



**MICROMEDEX, INC.**  
**Trial License Agreement**

This agreement ("Agreement") is effective as of this \_\_\_\_ day of \_\_\_\_, 2001 ("Effective Date") between \_\_\_\_ ("Licensee"), with offices at \_\_\_\_ ("Facility"), and MICROMEDEX, INC. ("Micromedex"), a Delaware corporation with offices at 6200 S. Syracuse Way, Suite 300, Greenwood Village, Colorado 80111-4740.

Micromedex has developed and copyrighted, as well as licenses from third parties, certain proprietary medical and industrial information databases and proprietary retrieval software, which are made available on a variety of electronic media, including CD-ROM, DVD, diskette, magnetic tape, and via an Internet application, and which may or may not be accompanied by documentation (hereinafter collectively referred to as "Products"). Licensee desires to acquire from Micromedex, and Micromedex desires to grant to Licensee, a license to use the Products for the period and in the format described below:

<input type="checkbox"/> CD, DVD, floppy, tape <b>OR</b> <input type="checkbox"/> Internet	Beginning Date:	Ending Date:
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In consideration of the mutual promises and covenants herein, Licensee and Micromedex agree as follows:

**1. Termination of Trial Installation.**

- A. Either party may terminate this Agreement at any time for any reason effective immediately upon notice. Upon completion of the trial period or termination of this Agreement, Licensee shall immediately return the Products to Micromedex at the above address at Licensee's expense. For Internet Products, Licensee shall cease to access the Internet Products and the password will be deactivated. Licensee shall remove any Micromedex Products or other Micromedex information from all of Licensee's equipment.
- B. If Licensee decides to subscribe, a Customer License Agreement will be executed at the completion of the trial period or as soon thereafter as possible, and this Agreement shall continue in full force and effect until the Customer License Agreement is executed by both parties even if the trial period itself is completed.
- C. If the trial period is extended, this Agreement shall continue in full force and effect until the requirements of either Section 1(A) or Section 1(B) (whichever is applicable) are completed.

**2. License.**

- A. Micromedex hereby grants to Licensee a nonexclusive, limited license to access and use the Products requested from Micromedex ("Subscription") pursuant to the terms and conditions set forth in this Agreement
- B. The Products may only be used by Licensee's employees, students, contractors, and/or physicians having privileges at Licensee's Facility, who are trained or training in the fields for which the Products are being utilized ("Authorized Personnel"). However, only Authorized Personnel who are competent healthcare professionals who rely on their clinical discretion and judgment in diagnosis and treatment may use the Products for medical diagnosis or treatment purposes. As between Licensee and Micromedex, Licensee hereby assumes full responsibility for ensuring the appropriate use and reliance upon the Products in view of all attendant circumstances, indications and contraindications.
- C. Micromedex may periodically deliver updated versions of the Products ("Updates") to Licensee. Updates are Products and subject to the terms of this Agreement. Within seven (7) days of receipt of any Updates, Licensee will install such Updates, return to Micromedex (via traceable carrier) all original material which the Updates supersede, and destroy all backup copies of the superseded material.
- D. The Products may only be employed for Licensee's own internal uses. By way of clarification, and not intending to limit the foregoing, Licensee may not, (except as expressly permitted for in this Agreement): (i) copy, download, upload or in any other way reproduce the Products in any form, except that: (a) one (1) copy of the Products may be made to the hard drive of the Authorized Hardware and/or one (1) copy of the Product may be made for backup purposes only, (b) limited excerpts of information from the Product may be copied into any other medium for internal use only, and (c) information derived therefrom may be printed for internal use only; (ii) sell, distribute, sublicense, provide access to, or transfer the Products, in whole or part, to a third party (including, without limitation, by facsimile); (iii) create compilations or derivative works of the Products; (iv) use any version of the Products other than the most current version; (v) use the Products for the benefit of a third party or give any third party beneficial use of the Products, including, without limitation, any parent or subsidiary, without the express written consent of Micromedex; (vi) reverse engineer, decompile or disassemble any part of the Products; or (vii) modify or remove any proprietary markings or restrictive legends placed on the Products.



