

Active Medical Solutions Terms of Use

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These terms and conditions of use (“Terms of Use”) govern your use of online interfaces and properties (e.g., websites and applications) that are owned and controlled by Active Medical Solutions (“AMS,” “we,” “us,” and “our”), including the AMSTeleHealth.com website (the “Site”), as well as the services (“Services”) available to users through the Site or through any other means, including mobile phone applications. The terms “you” and “your” means you, your dependent(s) or representative(s) if any, and any other person accessing your account on the Site or Services. Your acceptance of, and compliance with, these Terms of Use is a condition to the use of the Site and Services. By using the Site or Services, you acknowledge that you have read, understand, and expressly agree to all terms and conditions contained within the Terms of Use and Privacy Policy. If you do not agree to be bound by these terms, you are not authorized to access or use this Site or Services for any purpose; promptly exit the Site or Services.

USER REPRESENTATIONS: You represent and warrant that you are at least eighteen (18) years of age to register on the Site, to enroll for the Services and/or use the Services. You further represent and warrant that: (i) you have the legal ability and authority to agree to these Terms of Use and use the Site and Services; (ii) the information you provided during your registration is accurate and complete; (iii) you will comply with all applicable laws as they relate to the Site and/or Services; and (iv) you will not interfere with, disrupt, or replicate, or attempt to interfere with, disrupt, or replicate this Site and Services and its security measures and protocols. If any information you provided to us becomes inaccurate, incomplete, or otherwise false and/or misleading, you will immediately notify us. You are responsible for ensuring that any information you provide is complete, up to date, and accurate.

MODIFICATION OF TERMS: We reserve the right to update and/or modify the Terms of Use at any time and for any reason, without penalty or liability to you or any third party. Any changes of the Terms of Use are effective immediately upon posting. By continuing to access and use the Site or Services, you expressly agree to follow and be bound by all applicable updates and changes to the Terms of Use.

MODIFICATION OF SITE AND SERVICES: We reserve complete and sole discretion with respect to the operation of the Site and the Services. We may withdraw, suspend, or otherwise discontinue any functionality or feature of the Site or the Services. We reserve the right to maintain, delete, or destroy all communications and user content posted or uploaded to the Services pursuant to applicable law and our internal record retention and/or destruction policies. Occasionally, we may perform maintenance on or upgrade the Site or Services or the underlying structure that enables use of the Site or Services. This may require us to temporarily suspend or limit your use of the Site or Services until such time the maintenance or upgrade is completed. To the extent possible and unless otherwise stated, we will endeavor to publish the time and date of such expected suspension or limitation of the Site or Services in advance when possible. You agree that you are not entitled to claim any damages for such suspension or limitation during such maintenance or upgrade.

LICENSE: Upon accepting the Terms of Use, you are granted a limited, non-assignable, non-sublicensable, non-exclusive license to use the Site or Services on a personal computer, mobile phone, or other electronic device for personal, non-commercial use through your individual account. You agree not to grant any right to third-parties to your personal use of our Site or Services.

USE OF SERVICES: You are required to provide us with your name, email address, and phone number upon registering for a user account. We will use your email address or phone number to send you important updates about the Site and Services, as well as notifications when information and documents are added that you need to be aware of (e.g. forms, updated terms, etc.). In some instances, but not all, registered users may be permitted to opt out of receiving certain emails.

Use of the Site and Services described herein are subject to our Privacy Policy. The [Privacy Policy](#) is hereby incorporated by reference into these Terms of Use.

Portions of the Site or Services are only available to users who have registered and created an account with an appropriate username and password (“Registered Users”). Each Registered User is responsible for controlling the privacy, dissemination, access to, and use of their username and password, and/or personal information necessary for verification, and promptly informing us of any need to deactivate a password or account. You also agree to promptly notify us of any unauthorized use of your username, password, or any other breach of security that you become aware of involving or relating to the Site or Services by emailing us at help @ amsdoc . com . We explicitly disclaim liability for any and all losses and damages arising from your failure to comply with this section.

Neither the Site nor Services are intended to support or carry emergency calls to any law enforcement or health care provider or entity. In the event of a medical emergency, dial 911 immediately.

PROFESSIONAL SERVICES: By requesting a medical consultation with a provider through the Site, you are requesting to enter into a clinician/patient relationship with a licensed provider (“Provider”), who shall be solely responsible for the provision of professional medical services. You will only receive medical care once a *bona fide* clinician/patient relationship with a medical professional is established by mutual acceptance. You agree that you will be financially responsible for the provision of professional medical services by a Provider.

