

SMASS Legal information

Version 06.05.2021

1 Introduction

1.1 SMASS is a software solution of in4medicine AG, located in Bern. in4medicine is responsible for the correctness of the medical contents of SMASS.

1.2 SMASS is operated by a Cloud Provider contracted by in4medicine with its headquarters and exclusive server location in Switzerland. This is the MTF Swiss Cloud AG with headquarters at Freier Platz 10, 8200 Schaffhausen. in4medicine has contractually obligated MTF Swiss Cloud AG to fulfill the data protection obligations incumbent on in4medicine at least to the same extent.

1.3 The use of SMASS requires the prior consent to these terms of use. By using SMASS, you expressly agree to all terms and conditions of the Terms of Use.

2 Access to SMASS/Registration

2.1 The functionalities of SMASS are available to natural persons, who are at least 16 years old at the time of the use of SMASS and are capable of judgement. If the user is not yet 18 years old, the consent of the legal representative is required to use SMASS.

2.2 The user can use SMASS for himself as well as for a third person. A third party is any natural person, different from the user, for whom the user enters the information for the purpose of SMASS. The responsibility for the use of SMASS for the third party lies exclusively with the user.

3 Adoption and validity of the terms of use

3.1 By agreeing to the terms of use, the user declares that he has actually read, understood and accepted the terms of use.

3.2 Before using SMASS, the user can open and read the terms of use by clicking on the information icon and can also view the terms of use in a PDF.

3.3 Furthermore the user can view the terms of use at any time during the use of SMASS in the menu under the point Legal.

3.4 The terms of use are available to the user in the languages German, French, Italian or English. The German version is authoritative.

3.5 The user has to accept the terms of use again before every new use of SMASS. If the terms of use change, the user accepts the validity of the new terms of use.

4 Imprint, Contact and Support

4.1 Information about the manufacturer



In4medicine; Trade register number CHE-114.317.142; www.in4medicine.ch

4.2 Contact:

in4medicine AG, Monbijoustrasse 23, CH-3011 Bern Tel.: 031 370 13 30, info@in4medicine.ch

4.3 Support:

Defects, functional problems or complaints in connection with SMASS can be submitted by the user to IN4MEDICINE AG via the support contact form at <https://tellme.in4medicine.ch>

5 Medical Device

SMASS is a medical device. SMASS was developed in accordance with the European Directive for Medical Devices (93/42/EEC MDD) and has been registered with Swissmedic under the generic product group SMASS as conforming to the Directive.



6 Purpose of SMASS

6.1 SMASS is offered in the Professional and Pathfinder versions.

6.2 SMASS is a web-based software which aims to support health professionals and laypersons in the structured documentation and assessment of health problems and to inform users about possible medical clarification steps, treatments and measures.

6.3 The epidemiological contents of SMASS refer to recommendations of the Federal Office of Public Health, the Robert-Koch-Institute and to guidelines of the WHO.

6.4 The medical contents of SMASS are evidence-based. SMASS is based on a medical set of rules.

The creation, maintenance and expansion of the medical rules and regulations are the exclusive responsibility of in4medicine. The query structure of the medical set of rules is predefined by in4medicine.

6.5 SMASS provides information on the optimal time of care, the optimal need for care and simple recommendations for action (e.g. wraps, tea, storage). SMASS does not provide diagnostic or therapeutic recommendations.

6.6 The information of SMASS are practical recommendations for action without the character of a final medical consultation. The recommendations of SMASS can in no case replace a personal consultation with a health professional. The observance of the recommendations for action is at your own risk.

6.7 SMASS is not an electronic medical history, an electronic patient file and no medical archiving system.

6.8 Analogous to other sources of information in real or digital space, SMASS can only give instructions for action. The instructions for action have to be evaluated by the users in their individual context and appropriate measures have to be derived from them on their own responsibility.

6.9 in4medicine is a software development company in the medical field, but not an outpatient or inpatient treatment institution and not a medical practice.

7 Exclusion of Warranty and Liability

7.1 in4medicine provides the user with SMASS as seen ("as-is"). The use of SMASS is at the user's own risk.

in4medicine completely excludes the (both implicit and explicit) guarantee for SMASS and also does not make any other (implicit or explicit) promises, guarantees or assurances with regard to SMASS or the transmitted data, as far as these are not explicitly listed in the terms of use. In particular, you do not guarantee that SMASS will function at all times without errors or interruptions or that it is available, that errors will be corrected or that the transmitted data is correct and complete.

7.2 The liability of in4medicine for possible damages from or in connection with SMASS and for possible damages resulting from the use of SMASS is limited to cases of gross negligence and intentional behaviour. A further liability is explicitly excluded. Liability for auxiliary persons of in4medicine and for partner organisations is completely excluded.

7.3 in4medicine rejects - as far as legally permissible - any liability for the correctness, completeness, appropriateness and topicality of the information available on SMASS. In particular, in4medicine does not assume any responsibility or liability for actions that are taken or not taken on the basis of the information on SMASS. In any case, following the information provided by SMASS is at your own risk.

7.4 in4medicine is not liable for damages that have arisen from the use of the internet. The access to SMASS as well as the data exchange with SMASS is provided via an open network - the internet - which is accessible to everyone. In particular, SMASS is not liable for damages, which are caused to the users/third parties as a result of transmission errors, technical defects, disturbances or illegal interventions in telecommunication facilities, facilities of the networks, overload of the networks, wilful blockage of the electronic accesses by third parties, disturbances of the internet, interruptions or other inadequacies on the part of the network operators.

