

# Terms of Service

**LAST UPDATED: May 24, 2018**

Please carefully read these terms and conditions of use (these "Terms of Service") before using the Site and the Services. These Terms of Service apply to the web site located at [www.gtsc.org](http://www.gtsc.org), and the subdomains thereof on which this Terms of Service is posted (the "Site"). These Terms of Services also apply to various online services and applications provided by GTSC on or through the Site, as well as any mobile/tablet applications that link to or reference these Terms of Service (collectively, the "Services"). Your access to and use of the Site and the Services (whether or not you are a registered member) is subject to these Terms of Service (including the Privacy Policy of the Site) and all applicable laws, rules and regulations. By accessing and using this Site and/or the Services, you signify your assent to these Terms of Service. These Terms of Service (including the Privacy Policy) may be amended or modified at the sole discretion of the General Thoracic Surgical Club ("GTSC" or "we", "us" or "our"), or new conditions may be imposed by GTSC, at any time, with or without notice. Any such changes or additions will be reflected by an update of this posting. Please check these Terms of Service periodically for changes. Your continued use of the Site and/or the Services following the posting of changes to these Terms of Service (including the Privacy Policy) will mean you accept those changes. If you do not agree to these Terms of Service (including the Privacy Policy), do not use the Site and/or the Services.

## **1. Ownership and use restrictions**

The Site is owned and operated by GTSC. GTSC reserves the right to contract with, and has contracted with, third parties for the operation of various components or services of the Site, each on our behalf.

The content and materials contained on or distributed within the Site and Services (including, without limitation, video, audio, photos, text, images, user interfaces, graphics, statistics, news, contests, message features, merchandise, tickets, logos and all copyrights and intellectual property related to the Site and/or Services, GTSC, any affiliate of GTSC, any of the GTSC chapters, special interest groups or any of or any of the GTSC sponsors, licensees and other affiliates (the "Content") are either owned by, or licensed to, GTSC. We maintain the Site and Services for your personal information, education, and communication. You may download one copy of each piece of Content from the Site and/or Services to any single computer for your personal, noncommercial use only, provided that you also retain all copyright and other proprietary notices contained on such Content. You may not, reproduce, republish, prepare derivative works based upon, modify, upload, post, compile, transmit, distribute, copy, publicly display or otherwise use the Content in any manner, except as expressly provided in these Terms of Service, without the express written permission of GTSC, and nothing herein shall imply any license or right otherwise. Modification of any Content on the Site or Services in any manner is a violation of the applicable owner's copyright and other proprietary rights.

The wordmarks, logos, trade names, packaging and designs of GTSC, the current and former GTSC members and the Site and the Services are the exclusive property of GTSC or our affiliates. All other word marks and logos (each, a "Trademark" and, collectively the "Trademarks") appearing on the Site and on the Services are Trademarks of their respective owners, regardless of whether such Trademarks are displayed with the trademark symbol. Nothing contained on the Site or as part of the Services should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademark displayed on the Site or on the Services in any manner without the express written permission of its respective owner. Any use of the Trademarks displayed on the Site, or any other Content on the Site, or in the Services except as expressly provided in these Terms of Service, is strictly prohibited.

Images of people or places displayed as part of the Content on the Site or on the Services are either the property of, or used with permission by, GTSC. Any use of these images by you, or anyone else authorized by you, is prohibited unless expressly permitted by these Terms of Service or by express permission that is granted elsewhere on the Site or in connection with the Services. Any unauthorized use of the images may violate copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations and statutes.

We neither warrant nor represent that your use of Content displayed on the Site and/or Services will not infringe upon the rights of third parties neither owned by nor affiliated with GTSC.

## **2. Access to site**

To access the Site, you must have access to the World Wide Web, either directly or through devices that access Web-based content, and you are solely responsible for payment of any service fees associated with such access. Certain features of the Site and the Services may require additional software downloads and minimum technical requirements that are presented when you first register, which minimum technical requirements may change from time to time in GTSC's sole discretion. You are solely responsible for determining whether your computer satisfies the minimum technical requirements before you register to access the Site and/or the Services. Your exclusive remedy in the event GTSC changes the minimum technical requirements is to terminate your use of the Site and/or the Services.

