

MEDICALBENCH TERMS OF SERVICES AND CONDITIONS

These Medicalbench Terms of Service (this "*Agreement*") are entered into by Msys B.V. ("Msys") and the entity executing this Agreement ("*You*"). This Agreement governs Your use of the standard Medicalbench application (the "*Service*").

BY CLICKING THE "I ACCEPT" BUTTON, COMPLETING THE REGISTRATION PROCESS, OR INSTALLING, USING OR COPYING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED AND ACCEPT THIS AGREEMENT AND ARE AUTHORIZED TO ACT ON BEHALF OF, AND BIND TO THIS AGREEMENT, THE OWNER OF THIS ACCOUNT.

In consideration of the foregoing, the parties agree as follows:

1. Definitions.

"*Member*" refers to the administrator and billing account for the Service. All users linked to a single Property will have their licenses aggregated before determining the charge for the Service for that Property.

"*Confidential Information*" includes any proprietary data and any other information disclosed by one party to the other in writing and marked "confidential" or disclosed orally and, within five business days, reduced to writing and marked "confidential". However, Confidential Information will not include any information that is or becomes known to the general public, which is already in the receiving party's possession prior to disclosure by a party or which is independently developed by the receiving party without the use of Confidential Information.

"*Customer Data*" means the data concerning the customers (Patients) and data of member that is collected through use of the Medicalbench Local.

"*Treatment Data*" means the data concerning the anonymous treatment data of member that is collected through use of the Medicalbench Local and then forwarded to the Medical Central Servers and analysed by the Processing Software. Only on agreement of Patient the data is forwarded to Medicalbench Central.

"*Documentation*" means any accompanying documentation made available to You by Msys for use with the Medicalbench Software, including any documentation available online.

"*Interest Group*" means a specific group of members that have membership to an interest area like an Intervention maintained by an Educational Institute or a Clinical research group.

"*Medicalbench Application*" means the set of Medicalbench software programs, like Medicalbench Local, Medicalbench Central, Medicalbench web application and Medicalbench e-Health application.

"*Medicalbench Local*" means the Medicalbench application what operates in Your computer environment. It is configured as or Medicalbench Standalone or as a Medicalbench Network.

"Medicalbench Standalone" means the Medicalbench software on Your computer environment where database is dedicated coupled with application and any upgrades, which analyses the Customer Data and generates the Reports.

"Medicalbench Network" means the Medicalbench software on Your computer environment where server-side software and database on server is connected with Medicalbench applications on PC clients and any upgrades, which analyses the Customer Data and generates the Reports.

"Medicalbench Central" means the Medicalbench application what operates in the cloud. It is accessible with secured internet protocol.

"Medicalbench Web Application" means the Medicalbench application in which You can maintain Your Medicalbench configuration.

"Medicalbench e-Health Application" means the Medicalbench application in which You can maintain Your Treatment Data in or without collaboration with Medical professional.

"Processing Software" means the Medicalbench Central software and any upgrades, which generates Statistics and Reports.

"Profile" means the collection of settings that together determine the information to be included in, or excluded from, a particular Report. For example, a Profile could be established to view a small portion of a population as a unique Report. There can be multiple Profiles established under a single Property.

"Property" means the Medicalbench application that is linked to a Member and use the same Service, together with any fixes, updates and upgrades provided to You.

"Privacy Policy" means the privacy policy on a Property.

"Report" means the resulting analysis shown at <http://www.medicalbench.com> for a Profile.

"Servers" means the servers controlled by Msys (or its wholly owned subsidiaries) on which the Processing Software and Customer Data are stored.

"Software" means the downloadable Software for Medicalbench Standalone and Medicalbench Network version.

"Third Party" means any third party (i) to which You provide access to Your Account or (i) for which You use the Service to collect information on the third party's behalf.

"Visitors" means visitors to Your Properties, for instance medical devices.

The words *"include"* and *"including"* mean "including but not limited to."

