

# **Diagnosis And Management of Thyroid Nodules Algorithmic Tool Terms of Service and License Agreement**

This Terms of Service and License Agreement constitutes a legal agreement (collectively, the "Agreement") between American Association of Clinical Endocrinologists, Inc. and American College of Endocrinology, Inc. D/B/A the American Association of Clinical Endocrinology ("AACE") and You and your agents ("You") for the use of Diagnosis and Management of Thyroid Nodules Algorithmic Tool (the "Product"). The Product allows You to access certain content included in the Product ("Content") relating to the diagnosis and management of thyroid disease, as well as the AACE/ACE/AME Guidelines for the Diagnosis and Management of Thyroid Nodules – updated 2016 and the corresponding Product Executive Summary.

By using the Product, You accept and agree to be bound by all of the terms and conditions set forth in this Agreement. If You do not wish to accept the terms and conditions of this Agreement, You may not proceed to use the Product.

AACE may change the terms of this Agreement from time to time without further notice directly to You. When the terms are changed, AACE will post a general conspicuous notice. If You do not agree with the revised terms, please discontinue use of the Product immediately. Your continued use of the Product following such notice constitutes your acceptance of and agreement to be bound by any revised terms of the Agreement. This Agreement expressly incorporates by reference and includes rules or disclaimers that may be posted and updated within the Product or communicated to You from time to time.

## **Term and Termination**

AACE may terminate your access and/or the Product at any time. You agree that any termination of your access to the Product shall not result in any liability or other obligation of AACE to You, or any third party in connection with such termination.

## **Intellectual Property Rights**

This Product, including the information, text, graphics, images, audio and video files, trademarks and other materials that may be contained therein (collectively "Content"), is owned by AACE and/or its suppliers and is protected by patents, copyrights, trademarks, and other proprietary rights. Except as specifically provided in this Agreement, your use of the Product shall be governed and constrained by applicable patent, copyright, trademark and other intellectual property laws. AACE grants You a limited, nonexclusive, nontransferable, revocable license to utilize and access the Product for your noncommercial, personal use according to the terms and conditions in this Agreement. You may not modify, publish, transmit, participate in the transfer or sale of, reproduce, create derivative works from, distribute, perform, display, incorporate into another website, or in any other way exploit the Service and/or any of the Content, in whole or in part. Except as expressly granted by this Agreement, You acquire no right, title or interest in the Product or the Content or other data or materials incorporated in the Product. AACE, or its affiliates or licensors thereof shall retain all right, title and interest in the Product and Content.

## **Limitation of Liability**

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, ACE HEREBY DISCLAIMS, AND IN NO EVENT SHALL ACE OR ANY PARTY INVOLVED IN CREATING OR PRODUCING THE PRODUCT BE LIABLE FOR, ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA LOSS, OR OTHER LOSSES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, EVEN IF ACE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM: (i) THE USE OR INABILITY TO USE THE PRODUCT, (ii) THE COST OF ANY SUBSTITUTE PRODUCTS AND/OR SERVICES RESULTING FROM ANY PRODUCTS, DATA, INFORMATION OR SERVICES OBTAINED OR WHICH YOU WERE UNABLE TO OBTAIN OR TRANSACTIONS EFFECTED OR FAILED TO BE EFFECTED, (iii) THE USE OR INABILITY TO USE ANY THIRD PARTY APPLICATIONS CONTAINED WITHIN THE PRODUCT, OR (iv) ANY MATTER OTHERWISE RELATED TO YOUR USE OF THE PRODUCT.

## **Release of Liability**

You assume all risks associated with use of the Product including, but not limited to any harm, injury or damages resulting directly or indirectly from the use of the Product, all such risks being known and understood by You. In consideration of your use of the Product, You, for yourself and anyone entitled to act on your behalf, waive and forever release AACE, its officers, directors and trustees, employees, representatives and successors from all claims and liabilities of any kind arising out of your use or misuse of the Product.