## **Registration for the of certain features**

### ***3.1 Registration; Privacy***

In order to access certain features of the Site and/or Services, you may be required to register with GTSC by providing certain personally identifiable information about yourself, including, but not limited to, your name and email address. In consideration for our granting you access to these features of the Site and Services, you hereby expressly agree to provide true, accurate, current and complete information about yourself as requested and as necessary for our provision of, and/or your registration for the use of, those features of the Site and Services, subject to all applicable laws, rules and regulations. If you provide any information that is untrue, inaccurate, not current or incomplete, or if GTSC has reasonable grounds to suspect that the information that you have provided is untrue, inaccurate, not current or incomplete, we have the absolute right to suspend or terminate your account at any time and refuse you any and all current or future use of

the Site and Services. For details concerning how such personally identifiable information is collected, used, disclosed and otherwise managed please see [our Privacy Policy](#), which is incorporated herein by this reference.

### ***3.2 User Name***

In order to use certain functionalities of the Site and/or Services, you may be asked to select a user name (a "User Name") for identification purposes. You must not use any User Name that violates these Terms of Service or any of the Code of Conduct (below). You may also receive or choose a password upon completing the registration process. You are solely responsible for maintaining the confidentiality of the password, and are solely responsible for all activities that occur under your password. Without limiting anything else in these Terms of Service, we are not responsible for any loss or damage whatsoever arising out of or related to your failure to comply with this Section 3.

### ***3.3 Subscription Services***

GTSC may offer certain services that require payment of a fee in order to use or receive a subscription ("Subscription Services"). Your use of the Subscription Services may be subject to additional terms and conditions that you must accept, approval of your valid payment card and verification of other information that GTSC may request from you, including your IP address. The Subscription Services may also require additional technical requirements.

GTSC may notify you about changes to prices and/or the Subscription Services by sending an email message to your email address on file and by publishing such notices from time to time on the informational page(s) of the Site. If your email service includes functionality or software that catalogues your emails in an automated manner, it is your responsibility to ensure that those emails we send to you reach your inbox, either by routinely monitoring your bulk, junk and/or spam email folders or by adding us to your address book or safe senders list.

## **4. Services and Content**

The Content on the Site and the Services provided may be updated, deleted or otherwise modified from time to time at the discretion of GTSC.

### ***4.1 Messaging***

- a. The Site and the Services may offer opportunities for you to send messages or postings in connection with various features which may include, without limitation, vanity email, auctions, contests, games, message boards, chat rooms, blogs and video submissions (each a "Message Feature" and, collectively, the "Message Features").
- b. You must use the Message Features in a responsible manner. By entering the Site or using the Services, you expressly agree to not transmit any message (each, a "Message" and, collectively, the "Messages") in connection with any Message Feature that violates the Code of Conduct for the Site and Services as set forth below.
- c. We and our third-party providers (the "Vendors") shall have the absolute right, but not the obligation, to review, edit or delete any Message transmitted in any Message Feature or any User

Name including that which: (i) violates any term of these Terms of Service (including, but not limited to the Code of Conduct); (ii) is otherwise illegal, offensive or inappropriate; and/or (iii) for any other reason, in our sole discretion. Depending on the nature of the violation, we shall have the sole discretion to terminate your access to the Site and/or Services at any time. Please be advised that we and our Vendors will, in accordance with the Privacy Policy of the Site and all applicable laws, fully cooperate with any and all law enforcement authorities and court orders in any and all jurisdictions requesting or directing us or our Vendors to disclose personal information of anyone who submits a Message or User Name that violates the foregoing terms.

d. Although we or our Vendors may from time to time monitor or review Messages or User Names submitted on the Site/Services, neither GTSC nor our Vendors are under any obligation to do so and assume no responsibility or liability that may result from the content of any Message nor for any error, defamation, libel, slander, omission, falsehood, obscenity, pornography, profanity, danger, or inaccuracy contained therein. Display of any Message in any Message Feature or any User Name does not constitute approval or endorsement by us or our Vendors. You acknowledge that neither GTSC nor our Vendors are responsible for, and cannot and do not guarantee, the accuracy or reliability of information in any Message posted or submitted by any user of the Site or Services.

e. Messages submitted to the Site or the Services by email or otherwise, including any data, questions, comments, suggestions or the like, and User Names are, and will be treated as, non-confidential and nonproprietary. By submitting a Message or User Name to the Site or in connection with any Services, you acknowledge that any information disclosed by you therein (i) may be used by any third party; (ii) is not confidential, may be read or intercepted by others and you have no expectation of privacy with regard thereto; (iii) creates no confidential, fiduciary, contractually implied or other relationship between you and us or our Vendors other than as expressly set forth in these Terms of Service; and (iv) is subject to the grant of Rights to us and our Vendors described in "Submissions", below.

