

End User Agreement

This Agreement (Agreement) is entered between ACOM Health and the End User, defined as an individual who accesses, uses, or manipulates the ACOM Health RAPID Software (Software), and/or an End User as defined per the American Medical Association Current Procedural (AMA) Terminology (CPT) Editorial Content License below (also, Party, or collectively, the Parties). In consideration of the mutual forth, the Parties hereto agree as follows:

SOFTWARE LICENSE. With regard to ACOM Health's RAPID Software (Software), this Agreement provides the End User limited, non-exclusive and non-transferrable (except as expressly provided herein) access to the Software at the licensed location(s). ACOM Health represents and warrants to End User that ACOM Health is the owner of the Software or otherwise has the right to grant to End User the rights set forth in this Agreement. ACOM Health will not be responsible for any loss of system functionality, loss of data, or any subsequent loss of revenue, profits or business opportunity, for any reason, including but not limited to: a) computer equipment failure or computer operating system software failure, b) application software failure, c) local area network failure, including but not limited to wiring problems; d) internet related problems, e) failure due to any software application being improperly set-up, configured, or modified by anyone; f) equipment or software misuse or abuse by Client, whether willful or accidental, or combination of the Software with other incompatible or otherwise unapproved software or hardware; (g) the consequences of any viral attack, or (h) any other supervening unforeseen circumstances.

AMERICAN MEDICAL ASSOCIATION (AMA) CURRENT PROCEDURAL TERMINOLOGY (CPT) EDITORIAL CONTENT LICENSE. "CPT Editorial Content" is defined as coding work of nomenclature and codes for reporting of healthcare services from the data file(s) of *Current Procedural Terminology* ("CPT®") published by the AMA in the English language as used in the United States. "End User" means an individual who: (i) accesses, uses, or manipulates CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS and/or SNOMED CT® Maps, as applicable, contained in the Software; (ii) accesses, uses, or manipulates the Software to produce or enable an output (data, reports, or the like) that could not have been created without the CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS and/or SNOMED CT® Maps, as applicable, embedded in the Software even though CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS and/or SNOMED CT® Maps, as applicable, may not be visible or directly accessible; or (iii) makes use of an output of the Software that relies on or could not have been created without the CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS and/or SNOMED CT® Maps, as applicable embedded in the Software even though CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS and/or SNOMED CT® Maps, as applicable, may not be visible or directly accessible.

RIGHTS AND LIABILITIES. End User agrees to protect the Software from access, use, display, reproduction or distribution except as expressly authorized herein. Any other access, use, application, display, reproduction or distribution and any transfer, sublicense or assignment is prohibited except with the prior express written consent of ACOM Health. Without limiting the generality of the foregoing provisions, the Software shall be used by End User solely for its internal purposes and End User shall not use the Software to perform functions, whether on a subcontract basis or otherwise, for other persons or entities. End User further agrees that the Software, the supporting documentation, and all input and information related thereto is confidential and proprietary to ACOM Health and agrees to take all reasonable steps to protect the Software and related documentation, input and information from dissemination to any third party, including, without limitation, any agents, parent or affiliated individual or organization of End User. End User shall be responsible, at its expense, for the proper configuration of the hardware and/or operating system and/or communication software or equipment in accordance with ACOM Health's specifications. Any costs for changes in computer equipment, operating systems and/or accessories required in connection with any software change shall be the responsibility of the End User.

The AMA is a third-party beneficiary to this Agreement. End User grants ACOM Health permission to provide the AMA with End User's name. AMA's sole responsibility is to make available to ACOM Health replacement copies of the CPT Editorial Content if the data is not intact. The AMA disclaims any liability for any consequences

due to use, misuse, or interpretation of information contained or not contained in CPT Editorial Content. The CPT Editorial Content is licensed to the End User by the AMA and is a nontransferable, nonexclusive license, for the sole purpose of internal use by End User within the Territory, as defined herein. Any updates to CPT Editorial Content is dependent on continuing contractual relationship between ACOM Health and the AMA. End User agrees to ensure that anyone with authorized access to the CPT Editorial Content will comply with the provisions of the Agreement. End User shall accurately calculate End Users as defined above for CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS, as contained in the Software, as required by ACOM Health under the license agreement between ACOM Health and AMA in order that ACOM Health may accurately report and pay royalties to the AMA.

