

Web Site Terms of Use

PLEASE READ THESE WEB SITE TERMS OF USE CAREFULLY BEFORE USING THIS WEB SITE AND THE CONTENT, INFORMATION, AND MATERIALS LOCATED AT AND UNDER THE DOMAIN NAME WWW.PMSIONLINE.COM (COLLECTIVELY THE "WEB SITE"). THESE WEB SITE TERMS OF USE (THE "TERMS OF USE") GOVERN YOUR ACCESS TO AND USE OF THE WEB SITE. THE WEB SITE IS AVAILABLE FOR YOUR USE ONLY ON THE CONDITION THAT YOU AGREE TO THE TERMS OF USE. IF YOU DO NOT AGREE IN EVERY RESPECT TO THE TERMS OF USE, DO NOT ACCESS OR USE THE WEB SITE. BY ACCESSING OR USING THE WEB SITE, YOU AND THE ENTITY YOU ARE AUTHORIZED TO REPRESENT, IF ANY, ("YOU" OR "YOUR") SIGNIFY YOUR AGREEMENT TO BE BOUND BY THE TERMS OF USE.

Section 1. Scope of Terms of Use

1.01. The Terms of Use govern Your access to and use of the Web Site and it supersedes any marketing or other similar material pertaining to the Web Site delivered to You, whether in writing, verbally or otherwise.

1.02. The information contained on the Web Site is provided solely for general informational purposes and is not intended to be a solicitation or an offer to sell any products or services, nor is the Web Site a complete description of all terms, conditions and exclusions applicable to the products and services described. Further, PMSI is not engaged in rendering legal or any other advice through the Web Site and You are not a client of PMSI merely by visiting the Web Site.

1.03. The Web Site may contain links to or material from other web sites that are not created, published, maintained or otherwise controlled by PMSI. These links and material are provided solely for Your convenience and do not constitute an endorsement of any products, services or information available on, from or through such links. Your use of any web site not under the domain name www.pmsionline.com will be subject to the terms and conditions posted on that particular web site (if any). PMSI makes no representation concerning the information provide or made available on such web sites and PMSI assumes no responsibility and no liability or obligation for any content posted by any third party or on any such web sites, nor does PMSI approve, endorse or certify information available at any such web sites or linked addresses.

Section 2. Modifications

2.01. PMSI may revise and update the Terms of Use at any time without notice. You agree to review the Terms of Use periodically to be aware of such revisions or updates. Your continued usage of the Web Site after any revisions or updates to the Terms of Use will mean that You accept those revisions or updates to the Terms of Use. If You do not agree to any such revision or update, You must immediately stop using the Web Site.

2.02. The Web Site, and any aspect thereof, may be changed, supplemented, deleted, interrupted, unavailable, or updated without notice to You and at the sole discretion of PMSI.

2.03. You understand that the Web Site may include inaccuracies or typographical errors. You agree to use reasonable judgment in interpreting and using the Web Site. You also understand that the Web Site may be periodically unavailable for reasons that may or may not be within PMSI's control. You also understand that some of the content and information on the Web Site may be comprised of or based on information entered or supplied by third parties who are not under the control of PMSI and agree to hold PMSI harmless should any damages result from errors, misrepresentations, or other inaccuracies in such information, or the timeliness or untimeliness of any such information.

Section 3. Termination of Use

3.01. PMSI may discontinue, suspend or modify the Web Site at any time without notice and may block, terminate, or suspend Your access to the Web Site at any time without notice for any reason in its sole discretion, even if access continues to be allowed to others. Further, You agree that PMSI shall not be liable to You or any third party for any termination or suspension of Your access to the Web Site.

Section 4. Ownership, License and Restrictions on Use

4.01. The Web Site is protected by United States and international copyright, trademark, and other laws. All rights reserved. Any and all right, title, and interest (including, without limitation, all copyrights, trademarks, and other intellectual property rights) in the Web Site belong to PMSI, its affiliates or licensors. Elements of the Web Site are also protected by trade dress, unfair competition, trade secret and other laws and may not be copied or imitated in

whole or in part. All custom graphics, icons, and other items that appear on the Web Site are trademarks, service marks, or trade dress ("Marks") of PMSI, its affiliates or licensors and may not be used or interfered with in any manner without the express written consent of PMSI. PMSI does not convey to You any ownership rights in the Web Site. Further You may not use the Web Site to infringe the intellectual property rights of PMSI or others in any way.