#### ***4.2 Submissions***

By transmitting any Message or User Name or submitting ideas, articles, scripts, story lines, characters, drawings, creative ideas, concepts, know-how, processes, techniques, proposals, suggestions, plans, product names, technologies or materials, whether solicited or unsolicited, (each, a "Submission" and, collectively, "Submissions"), you are granting us a perpetual, royalty-free, non-exclusive, unrestricted, worldwide and irrevocable right and license to use, reproduce, modify, publish, translate, prepare derivative works based upon, distribute, perform or display such Submissions, in whole or in part, in any form, media or technology known or hereafter developed for any purpose, including, without limitation, advertising and promotional purposes (collectively, "Rights"). GTSC, the operators of the GTSC members and their respective affiliates shall also have the absolute right, but not the obligation, to use your name in connection with the broadcast, print, online or other use or publication of your Submission and to license your Submission to third parties without seeking or receiving your further consent.

a. Solicited Submissions: At times, we may solicit Submissions from visitors to the Site, including, without limitation, information, ideas, artwork or other materials. It is our practice to post notices on the Site regarding our planned use of such materials where we solicit the

Submission. Your provision of information in response to such a solicitation constitutes a grant by you to us of the Rights described above. In the event we seek to claim full ownership, rather than an irrevocable perpetual license of your Submission, you agree to assign all right title and interest to such Submission without any payment or further obligation to you and to take any and all action necessary to effect such assignment.

b. Unsolicited Submissions: Although we welcome your comments regarding, and your ideas and proposals for, the Site or Services, it is our policy not to accept or consider any Submissions that are unsolicited. The intent of this policy is to avoid the possibility of future misunderstandings, legal or otherwise, when creative ideas, concepts or materials developed by GTSC and/or our affiliates might appear to be similar to your Submission(s). If you do send any Submission(s) to GTSC via the Site, Services, or otherwise, that are unsolicited, however, you agree that (i) your unsolicited Submission(s) are not being made in confidence or trust and that by making such Submission(s) no contractual or fiduciary relationship is created between you and GTSC; (ii) any such unsolicited Submission(s) and copyright become the property of and will be owned by GTSC and may be used, copied, sublicensed, adapted, transmitted, distributed, publicly performed, published, displayed or deleted as GTSC sees fit; (iii) you are not entitled to any compensation, credit or notice whatsoever in connection with such Submission(s); and (iv) by sending an unsolicited Submission you waive the right to make any claim against GTSC or our affiliates relating to any unsolicited Submissions by you, including, without limitation, unfair competition, breach of implied contract or breach of confidentiality.

### ***4.3 Ownership and Non-Infringement***

By posting or submitting your content to the Site and/or Services, you represent and warrant that you own or otherwise control all of the rights thereto, and that use of your content on the Site and/or Services will not infringe or violate the rights of any third party or any applicable law.

## **5. Code of Conduct**

### ***5.1 Code of Conduct***

You agree not to use the Site and Services, including, but not limited to transmitting Messages, links or Submissions in manner that:

- i) imposes an unreasonable or disproportionately large load on the Site's infrastructure, interferes or disrupts the Site, the Services or the networks connected thereto or otherwise restricts or inhibits any other user from using and enjoying the Site or the Services;
- ii) is, or encourages conduct that is, unlawful, threatening, abusive, bigoted, hateful, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, sexually explicit, indecent, or otherwise deemed objectionable by GTSC;
- iii) constitutes, advocates or encourages conduct that would constitute or give rise to a criminal offense, civil liability or other violation of any local, state, national or international law;

- iv) violates, plagiarizes or infringes the rights of third parties including, without limitation, copyright, trademark, patent, rights of privacy or publicity or any other proprietary right or reveals confidential information or trade secrets in an unauthorized manner;
- v) contains any virus, Trojan horse, worm, time bomb, cancelbot or other similar harmful or deleterious programming routine;
- vi) harms or attempts to harm minors;
- vii) contains any information, software or other material of a commercial nature;
- viii) contains advertising, promotions, spam or commercial solicitations of any kind;
- ix) constitutes or contains false or misleading indications of origin or statements of fact; or
- x) contains material irrelevant to the subject matter of the Message Feature, including that which incites disputes, demeans, or wishes injury on a player or us or other users.

Clauses i) - x) shall collectively be referred to as the "Code of Conduct".

