

TERMS OF USE

Last updated and effective as of August 22, 2013

Welcome to the Acumen Patient Portal website (the “Site”). This Site is owned and operated by Acumen Physician Solutions, LLC or one or more of its direct or indirect affiliates (collectively, the “Company,” “we” or “us”). This Site serves as a Patient Portal that provides you with the ability to exchange secure messages with your health care provider and may provide additional features in the future.

1. ACCEPTANCE OF TERMS OF USE AND WEBSITE PRIVACY POLICY

To access or use this Site, you must agree to be bound by the following terms and conditions (“Terms of Use”) and our website privacy policy found at <https://myhealth.acumenehr.com/EHR/Admin/Documents/PrivacyPolicy.pdf> (the “Website Privacy Policy”), the terms of which are incorporated herein by reference. The Terms of Use and Website Privacy Policy govern your access to and use of this Site and any content, functionality and services offered or otherwise made available to you on or through this Site.

Please read the Terms of Use carefully before using this Site. By using this Site, you accept and agree to be bound and abide by these Terms of Use and our Website Privacy Policy, including, but not limited to, agreeing to the Terms of Use and Website Privacy Policy electronically, any disclaimers of warranties, limitations and exclusions on damages and remedies and a choice of Massachusetts law.

If you do not want to agree to these Terms of Use or our Website Privacy Policy, you must not access or use this Site.

2. THE SITE DOES NOT PROVIDE MEDICAL ADVICE

- **THE CONTENTS OF THIS SITE (SUCH AS TEXT, GRAPHICS, IMAGES, INFORMATION OBTAINED BY US FROM THIRD PARTY LICENSORS AND OTHER MATERIAL CONTAINED ON THIS SITE) IS MADE AVAILABLE TO YOU FOR INFORMATIONAL PURPOSES ONLY.**
- **THIS SITE AND THE CONTENT APPEARING ON THIS SITE ARE NOT SUBSTITUTES FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT.**
- **ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTH CARE PROVIDER WITH ANY QUESTIONS YOU MAY HAVE REGARDING A MEDICAL CONDITION.**
- **NEVER DISREGARD MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF SOMETHING YOU HAVE READ ON THIS SITE.**

- **IN AN EMERGENCY, CALL 911 OR YOUR LOCAL EMERGENCY ASSISTANCE NUMBER.**
- **IN NO EVENT WILL WE BE LIABLE FOR ANY DECISION MADE OR ACTION TAKEN IN RELIANCE UPON THE INFORMATION PROVIDED THROUGH THIS SITE.**

3. CHILDREN UNDER THE AGE OF 13

This Site is not intended or designed to attract or for use by children under the age of 13. We do not collect personally identifiable information directly from any person we actually know is a child under the age of 13; however, we may collect information about children under age 13 directly from their parent(s) or others authorized by applicable law to provide it. If you are under the age of 13, do not use or provide any information on this Site or on or through any of its features, register on this Site, and do not use any of the interactive or public comment features of this Site or provide any information about yourself to us, including your name, address, telephone number, e-mail address or any screen name or user name you may use.

If we learn that we have collected or received personal information directly from a child under the age of 13 without verification of parental consent, we will delete that information. If you believe we might have any information from or about a child under the age of 13 that has not been verified by parental consent or provided directly by a parent or others authorized by applicable law to provide it, please contact us by sending us an e-mail to support@acumenmd.com or contacting us in writing at the address provided below.

By using this Site, you represent and warrant that you meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use this Site.

4. OTHER TERMS AND CONDITIONS

Special rules or additional terms and conditions for the use of certain software, mobile applications and other features, materials, information or items accessible on this Site may be included elsewhere within this Site and are incorporated into these Terms of Use by reference. For example, if we provide desktop, mobile or other applications for download or make social media features available via this Site, you may download a single copy to your computer or mobile device or use those social media features solely for your own personal, non-commercial use, provided that you agree to be bound by the special rules and additional terms and conditions that apply to those applications or features.