2. Fees and Service.

Subject to Section 16, the Service is provided without charge to You while using Medicalbench Standalone. For Medicalbench Network Msys will charge You fees. Msys may

change its fees and payment policies for the Service from time to time including the addition of costs for subscriptions, the importing of cost data from National Entities, or other fees charged to Msys or its wholly-owned subsidiaries by third party vendors for the inclusion of data in the Service reports. The changes to the fees or payment policies are effective upon Your acceptance of those changes which will be posted at <http://www.medicalbench.com> Unless otherwise stated, all fees are quoted in Euros. Any outstanding balance becomes immediately due and payable upon termination of this Agreement and any collection expenses incurred by Msys will be included in the amount owed, and may be charged to the credit card or other billing mechanism associated with Your Medicalbench account.

3. Member Account, Password, and Security.

To register for the Service, You must complete the registration process by providing Msys with current, complete and accurate information as prompted by the registration form, including Your e-mail address (username) and password. You will protect Your passwords and take full responsibility for Your own, and third party, use of Your accounts. You are solely responsible for any and all activities that occur under Your Account. You will notify Msys immediately upon learning of any unauthorized use of Your Account or any other breach of security. Msys's (or its wholly-owned subsidiaries') support staff may, from time to time, log in to the Service under Your customer password in order to maintain or improve service, including to provide Your assistance with technical or billing issues.

4. Nonexclusive License.

Subject to the terms and conditions of this Agreement, (a) Msys (referred to as "Licensor") grants You a limited, revocable, non-exclusive, non-sublicensable license to install, copy and use the Medicalbench solely as necessary for You to use the Service on Your Properties or Third Party's Properties; and (b) You may remotely access, view and download Your Reports stored at Medicalbench Central. You will not (and You will not allow any third party to) (i) copy, modify, adapt, translate or otherwise create derivative works of the Software or the Documentation; (ii) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software, except as expressly permitted by the law in effect in the jurisdiction in which You are located; (iii) rent, lease, sell, assign or otherwise transfer rights in or to the Software, the Documentation or the Service; (iv) remove any proprietary notices or labels on the Software or placed by the Service; (v) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service or the Software; or (vi) use data labeled as belonging to a third party in the Service for purposes other than generating, viewing, and downloading Reports. You will comply with all applicable laws and regulations in Your use of and access to the Documentation, Software, Service and Reports.

The Medicalbench Local may be used only on a single or network computer owned, leased, or otherwise controlled by you; or in the event of the inoperability of that computer, on a backup device selected by you. Concurrent use with same keys on two or more devices is not authorized without the advance written consent of Licensor and the payment of additional license fees.

You agree that you will not assign, sublicense, transfer, pledge, lease, rent, or share your rights under this Terms of service. Upon loading the Service, you may retain the Medicalbench Local for backup purposes. Any such copies of the Service shall include

Licensor's copyright and other proprietary notices. Except as authorized under this paragraph, no copies of the Medicalbench Local or any portions thereof may be made by you or any person under your authority or control.

5. Confidentiality.

Neither party will use or disclose the other party's Confidential Information without the other's prior written consent except for the purpose of performing its obligations under this Agreement or if required by law, regulation or court order; in which case, the party being compelled to disclose Confidential Information will give the other party as much notice as is reasonably practicable prior to disclosing the Confidential Information. Upon termination of this Agreement, the parties will promptly either return or destroy all Confidential Information and, upon request, provide written certification of such.

