

[www.anemergenics.com](http://www.anemergenics.com) Terms of Use

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**A. General**

www.anemergenics.com (the "Site") is principally operated by AnemErgonics, LLC ("AnemErgonics"). AnemErgonics is a Colorado limited liability company.

By in any way accessing or using the Site, you ("User," "You," "Your," "Yourself") confirm You have read, understand, and agree to these Terms of Use ("Terms of Use"). If You do not agree to these or any changed or future Terms of Use, do not access or use (or continue to access or use) the Site.

**B. Changes to these Terms of Use**

AnemErgonics reserves the right, in its sole and absolute discretion, at any time and for any reason, and with or without notice, to add, change, delete, or modify all or any part of these Terms of Use. If AnemErgonics does this, it will post the changed Terms of Use on this page. Your continued use of the Site after any such change(s) constitute(s) Your understanding and acceptance of and agreement to the new or revised Terms of Use.

**C. Questions; Contact**

If at any time You have questions about these Terms of Use or Your use of the Site, please contact AnemErgonics. Our contact information is listed on the Site.

**D. Privacy**

You must review AnemErgonics' privacy policy ("Privacy Policy"), which is part of these Terms of Use. By using the Site, you consent to have Your personal and non-personal information transferred and used, as set forth in the Privacy Policy.

Your consent that the transfer and use of Your personal and non-personal information as set forth in the Privacy Policy will survive the termination of these Terms of Use, the prohibition or termination of Your use of the Site, and the imposition of limitations on Your use of the Site, whether caused, decided, effected, or imposed by You or AnemErgonics.

**E. Site Content; Limited License**

All Site content and information available through the Site (including applications, designs, drawings, graphics, information, instructions, material, pictures, software, sound, text, video, and other files and their arrangement and selection ("Site Content")) are the sole property of AnemErgonics and its licensors, all rights reserved. No Site Content may be copied, displayed, distributed, downloaded, framed, licensed, modified, posted, republished, reproduced, sold, sublicensed, transmitted, or used in any form, in any way, or by any means, in whole or in part, without AnemErgonics' prior written consent (which consent may be unreasonably conditioned, delayed, or withheld).

## **F. Third-Party Content**

The Site contains (or You may access or be sent through the Site to) links to other web sites ("Third-Party Sites") and to applications, articles, designs, graphics, information, materials, photographs, pictures, software, sound, text, video, and other content or items that belong to or originate from third parties ("Third-Party Content "). AnemErgonics does not in any way check, evaluate, investigate, or monitor Third-Party Sites or Third-Party Content, including for accuracy, appropriateness, or completeness. AnemErgonics is not liable or responsible for any matter that derives from or relates to any Third-Party Sites accessed through the Site or for any Third-Party Content accessed or available through or posted on the Site, including matters based on or related to the accuracy, content, opinions, privacy practices, reliability, or other policies of or contained in the Third-Party Sites or the Third-Party Content.

AnemErgonics' inclusion of, links to, or permitting the access or use of any Third-Party Site or Third-Party Content does not imply AnemErgonics' approval, consent, or endorsement. If You access a Third-Party Site or access, install, or use Third-Party Content, You do so at Your own risk. You must review the applicable policies and terms (e.g. privacy and data gathering policies and terms of use) of any Third-Party Site you access from or through the Site.

## **G. Law; Venue and Jurisdiction; Dispute Resolution**

Colorado law governs these Terms of Use, without regard to principles of conflict of laws, and applies to any dispute between You and AnemErgonics related to these Terms of Use.

Except as otherwise expressly provided in these Terms of Use, the exclusive and only forum and remedy for any and all claims and disputes arising out of and/or related to these Terms of Use or the Site will be final and binding arbitration before the American Arbitration Association ("AAA") in Denver, Colorado. The arbitrator's award will be binding and final and may be entered as a judgment in any court of competent jurisdiction.

Notwithstanding the arbitration obligation outlined above, You acknowledge and agree that in the following circumstance(s) arbitration is not an adequate remedy and that injunctive or other appropriate (e.g. equitable) relief may be sought:

- to the extent You have in any way infringed upon, violated, or threatened to infringe upon or violate AnemErgonics copyrights, patents, trade secrets, trademarks, or other intellectual property rights

Regarding any claim or dispute not subject to arbitration, You consent to and waive the defenses of lack of personal jurisdiction and forum non conveniens with respect to jurisdiction and venue in Colorado state or federal courts.

In the case of any dispute between You and AnemErgonics, the trier (court or arbitrator) will award the prevailing party its costs and fees.