5. INTELLECTUAL PROPERTY RIGHTS

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6. USE OF SITE AND CONTENT

These Terms of Use permit you to view this Site for your personal, informational and non-commercial use only and to use the Patient Portal to exchange secure messages with your health care provider about appointments, billing, prescriptions and other matters. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the Content on our Site, except as follows:

- your computer may temporarily store copies of such Content in RAM incidental to your accessing and viewing any Content;
- you may store files that are automatically cached by your browser for display enhancement purposes; or
- you may print or download one copy of a reasonable number of pages of this Site for your own personal, non-commercial use and not for further reproduction, publication or distribution if you include the copyright notice and information found in Section 28 of these Terms of Use and other copyright and proprietary rights notices that are contained in the Content.
- you may print secure messages exchanged with your health care provider through the Patient Portal; such messages shall not be deemed to be Content.

You must not:

- modify copies of any Content from this Site;
- use any Content, including illustrations, photographs, video or audio sequences or any graphics, appearing in this Site separately from the accompanying text;
- delete or alter any copyright, trademark or other proprietary rights notices from copies of any Content from this Site; or

- access or use for any commercial purposes any part of this Site or any services or any Content made available through or on this Site.

7. PROHIBITED USES OF THE SITE AND CONTENT

You may use this Site only for lawful purposes and in accordance with these Terms of Use. In accessing or using this Site, you agree that you will not:

- delete, modify, hack or attempt to change or alter any of the Content on this Site;
- use any device, software or routine intended to damage or otherwise interfere with the proper functioning of this Site or servers or networks connected to this Site, or take any other action that interferes with other parties' use of this Site;
- use any robot, spider or other automatic or manual device or process to access this Site for any purpose, including monitoring or copying any of the Content on this Site other than for a generally available search engine;
- use any copyrights, service marks, trademarks or Content owned by us or a third party without our prior written consent, including without limitation as metatags, search engine keywords, or hidden text;
- use any Content made available through this Site in any manner that infringes any copyright, trademark, patent, trade secret or other proprietary right of any party;
- upload files or otherwise introduce files that contain viruses, malware, Trojan horses, worms, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another;
- in any way violate any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries);
- transmit or send any advertising or promotional material, including any "junk mail," "chain letter" or "spam" or any other similar solicitation;
- impersonate or attempt to impersonate or "spoof" us, any of our employees, another user or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing);
- attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of this Site, the server(s) on which this Site is stored, or any server, computer or database connected to this Site or the security measures deployed to protect them;
- attack this Site via a denial-of-service attack or a distributed denial-of-service attack; or

- engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of this Site, or which, as determined by us, may harm us or other users of this Site or expose them to liability.

8. LINKING TO THE SITE AND CERTAIN SOCIAL MEDIA FEATURES

You may also link or hyperlink any publicly available page of this Site to a website that is owned by you, provided you do so in a way that is fair and legal and does not damage or take advantage of our reputation, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part without our express written consent.

This Site may provide certain social media features that enable you to:

- link from your own or certain third-party websites to certain content on this Site;
- send e-mails or other communications with Content, or links to Content, on this Site; and
- cause limited portions of the Content on this Site to be displayed or appear to be displayed on your own or certain third-party websites.

You may use these features solely as they are provided by us and solely with respect to the Content with which these features are displayed and otherwise in accordance with any additional terms and conditions we provide with respect to such features. The website from which you are linking, or on which you make certain content accessible, must comply in all respects with the “Content Standards” section set forth in Section 11 of these Terms of Use below.

Subject to the foregoing, you must not:

- establish a link from any website that is not owned by you;
- cause this Site, Content or portions of this Site or Content to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site;
- use a link to this Site that in any way suggests that we endorse you or your website or the content appearing on your website;
- use or present this Site or Content in any way that disparages us or tarnishes, blurs or dilutes the quality of our copyrights, trademarks or other intellectual property, including any associated goodwill;
- display a link to this Site on any web page that displays objectionable content or links, including but not limited to, any content or information that: (i) is libelous or defamatory, pornographic, sexually explicit, unlawful or plagiarized; (ii) a reasonable person would consider harassing, abusive, threatening, harmful, profane, obscene, racially, ethnically or otherwise objectionable or offensive in any way; (iii) constitutes a breach of any person’s privacy or publicity rights, a

misrepresentation of facts, hate speech or an infringement of any third party's intellectual property or proprietary rights; or (iv) violates or encourages others to violate any applicable law; or

- otherwise take any action with respect to the Content on this Site that is inconsistent with any other provision of these Terms of Use.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice.

