

# ORDER AGREEMENT FOR Revised ICD-9-CM Medicare Severity DRG Definitions Manual (CD) Version 28.0

THIS Agreement is entered into between 3M Health Information Systems, Inc. ("3M" an operating unit of 3M Company), a Delaware corporation with a principal place of business 575 W. Murray Boulevard, Murray Utah 84123 and CUSTOMER whose name and address appears at the foot of this ORDER AGREEMENT ("Agreement").

1. **MATERIALS.** 3M Health Information Systems ("3M") represents that the CD relating to the Revised ICD-9-CM Medicare Severity DRG Definitions Manual (CD) (collectively referred to as "Materials") shipped to Customer is a copy of the Materials provided to the Centers for Medicare and Medicaid Services (CMS). 3M grants to Client a perpetual, nonexclusive, non-transferable and non-sub licensable right to use the Materials on the CD, and all rights not expressly granted are reserved by 3M and its suppliers.
  - a. **REVISIONS/UPDATES.** If CMS at any time adopts a subsequent DRG revision and 3M continues to distribute the CD, another fee will be charged to obtain a copy of the revised DRG CD.
  - b. **PROHIBITIONS.** CUSTOMER will not, (i) sell, lease, license or otherwise transfer the right to use any portion of the Materials; (ii) copy or reproduce any portion of the Materials; (iii) store any portion of the Materials in a retrieval system or transmit any portion of the Materials; (iv) permit any portion of the Materials or any information derived from the Materials to be disclosed to any third party (including but not limited to any agent or supplier); or (v) use any information contained in or derived from the Materials to develop software or any other product having capabilities generally described in the Materials.
2. **CONFIDENTIAL INTELLECTUAL PROPERTY.** CUSTOMER acknowledges that the Materials contains confidential and proprietary information of 3M in addition to Third Party Content. CUSTOMER will treat the Materials and its contents as the confidential, proprietary information of 3M. CUSTOMER will immediately notify 3M if CUSTOMER has knowledge that any unauthorized party is in possession of any portion of the Materials (or any copy) or gives evidence of unauthorized use of its contents.
3. **NO WARRANTIES.** 3M does not warrant that the functions or information contained in the Materials will meet CUSTOMER's requirements or that the Materials will be error free. 3M DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE MATERIALS (INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR CUSTOMER'S BUSINESS NEEDS OR ANY OTHER PARTICULAR PURPOSE), EITHER EXPRESS OR IMPLIED.
4. **DAMAGES.** 3M SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY LOSS OF PROFITS, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE MATERIALS OR ITS USE.
5. **LIMITATIONS OF LIABILITY.** Regardless of the form or theory of any legal or equitable action brought against 3M by CUSTOMER, CUSTOMER's exclusive remedy and recovery shall be limited to general money damages (and no other relief) in a total amount not to exceed the amount of the fees paid under this Agreement during the Term under which a breach occurred. This amount includes any and all claims combined, including any costs and/or attorneys' fees awarded CUSTOMER, and the foregoing shall constitute CUSTOMER's exclusive remedy.
6. **ORDER – FEES AND PAYMENT.** Upon receipt of a signed Agreement together with your payment in the exact amount of purchase, 3M will provide CUSTOMER a CD containing the Materials. Checks must be made payable to 3M Health Information Systems, Inc. This fee is non-refundable nor pro-rated for any reason. Upon submission of Customer's payment together with the completed Agreement Customer acknowledges acceptance of the general terms and conditions of this Agreement.
7. **TERM.** This Agreement shall become effective upon execution of this Agreement and payment of fees by CUSTOMER and receipt of both by 3M, and shall remain in effect perpetually unless and until terminated, by either party for breach of the Agreement.
  - a. **TERMINATION.** Upon termination of this Agreement, Client must destroy the Materials.
8. **BREACH.** Failure by 3M or CUSTOMER to comply with any term or condition of this Agreement shall entitle the other party to give the party in default written notice requiring it to make good such default provided that if CUSTOMER violates any of the conditions of Section 1 or 2, this Agreement shall immediately terminate. If the party in default has not cured such default within thirty (30) days after receipt of notice, the notifying party shall be entitled, in addition to any other rights it may have under this Agreement or otherwise under law, to terminate this Agreement by giving notice to take effect immediately.
9. **SURVIVAL.** CUSTOMER obligations in Sections 1, 2, 3, 4, 5, 8, 9, 10 and 11 shall survive any termination of this agreement.
10. **NO THIRD PARTY BENEFICIARIES.** No third party is intended to be a beneficiary of any provision of this Agreement.
11. **JURISDICTION.** The validity, construction and interpretation of this Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