6. Information Rights and Publicity.

Msys and its wholly owned subsidiaries may retain and use, subject to the terms of its privacy policy (located at <http://www.Msys.eu/privacy.html>), information collected in Your use of the Service. Msys will not share Your Customer Data or any Third Party's Customer Data with any third parties unless Msys (i) has Your consent for any Customer Data or any Third Party's consent for the Third Party's Customer Data; (ii) concludes that it is required by law or has a good faith belief that access, preservation or disclosure of Customer Data is reasonably necessary to protect the rights, property or safety of Msys, its users or the public; or (iii) provides Customer Data in certain limited circumstances to third parties to carry out tasks on Msys's behalf (e.g., billing or data storage) with strict restrictions that prevent the data from being used or shared except as directed by Msys. When this is done, it is subject to agreements that oblige those parties to process Customer Data only on Msys's instructions and in compliance with this Agreement and appropriate confidentiality and security measures. Msys will share Your Treatment Data or any Third Party's Treatment Data with You and any third party unless Msys (j) has reasonable doubts about correctness of Treatment Data, (jj) has permitted that Treatment Data belongs to certain Interest Group.

7. Privacy.

You will ask the Patient to agree for sharing anonymous Treatment Data. Therefore You are responsible of the distribution, correctness and quality of the shared Treatment Data.

You will not (and will not allow any third party to) use the Service to track, collect or upload any data that personally identifies an individual (such as a name, email address or billing information), or other data which can be reasonably linked to such information by Msys. You will have and abide by an appropriate Privacy Policy and will comply with all applicable laws and regulations relating to the collection of information from Visitors. You must post a Privacy Policy and You must not circumvent any privacy features (e.g., an opt-out) that are part of the Service.

8. Indemnification.

To the extent permitted by applicable law, You will indemnify, hold harmless and defend Msys and its wholly owned subsidiaries, at Your expense, from any and all third-party claims,

actions, proceedings, and suits brought against Msys or any of its officers, directors, employees, agents or affiliates, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, reasonable attorneys' fees and other litigation expenses) incurred by Msys or any of its officers, directors, employees, agents or affiliates, arising out of or relating to (i) Your breach of any term or condition of this Agreement, (ii) Your use of the Service, (iii) Your violations of applicable laws, rules or regulations in connection with the Service, (iv) any representations and warranties made by You concerning any aspect of the Service, the Software or Reports to any Third Party; (v) any claims made by or on behalf of any Third Party pertaining directly or indirectly to Your use of the Service, the Software or Reports; (vi) violations of Your obligations of privacy to any Third Party; and (vii) any claims with respect to acts or omissions of any Third Party in connection with the Service, the Software or Reports. Msys will provide You with written notice of any claim, suit or action from which You must indemnify Msys. You will cooperate as fully as reasonably required in the defense of any claim. Msys reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by You.

9. Third Parties.

If You use the Service on behalf of the Third Party or a Third Party otherwise uses the Service through Your Account, whether or not You are authorized by Msys to do so, then You represent and warrant that (a) You are authorized to act on behalf of, and bind to this Agreement, the Third Party to all obligations that You have under this Agreement, (b) Msys may share with the Third Party any Customer Data that is specific to the Third Party's Properties, and (c) You will not disclose Third Party's Customer Data to any other party without the Third Party's consent.

10. DISCLAIMER OF WARRANTIES.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, MSYS MAKES NO OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT. MSYS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE ERROR FREE.

11. UPGRADE POLICY.

Msys may create, from time to time, update versions of the Medicalbench Application. At its option and at such a fee as Msys may determine, Msys may make such updates available to You.

12. LIMITATION OF LIABILITY.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, MSYS WILL NOT BE LIABLE FOR YOUR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF MSYS OR ITS SUBSIDIARIES AND AFFILIATES HAVE BEEN ADVISED OF, KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT

DAMAGES DO NOT SATISFY A REMEDY. MSYS'S (AND ITS WHOLLY OWNED SUBSIDIARIES) TOTAL CUMULATIVE LIABILITY TO YOU OR ANY OTHER PARTY FOR ANY LOSS OR DAMAGES RESULTING FROM CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL NOT EXCEED €50 (EURO).