We may disable all or any social media features and any links at any time without notice in our discretion.

If you wish to make any use of the Content on this Site in a manner other than that contained in these Terms of Use, please address your request to: support@acumenmd.com.

9. USER ACCOUNTS AND REGISTRATION

To access this Site or some of the Content or other features it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of this Site that all the information you provide on this Site is correct, current and complete. You agree that all information you provide to register with this Site or otherwise, including but not limited to through the use of any interactive features on this Site, is governed by our Website Privacy Policy, and you consent to all actions we take with respect to your information consistent with our Website Privacy Policy.

If you choose, or are provided with, a user name, password or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Site or portions of it using your user name, password or other security information.

You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use or the Website Privacy Policy.

In order to provide services available through this Site, we store and collect certain information about you that you provide and we may send you messages from time to time. For example, we may send you an unsecured message to your email address notifying you that a secure message has been sent to you and is available for you to retrieve through the Patient Portal. If you no longer wish to receive such messages and wish to discontinue your access to and use of this Site,

please contact your health care provider whose contact information may be found on the Patient Portal.

10. USER CONTRIBUTIONS AND SUBMISSIONS

The Site may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards, or other interactive features (collectively, “**Interactive Features**”) that allow users to upload, post, submit, publish, display or transmit Content to other users of this Site or other persons (collectively, “**User Contributions and Submissions**”) on or through this Site.

All User Contributions and Submissions must comply with the Content Standards contained in these Terms of Use.

We do not claim ownership of any User Contributions and Submissions or other information or material that a user provides to us or posts, uploads, inputs or submits to or through this Site by any means. All User Contributions and Submissions will be treated as non-confidential and non-proprietary, and may be disseminated or used by us for any purpose whatsoever and without restrictions, except where prohibited by law. User Contributions and Submissions do not include secure messages that you exchange with your health care provider through the Patient Portal; however, such messages must meet the Content Standards in these Terms of Use and will be owned by you.

By initiating or making any User Contribution and Submission, you automatically agree to grant, and hereby grant, us and our third party business partners and licensors and each of our and their respective affiliates, licensees, successors and assigns an unrestricted, irrevocable, worldwide, royalty-free license to use, reproduce, modify, perform, display, distribute, create derivative works from, transmit and distribute such User Contribution and Submission, alone or as part of other works in any form, media or technology whether now known or hereafter developed, for any purpose. You hereby waive all rights to any claim against us and our third party business partners and licensors and each of our and their respective affiliates, licensees, successors and assigns for any alleged or actual infringements of any proprietary rights, rights of privacy, rights of publicity, moral rights, and rights of attribution in connection with such User Contribution and Submission. Notwithstanding the foregoing, we are not required to use any User Contribution and Submission.

You represent and warrant that you own or control all rights in and to the User Contributions and Submissions and have the right to grant the license granted above to us and our third party business partners and licensors and each of our and their respective affiliates, licensees, successors and assigns and that all of your User Contributions and Submissions do and will comply with these Terms of Use.

11. CONTENT STANDARDS

The content standards set forth in this section (the “**Content Standards**”) apply to any and all User Contributions and Submissions, secure messages that you exchange with your health care provider through the Patient Portal, your use of any interactive features of this Site (except and to the extent additional terms and conditions apply to the use of one or more interactive features) and to any links or hyperlinks to this Site or Content as described in the “Linking to this Site and

Certain Social Media Features” section set forth in Section 8 above. User Contributions and Submissions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions and Submissions must not:

- contain any defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable material or statements;
- promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person;
- violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use or our Website Privacy Policy;
- be likely to deceive any person;
- promote any illegal activity, or advocate, promote or assist any unlawful act;
- cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other person;
- impersonate any person, or misrepresent your identity or affiliation with any person or organization;
- involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising; or
- give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

12. MONITORING AND ENFORCEMENT

We do not undertake to review User Contributions or Submissions or other material before it is posted on this Site, and cannot ensure prompt removal of objectionable material after it has been posted.