Active Medical Solutions makes certain general educational resources available to you and facilitates your access to telehealth services. We are independent from the Providers who render telehealth services and Active Medical Solutions is not responsible for such Providers’ acts, omissions or for any content of the communications made by them. We do not engage in the practice of medicine. By accepting the Terms of Use and using the Site and Services, you acknowledge and agree that Active Medical Solutions does not provide professional medical services, is not a healthcare provider, does not hire healthcare providers, and that by using the Site and Service, you are not entering into a provider-patient relationship with Active Medical Solutions.

If you engage in a medical encounter with a Provider, we may collect a medical encounter fee from you prior to the encounter. We will transmit the medical encounter fee to your treating Provider. The medical encounter fee is non-refundable upon the initiation of a provider-patient relationship with a Provider.

MEDICAL DISCLAIMERS: We make no representation or warranty as to the content or quality of any treatment decision, recommendation, or response from any Provider. Providers utilize the Site to connect with you. Providers do not render services on behalf of Active Medical Solutions. You and the Provider are solely responsible for all information and/or communication sent during a

telephone or web video consultation, secure e-mail, or other communication, and the subsequent result. We do not make any representation that a telephone or web video consultation or secure e-mail is the appropriate course of treatment for your particular health care situation or needs. You acknowledge and agree that this Site is not a replacement for your existing relationship with your physician or healthcare provider. You will contact your physician immediately should your condition change or your symptoms worsen. If you require emergency care, you will contact your local emergency services immediately.

PRESCRIPTION PRODUCTS: Active Medical Solutions does not guarantee a prescription. It is up to the Provider to recommend the best treatment for you. If a Provider determines a prescription product is appropriate for you and issues a prescription, you will receive information about your options for filling the order.

CALLING & SMS MESSAGES: You may have the option to receive telephone calls and text (SMS) messages from us. By enrolling to receive such calls or messages, you consent to receive these communications from us or our affiliates concerning your use of the Site and Services. These communications may include, but are not limited to, transactional messages related to your use of the Site and Services. You may unsubscribe from these communications at any time by following the instructions set forth on the enrollment page. Alternatively, you may unsubscribe from SMS messages by texting “STOP” to the message received, or by contacting us at help @ amsdoc . com . to unenroll from these communications.

CONTENT OF COMMUNICATION: We do not endorse or take responsibility for the content of communications made using any portion of the Site. By using the Site, you agree that any content received or transmitted is entirely the responsibility of the individual from whom such content originated. You agree that you are solely responsible for the content you choose to upload onto the Site. You agree not to (i) access the Site or use the Services in any unlawful way or for any unlawful purpose; (ii) post or transmit (a) a message under a false name, or (b) any data, materials, content, or information (including, without limitation, advice, and recommendations) (collectively “Information”) which is (1) libelous, defamatory, obscene, fraudulent, false, or contrary to the ownership or intellectual property rights of any other person, or (2) contains or promotes any virus, worm, Trojan horse, time bomb, malware, or other computer programming or code that is designed or intended to damage, destroy, intercept, download, interfere, manipulate, or otherwise interrupt or expropriate the Site or the Services, personal information, software, equipment, servers, or Information or facilitate or promote hacking or similar conduct; (iii) impersonate or misrepresent your identity or falsely state or misrepresent your affiliation with a person or entity; (iv) tamper, hack, spoof, copy, modify, or otherwise corrupt the administration, security, or proper function of the Site or the Services; (v) use robots or scripts with the Site; (vi) attempt to reverse engineer, reverse assemble, reverse compile, decompile, disassemble, translate, or otherwise alter, defraud, or create false results from any executable code, information on, or received by this Site; (vii) incorrectly identify the sender of any message transmitted to the Site. You may not alter the attribution or origin of electronic mail, messages, or posting; (viii) harvest or collect protected health information about any other individual who uses the Site or the Services; (ix) infringe or facilitate infringement on any copyright, patent, trademark, trade secret, or other proprietary, publicity, or privacy rights of any party, including such rights of third parties. All information you provide to us or any third-party through the Site shall be true, accurate, current, and complete.

Any information displayed on the Site is for informational purposes only. No content shall be construed as a professional opinion, medical advice, or relied upon to diagnose or treat any particular condition. No information provided on the Site shall be construed as a substitute for, nor does it replace, professional medical advice, diagnosis, or treatment.

PAYMENT: We may charge fees for your use of certain Services. Where applicable, you agree that we may charge your credit card or other payment mechanism on file for all amounts due and owing for the Services, including taxes and service fees, set up fees, subscription fees, or any other fee associated with use of your registered account. We may change prices at any time, including changing a free service to a paid service; provided, however, that we will provide you with prior notice and an opportunity to terminate your registered account. You agree that in the event we are unable to collect the fees owed for the Services through your account, we may take any other steps we deem necessary to collect such fees from you and that you will be responsible for all costs and expenses incurred by us in connection with such collection activity, including collection fees and court costs.