## **Indemnification**

You hereby agree to indemnify, save and hold AACE, its directors and trustees, officers, shareholders, parents, subsidiaries, affiliates, agents and licensors harmless from and against any and all claims, liability, losses, damages and costs, including, without limitation, reasonable attorneys' fees and costs, arising out of your use or misuse of the Product or Content, or any violation of this Agreement. AACE assumes the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify AACE, and you agree to cooperate with ACE's defense of these claims. AACE will use reasonable efforts to notify you of any such claim, action, or proceeding upon becoming aware of it.

## **Disclaimer of Warranties**

THE PRODUCT AND CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ACE AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE PRODUCT OR CONTENT, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE,

TITLE AND NON-INFRINGEMENT. ACE MAKES NO WARRANTY THAT THE PRODUCT AND/OR ANY CONTENT THEREIN WILL MEET YOUR REQUIREMENTS, OR WILL BE UNINTERRUPTED, TIMELY, SECURE, CURRENT, ACCURATE, COMPLETE OR ERROR-FREE OR THE RESULTS THAT MAY BE OBTAINED BY USE OF THE PRODUCT OR ANY CONTENT THEREIN WILL BE ACCURATE OR RELIABLE. YOU UNDERSTAND AND ACKNOWLEDGE THAT YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY DEFECT IN OR DISSATISFACTION WITH THE PRODUCT IS TO CEASE ITS USE.

The Content on the Product is presented as an educational service intended for licensed healthcare professionals. While the Content in the Product is about specific medical and healthcare issues, the Content is not a substitute for or replacement of personalized medical advice and is not intended to be used as the sole basis for making individualized medical or health-related decisions.

The material is not intended to present the only, or necessarily best, methods or procedures for the medical situations addressed, but rather is intended to represent an approach, view, statement or opinion.

Any reference to a specific therapy or commercial product in this Product does not constitute a guarantee or endorsement by AACE of the quality or value of such therapy or product or any claims made by the manufacturer of such therapy or commercial product.

In addition, any statements about such therapy or commercial products are solely based on published clinical prediction rules and estimates of drug treatment effects from published clinical studies and do not represent an AACE endorsement or evaluation of these products.

## **Force Majeure**

AACE will be excused from performance under this Agreement and will not be liable or considered in default under this Agreement in the event that the Product is unavailable for any period of time, or if AACE is otherwise unable to perform its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. For purposes of this Section, "Force Majeure Event" means an event or series of events caused by or resulting from any of the following: (1) weather conditions or other elements of nature or acts of God; (2) government regulation; (3) quarantines or embargoes; (4) telecommunications, network, computer, server or Internet downtime; (5) unauthorized access to ACE's information technology systems by third parties; or (6) any other causes beyond the reasonable control of ACE.

## **No Assignment**

This Agreement is personal to You, and You may not assign your rights or obligations to anyone.

## **No Waiver**

Neither failure nor delay on the part of any party to exercise any right, remedy, power or privilege hereunder nor course of dealing between the parties shall operate as a waiver thereof, or of the exercise of any other right, remedy, power or privilege. No term of this Agreement shall be deemed waived, and no breach consented to, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No waiver of any rights or consent to any breaches shall constitute a waiver of any other rights or consent to any other breach.

## **Severability**

If any provision in this Agreement is held invalid or unenforceable under applicable law, the remaining provisions shall continue in full force and effect.

## **Governing Law**

This Agreement will be governed by and construed exclusively in accordance with the laws of the State of Florida, USA, without regard to its conflicts of law principles and, to the extent applicable, the federal laws of the United States. If a dispute arises between AACE and You, You hereby agree to submit such dispute to non-binding mediation, followed by binding arbitration, if necessary. Both the mediation and arbitration will be conducted by JAMS applying the laws of the State of Florida without regard to its conflicts of laws principles and in the State of Florida as venue.

## **Certification**

I hereby certify that I understand and agree to the terms stated in this Agreement and that this Agreement applies to my initial use of the Product and all other subsequent uses of the Product. BY USING THIS PRODUCT, I HEREBY AFFIRM THAT I HAVE READ, FULLY UNDERSTAND, AND AGREE TO THE ABOVE STATEMENTS.