## ***5.2 General Prohibited Uses***

You agree that in connection with your use of the Site and the Services, you will not:

- i) harvest or collect email addresses or other contact information of other users by electronic or other means or engaging in spidering, screen scraping, database scraping or other such activity;
- ii) use any incomplete, false or inaccurate biographical or other information for purposes of registering as a user of the Services, or for purposes of registering for any promotions offered through the Services;
- iii) delete or revise any material or other information of any other user of the Services;
- iv) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of one or more of the Services;
- v) use any device, software or routine to interfere or attempt to interfere with the proper working of one or more of the Services or any activity being conducted on this Site;
- vi) use or attempt to use any engine, software, tool, agent or other device or mechanism (including, without limitation, browsers, spiders, robots, avatars or intelligent agents) to navigate or search the Services to harvest or otherwise collect information from the Services to be used for any commercial purpose;
- vii) allow any other person or entity to use your User Name or password for posting or viewing comments or sending or receiving materials;

- viii) attempt to decipher, decompile, disassemble or reverse engineer any of the software comprising or in any way making up a part of the Services;
- ix) access data not intended for you, gain unauthorized access to the Services or log into a server or account that you are not authorized to access;
- x) attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization;
- xi) attempt to interfere with service to any user, host or network, including, without limitation, by way of submitting a virus to, or overloading, "flooding", "spamming", "mailbombing" or "crashing" the Services; or
- xii) forge any TCP/IP packet header or any part of the header information in any email or posting.

Violations of system or network security may result in civil or criminal liability.

GTSC reserves all rights to investigate occurrences that may involve violations of the security of the use of the Site and/or Services or of the law, and GTSC may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

## **6. Voting & Mobile Program**

The Site may offer you opportunities to vote in connection with certain events. By casting a vote or entering contests or sweepstakes, you signify your agreement to all special terms and voting guidelines set forth on the Site applicable to that event as well as in these Terms of Service.

## **7. Terms of Sale**

Sales from the official GTSC store (the "Store") are subject to the following terms and conditions:

There are areas on the Site that allow you to order goods and/or services supplied by GTSC or our Vendors. By placing an order in the Store, you acknowledge that GTSC is exclusively responsible for the fulfillment and shipment of all Merchandise ordered.

Questions relating to the Store, Merchandise and its fulfillment should be directed to GTSC by: (i) live chat; (ii) e-mail or (iii) telephone. Please refer to the Contact Us section of the Store for more information.

By purchasing any Merchandise, Registrations or Subscription Services through the Site, you acknowledge and agree that your payment card is being charged by the payment processor of a Vendor of the Site. For purposes of these Terms of Service, such payment processor will be considered a Vendor.

ALL ORDERS ARE SUBJECT TO PRODUCT AVAILABILITY. THE AVAILABILITY OR DISPLAY OF MERCHANDISE OR SERVICES ON THE SITE IS NOT A GUARANTEE THAT SUCH ITEM OR SERVICE IS IN STOCK OR AVAILABLE FOR USE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY FOR ANY DAMAGE, LOSS OR INJURY ARISING OUT OF OR RELATING TO: THE ACTIVITIES OF ANY VENDOR, ANY MERCHANDISE OFFERED BY ANY OF OUR VENDORS, ANY LOSS OR INJURY RESULTING FROM YOUR ACCESS OR INABILITY TO ACCESS THE STORE, AUCTIONS, TICKETING OR THE SERVICES, OR ANY DAMAGE, LOSS OR INJURY ARISING OUT OF YOUR PURCHASE OR USE OF MERCHANDISE, TICKETS OR SERVICES.

We and our Vendors reserve the right to modify the price of any Merchandise or Subscription Services and substitute any merchandise or services of similar value for any current Merchandise or Subscription Services. In order to purchase Merchandise or Subscription Services on the Site, you must provide complete and accurate personal information consisting of your name, address, telephone number, email address, payment card information and shipping address, which shall be collected in accordance with the Site's Privacy Policy and/or Fanatic's Privacy Policy. Your ability to purchase Merchandise, tickets or Subscription Services is subject to limits established by your payment card issuer. You must notify us immediately of any change in your payment card information, including any change to your home address. We or our Vendors may bill your payment card at the time Subscription Services or tickets are ordered or shipped, and the appropriate GTSC member operator, Vendor or GTSC, as applicable, may bill your payment card at the time your tickets are ordered or shipped. You must pay all amounts accrued in your account, including sales tax and shipping and handling charges, when due. We may, in our sole discretion, decline service to or terminate any account. Neither GTSC, any GTSC member operator, nor any Vendor shall be responsible for and must not be held liable for any breaches in transaction security by any third party. Questions relating to the Store, Merchandise and its fulfillment should be directed to GTSC either by: (i) sending a message here [info@gtsc.org](mailto:info@gtsc.org) or (ii) telephone to 952.646.2029.

