

Last Modified: August 1, 2020

Terms of Service (Aesthetic One Physician Application)

These Terms of Service ("**Agreement**") are made between AnzuBridge, L.L.C. ("**AnzuBridge**," "**us**," "**our**") and you, or, if you represent an entity or other organization, the entity or organization that you represent (in either case, "**you**" or "**your**") and provides the terms and conditions under which you may access and use the websites, mobile applications and other online products and services provided with the Aesthetic One Physician Application (collectively, the "**Services**"). If you are a member of a medical practice, you represent that you have the authority to bind the medical practice to this Agreement.

Please carefully read this Agreement. By clicking on the "Accept" button below or by accessing or using the Services, you acknowledge that you have read, understand, and agree to be bound by this Agreement.

If you do not agree to this Agreement, do NOT access or use the Services.

THIS AGREEMENT CONTAINS A DISPUTE RESOLUTION AND ARBITRATION PROVISION IN SECTION 19, INCLUDING CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS UNDER THIS AGREEMENT AND APPLIES WITH RESPECT TO DISPUTES YOU MAY HAVE WITH ANZUBRIDGE.

- 1. Eligibility.** You must be at least 18 years old and at least the age of legal majority where you live to access or use the Services.
- 2. Changes.** AnzuBridge reserves the right, at any time, to modify the Services. In addition, AnzuBridge may make changes to this Agreement from time to time. If we make changes, we will provide you with notice of such changes, such as by sending an email, providing a notice through the Services or updating the date at the top of this Agreement. Unless we say otherwise in our notice, the amended Agreement will be effective immediately, and your continued use of the Services after we provide such notice will confirm your acceptance of the changes. If you do not agree to the amended Agreement, you must stop using the Services.
- 3. Privacy Policy, Business Associate Addendum, and Consents.** For information about how we collect, use, share and otherwise process information about you, please see our [Privacy Policy](#). Prior to accessing or otherwise utilizing the Services, you will enter into a Business Associate Agreement with AnzuBridge. Prior to using the Services with patients, you represent, warrant and covenant that you will provide the appropriate disclosures and receive any necessary consents from your patients.
- 4. Account.** You may need to register for an account to access some or all of the Services (the "**Account**"). If you register for an Account, you must provide accurate Account information and promptly update this information if it changes. Failure to do so may result in your inability to use the Services. You also must maintain the security of your Account and promptly notify us if you discover or suspect that someone has accessed your Account without your permission. If you are an administrator for an Account associated with a practice, you will ensure that all health care practitioners accessing the Account are currently employed by or associated with the practice.
- 5. Electronic Communications and Biometrics.** You agree that transactions between us may be conducted electronically. The Service supports the use of biometric authentication (e.g., Touch ID or Face ID) as a verification method on supported mobile devices. AnzuBridge does not control the biometric

authentication process and does not have access to your biometric data. Biometric authentication is dependent on the technology and software found in your mobile device. All actions made using the Services after a successful biometric authentication are deemed to have been made by you.

6. Additional Terms. If You choose to use any other products or services of AnzuBridge, your use of those products and services are governed by the applicable agreements for those products and services provided by AnzuBridge. If you are a member of The Aesthetic Society you may have entered into other agreements covering related products, and this Agreement does not modify those prior agreements. To be able to fully access and use all features of the Services, you may need to enter into additional agreements with AnzuBridge, The Aesthetic Society and/or their affiliates.

7. AnzuBridge Materials. AnzuBridge provides content through the Services that are copyrighted and/or trademarked works of AnzuBridge or AnzuBridge's third-party licensors and suppliers (collectively, the "**AnzuBridge Materials**"). AnzuBridge Materials may include logos, graphics, video, images, software and other content. As between You and AnzuBridge, AnzuBridge owns all right, title and interest in the AnzuBridge Materials. Content provided by third parties (including your patients) is discussed in Section 11.