4.02. PMSI grants You a nontransferable, nonassignable, limited, nonsublicensable, revocable, personal, license to access and use the Web Site only in the manner presented by PMSI (the "License"). The License shall terminate automatically upon the occurrence of any of (1) termination by PMSI in its sole discretion, (2) Your material breach of any term of the Terms of Use, or (3) Your notice to PMSI of Your intention to terminate the License. Upon termination, You agree to immediately cease using or accessing the Web Site. Except for this limited license, PMSI does not convey any interest in or to the Web Site by permitting You to access the Web Site.

4.03. You may not copy, modify, translate, transmit, distribute, adapt, reproduce, republish, decompile, reverse engineer, create derivative works from, modify, sell, loan, lease, or disassemble any part of the Web Site in any manner without the prior express written consent of PMSI. You may not use the Web Site or make any attempt to penetrate, modify or manipulate the Web Site or any of PMSI's hardware or software in order to invade the privacy of, obtain the identity of, or obtain any personal information about (including, but not limited to, IP addresses of) any PMSI account holder or user, or modify, erase or damage any information contained on the computer of any user connected to the Web Site. You may not make, sell, offer for sale, modify, reproduce, display, publicly perform, import, distribute, retransmit, or otherwise use the Web Site without the express written consent of PMSI.

4.04. In connection with Your use and access to the Web Site, You agree to abide by all applicable privacy and security laws and regulations, including, without limitation, the Health Insurance Portability and Accountability Act ("HIPAA") and other applicable laws, administrative rules, and regulations.

4.05. You agree not to: (1) restrict or inhibit any other user from using and enjoying the Web Site or any other PMSI property or system; (2) use the Web Site to engage in or encourage fraudulent conduct or conduct that would constitute any other criminal offense or give rise to civil liability; (3) use the Web Site to distribute in any manner any harmful, obscene or otherwise illegal or objectionable material of any kind; (4) use the Web Site to spoof or otherwise impersonate any individual or entity, or forge, delete or alter any part of the TCP/IP packet header information in any e-mail or other posting; (5) harvest, collect or store user information on the Web Site including, but not limited to, e-mail addresses; (6) violate or attempt to violate the security of the Web Site; (7) input or upload any information to the Web Site which contains viruses, Trojan horses, worms, time bombs or other computer programming routines that are intended to damage, interfere with, intercept or expropriate any system or web site; (8) frame or utilize framing techniques to enclose any portion or aspect of the Web Site, without the express written consent of PMSI; or (9) assist or permit any persons in engaging in any of the activities described above.

4.06.1 Access to VitalPoint. The VitalPoint web based case-management and report generation system is the private property of PMSI. If You are authorized by PMSI to use VitalPoint, You agree to use VitalPoint solely to track and manage Your injured workers cases and for no other purposes. Without limitation, You are not authorized to make VitalPoint available on any web site or otherwise reproduce, distribute, copy, store, use, or sell VitalPoint or information derived from Your access to VitalPoint for commercial gain without the express written consent of PMSI. VitalPoint is a personal service, thus Your right to use VitalPoint is not assignable or transferable. Any use in connection with VitalPoint of automated inquiry devices, robots, or repetitive data gathering and extraction tools, routines, scripts or other mechanisms with similar functionality is expressly prohibited.

4.06.2 VitalPoint Confidentiality Obligations: The password protected portions of VitalPoint that are accessible by You through Your use of Your password (collectively "Password Site") are considered confidential and proprietary trade secrets of PMSI. Accordingly, You agree to hold the Password Site in trust and confidence for PMSI and shall protect the Password Site with the same degree of care as You employ for the protection of Your own trade secrets and confidential information (but in no event shall the degree of care be less than reasonable efforts). You agree to keep the Password Site confidential and not to disclose, reveal, transfer, publish, or make accessible directly or indirectly the Password Site or any portion thereof to any third party without the express prior written consent of PMSI. The obligations set forth in this paragraph 4.06.2 shall continue after any termination of the Terms of Use.