In addition with respect to the Subscription Services, you agree to pay all subscription fees and other applicable charges in accordance with GTSC's or its Vendors billing practices in effect at the time such fee or other charge becomes payable. GTSC or its Vendor may change its billing practices at any time and may institute new fees or other charges effective upon notice to you. You are responsible for all amounts billed to your account regardless of whether you authorized such billing. All payments for Subscription Services are non-refundable.

GTSC or its Vendor may offer certain Subscription Services for which the subscription automatically renews each year, and for which you will be automatically charged without further notice to you, provided that you agree to terms indicating that such Subscription Service is offered in this manner. GTSC or its Vendor agrees to notify you if the fees charged at the beginning of the renewal period are different than those at the end of the previous period.

Access to a Subscription Service may be made available to you on a time-limited trial basis at no charge ("Trial Subscription"), and other than with respect to the payment terms set forth above, the Trial Subscription is subject to the same terms and conditions of use as set forth in this Terms



of Services as those Subscription Services that are fee-based. At the end of a Trial Subscription, payment will be required in order to continue to receive access to or use of the applicable Subscription Services.

## **8. Links & Embedding**

8.1 The Site or Services may contain links to other Web sites and services ("Linked Services"). The Linked Services may not be under GTSC's control and GTSC is not responsible for the contents of the Linked Services.

The following restrictions ("Linkage Restrictions") apply to all links, including any to Embedded Content, to or from the Site or Services from or to any on-line, cable, wireless or other website, service, browser or other resource:

A. Websites, services, browsers and other resources other than Commercial Sites (e.g., search engine sites, widely available Internet browsers) (each, a "Permissible Site" and, collectively, "Permissible Sites") may link to GTSCociety.com without the express written permission of GTSC if such link is: (i) a "word" (as opposed to a "logo") link (e.g., "GTSCociety.com," and (ii) spatially separated from, and not otherwise associated with, any sponsorship advertising, or other commercial text or graphics that may be on the page/area containing such word link.

C. The GTSCociety.com logo, or a link containing any other logo of the GTSC or its members (a "logo" link) may not be used to link to GTSCociety.com without the express written permission of GTSC.

D. No link to the Site may be "framed" by the Permissible Site where the link originated if such "frame" contains any sponsorship, advertising or other commercial text or graphics.

E. Links to and from the Site or Services from or to other sites maintained by third parties do not constitute an endorsement by GTSC of any third-party website or content. We are not responsible for the availability of these third-party resources. Your linking to the Site, off-site pages or other sites is at your own risk and without the permission of GTSC. By clicking on any such link, you acknowledge that the Site has no control over, and makes no representations of any kind with respect to, such other sites or any content contained within such other sites, and you hereby revoke any claim against us with respect to such other sites. You should direct any concerns regarding any external link to its website administrator or Webmaster.

F. The posting or creation of any link to the Site signifies that you have read these Linkage Restrictions and agree to abide by their terms.

Subject to your strict compliance with these Terms of Service (including, but not limited to, the Code of Conduct), you may embed certain Content (including, but not limited to, video clips and photographs) from the Site into your website, blog or profile page, provided that you do not (i) obscure the GTSC's branding of the embedded Content, assert or imply ownership or authorship of the Content, or facilitate another party's assertion or implication of ownership or authorship of the Content; (ii) sell access to embedded Content on another website, (iii) use the embedded Content for the primary purpose of procuring advertising or subscription revenue, (iv) use the

embedded Content on a website that solely aggregates the embedded Content for the purpose of generating advertising revenue therefrom, or (v) use embedded Content that GTSC, in its sole discretion, determines to be competing with or displacing the market for the Content: (vi) embed the Content in a setting or manner in which it may be associated with content or other material that (a) is or may be considered unlawful, threatening, abusive, bigoted, hateful, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, sexually explicit or indecent, (b) may constitute, advocate or encourage conduct that would constitute or give rise to a criminal offense, civil liability or other violation of any local, state, national or international law; (c) violates, plagiarizes or infringes the rights of third parties including, without limitation, copyright, trademark, patent, rights of privacy or publicity, or any other proprietary right; (d) contains or may be associated with a computer virus or other harmful component; (e) constitutes or contains false or misleading indications of origin or statements of fact. GTSC reserves the right to disable your use of embedded Content at any time, in GTSC's sole discretion.