7.5 The technical access to SMASS is up to the user. In particular, in4medicine does not arrange the technical access to the internet. For the use of SMASS, a functioning, stable internet connection is required; this is the responsibility of the user. in4medicine does not take any responsibility for the technical infrastructure of the user (computers, routers, firewalls, network, etc.) and also no responsibility for updating and maintaining the software used (updates, virus protection, spam filters, etc.).

7.6 in4medicine assumes no liability, neither for the providers nor for the hard- and software necessary for the use of SMASS. In particular, in4medicine reserves the right to interrupt the services of SMASS at any time in order to protect the user until these risks have been eliminated. in4medicine does not accept any liability for any damages that may arise from this interruption.

7.7 SMASS may contain hyperlinks to websites on the World Wide Web that are not maintained by in4medicine and have no relation to in4medicine (hereinafter referred to as "Third Party Websites"). The use of such hyperlinks is at your own risk. The hyperlinks are provided as a courtesy to the user. in4medicine is not responsible or liable for reviewing or evaluating the content of these third party websites. The contents of the third party websites do not necessarily reflect the opinion of in4medicine. Therefore, in4medicine does not assume any liability or responsibility for the content of such third party websites, in particular for their accuracy and completeness.

7.8 in4medicine rejects any liability for violations of foreign law when using SMASS from abroad. It is up to the user to inform himself about the regulations of foreign law.

8 Use of SMASS

8.1 The use of SMASS is only allowed for private information purposes according to paragraph 5 above. Any commercial or other professional use is explicitly prohibited. The authorization of use can be revoked by IN4MEDICINE AG at any time.

8.2 The use is - as far as technically possible and legally permissible - permitted both in Switzerland and abroad.

8.3 There are no costs for the use of SMASS for the user on the part of in4medicine. However, for the use of SMASS, the user may incur costs due to the data transfers associated with the use, depending on the provider

and the type of subscription.

8.4 The user is obliged to use the functionalities of SMASS only for the intended purposes. Any misuse leads to an immediate withdrawal of the right of use.

9 Responsibility and duty of care of the user for himself and third persons

9.1 The user is responsible for all actions which he carries out via SMASS for himself as well as for a third person. The user confirms that he has all necessary data and information from himself and from the third party. The user assures that all data and information concerning the user as well as the third party given in the context of using SMASS are complete and correct. If he takes actions for himself or for a third person, he has to make sure that he has all necessary consents and permissions. By using SMASS the user confirms that he is entitled to carry out actions for himself as well as for a third person. The responsibility for the use of SMASS by a third party lies exclusively with the user. The user is solely responsible for the consequences of incomplete or incorrect data and information. The user makes sure that the third parties know and observe the liability and warranty limitations of these terms of use.

9.2 Should a third party assert claims against in4medicine because the user has carried out actions via SMASS without the authority of representation and/or knowledge of the third party, the user must indemnify in4medicine in full.

9.3 The user is obliged to immediately report any illegal use of SMASS by third parties (e.g. hackers) to in4medicine.

10 Electronic delivery of documents

10.1 Selected documents are made available to the user exclusively in electronic form for his own use or for the use of the third party for whom he is acting.

10.2 Documents shall be deemed to have been received upon provision.

10.3 The user has the possibility to save the anamnesis data (questions and entered symptoms) as well as the recommendation at the end of a use of SMASS as PDF. If these data are not saved directly, they cannot be retrieved later. In this case the use of SMASS must be carried out again.

11 Security

11.1 During the development of SMASS, special emphasis was placed on security. Because of the used encodings it is basically not possible for unauthorized persons to view the data provided by SMASS. Nevertheless, absolute security cannot be guaranteed, even with all security precautions, which are also state of the art.

11.2 The end device (computer, mobile phone, etc.) and/or the user's network are part of the system. However, they are beyond in4medicine's control and can become a weak point in the system.

11.3 The user accepts the associated risks. It is incumbent upon him/her to obtain detailed information about the necessary security measures that are in line with the current state of the art and to take appropriate protective measures.

12 Property rights and intellectual property

12.1 All elements of SMASS are protected by copyright and/or trademark law and are the property of in4medicine. The complete or partial reproduction, transmission (electronically or by other means), modification or linking of SMASS with other applications is prohibited without the prior written consent of in4medicine.

12.2 The user refrains from any use or modification of the respective name, trademarks and/or logo of in4medicine without the prior written consent of in4medicine. These obligations are valid indefinitely.

13 Changes to the Terms of Use/Deactivation of SMASS

13.1 in4medicine reserves the right to change the terms of use as well as the scope of SMASS at any time and without prior notice or to adapt them to technical or legal developments.

13.2 With each new use of SMASS the user agrees to these changes. The user has to agree to the adapted terms of use in order to be able to continue using SMASS.

13.3 in4medicine can deactivate SMASS at any time without prior notice and without giving reasons. There is no claim to continued use of SMASS.

14 Subject to legal regulations

Possible mandatory legal regulations, which regulate the content, the operation and/or the use of SMASS, remain reserved.

15 Severability clause

Should any provision of these terms of use be or become invalid/void, the validity of the remaining terms of use shall not be affected. The ineffective/void usage regulation is to be replaced by a regulation which comes closest to the economic purpose of the ineffective/void regulation.

16 Applicable law and place of jurisdiction

16.1 All disputes arising from or in connection with the terms of use or the use of SMASS are exclusively subject to Swiss law, excluding the rules of international private law and the Vienna Convention on Contracts

for the International Sale of Goods.

16.2 The exclusive place of jurisdiction for all disputes arising from or in connection with the terms of use or the use of SMASS is under reservation of legally compulsory places of jurisdiction Bern, Switzerland.