

HSS Specific Terms



HSS SOFTWARE LICENSE AGREEMENT

1. **LICENSE**

Subject to the terms and conditions of this HSS Software License Agreement (the "Agreement"), HSS hereby grants to Client (herein referred to as "Licensee") a nonexclusive, nontransferable license to use those HSS' proprietary Licensed Program(s) described in an Licensee's agreement with Altera Digital Health Inc., in machine-readable form, individually or in combination with Licensee's programs, in the processing of Licensee's data only and not the data of any third party, except as provided in paragraph 3.a., below. Licensee agrees not to remove any and all copyright notice(s) and other legends both in and on every copy of each Licensed Program. In no event will Licensee make available the Licensed Program(s) on a timesharing, rental or any other basis not specifically authorized by this Agreement.

2. **TERMINATION**

Upon termination of this Agreement for any reason, all of Licensee's right and license to use the Licensed Program(s) shall immediately cease and Licensee shall promptly return the Licensed Program(s) to HSS and certify that the Licensed Program(s) have been removed from Licensee's computer systems.

3. **RESTRICTIONS ON USE**

- a. Licensee is expressly prohibited from using the Licensed Program(s) with data belonging to other organizations. In no event will Licensee make available the Licensed Program(s) on a timesharing, rental or any other basis not specifically authorized by this Agreement. Use of the Licensed Program(s) is expressly limited to the Licensee for its internal business purposes.
- b. Licensee is expressly prohibited from making any modifications to the Licensed Program(s) that alter the algorithms or methodology without prior written authorization of HSS. Licensee may not, nor allow a third party to: (i) reverse engineer, decompile or disassemble the Licensed Program(s), except to the extent expressly permitted by applicable law, without HSS' prior written consent; (ii) remove any product identification or proprietary rights notices; (iii) lease, lend, or use the Licensed Program(s) for timesharing or service bureau purposes or to otherwise process data belonging to any third party, including but not limited to Licensee's parent, subsidiaries and/or affiliates; (iv) modify or create derivative works of the Licensed Program(s); (v) publish any performance or benchmark tests or analysis relating to the Licensed Program(s).
- c. Except as described above, Licensee agrees not to provide or otherwise make available the Licensed Program(s) in any form to any person or organization. Licensee shall not directly or indirectly disseminate, circulate, publish, copy, display or permit access to the Licensed Program(s) to any third party, including any software or Licensed Program documentation, in whole or in part. All documentation supplied by HSS shall be used only in connection with the Licensed Program(s).
- d. Except as permitted under this Agreement or the specific instructions that accompany the Licensed Program(s), Licensee shall not use, print, copy, alter, or display the Licensed Program(s) or prepare derivative works based on the Licensed Program(s). Licensee may make copies of the Licensed Program(s) as reasonably necessary for backup and archival purposes. Licensee shall keep records of the location of all Licensed Program(s), including all backup copies made by Licensee, in its facilities and disclose those records to HSS upon request. Licensee shall use its best efforts to ensure that its employees and other persons properly permitted access to the Licensed Program(s) comply with the restrictions covering the Licensed Program(s) contained in this Agreement.

4. **UPDATES**

During the term of this Agreement, any modifications made by HSS to the Licensed Program(s) which are generally made available to third parties by HSS, shall be furnished to Licensee at no additional cost. For

the purpose of this paragraph, the term "modification" shall mean improvements in the Licensed Program(s) which relate to improved operating performance but do not change the basic function of the package. Modifications shall include periodic alterations to maintain compliance of the Licensed Program(s) with the regulatory environment for which it is provided. Modifications shall not include alterations made to the Licensed Program(s) by HSS in the course of consulting or custom programming for others.

5. OWNERSHIP

Licensee expressly acknowledges that the Licensed Program(s) and their documentation to be provided under this Agreement by HSS have been developed through the expenditure of substantial time, effort and money and constitute proprietary information and trade secrets of HSS and are the exclusive property of HSS and/or its licensors. Licensee shall cooperate with HSS in protecting the copyrights and other proprietary rights of HSS and/or its licensors regarding all information, software, and documentation provided hereunder.