13. Proprietary Rights Notice.

The Service, which includes the Medicalbench Application and all Intellectual Property Rights therein are, and will remain, the property of Msys (and its wholly owned subsidiaries). All rights in and to the Software not expressly granted to You in this Agreement are reserved and retained by Msys and its licensors without restriction, including, Msys's (and its wholly owned subsidiaries) right to sole ownership of the Software and Documentation. Without limiting the generality of the foregoing, You agree not to (and not to allow any third party to): (a) sublicense, distribute, or use the Service or Software outside of the scope of the license granted in this Agreement; (b) copy, modify, adapt, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the Software or otherwise attempt to discover any source code or trade secrets related to the Service; (c) rent, lease, sell, assign or otherwise transfer rights in or to the Software or the Service; (d) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service or the Software; (e) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Service for any purpose without the express written consent of Msys; (f) register, attempt to register, or assist anyone else to register any trademark, trade name, service marks, logos, domain names and other distinctive brand features, copyright or other proprietary rights associated with Msys (or its wholly owned subsidiaries) other than in the name of Msys (or its wholly owned subsidiaries, as the case may be); or (g) remove, obscure, or alter any notice of copyright, trademark, or other proprietary right appearing in or on any item included with the Service.

14. Government Rights.

If the use of the Service is being acquired by or on behalf of the Government or by a Government prime contractor or subcontractor (at any tier), the Government's rights in the Software, including its rights to use, modify, reproduce, release, perform, display or disclose the Software or Documentation, will be subject in all respects to the commercial license rights and restrictions provided in this Agreement.

15. Term and Termination.

Either party may terminate this Agreement at any time with notice. Upon any termination of this Agreement, Msys will stop providing, and You will stop accessing the Service; and You will delete all copies of the Medicalbench Local from all Properties and certify thereto in writing to Msys within 3 business days of such termination. In the event of any termination (a) You will not be entitled to any refunds of any usage fees or any other fees, and (b) any (i) outstanding balance for Service rendered through the date of termination, and (ii) other unpaid payment obligations during the remainder of the Initial Term will be immediately due and payable in full and (c) all of Your historical Report data will no longer be available to You.

16. Modifications to Terms of Service and Other Policies.

Msys may modify these terms or any additional terms that apply to the Service to, for example, reflect changes to the law or changes to the Service. You should look at the terms regularly. Msys will post notice of modifications to these terms at <http://www.msys.eu/privacy> or policies referenced in these terms at the applicable URL for such policies. Changes will not apply retroactively and will become effective no sooner than 14 days after they are posted. If You do not agree to the modified terms for the Service, You should discontinue Your use of Medicalbench Application. No amendment to or modification of this Agreement will be binding unless (i) in writing and signed by a duly authorized representative of Msys, (ii) You accept updated terms online, or (iii) You continue to use the Service after Msys has posted updates to the Agreement or to any policy governing the Service.

17. Miscellaneous, Applicable Law and Venue.

Msys will be excused from performance in this Agreement to the extent that performance is prevented, delayed or obstructed by causes beyond its reasonable control. This Agreement (including any amendment agreed upon by the parties in writing) represents the complete agreement between You and Msys concerning its subject matter, and supersedes all prior agreements and representations between the parties. If any provision of this Agreement is held to be unenforceable for any reason, such provision will be reformed to the extent necessary to make it enforceable to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.

This Agreement will be governed by and construed under the Dutch Law; Exclusive Jurisdiction and Venue (= Weens Koopverdrag). This Agreement shall be governed in all respects by the laws of the Netherlands without regard to its conflict of law's provisions, and Msys and You agree that the sole and exclusive venue and jurisdiction for disputes arising from this Agreement shall be the appropriate federal court located in the City of Arnhem, and You and Msys hereby submit to the venue and jurisdiction of such courts.

