finds to be inappropriate or threatening, users who post comments about Amazing Charts or related services that are false, and users who use our software or services in a manner other than which they are intended.

Users acting in a way deemed to be inappropriate will be notified that their behavior or action is considered disruptive and an attempt to correct such behavior shall be encouraged. If such disruptive behavior persists, AmazingCharts.com, Inc. may terminate this license as described in the Termination section below.

**Patient-Related Data**

Through the use of the Amazing Charts program, patient demographics and clinical encounter notes are generated and stored in Amazing Charts. Much of this data is retrievable by you WITHOUT HAVING TO NOTIFY OR PAY ADDITIONAL FEES TO AmazingCharts.com, Inc. To retrieve this data, you may log into the Administration window of Amazing Charts and select the Import/Export tab, and then export the data in a number of different formats.

**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 AmazingCharts.com, Inc. 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.

As a courtesy to users who subscribe to our services and allow their credit card to be automatically rebilled, the price for such services will be "locked-in" at the initial price paid until such time as their credit card expires or requires manual intervention by us to alter credit card information. This "locked-in" price is provided as a courtesy only, is not guaranteed, can be revoked at any time, and does not apply clients who pay by check, requires invoicing, or those who require their credit card information to be adjusted.

### **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 AmazingCharts.com, Inc. and is covered by this EULA, including the No Warranty and Limitation of Liability sections 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 FOR WHICH AMAZING CHARTS SOFTWARE, SERVICES, SITE AND/OR CONTENT IS MADE AVAILABLE BY AMAZINGCHARTS.COM, INC., WITHOUT WHICH THE AVAILABILITY AND/OR PRICE OF WHICH WOULD NECESSARILY DIFFER FROM THOSE OFFERED BY AMAZINGCHARTS.COM, INC.

### **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 your computer(s) to AmazingCharts.com, Inc.'s 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. The terms of this provision shall apply to AmazingCharts.com, Inc.'s confidential information which comes into your possession.

AMAZINGCHARTS.COM, INC. WILL KEEP YOUR CLINICAL DATA (including, but not limited to, medical care, prescribing habits, and other patient-care data in your medical records), CONFIDENTIAL. AmazingCharts.com, Inc. WILL NOT sell, trade, transmit, or provide any clinical information to insurers, pharmaceutical companies, attorneys, governmental agencies, or any other third-party except with your expressed permission. AmazingCharts.com, Inc. requires all its employees to review, understand, agree with, and comply with HIPAA regulations (described below). The confidentiality of any and all clinical records is mandated at all times.

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.

AmazingCharts.com, Inc. WILL NOT USE AD-WARE, SPY-WARE, or other mechanisms that may compromise confidentiality of records or intentionally damage the integrity of the medical records or content on your computer.

### **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.

### **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 without written permission from AmazingCharts.com, Inc. You are prohibited from 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 and continued use within the program is dependent upon continuing contractual relations with the American Medical Association.

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).

### **Export Controls**

You acknowledge that the Program 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 Program 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 Program 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 automatically renewed in perpetuity on the first day of each year until terminated. This License will automatically terminate if you fail to comply with any term of this agreement, and you must cease to use the Program after notice.

In addition to automatic termination for breach of this agreement, Amazing Charts may terminate your license and ability to use our software and services if you are found NOT to be in Good Standing (as described in the Good Standing section above).

AmazingCharts.com, Inc. has the ability to terminate access to most of the features of the Amazing Charts software and services. Even if this access is turned off, however, you will still maintain the ability to export your patient demographics and notes (see Patient-Related Data section above). Other than terminating access to parts of the Amazing Charts software or services, after notice to you that you are in breach of this Agreement, AmazingCharts.com, Inc. WILL NOT DELIBERATELY DISABLE, TAMPER, or CRIPPLE YOUR COMPUTER or otherwise hamper your ability to use non-Amazing Charts software or services.

You may terminate this License at any time by sending mail to AmazingCharts.com, Inc. at the address on our website or via email to us, explaining your situation and why you are terminating the License. (Be sure to export your patient-related data as described in the Patient-Related Data section before terminating your 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. You agree that by terminating your license, you are authorizing AmazingCharts.com, Inc. to immediately delete any and all backup files, billing information, and any other data you have provided us.

### **Miscellaneous**

If you violate any terms of this Agreement, AmazingCharts.com, Inc. may immediately terminate your license to the Program and any services provided by AmazingCharts.com, Inc. or third-party providers. All fees are non-refundable. (Refer to the Termination section above for more information.)

This Agreement is nontransferable, nonexclusive, 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 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, or any other right of AmazingCharts.com, Inc.

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.

This license is updated from time to time and the most up-to-date version is posted at [www.amazingcharts.com/EULA.pdf](http://www.amazingcharts.com/EULA.pdf). Providing you agree to abide by the latest version of this license as posted at the link above, the End Users License Agreement will be considered to automatically renew on the first day of the year (January 1) in perpetuity until terminated by you or AmazingCharts.com in accordance with the Termination section above. (EULA date: 06/03/09)