This Agreement limits, to the extent possible under the applicable laws, the warranties and liability for CPT Editorial Content, as defined herein. CPT Editorial Content is provided "as is" without any liability to the American Medical Association (AMA), including without limitation, liability for consequential or special damages, lost profits for sequence, accuracy, completeness of data, suitability for End User's requirements loss of system functionality, loss of data, or any subsequent loss of revenue, profits or business opportunity, for any reason, including but not limited to: a) computer equipment failure or computer operating system software failure, b) application software failure, c) local area network failure, including but not limited to wiring problems; d) internet related problems, e) failure due to any software application being improperly set-up, configured, or modified by anyone; f) equipment or Software misuse or abuse by End User, whether willful or accidental, or combination of the Software with other incompatible or otherwise unapproved software or hardware; (g) the consequences of any viral attack, or (h) any other supervening unforeseen circumstances.

NOTICES. End User is hereby notified and acknowledges as follows

- (a) CPT Editorial Content is copyrighted by the AMA. CPT is a registered trademark of the AMA.
- (b) U.S. Government Rights. This product includes CPT which is commercial technical data, which was developed exclusively at private expense by the American Medical Association (AMA), 330 North Wabash Avenue, Chicago, Illinois 60611. The AMA does not agree to license CPT to the Federal Government based on the license in FAR 52.227-14 (Data Rights - General) and DFARS 252.227-7015 (Technical Data - Commercial Items) or any other license provision. The AMA reserves all rights to approve any license with any Federal agency.

OPTIONAL DATA & SERVER MANAGEMENT SERVICE: If End User has purchased from ACOM Health Computer Hosted Services ("Hosted Server" and "Hosted Server Service") for operation of the Software, then: **(a) Access:** Hosted Server Service will include secured End User access, via internet connection, to a computer server with an operating system and database necessary to maintain the ongoing operation of the Software. Hosted Server Service will provide daily back up of the data stored on the Hosted Server and recovery of the backed-up data (if required) and will provide a redundant Hosted Server to be utilized if the original Hosted Server becomes inoperable. **(b) Service Uptime:** ACOM Health makes every reasonable effort to ensure that End User shall have access to the Hosted Server 24 hours a day, seven days a week. Nevertheless, End User acknowledges and agrees that the Hosted Server Service may be temporarily inaccessible from time to time for any number of reasons including, but not limited to, internet or connectivity problems, server and network downtime, or planned maintenance of the Hosted Server. **(c) Internet Access:** End User accesses the service via the internet and all internet expenses including the devices necessary to make such internet connection including computer, modem, or other connection enabling devices are the responsibility of the End User. **(d) Third Party Software:** End User is strictly prohibited from installing any software application on the Hosted Server without ACOM Health's express written authorization. **(e) Privacy:** ACOM Health maintains security for data storage and Hosted Server access. End User acknowledges that the data will include patient information and the Parties hereto may be "Business Associates" as the same is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and agrees to execute a "Business Associate Agreement". End User also acknowledges that access and security of End User's data is the End User's responsibility. **(f) Return of Data:** End User shall complete any desired data export prior to the termination date of the Data & Server Management Service. Exportable data is limited to patient demographics and claim information in Microsoft Excel (.XLS) or Comma Separated Values (.CSV) file format and SOAP and Narrative notes in Microsoft Word (.DOC) format. **(g) Data Expunged:** After sixty

(60) days from date of termination, hosted data will be expunged from the Hosted Servers in conformance with the requirements of HIPAA. End User agrees that ACOM Health shall not be held liable for such removal or disconnection. **(h) Data Analytics:** End User authorizes ACOM Health to extract data from any existing database, provided that ACOM Health de-identifies any data in accordance with the HIPAA Rules to create a de-identified data set. End User grants ACOM Health a nonexclusive, worldwide, paid-up, royalty-free, perpetual and irrevocable right and license to create derivative works of the data set and to use, copy, process, analyze, execute, reproduce, display, perform, transfer, distribute, and sublicense the data set and such derivative works in any technology now existing or later developed. Subject to End User's ownership of the End User data, ACOM Health shall own all such data sets, and all products, solutions and services that it creates using the data sets, and all of the intellectual property rights embodied in and related to the data sets and such products, solutions, and services.