Accordingly, we do not represent or guarantee the truthfulness, accuracy, or reliability of any information or material posted, uploaded, input or submitted to this Site by us or any users, and we do not endorse any statements, representations or opinions expressed, posted, uploaded, input or submitted to this Site by users. Any user’s reliance on information or material posted, uploaded, input or submitted to this Site by other users shall be at user’s own risk. We assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party.

If notified by a user of information or material posted, uploaded, input or submitted to this Site allegedly in violation of these Terms of Use, we may investigate the allegation and determine in good faith and our sole discretion whether to remove such information or material.

13. WE HAVE THE RIGHT TO:

- remove or refuse to post any User Contributions and Submissions for any or no reason in our sole discretion;
- Take any action with respect to any User Contributions and Submissions that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contributions and Submissions violates the Terms of Use, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of this Site or the public or could create liability for us;
- disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy;
- take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of this Site or any Content; and
- terminate or suspend your access to all or part of this Site for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through this Site.

YOU WAIVE AND AGREE TO HOLD US AND OUR THIRD PARTY BUSINESS PARTNERS AND LICENSORS AND EACH OF OUR AND THEIR RESPECTIVE AFFILIATES, LICENSEES, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, LICENSORS, SUPPLIERS, SUCCESSORS AND ASSIGNS HARMLESS FROM, AND INDEMNIFY US AGAINST, ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

We have no liability or responsibility to anyone for the performance or nonperformance of the activities described in this section.

14. COPYRIGHT INFRINGEMENT

We take claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law and this section of these Terms of Use. In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital

Millennium Copyright Act (17 U.S.C. § 512) (“**DMCA**”), if you believe any Content accessible on or from this Site infringes your copyright, you may request removal of that Content (or access thereto) from this Site by submitting written notice to our Copyright Agent designated below that includes substantially the following information (the “**DMCA Notice**”):

- your physical or electronic signature;
- identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works on this Site, a representative list of such works;
- identification of the Content or activity you believe to be infringing in a sufficiently precise manner to allow us to locate that Content or activity;
- adequate information by which we can contact you (including your name, postal address, telephone number and, if available, e-mail address);
- a statement that you have a good faith belief that the use of the copyrighted Content is not authorized by the copyright owner, its agent or the law;
- a statement that the information in the written notice is accurate; and
- a statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

Our designated Copyright Agent to receive DMCA Notices is:

Judith Siegel
c/o Fresenius Medical Care North America
920 Winter Street, Waltham, MA 02451
Tel: 781-699-9000
Email: copyright@fmc-na.com

If you fail to comply with all of the foregoing requirements (as more fully set forth in Section 512(c)(3) of the DMCA), your DMCA Notice may not be effective.

Please be aware that if you knowingly materially misrepresent that any Content or any activity on the Site is infringing your copyright, you may be held liable for damages (including costs and attorneys’ fees) under Section 512(f) of the DMCA.

It is our policy in appropriate circumstances to disable and/or terminate the accounts of users who are repeat infringers.

15. TERMINATION OR MODIFICATIONS TO SITE

We reserve the right to modify or terminate your access to this Site (or portions of this Site) at any time, temporarily or permanently, with or without notice to you. From time to time, we may restrict access to some parts of this Site, or the entire Site, to users, including registered users, or charge fees for access to portions of this Site without notice or liability. We will not be liable if

for any reason all or any part of this Site is unavailable at any time or for any period. You acknowledge and agree that we will not be liable to you or any third party in the event that we exercise our right to modify or terminate access to this Site or portions of this Site.