6. WARRANTIES AND INDEMNITIES

- a. HSS warrants that when each copy of the HSS' Licensed Program(s) is delivered to Licensee, it will be in good operating condition, free from defects in material and workmanship, and will perform in accordance with HSS documentation for such product(s) on the date of delivery and for the term of this Agreement under normal usage. HSS does not warrant that such product(s) will meet Licensee's needs or that the operation of such product(s) will be error free. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, HSS PROVIDES THE LICENSED PROGRAM(S) "AS IS" AND MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, TO LICENSEE OR ANY OTHER PERSON WITH RESPECT THERETO, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.
- b. Licensee shall indemnify and hold HSS harmless from any and all claims, losses, damages, obligations, or liabilities, directly or indirectly caused by or arising from Licensee's use of the Licensed Program(s) by Licensee, its officers, employees, or third parties permitted access to the Licensed Program(s), which does not adhere to the restrictions on use described in this Agreement and/or which does not adhere to the standards, requirements and limitations set forth in HSS documentation for such product(s).
- c. HSS shall defend and indemnify Licensee against all costs, damages, and reasonable attorneys' fees which result from any claim that the Licensed Program(s) when used as provided by this License Agreement does infringe a US patent, copyright or third party rights. This warranty and indemnification is subject to Licensee promptly notifying HSS in writing of any such claim; HSS having the sole control of the defense against such claim; and does not apply to any Licensed Program(s) altered by Licensee or any Licensed Program(s) as used in combination with other materials if infringement would have been avoided by the proper use of Licensed Program(s) or any use not in combination with other materials.
- d. Except for claims based on copyright, patent infringement or third party rights as described in paragraph 8.c. of this Agreement, HSS' sole liability to Licensee relating to the performance or nonperformance of the Licensed Program(s) furnished under this Agreement shall be limited to the fees paid hereunder for the current annual period of the Agreement. In no event shall HSS be liable for any damages caused by Licensee's use of the Licensed Program(s) in violation of this Agreement, or for lost profits or other consequential, incidental or punitive damages even if advised of the possibility of such damages. HSS DISCLAIMS ALL LIABILITY FOR ALL DAMAGES OR COSTS OF ANY KIND ARISING OUT OF HARDWARE, SOFTWARE, DATA OR OTHER MATERIALS OR SERVICES SUPPLIED BY ANY PARTY OTHER THAN HSS.

7. OTHER MATTERS

- a. This Agreement may not be assigned by Licensee nor may any rights granted under it be assigned, sublicensed, or otherwise transferred by Licensee to others without the prior written consent of HSS.

Licensee hereby consents to HSS' participation, sale, assignment, transfer or other disposition, at any time or times hereafter of this Agreement, or any portion hereof, including, without limitation, HSS' rights, title, interests, remedies, powers or duties hereunder.

- b. This Agreement shall be governed by the laws of the State of Connecticut.