TERMINATION: Unless expressed otherwise in writing, we reserve the right to terminate, rescind, revoke, or modify your access to the Site or Services without notice at any time for any reason. Any violation of these Terms of Use will result in immediate termination. We shall not be liable to you or any third party for any such termination. You may opt out of the Site or Services at any time.

INTELLECTUAL PROPERTY: All materials on the Site or Services, including the design, layout, and organization (collectively referred to as "Materials"), with the exception of data contained in user records, are owned and copyrighted by us or our affiliates and are protected by all applicable intellectual property laws. All rights and title to the Materials, trademarks and service marks herein remain with us or its licensors. You are authorized to view the Site or Services and Materials. All rights not expressly granted herein are reserved to us. You may not reproduce, retransmit, distribute, disseminate, sell, publish, broadcast, circulate or exploit for commercial gain any portion of the Site or Services or the Materials. You further agree that any information you provide or use on the Site or Services, and your use of the Site or the Services, will not infringe or facilitate infringement on any copyright, patent, trademark, trade secret, or other proprietary, publicity, or privacy rights of any party, including such rights of third parties.

You further agree that you shall not, and shall not permit any individual or entity to (a) reverse engineer, disassemble, decompile, decode, or adapt the Site, Services, or Materials, or otherwise attempt to derive or gain access to the source code of the Site, in whole or in part; (b) bypass or breach any security device or protection used for or contained in the Site or Services; (c) use the Site or Services for purposes of: (i) benchmarking or competitive analysis of the Site; (ii) developing, using or providing a competing software product or service; or (iii) any other purpose that is to our commercial disadvantage; or, (d) use the Site, Services, or Materials for any other purpose or application not expressly permitted by this Agreement.

COPYRIGHT NOTICES: Active Medical Solutions reserves the right to remove any content or any other material or information available on or through our Services, at any time, for any reason. Active Medical Solutions otherwise complies with the provisions of the Digital Millennium Copyright Act ("DMCA") applicable to Internet service providers and responds to clear notices of alleged copyright infringement. If you have objections to copyrighted content or material made

available on or through our Site or Services, you may submit a notification to Active Medical Solutions at help @ amsdoc . com .

TRADEMARKS: Our name, and all related names, logos, product and service names, designs, and slogans are trademarks of Active Medical Solutions or its affiliates or licensors. You must not use such marks without our prior written permission. All other names, logos, product and service names, designs, and slogans on this Site are the trademarks of their respective owners.

THIRD PARTY WEBSITES: We may provide external links to third party web sites. These Terms of Use apply only to your relationship with us and the Site or Services, and do not describe the terms and conditions, privacy policies or other policies of third parties. Your use of third-party websites is at your own risk and subject to the third party's terms and conditions. We disclaim any and all liability for any information set forth on linked sites.

NO ENDORSEMENT: Information provided on the Site is for your convenience only. We do not endorse the promotions, products, publications or services of any third parties. We do not warrant or validate the advertisements, promotions, communications, or other materials of any third party. Any views expressed by third parties on this Site or Services are solely the views of such third party and we assume no responsibility or liability for the accuracy of any statement made by such third party.

GEOGRAPHIC RESTRICTION: We provide this Site for use only by persons located in certain locations of the United States. We make no claims that the Site and Services herein provided are accessible or appropriate outside of those locations within the United States. If you access the Site or Services from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

INDEMNIFICATION: You hereby agree to hold harmless, defend and indemnify us, our principals, owners, officers, directors, managers, employees, contractors, agents, other affiliated companies, suppliers, successors, and assigns from all liabilities, claims, demands, and expenses, including attorney's fees, that arise from or are related to (a) your use or misuse of the Site or Services, (b) your breach of these Terms of Use, (c) the content or subject matter of any information you provide to us, and/or (d) any negligent or wrongful act or omission by you in the use or misuse of the Site or the Services, including without limitation, infringement of third party intellectual property rights. You agree to waive, to the fullest extent permitted by law, all laws that may limit the efficacy of such indemnifications or releases.

LIMITATION ON LIABILITY: IN NO EVENT SHALL WE BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM ANY LOSS OF USE, LOSS OF PROFITS, LITIGATION, OR ANY OTHER PECUNIARY LOSS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS SITE OR THE PROVISION OF OR FAILURE TO MAKE AVAILABLE ANY SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WE ARE NOT LIABLE TO YOU OR ANYONE ELSE FOR ANY DECISION

MADE OR ACTION TAKEN BASED ON USE OF THIS SITE OR SERVICES, EXCEPT AS REQUIRED BY LAW.