8. License. Subject to the terms and conditions of this Agreement, and your compliance with this Agreement, AnzuBridge or its licensors (as applicable) grants to you a non-exclusive, personal, non-transferable, non-sublicensable, limited license solely to use and display the AnzuBridge Materials in connection with use of the Services, and to use and access the Services without modification, solely for Your own internal purposes. You may allow staff members to access the Services through your Account as long as such access is for your own internal purposes. In the event your relationship with AnzuBridge is terminated or you breach any terms of this Agreement, the above license will terminate automatically, and you will immediately destroy any downloaded or printed AnzuBridge Materials and uninstall any applications provided as part of the Services. Except as expressly set forth above, you are granted no licenses or rights in or to the Services or any AnzuBridge Materials and you may not use, modify, reproduce, perform, display, create derivative works from, republish, post, transmit, participate in the transfer or sale of, distribute, reverse engineer, alter, enhance, or in any way exploit or utilize any portion of the Services or AnzuBridge Materials.

9. Provider Content. The Services allow you to create, store and share information, and documentation ("**Provider Content**"). You represent that you have all rights necessary to provide the Provider Content to AnzuBridge for use with the Services, including but not limited to the rights to provide any reprints of articles or other patient guidance. Except for the rights you grant below, you and your licensors retain all rights in and to the Provider Content, as between you and AnzuBridge. You grant AnzuBridge and its affiliates a non-exclusive, worldwide, royalty-free license to use, copy, transmit, distribute, sub-license, store, and display the Provider Content to the extent necessary to perform its obligations or enforce its rights under this Agreement.

10. Prohibited Conduct. You acknowledge that the Services, and the databases, software, hardware and other technology used by or on behalf of AnzuBridge to operate the Services (the "**Technology**") and their structure, organization, and underlying data, information and source code constitute valuable trade secrets and intellectual property of AnzuBridge. You will not, and will not permit any third party to: (a) access or use the Services, in whole or in part, except as expressly provided in this Agreement; (b) use the Services to harvest or collect information of third parties except as needed to use the Services; (c) use Services in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Services; (d) use automated scripts or bots to use or access the Services; (e) use the Services to

intimidate or harass any other people or entities; (f) alter, modify, reproduce, create derivative works of the Services, AnzuBridge Materials, or Technology; (g) distribute, sell, resell, lend, loan, lease, license, sublicense or transfer any of your rights to access or use the Services or otherwise make the Services available to any third party; (h) reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code, method of operation of, or any trade secrets embodied in the Services, AnzuBridge Materials or the Technology; (i) attempt to circumvent or overcome any technological protection measures intended to restrict access to any portion of the Services or the Technology; or (j) interfere in any manner with the operation or hosting of the Services or the Technology, or attempt to gain unauthorized access to the Services or the Technology.

You may not post, store or share any Provider Content that: (I) is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory or fraudulent; (II) would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any local, state, national or international law; (III) may infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party; (IV) contains any viruses, corrupted data or other harmful, disruptive or destructive files or content; (V) in our sole judgment, is objectionable, restricts or inhibits any other person from using or enjoying our Services, or may expose us or others to any harm or liability of any type; or (VI) exceeds any size limitations set by us. AnzuBridge may offer the ability to purchase additional storage capacity for the Services.

Enforcement of this Section 10 is solely at our discretion, and failure to enforce this section in some instances does not constitute a waiver of our right to enforce it in other instances.

11. Third-Party Content and Sites. The Services, the AnzuBridge Materials, and communications sent in connection with the Services may contain content provided by third-parties or links to third-party sites that are not under the control of AnzuBridge, and AnzuBridge is not responsible for any content or any linked site. If you access a third-party site or use third party content, you do so at your own risk. AnzuBridge does not endorse or accept any responsibility for third-party sites, third-party content or third-party providers. THE SERVICES MAY ASSIST YOU IN CREATING REPORTS TO DELIVER TO THIRD PARTIES, BUT YOU UNDERSTAND THAT THE SERVICES MAY NOT AUTOMATICALLY REPORT INFORMATION TO THIRD PARTIES (E.G., DELIVERING TEST RESULTS TO STATE AGENCIES OR REGISTERING MEDICAL DEVICES WITH THE APPROPRIATE AUTHORITIES OR MANUFACTURERS.)