FORCE MAJEURE: ACOM Health will be excused from performance under this Agreement as a result of any of the following: (a) acts of God including, but not limited to earthquakes, landslides, etc., (b) actions or omissions of End User, (c) third party non-performance, (d) failure of or defects and errors in third party software or hardware, or (e) acts of government, acts of terrorism, civil unrest, or acts, omissions, events, causes or conditions not reasonably foreseeable and could not be avoided by exercise of due care.

INDEMNIFICATION: Each Party hereby agrees to hold the other Party harmless and indemnify and defend the other Party from any third-party suit, liability, claim, action or loss arising out of the actions taken or any omissions by the other Party in conjunction with this Contract.

LIMITATION OF LIABILITY: EXCEPT ONLY AS MAY BE EXPRESSLY SET FORTH HEREIN, ACOM HEALTH EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OPERATION, PERFORMANCE, ACCURACY, OR INFRINGEMENT. IN NO EVENT SHALL ACOM BE LIABLE TO CUSTOMER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, OR SPECIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST DATA OR OTHER INFORMATION, OR LOST BUSINESS OPPORTUNITY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, INDEMNITY, NEGLIGENCE, WARRANTY, STRICT LIABILITY, OR TORT, EVEN IF ACOM HEALTH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. ACOM HEALTH'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FROM ANY CAUSE OF ACTION WHATSOEVER (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER LEGAL THEORY, AND WHETHER ARISING BY NEGLIGENCE, INTENDED CONDUCT, OR OTHERWISE) SHALL EXCEED THE AMOUNTS PAID BY CUSTOMER TO ACOM HEALTH DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CAUSE OF ACTION AROSE UNDER THIS CONTRACT. NO CLAIM MAY BE ASSERTED UNDER THIS ARTICLE AFTER ONE (1) YEAR FROM THE DATE THAT SUCH CLAIM ACCRUES.

GENERAL: The Agreement may be terminated by ACOM Health, at its option, upon the occurrence of any of the following:

- (a) End User's default or other failure to comply with any of the terms and conditions of this Agreement.
- (b) An assignment by End User of its business for the benefit of creditors, or the filing of insolvency proceedings by or against End User, or the appointment of a receiver or similar person to take charge of all or part of the End User's property.

In the event of any termination of this Agreement, ACOM Health shall be entitled to access, and End User shall grant full, free and safe access to, End User's computer(s) on which the Software is installed in order to remove, either electronically, or in person, the Software and any copies thereof. Alternatively, at ACOM Health's option, End User will certify to ACOM Health that the original and all copies of the Software and any related materials have been destroyed or returned to ACOM Health.

The Parties agree that ACOM Health is a "Business Associate" within the meaning of current legislation, and ACOM Health agrees to provide a "Business Associate" agreement to End User.

This Agreement sets forth the entire agreement and understanding of ACOM Health and End User in regard to the subject matter hereof and supersedes and replaces any and all other prior or contemporaneous understandings, commitments, discussions and agreements of any kind in regard to the subject matter hereof. This Agreement shall be modified only in a writing executed by all this Agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable. No statement, representation or warranty made by any representative or agent of ACOM Health or anyone else, whether oral or written, may be relied upon by End User, except only as is expressly set forth in this Agreement.

This Agreement shall be governed in all respects by the laws of the state of California, without reference to the choice of law principles thereof. "Territory" shall be defined as the United States of America. ACOM Health and End User hereby consent to the exercise of exclusive jurisdiction by the federal and state courts located in the County of San Diego, State of California for any claim relating to this Agreement, the enforcement of this Agreement, or the exercise of any rights or remedies under this Agreement.