

# Terms of Use

*Last updated and effective as of April 27, 2020*

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## 1. ACCEPTANCE OF TERMS OF USE

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**By browsing or using this Site, you accept and agree to these Terms of Use. If you do not want to agree to these Terms of Use, please do not access or use this Site.**

## 2. THE SITE DOES NOT PROVIDE MEDICAL ADVICE

The contents of this Site are available to you for informational purposes only, including text, graphics, calculators, images and other information provided by us or licensed from third parties on this Site.

Although the Site provides educational information about health care, it does not provide medical diagnoses or recommendations regarding an individual’s medical treatment. Please do not make decisions about your health care in reliance on the information provided through this Site. Instead, always seek the advice of your physician or qualified health care provider with any questions you may have regarding a medical condition or treatment options. In an emergency, call 911 or your local emergency assistance.

## 3. PRIVACY

Our [Website Privacy Notice](#) describes how we use and share the personal information we collect about you when you use the Site.

## 4. CHILDREN UNDER THE AGE OF 13

This Site is not intended for children under the age of 13. We do not knowingly collect personally identifiable information from children under the age of 13. If you are under the age of 13, you are not eligible to use this Site or provide any information on this Site, including your name, address or email address.

If you believe this Site might have any information from or about a child under the age of 13, please contact us by sending us an e-mail at [Privacy@fmc-na.com](mailto:Privacy@fmc-na.com) or in writing at the address provided below.

## 5. OTHER TERMS AND CONDITIONS

Additional rules, terms and conditions for the use of certain features on this Site, such as certain software or mobile applications, may be included elsewhere within this Site and are incorporated into these Terms of Use by reference.

## 6. INTELLECTUAL PROPERTY RIGHTS

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- 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.

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- 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.
- 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.

## 9. LINKING TO THIS SITE AND CERTAIN SOCIAL MEDIA FEATURES

You may 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, does not damage or take advantage of our reputation, does not violate any of our intellectual property rights or the intellectual property rights of others, and does not cause us to violate any laws. In addition, you must not:

- establish a link from any website that is not owned by you or that would violate that website's Terms of Use;
- 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 are associated with, approve, or endorse you or your website or the content appearing on your website, except with our prior express written consent;
- 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.

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.

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: [AREP@fmc-na.com](mailto:AREP@fmc-na.com).**

#### 10. 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.

If you use a user name, password or any other piece of information to access Content or establish an account on this Site 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 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 your account 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 reason. This includes if we have determined that you have violated any provision of these Terms of Use.

#### 11. 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.

By initiating or making any User Contribution and Submission, you automatically agree to grant us and our third party business partners and licensors and each of our and their respective subsidiaries, 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

subsidiaries, 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 subsidiaries, affiliates, licensees, successors and assigns and that all of your User Contributions and Submissions do and will comply with these Terms of Use.

## 12. CONTENT STANDARDS

The content standards set forth in this section (the “**Content Standards**”) apply to any and all User Contributions and Submissions, 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
- 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.

### 13. MONITORING AND ENFORCEMENT

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

Accordingly, we do not guarantee the truthfulness, accuracy, or reliability of information or material posted, uploaded, input or submitted to this Site and we do not endorse any statements, representations or opinions expressed, posted, uploaded, input or submitted to this Site by any user. Your reliance on information or material on this Site shall be at your own risk.

If we are notified of information or material posted, uploaded, input or submitted to this Site allegedly in violation of these Terms of Use, we may exercise our sole discretion whether to remove such information or material.

We have a 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 SUBSIDIARIES, 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.**

### 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:

Marlena Champagne  
c/o Fresenius Medical Care North America  
920 Winter Street  
Waltham, MA 02451  
Tel: 781-699-9000  
Email: [copyright@fmc-na.com](mailto:copyright@fmc-na.com)

If you fail to comply with all 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, or charge fees for access to portions of this Site. 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.

#### 16. MODIFICATIONS TO THESE TERMS

We may change these Terms of Use from time to time in 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 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 subsidiaries, 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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#### 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 typographical mistakes, inaccuracies, or omissions. 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 effect of economic conditions, 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.

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**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, SUBSIDIARIES, 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 subsidiaries, 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 from them shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision.

Any legal suit, action or proceeding against the Company arising out of, or related to, these Terms of Use or this Site shall be instituted exclusively in the applicable federal courts of the United States or the courts of the Commonwealth of Massachusetts. 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 and the Terms of Use are governed by United States law, and we make no representation that this Site is appropriate or available for use in locations outside of the United States. The laws of the United States may be different from those in your country, and you understand that by using this Site, your personal information will be processed in the United States or in the countries where our vendors are located.

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.

## 26. ACKNOWLEDGEMENT AND ENTIRE AGREEMENT

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

These Terms of Use 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 by sending us an e-mail stating your request to [AREP@fmc-na.com](mailto:AREP@fmc-na.com) or by contacting us in writing at the address provided below:

**Address:**

Attn: Medical Information Office  
Fresenius Medical Care North America  
309 East Morehead Street  
Suite 240  
Charlotte, NC 28202

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