12. Suspension. AnzuBridge reserves the right to terminate your access to the Services, with or without cause and with or without notice, for any reason or no reason. Upon such termination, AnzuBridge shall cease to collect the Provider Content. You understand that if your Account is connected to a practice the administrator for the practice may remove or terminate your access to the Services, including in the event you leave the practice.

13. Disclaimer. ANZUBRIDGE, FOR ITSELF AND ITS LICENSORS, MAKES NO EXPRESS, IMPLIED OR STATUTORY REPRESENTATIONS, WARRANTIES, OR GUARANTEES IN CONNECTION WITH THE SERVICES, OR RELATING TO THE QUALITY, SUITABILITY, TRUTH, ACCURACY OR COMPLETENESS OF ANY INFORMATION OR MATERIAL CONTAINED OR PRESENTED ON THE SERVICES, INCLUDING WITHOUT LIMITATION THE ANZUBRIDGE MATERIALS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND ANY INFORMATION OR MATERIAL CONTAINED OR PRESENTED THROUGH THE SERVICES IS PROVIDED TO YOU ON AN "AS IS," "AS AVAILABLE" AND "WHERE-IS" BASIS WITH NO IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR

A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. WE DO NOT REPRESENT OR WARRANT THAT THE SERVICES ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR FREE.

14. Limitation on Liability. YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. ANZUBRIDGE SHALL NOT BE LIABLE TO YOU FOR ANY DAMAGES ARISING OR RESULTING FROM (A) YOUR USE OF THE SERVICES, INCLUDING WITHOUT LIMITATION YOUR DISPLAYING, COPYING, OR DOWNLOADING ANY ANZUBRIDGE MATERIALS TO OR FROM THE SERVICES OR USING THE SERVICES TO COMMUNICATE WITH A PATIENT; OR (B) ANZUBRIDGE'S USE OF THE PROVIDER CONTENT OR THE SALE OR LICENSE OF AGGREGATED STATISTICAL DATA. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANZUBRIDGE BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) HOWEVER ARISING, EVEN IF ANZUBRIDGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

IN NO EVENT WILL THE CUMULATIVE, AGGREGATE LIABILITY OF ANZUBRIDGE IN CONNECTION WITH THE SERVICES EXCEED FIFTY DOLLARS (\$50) OR THE AMOUNTS YOU PAID TO ANZUBRIDGE IN CONNECTION WITH THE SERVICES IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE ACT OR OMISSION GIVING RISE TO SUCH LIABILITY, WHICHEVER IS GREATER.

THE LIMITATIONS SET FORTH IN THIS SECTION WILL NOT LIMIT OR EXCLUDE LIABILITY FOR THE GROSS NEGLIGENCE, FRAUD, WILLFUL MISCONDUCT OF ANZUBRIDGE. IN ADDITION, YOU MAY HAVE OTHER RIGHTS WHICH MAY VARY FROM STATE TO STATE OR IN OTHER JURISDICTIONS OR COUNTRIES. THE FOREGOING LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

15. Warranties by You. You hereby represent, warrant, and covenant that you have the legal right and authority to enter into and perform your obligations under this Agreement. You further represent, warrant, and covenant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; (ii) you are not listed on any U.S. Government list of prohibited or restricted parties; (iii) your use of the Services will comply with all laws and regulations directly or indirectly applicable to you, including without limitation the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act and their implementing regulations; and (iv) you have a valid license to practice medicine in the state(s) where you practice.