- c. Licensee shall be charged for all applicable Federal, state or local taxes which HSS is required to pay as a result of the license, sale, or use of the Licensed Program(s) except those taxes based on HSS' income and property.
- d. HSS will use commercially reasonable efforts, in accordance with standard software industry practice, to ensure that the Software, when delivered to Licensee, shall not contain a computer "virus" or other contaminant, including codes or instructions intended to delete, damage or disable Licensee's computer system ("Malicious Code"). Notwithstanding the foregoing, Licensee acknowledges that HSS Software may contain license keys or other disabling code which may prevent the Software from operating in the event Licensee should default in paying fees owed hereunder. Such disabling code shall not be considered Malicious Code. HSS's sole obligation and liability, and Licensee's sole remedy, for a breach of the foregoing shall be to provide Licensee with a clean copy of the Software that does not contain such Malicious Code.
- e. The terms and conditions included in a Licensee generated Purchase Order shall not affect the terms and conditions contained in this Agreement. Such Purchase Order terms and conditions are expressly subordinate to and are superseded by the terms and conditions in this Agreement.
- f. Licensee expressly agrees to uphold the proprietary rights, to maintain the confidentiality and to prevent the disclosure of any financial and pricing terms or arrangements of this Agreement or of any attachment or amendment thereto.
- g. Upon termination for any reason of the license granted under this Agreement, Licensee shall within ten (10) business days of termination return to HSS the Licensed Program(s) and its documentation, and any and all modifications, upgrades or corrections to the Licensed Program(s) or its documentation, and Licensee shall certify that the Licensed Program(s) and all such modifications, upgrades or corrections have been returned to HSS and removed from Licensee's computer system(s).
- h. HSS and/or its authorized representatives shall upon reasonable notice and in keeping with all laws and regulations concerning confidentiality of patient information have the right to inspect, audit, and/or copy material records of Licensee in order to determine whether the provisions of this Agreement have been met. Licensee shall make any of its personnel and/or any authorized representatives of Licensee available to HSS and/or its authorized representatives to assist HSS in carrying out the provisions of this paragraph. Any and all information and records obtained under the provisions of this paragraph shall be held by HSS in confidence and shall not be disclosed to unauthorized persons unless required to do so by law or legal action. HSS shall also have the right to inspect, audit, and/or copy material records of Licensee, as described above, for six months following the cancellation, termination or expiration of this Agreement.
- i. This Agreement incorporates all of the terms and conditions with respect to the Licensed Program(s) and supersedes all proposals, prior agreements, or other communications, oral or written, between the parties relating to the Licensed Program(s). No usage of trade or industry course of dealing shall be relevant to explain or supplement any terms expressed in this Agreement. No representation of any kind shall be binding upon either party unless made in writing and signed by a duly authorized representative of the party to be charged.
- j. Each party shall allow the other party to issue a public announcement of this Agreement, subject to review and written approval by the other party, which approval shall not be unreasonably withheld, delayed or denied, not to include specific terms, financial arrangements, or other confidential information.

8. AMA TERMS AND CONDITIONS

In the event CPT® (as hereinafter defined) and/or CPT Assistant® is incorporated into the Licensed Program(s), the following terms and conditions shall apply to the CPT® and/or CPT Assistant® portions of such Licensed Program(s). Accordingly, a LIMITED LICENSE is hereby granted by HSS and the American Medical Association ("AMA") to Licensee for use of Physicians' Current Procedural Terminology, Fourth Edition ("CPT"), Copyright 2000 American Medical Association, and/or *CPT Assistant* upon the following terms and conditions additional to those in the attached Agreement:

- a) CPT and/or *CPT Assistant* are copyrighted by the AMA and Licensee must ensure that anyone who has authorized access to CPT or the Licensed Program(s) and/or *CPT Assistant* complies with the provisions of this LIMITED LICENSE.
- b) This LIMITED LICENSE will terminate in the event of default under the attached Software License Agreement or this LIMITED LICENSE.
- c) The LIMITED LICENSE is nontransferable, nonexclusive and for the sole purpose of internal use at Licensee's installation site(s), as delimited in the terms of the attached Software License Agreement, and is licensed for use only within the United States.
- d) Licensee is prohibited from using CPT and/or *CPT Assistant* or information contained therein in any public computer-based information system or public electronic bulletin board. Licensee is prohibited from publishing, translating or transferring possession of CPT and/or *CPT Assistant* or a copy or portion of it. Licensee is prohibited from creating derivative works based on CPT and/or *CPT Assistant* and selling, leasing or licensing it or otherwise making CPT and/or *CPT Assistant* or any portion thereof available to any unauthorized party.
- e) Licensee is prohibited from using CPT and/or *CPT Assistant* to perform medical diagnostic functions, set treatment procedures or substitute for the medical judgment of a physician or qualified health care provider.
- f) Licensee may make copies of the Licensed Program(s) containing CPT and/or *CPT Assistant* for backup or archival purposes only. CPT and/or *CPT Assistant* are copyright by the AMA and all notices or proprietary rights including trademark and copyright in CPT and *CPT Assistant* must appear on all permitted back-up or archival copies of the Licensed Program(s) made by Licensee.
- g) CPT IS PROVIDED "AS IS" AND HSS AND THE AMA MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, TO LICENSEE OR ANY OTHER PERSON WITH RESPECT THERETO, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. The AMA disclaims any and all liability including liability for the sequence, accuracy and completeness of data contained in CPT. The AMA does not warrant that the data contained in CPT will meet Licensee's requirements, or that the use of CPT will be uninterrupted or without error. In no event will the AMA be liable for special, incidental, indirect and/or any consequential damages including lost profits. The AMA disclaims any liability for any consequences due to use, misuse or interpretation of information contained or not contained in CPT. HSS' and the AMA's entire liability and warranty with respect to CPT is to use reasonable efforts by HSS to correct a defect or furnish a replacement of CPT within a reasonable period of time.
- h) The responsibility for the content of any *National Correct Coding Policy* included in the Licensed Program(s) is with the Centers for Medicare and Medicaid Services and no endorsement by the AMA is intended or should be implied. The AMA disclaims responsibility for any consequences or liability attributable to or related to any use, nonuse or interpretation of information contained in the Licensed Program(s).
- i) The provision of an updated version of CPT in the Licensed Program(s) and/or *CPT Assistant* is dependent upon continuing contractual relations between HSS and the AMA.
- j) If any provision of this LIMITED LICENSE is determined to violate any law or is unenforceable, then, notwithstanding, this LIMITED LICENSE shall remain in full force and effect and such term or provision shall be deemed to be stricken, but only to the extent it is illegal or unenforceable.
- k) The Licensed Program(s) include CPT and/or *CPT Assistant* which are commercial technical data and/or computer data bases and/or commercial computer software and/or commercial computer software documentation, as applicable which were developed exclusively at private expense by the American Medical Association, 515 North State Street, Chicago, Illinois 60610. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer data bases and/or computer software and/or computer software documentation are subject to the limited rights restrictions of DFARS 227.7202-1(a) (June 1995) and DFARS 227.7202-3(a) (June 1995), as applicable for U.S. Department of Defense procurements and the limited rights restrictions of FAR 52.227-14 (June 1987) and FAR 52.227-19 (June 1987), as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal procurements.