## **10. Availability of Services**

The availability of the Content, the Site and the Services may be affected or impaired by a variety of factors, including technical problems. You agree that GTSC is not obligated to provide you with any specific Content or access to the Site or the Services under this Agreement.

## **11. Disclaimer of Warranties and Damages; Limitation of Liability**

While we use reasonable efforts to include accurate and up to date information in and Content on the Site and through the Services, we make no warranties or representations as to its accuracy. We assume no liability or responsibility for any errors or omissions in the Content of the Site or in the Services. We make no representation that the Content contained in the Site or the Services are appropriate or authorized for use in all countries, states, provinces, counties or any other jurisdictions. If you choose to access the Site and/or the Services, you do so of your own initiative and risk and are responsible for compliance with all applicable laws.

THE CONTENT AND SERVICES (AND ANY OTHER PRODUCTS OR SERVICES PROVIDED AS A RESULT OF YOUR SUBSCRIPTIONS OR USE OF THE SERVICES) ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, WE AND OUR VENDORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER WE NOR OUR VENDORS WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED IN THE SITE OR SERVICES IS ACCURATE, COMPLETE, CORRECTLY SEQUENCED, RELIABLE OR TIMELY, OR THAT THE SITE OR SERVICES WILL BE UNINTERRUPTED OR FREE OF ERRORS AND/OR VIRUSES. YOU SPECIFICALLY ACKNOWLEDGE THAT WE ARE NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OF THE SITE OR SERVICES OR THIRD PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU. YOU USE THE SITE AND SERVICES AT YOUR SOLE RISK.

UNDER NO CIRCUMSTANCES WILL WE, SUM, MEMBER OPERATORS, OUR VENDOR'S, NOR ANY OF THEIR AFFILIATES BE LIABLE, INCLUDING, WITHOUT

LIMITATION, FOR BREACH OF CONTRACT, TORT OR NEGLIGENCE, FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) THAT ARISE OUT OF OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERRORS, INACCURACIES, OMISSIONS, DEFECTS, UNTIMELINESS, INTERRUPTION, DELETION, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORD, OR UNAUTHENTICITY OF ANY CONTENT IN THE SITE OR SERVICES, OR THE USE OR INABILITY TO USE THE SITE OR SERVICES OR ANY CONTENT THEREIN. IN NO EVENT SHALL OUR OR OUR VENDOR'S AGGREGATE LIABILITY TO YOU FOR ANY LOSS, DAMAGE OR CLAIM RELATED TO OR ARISING OUT OF THE SITE AND SERVICES EXCEED THE TOTAL CASH AMOUNT PAID BY YOU FOR ACCESSING THE SITE AND SERVICES, IF ANY.

Your correspondence or business dealings with, or participation in promotions of, advertisers and vendors found on or through the Site or Services, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such advertiser and/or vendor. You agree that we shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers or vendors on the Site or in connection with the Site or Services. All of your business dealings with vendors and advertisers appearing on or through the Site or Services shall be at your sole risk.

## **12. Notice**

### ***Submissions***

We may give notice to users of the Site or Services by means of a general notice on the Site or Services, electronic mail to a user's email address if on record, or by written communication sent by first class mail to a user's address if on record. You may give notice to us (such notice shall be deemed given when received) by any of the following means:

- Electronic mail to [www.gtsc.org](http://www.gtsc.org);
- Letter delivered by first class postage prepaid mail or courier to The General Thoracic Surgical Club at the following address;

GTSC  
5841 Cedar Lake Road, Suite 204  
Minneapolis, MN 55416

## **13. Notice and Procedure for Making Claims of Copyright Infringement**

Pursuant to the Digital Millennium Copyright Act, Title 17, United States Code, Section 512(c)(2) ("DMCA"), GTSC has designated to the U.S. Copyright Office an agent to receive notifications of claimed copyright infringement relating to the Site (the "Designated Agent"). All such notifications relating to the Site must be submitted in a manner consistent with the DMCA to the following Designated Agent:

GTSC  
5841 Cedar Lake Road, Suite 204  
Minneapolis, MN 55416

To be effective, the notification must be a written communication that includes the following:

(1) a signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (2) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are claimed to have been infringed, a representative list of such works; (3) identification of the material that is claimed to be infringing or to be the subject of infringing activity, and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material; (4) information reasonably sufficient to permit the service provider to contact the complaining party, such as name, address, telephone number, and, if available, an electronic mail address; (5) a statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (6) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

We reserve the right to remove any posted submission that infringes the copyright of any person under the laws of the United States upon receipt of a notice that complies with the requirements of 17 U.S.C. § 512(c)(3). United States law provides significant penalties for submitting such a statement falsely.