16. Indemnity. You agree to indemnify and hold AnzuBridge, its affiliates, and their respective officers, directors, employees, agents, licensors, and business partners harmless for, from and against any and all costs, damages, liabilities, and expenses (including attorneys' fees and costs of defense) arising from or related to any claim or demand from a third-party that: (i) your use of the Services or the use of the Services by any person using your access credentials breaches this Agreement or violates any applicable law or regulation, or the copyrights, trademark rights or other rights of any third-party; (ii) you provided improper care or caused patient harm through use of the Services; or (iii) AnzuBridge's use of the Provider Content as permitted hereunder violates any applicable law or regulation, or the copyrights, trademark rights or other rights of any third-party. The indemnified parties will have the right to participate in the defense of any such claim at its expense. In the event that You receive notice of any third party claim that the Services or your use of the Services infringes or misappropriates any third party intellectual property rights, You must notify AnzuBridge promptly.

17. Disputes.

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with AnzuBridge and limits the manner in which you can seek relief from us, unless you opt out

of arbitration by following the instructions set forth below. No class or representative actions or arbitrations are allowed under this Agreement. In addition, arbitration precludes you from suing in court or having a jury trial.

No Representative Actions. You and AnzuBridge agree that any dispute arising out of or related to this Agreement or the Services is personal to you and AnzuBridge and that any dispute will be resolved solely through individual action, and will not be brought as a class arbitration, class action or any other type of representative proceeding.

Arbitration of Disputes. Except for small claims disputes in which you or AnzuBridge seeks to bring an individual action in small claims court located in the county of your billing address or disputes in which you or AnzuBridge seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, **you and AnzuBridge waive your rights to a jury trial and to have any dispute arising out of or related to this Agreement or the Services resolved in court.** Instead, for any dispute or claim that you have against AnzuBridge or relating in any way to the Services (including the data collected through the Services), You agree to first contact AnzuBridge and attempt to resolve the claim informally by sending a written notice of your claim ("**Notice**") to AnzuBridge by email at legal@anzubridge.com or by certified mail addressed to AnzuBridge, L.L.C., Attn: Legal Department, 3104 E Camelback Rd, #847, Phoenix, AZ 85016. The Notice must (a) include your name, residence address, email address, and telephone number; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. Our notice to you will be similar in form to that described above. If you and AnzuBridge cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may submit the dispute to binding arbitration administered by JAMS or, under the limited circumstances set forth above, in court. All disputes submitted to JAMS will be resolved through confidential, binding arbitration before one arbitrator. Arbitration proceedings will be held in Maricopa County, Arizona or may be conducted telephonically or via video conference for disputes alleging damages less than \$1,000, in accordance with the JAMS Streamlined Arbitration Rules and Procedures ("**JAMS Rules**"). The most recent version of the JAMS Rules are available on the [JAMS website](#) and are hereby incorporated by reference. You either acknowledge and agree that you have read and understand the JAMS Rules or waive your opportunity to read the JAMS Rules and waive any claim that the JAMS Rules are unfair or should not apply for any reason.

You and AnzuBridge agree that this Agreement affects interstate commerce and that the enforceability of this Section 17 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* (the "**FAA**"), to the maximum extent permitted by applicable law. As limited by the FAA, this Agreement and the JAMS Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court, including the power to determine the question of arbitrability. The arbitrator may conduct only an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

The arbitrator, AnzuBridge, and you will maintain the confidentiality of any arbitration proceedings, judgments and awards, including, but not limited to, all information gathered, prepared and presented for purposes of the arbitration or related to the dispute(s) therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality, unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

You and AnzuBridge agree that for any arbitration you initiate, you will pay the filing fee and AnzuBridge will pay the remaining JAMS fees and costs. For any arbitration initiated by AnzuBridge, AnzuBridge will pay all JAMS fees and costs. You and AnzuBridge agree that the state or federal courts of the State of Arizona and the United States sitting in Maricopa County, Arizona have exclusive jurisdiction over any appeals and the enforcement of an arbitration award.

Any claim arising out of or related to this Agreement or the Services must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and AnzuBridge will not have the right to assert the claim.

You have the right to opt out of binding arbitration within 30 days of the date you first accepted the terms of this Section 17 by emailing the opt-out notice to legal@anzubridge.com or mailing an opt-out notice to AnzuBridge, L.L.C., 3104 E Camelback Rd, #847, Phoenix, AZ 85016. In order to be effective, the opt-out notice must include your full name and address and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve disputes in accordance with Section 17.