Your acceptance of this limitation of liability is an essential term and We would not grant You access to the Site(s) without your agreement to this essential term of these Terms of Use. **If you are a California resident, you waive your rights with respect to California civil code section 1542, which indicates “a general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor.”** Because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, our liability shall be limited to the maximum extent permitted by law.

DISCLAIMER: THE SITE OR SERVICES ARE PROVIDED BY US ON AN “AS IS” AND “AS AVAILABLE” BASIS. WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THAT THE SITE OR SERVICES WILL BE UNINTERRUPTED, FREE FROM ERROR, OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS.

We will use reasonable efforts to keep the Site or Services content timely and accurate, but we make no guarantees, and disclaim any implied warranty or representation about its accuracy, relevance, timeliness, completeness, or appropriateness for a particular purpose. We assume no liability arising from or relating to the delay, failure, interruption, or corruption of any data or other information transmitted in connection with use of the Site or Services.

TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OFFERED THROUGH THE WEBSITE IS AT YOUR OWN RISK.

GOVERNING LAW: These Terms of Use shall be governed by and construed in accordance with the laws of the State of Texas, as amended from time to time, without regard to principles of conflicts of law.

LIMITATION ON TIME TO FILE CLAIMS: ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE SITE OR SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION OCCURS; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

AGREEMENT TO ARBITRATE, VENUE: YOU AGREE THAT ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE BREACH, TERMINATION, ENFORCEMENT, INTERPRETATION OR VALIDITY

THEREOF OR THE USE OF THE SERVICES (COLLECTIVELY, “DISPUTE(S)”) WILL BE SETTLED BY BINDING ARBITRATION. This arbitration clause governs all disputes, except that each party retains the right: (i) to bring an individual action in small claims court, and (ii) to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party’s copyrights, trademarks, trade secrets, patents, or other intellectual property rights (the action described in the foregoing clause (ii), an “IP Protection Action”).

Without limiting the foregoing, you may decline the above arbitration provisions and you may retain the right to litigate any other Dispute if you provide us with written notice of your desire to do so, by U.S. mail or express courier to the address contained in the “Notices” section below, within thirty (30) days following the date you first agree to these Terms of Use (such notice, an “Arbitration Opt-out Notice”). If you don’t provide us with an Arbitration Opt-out Notice within the thirty (30) day period, you will be deemed to have knowingly and intentionally waived your right to litigate any Dispute except as expressly set forth above. The exclusive jurisdiction and venue of any IP Protection Action or, if you timely provide us with an Arbitration Opt-out Notice, any other claims, will be the state and federal courts located in the State of Texas and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

UNLESS YOU TIMELY PROVIDE US WITH AN ARBITRATION OPT-OUT NOTICE, YOU ACKNOWLEDGE AND AGREE THAT YOU AND WE ARE WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING. FURTHER, UNLESS BOTH YOU AND WE OTHERWISE AGREE IN WRITING, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF ANY CLASS OR REPRESENTATIVE PROCEEDING. MOREOVER, THE ARBITRATOR WILL HAVE NO AUTHORITY TO AWARD PUNITIVE, EXEMPLARY, INDIRECT, SPECIAL DAMAGES OR ANY OTHER DAMAGES NOT MEASURED BY THE PREVAILING PARTY’S ACTUAL DAMAGES, EXCEPT AS REQUIRED BY LAW.

Any arbitration occurring pursuant to this section will be administered by the American Health Lawyers Association (“AHLA”) before a single arbitrator with the locale of all hearings requiring physical attendance of the parties to occur in Montgomery County, in the State of Texas, or as otherwise mutually agreed upon by the parties. Any judgment award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

This section will survive any termination of these Terms of Use.

ARBITRATION FEES: The costs of any arbitration, as described in the previous section, including without limitation, the fees of the arbitrator (but excluding each party’s attorney’s fees) shall be paid by the claimant who initiates an arbitration.

SEVERABILITY: If any provision of these Terms of Use is found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect.

WAIVER: No delay by us in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

NOTICES: We may provide notice to you by e-mail at the e-mail address you provided during registration, by a general notice on the Site or Services, or by written communication delivered by first class U.S. mail or express courier to your address on record in your account information. You may give notice to us at any time, in writing, delivered by first class U.S. mail or express courier to: Active Medical Solutions, 1790 Hughes Landing Blvd, Suite 400, The Woodlands, TX 77381 .