We maintain a policy that provides for the termination in appropriate circumstances of the Site use privileges of users who are repeat infringers of intellectual property rights.

#### **14. Indemnification**

You hereby agree to indemnify and hold the General Thoracic Surgical Club, each GTSC member operator, their respective operators, affiliates and subsidiaries, vendors, and each of their respective members, managers, owners, directors, officers, employees, agents, shareholders, partners, governors and representatives harmless from any and all claims, demands, liabilities, damages and expenses and other losses (including attorneys' fees and court costs) arising out of or relating to: (i) your use of the Site, including, without limitation, use of any Message Feature, Service, or the Store; and/or (ii) any breach or alleged breach of these Terms of Service by you.

#### **15. Access Through Mobile Devices**

If you use an application on your mobile device (including but not limited to iPhone, iPad, Android phones and tablets, or Microsoft Windows mobile devices (each a "Mobile Device") to access or use the Site or Services, you agree to the following terms and conditions to the extent they apply thereto (such Services accessed via mobile devices referred to herein as the "Licensed Application(s)"):

- a. You acknowledge that these terms are between you and us only, and not with Apple, Google or Microsoft or any other store/venue, as applicable, where the application is available (“Application Venue”) and that Application Venue is not responsible for the Licensed Application(s) or the content thereof.
- b. The license granted to you for the Licensed Application(s) is a limited non-transferable license to use the Licensed Application(s) on any Mobile Device that you own or control and as permitted by the Usage Rules set forth in the Application Venue Terms of Service (as applicable).
- c. Application Venue, including Apple, Inc., Google or Microsoft, is not responsible for any maintenance, support, intellectual property, product warranty or product claims, whether express or implied by law, for the Licensed Application(s). You acknowledge that Application Venue has no obligation whatsoever to furnish any maintenance and support services with respect to any third-party licensed Product.
- d. In the event of any failure of the Licensed Application(s) to conform to any applicable warranty, you may notify Application Venue and Application Venue will refund the purchase price (if any) for the Licensed Application(s) to you; and, to the maximum extent permitted by applicable law, Application Venue will have no other warranty obligation whatsoever with respect to the Licensed Application(s).
- e. You acknowledge that Application Venue is not responsible for addressing any claims of yours or any third party relating to the Licensed Application(s) or your possession and/or use of that Licensed Application(s), including, but not limited to: (i) product liability claims; (ii) any claim that the Licensed Application(s) fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
- f. You acknowledge that, in the event of any third party claim that the Licensed Application(s) infringes that third party's intellectual property rights, Application Venue is in no way responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.
- g. Without limiting any other terms of this Terms of Service, you must comply with all applicable Application Venue terms of use when using the Licensed Application(s).
- h. You acknowledge and agree that Application Venue, and Application Venue's subsidiaries, are third party beneficiaries of these Terms of Use, and that, upon Your acceptance of the terms and conditions of such license, Application Venue will have the right (and will be deemed to have accepted the right) to enforce such license against you as a third party beneficiary thereof.

## **16. Termination of Service**

We may, in our sole discretion, change, suspend or discontinue any aspect of the Site, including the Services (subject to a refund to which you may be entitled), at any time with or without notice and with or without cause, including the availability of any Site or Service feature, database, or content. We may also cancel your registration password, or impose limits on certain

features or services or restrict your access to parts of the Site, or the entire Site, or any or all of the Services with or without notice, and without liability, at any time, in our exclusive discretion, without prejudice to any legal or equitable remedies available to us, for any reason or purpose, including, but not limited to, conduct that we believe violates these Terms of Service or other policies or guidelines posted on the Site or conduct which we believe is harmful to other customers, to our respective businesses, or to other information providers. Upon any termination of these Terms of Service, you shall immediately discontinue your use of the Site and the Services and destroy all materials obtained therefrom. The provisions of these Terms of Service will survive the termination of your access to the Site and/or Services.

## **17. Software**

The Services, the Software and other materials downloaded from this Site may also be subject to United States Export Control. The United States Export Control laws prohibit the export of certain technical data and software to certain territories. No software from this Site (including, without limitation any Licensed Application or other Services) may be downloaded or exported (i) into (or to a national or resident of) Cuba, North Korea, Iran, Libya, Syria, Sudan, or any other country to which the United States has embargoed goods or has been designated by the United States as a "terrorist supporting" country; or (ii) anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. We do not authorize the use of the Services or the downloading or exportation of any software or technical data from this Site to any jurisdiction prohibited by the United States Export Laws.