9. AHA TERMS AND CONDITIONS

In the event Coding Clinic for ICD-9-CM is incorporated into the Licensed Program(s), the following terms and conditions shall apply to the Coding Clinic for ICD-9-CM portions of such Licensed Program(s). Accordingly, a LIMITED LICENSE is hereby granted by HSS and the American Hospital Association ("AHA") to Licensee for use of CODING CLINIC FOR ICD-9-CM ("CODING CLINIC") upon the following terms and conditions additional to those in the attached Agreement:

- a) CODING CLINIC FOR ICD-9-CM is copyrighted by the AHA, Chicago, Illinois, who licenses its use. No portion of CODING CLINIC may be copied without the express written consent of HSS and AHA.
- b) It is understood that AHA did not enter the CODING CLINIC information and data into the computer and therefore AHA is not responsible for the accuracy, completeness or appropriateness of the information. AHA and HSS make no warranties of merchantability or fitness for a particular purpose. AHA shall have no liability to anyone, including HSS and the Sublicensed Site, for lost profits or indirect or consequential damages. AHA makes no warranties of any kind with respect to HSS, its products or services.
- c) AHA and HSS reserve the right to cancel this LIMITED LICENSE if any of its terms are violated by giving Licensee fifteen (15) calendar days' notice. In the event of any such cancellation, Licensee shall discontinue use of CODING CLINIC, return CODING CLINIC to HSS, remove CODING CLINIC from all workstations and immediately suspend any new installations of CODING CLINIC. Cancellation of this LIMITED LICENSE for CODING CLINIC does not affect the license granted under the attached Agreement for other Licensed Products.
- d) For purposes of this LIMITED LICENSE and the attached Agreement, "Sublicensed Site" shall mean a health care facility, physician site, or other permitted sites which have entered into a licensing agreement with HSS to use CODING CLINIC or a portion of CODING CLINIC.
- e) Licensee is prohibited at any and all Sublicensed Sites from printing or downloading CODING CLINIC by any user, other than the printing of an entire article from CODING CLINIC on a specific topic without any modification to the article and for internal use only, by the Sublicensed Site as long as the source of the article(s) is printed on the printout(s). Licensee guarantees that the text of CODING CLINIC is and will remain inaccessible to other programs capable of generating paper printouts of CODING CLINIC (excluding the print screen functionality of Windows software) provided HSS encrypts all files containing source text of CODING CLINIC.
- f) Each Sublicensed Site must sign a Software Licensing Agreement with HSS before access to CODING CLINIC is allowed.