A waiver of any default is not a waiver of any subsequent default. You may not assign or otherwise transfer any of Your rights in this Agreement without Msys's prior written consent, and any such attempt is void. The relationship between Msys and You is not one of a legal partnership relationship, but is one of independent contractors. This Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. The following sections of this Agreement will survive any termination thereof: 1, 4, 5, 6 (except the last two sentences), 7, 8, 9, 10, 11, 12, 13, 15, and 17.

Privacy Policy

Last modified: November 26, 2013 (~~view archived versions~~)

There are many different ways you can use our services – to collect treatment data and share information to third parties, to compare treatments with other people or to create new improvement actions. When you share information with other Medicalbench users, for example by sharing treatment data, we can make your statistic outcomes even better – to show you more significant compare results, to help you identify more effective interventions or combination of interventions. As you use our services, we want you to be clear how we're using your shared treatment data and the ways in which you can protect your privacy.

Our Privacy Policy explains:

- What information of treatment we collect and why we collect it.
- How we use that information.
- The choices we offer, including how to access and update information.

We've tried to keep it as simple as possible. Your privacy matters to Msys so whether you are new to Msys or a long-time user, please do take the time to get to know our practices – and if you have any questions [contact us](#).

Information we collect

We collect information to provide better medical performance to all of our users – from figuring out quick improvements towards less successful treatments and interventions, to more long term optimization of frequency of intervention with regard to the patient.

We collect information in two ways:

- **Information you give us.** For example, our service requires you to sign up for a Medicalbench Account. When you do, we'll ask for personal information, like your name, email address, telephone number, profession or credit card. If you want you can subscribe to Disease Code Transformations
- **Information we get from your use of our services.** We may collect information about the services that you use and how you use them, like when you register a treatment and the patient allows you to share the information, then the next data entities are shared:
 - **Patient information**

From the subject Patient we share its birth year and gender with other Medicalbench users in order to make a filtering and drilldown in data possible.
 - **Treatment information**

From the subject Treatment we share information about the disease, complaints, intervention, symptoms, side-effects and measurement values from measurement tools.

- **Device information**

We collect medical device-specific information (such as your measurement tool). Msys may associate your medical device identifiers with your Medicalbench Account.

- **Log information**

When you use our services or view content provided by Medicalbench, we may automatically collect and store certain information in server logs. This may include:

- details of how you used our service, such as your search queries.
- Internet protocol address.
- device event information such as browser type, browser language, the date and time of your request and referral URL.

- **Unique application numbers (keys)**

To connect to Medicalbench Central Your Service uses unique application number (private and public keys). Information about your installation (for example, the operating system type and application version number) may be sent to Msys, with your consent, when you install or uninstall that service.

- **Local storage**

Medicalbench Local collects and stores information (including personal information) locally on your device using mechanisms such as Java, H2 and Postgresql databases and application data caches.

How we use information we collect

We use the information we collect from all of our services to provide quality control on medical treatment performance real-time. Based on each EMR (Electronic Medical Record) comparisons are made, performances are calculated, signalling about exceptions in treatments are reported, advice about successful interventions are given and a monitoring about outcome measurement can initiate new improvements on your Medical activities.

Because we use only anonymous treatment data for processing functions for the Quality Control cycle, there is no direct limitation on usage of the shared treatment data.

When you contact Msys, we may keep a record of your communication to help solve any issues you might be facing. We may use your email address to inform you about our services, such as letting you know about upcoming changes or improvements.

We will ask for your consent before using information for a purpose other than those that are set out in this Privacy Policy.

Msys processes personal information on our server(s) around the world. We may process your personal information on a server located outside the country where you live.

Transparency and choice

People have different privacy concerns. Our goal is to be clear about what information we collect, so that you can make meaningful choices about how it is used.

Information you share

Medicalbench lets you share information about treatment performances with others. Medicalbench provides you with the option to remove your measurement values within 1 hour.

Accessing and updating your personal information

Whenever you use our services, we aim to provide you with access to your personal information. If that information is wrong, we strive to give you ways to update it quickly or to delete it – unless we have to keep that information for legitimate business or legal purposes. When updating your personal information, we may ask you to verify your identity before we can act on your request.