## **18. Arbitration; Consent to Jurisdiction In Minnesota; Attorneys' Fees; Time Period Limitation for Claims; Waiver of Class and Representative Actions**

a. Any and all disputes, claims, or controversies arising out of or relating to (i) this Agreement, (ii) the breach thereof, or (iii) any use of, or commercial transactions conducted through, the Site or Services ("Claims"), whether arising before or after the effective date of this Section, shall be settled by binding arbitration before a single arbitrator appointed by the American Arbitration Association ("AAA") in accordance with its then governing rules and procedures (including the Supplementary Procedures for Consumer-Related Disputes to the extent those procedures are applicable), provided however that a Claim for money damages only (and not for any declaratory or injunctive relief) may be filed in a small claims court solely on an individual, non-class, and non-representative basis.

b. You and GTSC waive all rights to a trial by jury in any action or proceeding involving any Claim in any forum.

c. Any arbitration of a Claim shall be held in Hennepin County, Minnesota, and judgment on the award rendered by the arbitrator may be entered by any court having jurisdiction. This arbitration undertaking is made pursuant to and in connection with a transaction involving interstate commerce, and shall be governed by and construed and interpreted in accordance with the Federal Arbitration Act at 9 U.S.C. Section 1, et seq. The parties agree that an award and any judgment confirming it applies only to the arbitration in which it was awarded and cannot be used in any other case or proceeding except to enforce the award itself. The arbitrator shall not

have power or authority to award punitive damages, including treble damages that may otherwise be available.

d. Any and all claims shall be arbitrated on an individual, non-class, and non-representative basis only, and shall not be consolidated or joined with or in any arbitration or other proceeding involving a Claim of any other party. You and GTSC waive any right to have any Claim arbitrated or adjudicated as a class or representative action or in any other form other than on an individual basis. You and GTSC further agree that the arbitrator shall have no authority to arbitrate any Claim as a class or representative action or in any other form other than on an individual basis. The arbitrator shall have power and authority to award only individual, non-class, and non-representative legal and equitable relief available in the courts of the State of Minnesota. Notwithstanding any provision of the AAA's rules and procedures, only the federal and state courts, and not the arbitrator, shall have the power to determine compliance with this paragraph, including the interpretation, validity, and enforceability of each of the foregoing sentences.

e. You agree that GTSC may seek any interim or preliminary relief from a court of competent jurisdiction in Minnesota necessary to protect its rights or property pending the completion of arbitration.

f. If any Claim is determined not to be subject to arbitration, the exclusive jurisdiction and venue for proceedings concerning such Claim shall be the federal or state courts of competent jurisdiction sitting within Hennepin County, Minnesota (the "Forum") and the parties hereby waive (i) any right to a trial by jury with respect to any Claim in such proceeding, (ii) any argument that the Forum or any court within it does not have personal jurisdiction, and (iii) any argument that the Forum is not appropriate or convenient.

g. If either party initiates a proceeding involving any Claim other than (i) an arbitration in accordance with this Section or (ii) a proceeding in small claims court permitted by this Section, or if either party initiates a proceeding involving a Claim under Paragraph E other than in the Forum, the other party shall recover all attorneys' fees, costs, and expenses reasonably incurred in enforcing this agreement and the agreed Forum.

h. To the maximum extent permitted by law, you permanently and irrevocably waive the right to bring any Claim unless you provide GTSC with written notice of the event or facts giving rise to the Claim within one (1) year of their occurrence.

i. You and GTSC agree that this Section shall apply to the maximum extent permitted by applicable law and shall survive termination of this Agreement.

## **19. Miscellaneous**

These Terms of Service constitute the entire agreement between the parties, and supersedes all prior and contemporaneous written or oral agreements, proposals or communications with respect to the subject matter herein between you and us. We in our sole discretion may amend these Terms of Service, and your use of the Site or Services after such amendment is posted on the Site will constitute acceptance of it by you. The section headings in these Terms of Service

are for convenience only and must not be given any legal import. If any provision of these Terms of Service is held by a court of competent jurisdiction to be unlawful, void, invalid or unenforceable, the remaining provisions shall remain in full force and effect. GTSC's failure to enforce any provisions of these Terms of Service or respond to a breach by you or another user shall not serve to waive GTSC's right enforce subsequently any terms or conditions of these Terms of Service or to act with respect to similar breaches.