

AMA End User Agreement Checklist

1. Grant of Rights, Restrictions and Obligations

- (a) The End User Agreement(s) will identify the Editorial Content licensed from the AMA and state that the license granted is a nontransferable, nonexclusive license, for the sole purpose of internal use by End User within the Territory.
- (b) The End User Agreement(s) will state that the End User is prohibited from publishing, distributing via the Internet or other public computer based information system, creating derivative works (including translating), transferring, selling, leasing, licensing or otherwise making available to any unauthorized party the Electronic Licensed Product(s), or a copy or portion of Electronic Licensed Product(s).
- (c) The End User Agreement(s) will specify that provision of updated Editorial Content in the Electronic Licensed Product(s) is dependent on continuing contractual relationship between CPSI and the AMA.
- (d) The End User Agreement(s) will state that the End User must ensure that anyone with authorized access to the Electronic Licensed Product(s) will comply with the provisions of the End User Agreement.
- (e) The End User Agreement(s) will state Users of CPT Editorial Content, AMA's version of ICD-10-CM/PCS, AMA's version of HCPCS, and SNOMED CT[®] Maps are defined as follows:

"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 Electronic Licensed Product; or
- (ii) accesses, uses, or manipulates the Electronic Licensed Product 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 Electronic Licensed Product(s) 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 Electronic Licensed Product 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 Electronic Licensed Product 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.

The End User Agreement(s) will state End User shall accurately calculate 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 each Electronic Licensed Product, as applicable, in accordance with the methods for the User Proxy Model Product Categories of Electronic Licensed Product(s) as detailed in the User Proxy Model Calculator in Exhibit A to the End User Agreement Checklist, and/or such other model as required by CPSI under the license agreement between CPSI and AMA, to permit CPSI to accurately calculated number of Users of CPT Editorial Content and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS, as contained in each Electronic Licensed Product, as applicable, using this methodology (in order that CPSI may accurately report and pay royalties to the AMA).

The End User Agreement(s) will state End User shall accurately count 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 and/or SNOMED CT[®] Maps, as contained in each Electronic Licensed Product, as applicable, where CPSI advises End User that CPSI and End User are obligated to count Users in accordance with the license agreement between CPSI and the AMA to permit CPSI to accurately counted number of Users of 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 contained in each Electronic Licensed Product, as applicable (in order that CPSI may accurately report and pay royalties to the AMA).

2. Notices

- (a) The End User Agreement(s) will state that CPT is copyrighted by the AMA and that CPT is a registered trademark of the AMA.
- (b) The End User Agreement(s) will include the "U.S. Government Rights" notice as provided in section 8.2.1, *Notices and Disclaimers, Electronic Licensed Products, U.S. Government Rights* of the license agreement between CPSI and the AMA as follows:

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.

3. Back Up Rights

- (a) The End User Agreement(s) will state that the End User may only make copies of the Electronic Licensed Product(s) for back up or archival purposes.
- (b) The End User Agreement(s) will state that all notices of proprietary rights, including trademark and copyright notices, must appear on all permitted back up or archival copies made.

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4. Contract Assent Mechanism

- (a) If a written contract is used, an authorized official of both CPSI and End User must execute the agreement in writing.
- (b) If a shrink-wrap or click-wrap license is used, use of the Electronic Licensed Product(s) must be limited to the U.S.
- (c) If a shrink-wrap license is used, the following notice must appear in boldface type in a conspicuous location so it can be seen prior to opening the Electronic Licensed Product(s) package:

Carefully read the following terms and conditions before opening and using the <insert name of Electronic Licensed Product>. Opening and using <insert name of Electronic Licensed Product> acknowledges your acceptance of these terms and conditions. If you do not agree with these terms and conditions, you should return the <insert name of Electronic Licensed Product> package within a reasonable time and your money will be refunded.

- (d) If a click-wrap agreement will be used, each End User must indicate acceptance of the terms of the End User Agreement by an appropriate mechanism provided for that purpose. For purposes of this Agreement, "click-wrap agreement" means a license agreement that: (i) appears on a computer screen or Web page; (ii) requires End Users to see the terms of the license agreement before indicating acceptance; (iii) includes a computer program or Web page mechanism which requires End Users to accept the terms of the End User Agreement prior to accessing Editorial Content (for example, by pointing the cursor at a "I Accept" box and indicating by clicking that they accept the terms); and (iv) includes a mechanism to keep a record of the End User's acceptance of the End User Agreement.

5. Miscellaneous

- (a) **The End User Agreement(s) will limit, to the extent possible under the applicable laws, the warranties and liability for Editorial Content as contained in the Electronic Licensed Products, stating that Editorial Content as contained in the Electronic Licensed Products is provided "as is" without any liability to the AMA, including without limitation, no liability for consequential or special damages, or lost profits for sequence, accuracy, or completeness of data, or that it will meet the End User's requirements, and that the AMA's sole responsibility is to make available to CPSI replacement copies of the Editorial Content if the data is not intact; and that the AMA disclaims any liability for any consequences due to use, misuse, or interpretation of information contained or not contained in Editorial Content.**
- (b) The End User Agreement(s) will state that it will terminate in the event of default.
- (c) The End User Agreement(s) will require a license fee or other consideration.
- (d) The End User Agreement(s) will state that in the event a provision is determined to violate any law or is unenforceable the remainder of the End User Agreement will remain in full force and effect.
- (e) AMA shall be named as a third-party beneficiary of the End User Agreement(s).
- (f) The End User Agreement(s) will state End User grants CPSI permission to provide the AMA with End User's name.