We may reject requests that are unreasonably repetitive, require disproportionate technical effort (for example, developing a new system or fundamentally changing an existing practice), risk the privacy of others, or would be extremely impractical (for instance, requests concerning information residing on backup tapes).

Where we can provide information access and correction, we will do so for free, except where it would require a disproportionate effort. We aim to maintain our services in a manner that protects information from accidental or malicious destruction. Because of this, after you delete information from our services, we may not immediately delete residual copies from our active servers and may not remove information from our backup systems.

Information we share

We do not share personal information with companies, organizations and individuals outside of Msys unless one of the following circumstances apply:

- **With your consent**

We will share personal information with companies, organizations or individuals outside of Msys and Medicalbench when we have your consent to do so. We require opt-in consent for the sharing of any sensitive personal information.

- **With domain administrators**

If your Medicalbench Account is managed for you by a domain administrator (for example, for Medicalbench Application users) then your domain administrator and resellers who provide user support to your organization will have access to your Medicalbench Account information (including your email and other data). Your domain administrator may be able to:

- view statistics regarding your account, like statistics regarding applications you install.
- change your account password.
- suspend or terminate your account access.
- access or retain information stored as part of your account.
- receive your account information in order to satisfy applicable law, regulation, legal process or enforceable governmental request.
- restrict your ability to delete or edit information or privacy settings.

Please refer to your domain administrator's privacy policy for more information.

- **For external processing**

We provide Treatment information to our affiliates or other trusted businesses or persons to process it for us, based on our instructions and in compliance with our Privacy Policy and any other appropriate confidentiality and security measures.

- **For legal reasons**

We will share treatment information with companies, organizations or individuals outside of Msys if we have a good-faith belief that access, use, preservation or disclosure of the information is reasonably necessary to:

- meet any applicable law, regulation, legal process or enforceable governmental request.
- enforce applicable Terms of Service, including investigation of potential violations.
- detect, prevent, or otherwise address fraud, security or technical issues.
- protect against harm to the rights, property or safety of Msys, our users or the public as required or permitted by law.

We may share aggregated, performance identifiable information publicly and with our partners – like publishers, advertisers or connected sites. For example, we may share information publicly to show trends about the general use of our services.

If Msys is involved in a merger, acquisition or asset sale, we will continue to ensure the confidentiality of any personal information and give affected users notice before personal information is transferred or becomes subject to a different privacy policy.

Information security

We work hard to protect Medicalbench and our users from unauthorized access to or unauthorized alteration, disclosure or destruction of information we hold. In particular:

- We encrypt our services using SSL.

- We review our information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to systems.
- We restrict access to personal information to Msys employees, contractors and agents who need to know that information in order to process it for us, and who are subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations.

Application

Our Privacy Policy applies to all of the services offered by Msys B.V. and its affiliates, including services offered on other sites (such as our e-Health services), but excludes services that have separate privacy policies that do not incorporate this Privacy Policy.

Our Privacy Policy does not apply to services offered by other companies or individuals, including products or sites that may be displayed to you in search results, sites that may include Medicalbench services. Our Privacy Policy does not cover the information practices of other companies and organizations who advertise our services, and who may use other technologies to serve and offer relevant ads.

Enforcement

We regularly review our compliance with our Privacy Policy. When we receive formal written complaints, we will contact the person who made the complaint to follow up. We work with the appropriate regulatory authorities, including local data protection authorities, to resolve any complaints regarding the transfer of personal data that we cannot resolve with our users directly.

Changes

Our Privacy Policy may change from time to time. We will not reduce your rights under this Privacy Policy without your explicit consent. We will post any privacy policy changes on this page and, if the changes are significant, we will provide a more prominent notice (including, for certain services, email notification of privacy policy changes). We will also keep prior versions of this Privacy Policy in an archive for your review.