If any portion of this Section 17 is found to be unenforceable or unlawful for any reason, (a) the unenforceable or unlawful provision shall be severed from this Agreement; (b) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of this Section 17 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 17; and (c) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 17 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 17 will be enforceable.

18. Governing Law. This Agreement is governed in all respects by the laws of the State of Arizona, U.S.A. without regard to its conflicts of law provisions. Any dispute between the parties that is not subject to arbitration or cannot be heard in small claims court will be resolved in the state or federal courts of Arizona and the United States, respectively, sitting in Maricopa County, Arizona.

19. California Consumer Notice. Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: the Services are provided by AnzuBridge, AnzuBridge, L.L.C., 3104 E Camelback Rd, #847, Phoenix, AZ 85016. If you have a question or complaint regarding the Services, please contact Customer Service at AoInformation@anzubridge.com or call phone number 1-602-956-3560. You may also contact us by writing AnzuBridge, AnzuBridge, L.L.C., 3104 E Camelback Rd, #847, Phoenix, AZ 85016. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by post at 1625 North Market Blvd., Sacramento, CA 95834 or by telephone at (916) 445-1254 or (800) 952-5210 or Hearing Impaired at TDD (800) 326-2297 or TDD (916) 322-1700.

20. Feedback. You may voluntarily submit or otherwise communicate to us any questions, comments, suggestions, ideas, original or creative materials or other information about AnzuBridge or the Services (collectively, "**Feedback**"). You understand that we may use such Feedback for any purpose, commercial or otherwise, without acknowledgement or compensation to you, including, without

limitation, to develop, copy, publish, or improve the Feedback in AnzuBridge's sole discretion. You understand that AnzuBridge may treat feedback as non-confidential.

21. General. All waivers under this Agreement must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any provision of this Agreement is held to be unenforceable, that provision will be removed to the extent necessary to comply with the law, replaced by a provision that most closely approximates the original intent and economic effect of the original to the extent consistent with the law, and the remaining provisions will remain in full force. The prevailing party in any lawsuit, arbitration or proceeding arising from or related to this Agreement will be entitled to receive its costs, expert witness fees and reasonable attorneys' fees, including costs and fees on appeal. Neither this Agreement nor any rights or obligations of you hereunder may be assigned or transferred by you (in whole or in part and including by sale, merger or operation of law) without the prior written approval of AnzuBridge. This Agreement is the complete and exclusive statement of the agreement between the parties with respect to the subject matter of this Agreement, and this Agreement supersedes any prior or contemporaneous agreement, oral or written, and any other communications between the parties in relation to the subject matter of this Agreement.

22. Apple Requirements. If you downloaded the Services from the App Store, the following terms also apply to you:

Acknowledgment. You acknowledge that this Agreement is between you and AnzuBridge only, and not with Apple, and AnzuBridge, not Apple, is solely responsible for the Service and the content thereof.

Scope of License. The license granted to you for the Service is a limited, non-transferable license to use the Service on an Apple product that you own or control and as permitted by the Usage Rules set forth in the terms of service applicable to the App Store.

Maintenance and Support. AnzuBridge and not Apple is solely responsible for providing any maintenance and support services, for which additional fees may apply, with respect to the Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Service.

Warranty. AnzuBridge is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Service to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Service to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Service, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be AnzuBridge's sole responsibility.

Product Claims. AnzuBridge, not Apple, is responsible for addressing any user or third-party claims relating to the Service or the user's possession and/or use of the Service, including, but not limited to: (a) product liability claims; (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.

Legal Compliance. You represent and warrant that (a) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a terrorist-supporting country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

Developer Contact Info. Direct any questions, complaints or claims by email to:
AOfinformation@anzubridge.com.

Third Party Terms of Agreement. You must comply with any applicable third-party terms of agreement when using the Service.

Third Party Beneficiary. You acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of this Agreement, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third-party beneficiary thereof.