4.06.3 Equitable Remedy. In the event of any actual or threatened breach by You of any provision of this Section 4.06, You acknowledge that PMSI will incur significant and irreparable damage for each such breach and that PMSI has no adequate remedy at law for such breach. Therefore, PMSI shall be entitled to injunctive relief immediately and permanently restraining You from such continuing and/or threatened breach. In addition, You shall be liable to PMSI for any and all damages and other losses caused by any such breach. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more rights or remedies provided for by the Terms of Use or by law, equity, statute, or otherwise shall not preclude the parties from exercising any other right or remedy.

Nothing herein shall be construed as a waiver by PMSI of any right it may have or hereafter acquire to monetary damages by reason of any injury to its property, business or reputation or otherwise arising out of any wrongful act or omission.

4.06.4 Term of Confidentiality Obligations. Your obligations set forth in Sections 4.06.2, 4.06.3, and 4.06.4 will survive for a period of five (5) years after the termination of the Terms of Use, and will bind Your representatives, successors and assigns, if any; provided, however, that such obligations will terminate with respect to any portions of the Password Site which, without fault on Your part, no longer require Your use of Your password to access and are accessible to the general public through the Web Site. The burden of proving the applicability of the above exception will at all times be with You. No item of the Password Site shall be deemed to fall within the above exception merely because such item is embraced by more general information that falls within the above exception. If You become legally compelled by subpoena or similar legal process to disclose any portion of the Password Site, You shall give PMSI advanced prompt written notice of such requirement so that PMSI may seek a protective order or other appropriate remedy or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or that PMSI waives compliance with the terms hereof, You agree to provide only that limited portion of the Password Site that You are advised by legal counsel is legally required and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such portion of the Password Site.

Section 5. Your Information

5.01. PMSI uses the information You submit to PMSI by e-mail and through PMSI's "Contact Us" pages and other pages PMSI may add from time to time, to respond to Your inquiries for information or requests for services. PMSI reserves the right at all times to disclose any information as PMSI determines, in its sole discretion, to be necessary to satisfy any law, regulation or governmental request or to avoid liability for PMSI or any third party.

5.02. When You complete forms online or otherwise provide PMSI information in connection with the Web Site, You agree to provide current, complete, true and accurate information. You agree not to use a false or misleading name or a name that You are not authorized to use. If PMSI, in its sole discretion, believes that any such information is untrue, inaccurate, not current or incomplete, PMSI may refuse Your access to the Web Site and pursue any and all appropriate legal and equitable remedies.

5.03. The Web Site may use "cookies" (i.e., small files that are stored by Your web browser to help a particular system recognize You and the pages You visit in a web site) to store certain personal preferences for Your future visits to the Web Site. Cookies tell PMSI, among other things, whether You have visited the Web Site before. In some cases PMSI may store the information needed to grant You access in a cookie. Cookies allow the Web Site to recognize You more quickly so Your time spent on the Web Site is more productive. PMSI may monitor data as may be necessary to meet legal, federal, state and other regulatory requirements.

5.04. PMSI does not accept ideas, concepts, or techniques for new services or products through the Web Site ("Comments"). If such Comments are received, You acknowledge that (1) the Comments will not be considered confidential or proprietary, (2) PMSI and its affiliates are under no obligation to keep such information confidential, and (3) PMSI will have an unrestricted, irrevocable, world-wide, royalty-free right to use, communicate, reproduce, publish, display, distribute, and exploit such Comments in any manner it chooses.

Section 6. Disclaimer of Warranty

6.01. THE WEB SITE IS PROVIDED ON AN "AS IS" BASIS. PMSI, ITS AFFILIATES AND LICENSORS, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIM ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, RELIABILITY OR AVAILABILITY, ACCURACY OR COMPLETENESS OF RESPONSES, WORKMANLIKE EFFORT, LACK OF VIRUSES, LACK OF NEGLIGENCE, TITLE AND NON-INFRINGEMENT, REGARDING IN ANY WAY THE WEB SITE AND YOUR ABILITY OR INABILITY TO USE THE WEB SITE. PMSI AND ITS AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, COMPLETENESS, SECURITY, OR TIMELINESS OF THE WEB SITE. NO INFORMATION OBTAINED BY YOU FROM THE WEB SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED BY PMSI IN THE TERMS OF USE. PMSI MAKES NO REPRESENTATIONS ABOUT THE RESULTS TO BE OBTAINED FROM USING THE WEB SITE. THE USE OF THE WEB SITE IS AT YOUR OWN RISK.