16. MODIFICATIONS TO THESE TERMS

We may change these Terms of Use from time to time at our sole discretion. All changes are effective immediately when we post them and apply to all access to, and use of, this Site thereafter.

Your continued use of this Site following the posting of any updates or changes to these Terms of Use constitutes your acceptance of such changes. If you object to any provisions of these Terms of Use or any subsequent modifications to these Terms of Use, your only recourse is to immediately terminate use of this Site.

17. LINKED SITES AND THIRD PARTY CONTENT, PRODUCTS AND SERVICES

As a convenience to you, this Site may provide links to websites and access to material, products and services of third parties, including without limitation, our third party business partners and licensors and each of our and their respective affiliates, licensees, successors and assigns with which our connection consists of only a hyperlink, including links contained in advertisements, including banner advertisements and sponsored links (“**Linked Sites**”).

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place on such Third Party Content is strictly at your own risk. We are not responsible, or liable to you or any third party, for the Content or accuracy of any Third Party Content or information that you supply. We disclaim all liability and responsibility arising from any reliance placed on such Third Party Content or information that you supply by you or any other visitor to this Site, or by anyone who may be informed of any of such Third Party Content or information.

18. TYPOGRAPHICAL ERRORS

Our goal is to provide complete, accurate, up-to-date information on our Site. Unfortunately, it is not possible to ensure that any website is completely free of human or technological errors. This Site may contain typographical mistakes, inaccuracies, or omissions, and some information may not be complete or current. We therefore reserve the right to correct any errors, inaccuracies or omissions and to change or update information at any time without prior notice.

19. FORWARD-LOOKING STATEMENTS; NO INVESTMENT ADVICE

This Site contains forward-looking statements based on beliefs of our management. When used in this Site, words such as “anticipate”, “believe”, “estimate”, “expect”, “intend”, “plan” and “project” are intended to identify forward-looking statements. These forward-looking statements may involve risks and uncertainties, including technological advances in the medical field, product demand and market acceptance, the impact of recently enacted and possible future health care reforms, the impact of competitive products and pricing, foreign currency exchange rates and other risks. These forward-looking statements reflect our views as of the date made with respect to future events and are subject to risks and uncertainties. All of these forward-looking statements are based on estimates and assumptions made by management of the Company and are believed to be reasonable, though are inherently uncertain and difficult to predict. Actual results or experience could differ materially from the forward-looking statements. Reports filed by our parent, Fresenius Medical Care AG & Co. KGaA, with the U.S. Securities and Exchange Commission discuss the risks, uncertainties and other factors that could cause actual results or experience to differ from these forward looking statements. The Company disclaims any intention or obligation to update these forward-looking statements.

Nothing on this Site constitutes investment advice, including any of the above-referenced filings with the Securities and Exchange Commission. Any stock prices provided by, or accessible through or on, this Site are not official market quotations and are not to be considered a substitute for obtaining pricing information from official sources.

20. DISCLAIMER OF WARRANTIES

You understand that we cannot and do not guarantee or warrant that files available for downloading from the Internet or this Site will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of the lost data.

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NEITHER WE NOR ANY PERSON OR ENTITY ASSOCIATED OR AFFILIATED WITH US MAKE ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THIS SITE.

WITHOUT LIMITING THE FOREGOING, NEITHER WE NOR ANY PERSON OR ENTITY ASSOCIATED OR AFFILIATED WITH US REPRESENTS OR WARRANTS THAT: (A) THIS SITE WILL MEET YOUR REQUIREMENTS OR WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (B) THE CONTENT WILL BE UP-TO-DATE, COMPLETE, COMPREHENSIVE OR ACCURATE; (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THIS SITE OR ANY CONTENT, MATERIALS, INFORMATION, PRODUCTS, ITEMS OR SERVICES OFFERED THROUGH THIS SITE WILL BE ACCURATE OR RELIABLE; (D) THE QUALITY OF ANY CONTENT, MATERIALS, INFORMATION, PRODUCTS, ITEMS OR SERVICES OBTAINED BY YOU THROUGH THIS SITE WILL MEET YOUR EXPECTATIONS; OR (E) THAT DEFECTS, IF ANY, WILL BE CORRECTED.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