This section of these Terms of Use will survive the termination of these Terms of Use, the prohibition or termination of Your use of the Site, and the imposition of limitations on Your use of the Site, whether caused, decided, effected, or imposed by You or AnemErgonics.

## **H. Disclaimers**

The Site may be unavailable from time to time for maintenance or other reasons. AnemErgonics is not liable or responsible for any communications failure, delay in operation or transmission, defect, deletion, destruction, error, interruption, omission, theft, or unauthorized access to, or alteration of, User communications.

In no situation (even in the case of AnemErgonics fault or negligence), is AnemErgonics liable or responsible for any malfunction or other problems of, caused by, or caused to any computer, computer system, phone equipment (mobile or otherwise), phone network or service, provider, server, software, including responsibility for damage to Your or any other person's computer, hardware, phone (mobile or otherwise), software, or systems.

In no situation (even in the case of AnemErgonics fault or negligence), will AnemErgonics be liable or responsible for any damage or loss, including any damage or loss, or personal injury or death, or property damage, related to or resulting from anyone's (including Your) use of the Site or Third-Party Content.

As relates to the Site, AnemErgonics disclaims any and all representations and warranties, whether express or implied, including implied warranties of fitness for a particular purpose, merchantability, non-infringement, or title. The Site is provided "as-is" and "as-available."

AnemErgonics does not covenant, represent, or warrant that the Site, Third-Party Content, or other materials available on or through the Site are accurate, complete, current, error-free, or reliable or that the Site or any applications are free of viruses or other harmful elements.

Without in any way limiting the foregoing, You understand and agree that You obtain Site Content, Third-Party Content, or other material from or through the Site at your own risk and that you are solely liable and responsible for such use and damages of any kind related to such use.

Reference of any type to any opinion, person, position, process, product, seller, service, supplier, or other information does not constitute or imply endorsement, recommendation, or sponsorship by AnemErgonics. AnemErgonics will have no liability or responsibility with respect to any such third parties.

## **I. Liability limitation**

In no event will AnemErgonics or any of its affiliates, agents, contractors, directors, employees, joint venturers, lawyers, members, officers, parents, partners, personnel, staff, subcontractors, subsidiaries, suppliers, or vendors ("AnemErgonics Personnel") be liable to You or to any third-party for any consequential, exemplary, incidental, indirect, punitive, or special damages (e.g. lost profits) arising from or related to Your use of the Site or other materials accessed from or through the Site, even if AnemErgonics or the AnemErgonics Personnel are aware of or have been told of the possibility of such damages.

Notwithstanding any provision of these Terms of Use to the contrary, the aggregate liability of AnemErgonics and the AnemErgonics Personnel to You for any cause(s) of action (whether based in contract, equity, regulation, statute, tort, or otherwise) related to Your use of the Site will at all times and in all circumstances be limited to no more than one hundred dollars (\$100.00). One or more claims will not enlarge this limit.

This Section will survive the termination of these Terms of Use or the prohibition or termination of Your use of the Site, and the imposition of limitations on Your use of the Site, whether caused, decided, affected, or imposed by You or AnemErgonics.

## **J. Indemnity**

You agree to defend, hold harmless, and indemnify AnemErgonics and the AnemErgonics Personnel from and against any and all claims, costs, damages, demands, expenses, liabilities, and losses, including reasonable attorney's fees, arising out of or in connection with:

- any Third-Party Content You access
- Your use of the Site
- Your violation of any part of these Terms of Use
- Your violation of any applicable law

Your agreement to defend, hold harmless, and indemnify AnemErgonics and the AnemErgonics Personnel as set forth above will survive the termination of these Terms of Use, the prohibition or termination of Your use of the Site, and the imposition of limitations on Your use of the Site, whether caused, decided, effected, or imposed by You or AnemErgonics.

## **K. Miscellaneous**

These Terms of Use are the only agreement between You and AnemErgonics regarding Your use of the Site. A separate agreement will apply in the case of your purchase of AnemErgonics product(s) or service(s); however, these Terms of Use will continue to govern Your use of the Site. AnemErgonics failure to enforce or exercise any condition, provision, right, or term of these Terms of Use will not constitute a waiver by AnemErgonics to later enforce that condition, provision, right, or term. The section titles in these Terms of Use are for convenience only and have no contractual or legal import. If any part of these Terms of Use is unenforceable, unlawful, or void, that part is deemed severable from the rest and does not affect the enforceability and validity of the remaining parts. The terms "includes", "including", and "e.g.," and any other similar terms include the term "without limitation" immediately after them. Capitalized terms have the meanings given them in these Terms of Use.