6.02. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTY, SO THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION 6 MAY NOT APPLY TO YOU. IF YOU ARE DEALING AS A CONSUMER, YOUR STATUTORY RIGHTS THAT CANNOT BE WAIVED, IF ANY, ARE NOT AFFECTED BY THESE

PROVISIONS. YOU AGREE AND ACKNOWLEDGE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND WARRANTY PROVIDED IN THE TERMS OF USE ARE FAIR AND REASONABLE.

Section 7. Limitation of Liability

7.01. TO THE EXTENT PERMITTED BY APPLICABLE LAW AND TO THE EXTENT THAT PMSI IS OTHERWISE FOUND RESPONSIBLE FOR ANY DAMAGES, PMSI IS RESPONSIBLE FOR ACTUAL DAMAGES ONLY. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL PMSI, ITS AFFILIATES AND LICENSORS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, AND CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION RESULTING FROM THE USE OR INABILITY TO USE THE WEB SITE WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT PMSI IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT PERMITTED BY LAW, THE ENTIRE LIABILITY OF PMSI TO YOU WILL BE LIMITED TO THE AMOUNT YOU PAID TO PMSI FOR ACCESS TO THE WEB SITE, IF ANY, OR \$100, WHICHEVER IS GREATER. TO THE EXTENT PERMITTED BY LAW, THE REMEDIES STATED FOR YOU IN THE TERMS OF USE ARE EXCLUSIVE AND ARE LIMITED TO THOSE EXPRESSLY PROVIDED FOR IN THE TERMS OF USE. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THE TERMS OF USE SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

Section 8. Indemnity

8.01. You agree to defend, indemnify and hold harmless PMSI and affiliate companies and their respective officers, directors, employees, agents and representatives against and from any and all losses, expenses, claims, demands, damages, judgments, suits or other actions arising in any way out of Your breach of the Terms of Use or Your use of or activities conducted in connection with the Web Site.

Section 9. Jurisdiction

9.01. TO THE FULLEST EXTENT PERMITTED BY LAW, YOU HEREBY EXPRESSLY AGREE THAT ANY PROCEEDING ARISING OUT OF OR RELATING TO YOUR USE OF THE WEB SITE SHALL BE INSTITUTED IN THE STATE OF FLORIDA OR FEDERAL COURT SITTING IN THE COUNTY OF HILLSBOROUGH, STATE OF FLORIDA, UNITED STATES OF AMERICA AND YOU EXPRESSLY WAIVE ANY OBJECTION THAT YOU MAY HAVE NOW OR HEREAFTER TO THE LAYING OF THE VENUE OR TO THE JURISDICTION OF ANY SUCH PROCEEDING. YOU AGREE THAT ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO YOUR USE OF THE WEB SITE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE.

Section 10. Governing Law

10.01. To the fullest extent permitted by law, the Terms of Use are governed by the internal substantive laws of the State of Florida, excluding its conflicts of laws principles.

Section 11. General

11.01. You may not assign the Terms of Use or any of Your interest, rights, or obligations under the Terms of Use without PMSI's prior written consent, which consent shall not be unreasonably withheld.

11.02. If any provision of the Terms of Use is found to be invalid by any court having competent jurisdiction that provision shall be enforced to the maximum extent permissible and the invalidity of such provision shall not affect the validity of the remaining provisions of the Terms of Use, which shall remain in full force and effect.

11.03. No waiver of any of portion of the Terms of Use shall be deemed a further or continuing waiver of such portion or of any other term or condition.

11.04. No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by the Terms of Use.

11.05. Except as expressly provided in a separate license, service or other written agreement between You and PMSI and signed by PMSI (a "Signed Agreement"), the Terms of Use constitutes the entire agreement between You and PMSI with respect to the Web Site and Your use of and access to the Web Site, and supersedes all discussions, communications, conversations, and agreements concerning the subject matter hereof. To the extent that any provision of the Term of Use conflicts with any provision of other agreements between You and PMSI, the terms of

the Signed Agreement shall govern and take precedence. If there is no Signed Agreement, the agreement that provides PMSI with the greatest benefits, rights, and redress, as determined by PMSI in its sole discretion, shall govern and take precedence.

11.06. The title, section, and paragraph headings (if any) used in the Term of Use are for convenience only and have no legal or contractual effect.

11.07. BY USING OR ACCESSING THE WEB SITE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE LEGALLY BOUND BY THE TERMS OF USE.