21. LIMITATION OF LIABILITY

IN NO EVENT SHALL WE OR ANY OF OUR THIRD PARTY BUSINESS PARTNERS, LICENSORS OR AFFILIATES AND EACH OF OUR AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, LICENSORS, SUPPLIERS, SUCCESSORS AND ASSIGNS BE LIABLE FOR ANY DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR ACCESS OR USE, OR INABILITY TO ACCESS OR USE, THIS SITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THIS SITE OR SUCH OTHER WEBSITES OR ANY PRODUCTS OR SERVICES OR ITEMS OBTAINED THROUGH THIS SITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE (INCLUDING NEGLIGENCE AND STRICT LIABILITY), EVEN IF FORESEEABLE OR IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OR EXCLUSIONS OF LIABILITY IN SOME CIRCUMSTANCES. CONSEQUENTLY, SOME OF THE FOREGOING LIMITATIONS MAY NOT APPLY TO YOU.

22. INDEMNITY

You agree to indemnify, defend and hold us and our third party business partners and licensors and each of our and their respective affiliates, licensees, successors and assigns and our and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns, harmless from any claim, demand, liability, dispute, damage, cost, expense, or loss, including attorneys' fees and costs of litigation, arising out of or in any way related to your violation of these Terms of Use or your access or use of this Site, the Content or any User Content or Submission (including any use or access by your employees or agents), your violation of these Terms of Use or your violation of any rights of another.

23. GOVERNING LAW AND JURISDICTION

All matters relating to this Site and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or this Site shall be instituted exclusively in the federal courts of the United States or the courts of the Commonwealth of Massachusetts located in Boston, Massachusetts, although we retain the right to bring any suit, action or proceeding against you for breach of these Terms of Use in your state, province and/or country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

24. LIMITATION ON TIME TO FILE CLAIMS

YOU AGREE THAT ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF YOUR USE OF THIS SITE OR THESE TERMS OF USE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR IT SHALL FOREVER BE BARRED, NOTWITHSTANDING ANY STATUTE OF LIMITATIONS OR OTHER LAW TO THE CONTRARY.

Within this period, any failure by us to enforce or exercise any provision of these Terms of Use or related right shall not constitute a waiver of that right or provision.

25. GEOGRAPHIC RESTRICTIONS AND LANGUAGE

This Site is available worldwide to anyone with Internet access. We are based in the Commonwealth of Massachusetts in the United States. We provide this Site for use only by persons located in the United States. We make no claims that this Site or any of its content is accessible or appropriate outside of the United States. Access to this Site may not be legal by certain persons or in certain countries. If you access this Site from outside the United States, you

do so on your own initiative and are responsible for compliance with local laws. We make no representation that this Site, or any of the Content, is appropriate or available for use in locations outside of the United States.

Translations on this Site are provided for convenience only. The English version of these Terms of Use and the Website Privacy Policy shall apply. Our Website Privacy Policy and Terms of Use are governed by and shall be construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its choice of law provisions.

26. ACKNOWLEDGEMENT AND ENTIRE AGREEMENT

You acknowledge that you have read and understood these Terms of Use and our Website Privacy Policy and that these Terms of Use and our Website Privacy Policy have the same force and effect as a signed agreement.

The Terms of Use and Website Privacy Policy constitute the sole and entire agreement between you and us with respect to this Site and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to this Site.

27. WAIVER AND SEVERABILITY

Our failure to act with respect to a breach by any user of this Site does not constitute a waiver of our right to act with respect to subsequent or similar breaches. No waiver by us of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of us to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

In the event that any provision of these Terms of Use is invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent possible and the remainder of these Terms of Use will remain in full force and effect.

28. CONTACT INFORMATION

If you have any questions about these Terms of Use, our practices or your dealings with this Site, please contact us at support@accumenmd.com or write us at the address provided below:

Address:

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