**3. Property Rights.**

A. Micromedex regards the Products, or any part thereof, as proprietary information (“Proprietary Information”). Licensee shall not, nor permit others to, provide, disclose, or otherwise make such Proprietary Information available to, or accessible by, any person other than Authorized Personnel. Licensee shall take appropriate security precautions to effect its obligations under this Section 3(A). The Products, the copyrights thereto, and the trademarks utilized in connection therewith are and shall remain the sole property of Micromedex or its third-party licensors.

**4. Warranties.**

- A. Micromedex warrants that the information contained in the Products has been obtained from what it believes are reliable sources. However, except as set forth above, the Products are provided “as is,” and NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE WHATSOEVER IS MADE REGARDING THE PRODUCTS. MICROMEDEX MAKES NO WARRANTY THAT THE PRODUCTS WILL PERFORM WITHOUT INTERRUPTION OR FREE FROM ERRORS.
- B. In no event will Micromedex be liable for any direct, indirect, incidental, special or consequential damages arising from or caused by use of, reliance on, or inability to access and use any information contained in the Products, even if Micromedex has been previously advised of the possibility of such damages or losses.
- C. Licensee agrees to indemnify Micromedex and hold it harmless against all claims and damages including, without limitation, reasonable attorneys’ fees, arising out of, related to, or in any way connected with any use of the Products, unless such claims or damages result from the infringement of any copyright or other proprietary right of any third party (except if due to a combination, addition or modification, if applicable).
- D. Micromedex’ liability under this Agreement, if any, is limited solely to amounts received from Licensee over the previous 12 months, whether or not any amounts were actually received.

**5. Miscellaneous.**

- A. This Agreement, and any properly executed Addenda, constitutes the entire understanding between the parties hereto with respect to the subject matter hereof.
- B. Every notice required or contemplated by this Agreement to be given by either party may be delivered in person or may be sent by courier, express or overnight mail, or postage prepaid certified or registered air mail (or its equivalent under the law of the country where mailed), addressed to the party for whom it is intended, at the address previously set forth herein. Either party may change its address for notice by giving notice to the other party of the change.
- C. This Agreement shall be construed and the rights and liabilities of the parties determined in accordance with the laws of the State of Colorado, without giving effect to any body of law or precedent relating to conflicts of laws.
- D. Notwithstanding the expiration or termination of this Agreement for any reason whatsoever, the provisions of Sections 3 and 4 shall survive and bind the parties indefinitely.
- E. In the event that any provision of this Agreement is adjudged by a court to be invalid, void or unenforceable, the remainder of this Agreement shall remain valid and enforceable according to its terms.
- F. The failure of either party to give notice of nonperformance, breach or termination, or to otherwise enforce any rights hereunder, shall not constitute a waiver of any terms or conditions of this Agreement.

**6. U.S. Government Customers.**

The Products are provided to the Federal government and its agency with RESTRICTED RIGHTS. USE, DUPLICATION OR DISCLOSURE BY THE GOVERNMENT IS SUBJECT TO RESTRICTIONS SET FORTH IN SUB-PARAGRAPH (c)(1)(ii) OF THE RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE CLAUSE AT DFARS 252.227-7013 OR SUB-PARAGRAPHS (c)(1) OR (2) OF THE COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS AT 48 CFR 52.227-19, AS APPLICABLE. CONTRACTOR/MANUFACTURER IS MICROMEDEX, INC., 6200 S. Syracuse Way, Suite 300, Greenwood Village, Colorado 80111-4740, USA.

IN WITNESS WHEREOF, each of the parties, representing that it has the authority to enter into this Agreement, hereto has caused this Agreement to be executed by a duly authorized representative.

MICROMEDEX, INC.

LICENSEE

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_