



## MY SPECIAL AFLAC DUCK® TERMS OF USE AND END USER LICENSE AGREEMENT

While there are many pretend adventures you can have with your My Special Aflac Duck, we have a lot of real rules that must be followed while you use the My Special Aflac Duck mobile application (we call this our "Application"). If you are a child under the age of thirteen ("Child"), please review these rules with your parent or guardian. Parents and guardians need to adhere to these Terms and make sure that all Child users do as well:

- We present some of our stories, pictures, names, and logos to you while you are using the Application, but they are not yours to keep. You can't do anything EXCEPT use them on here, unless you ask us first and we say it is OK.
- We have some really important rules for using this application, so please make sure your parent or guardian reads the legal stuff below.
- We want you to have lots of fun with your My Special Aflac Duck!

While the basic rules are above, our legal division members always want to explain them in more detail and ensure you understand them correctly. The legal version of the detailed rules is below.

### THE LEGAL STUFF

Your use of the Application and the features on this Application must follow these Terms of Use and End User License Agreement ("Terms" or "Terms of Use"), which Aflac may update from time to time. **By using this Application, you agree to these Terms of Use. Please read these Terms of Use carefully before using this Application.** The Application is owned or controlled by American Family Life Assurance Company of Columbus or its affiliates (collectively, "Aflac"). This Application is intended for and applicable only for residents of the United States and Japan. If you are from another jurisdiction, you may not use this Application. By accessing this Application in any way, including, without limitation, browsing this Application, using any information, and/or submitting information to Aflac, you agree to and are bound by the terms, conditions, policies and notices contained on this page (which constitute part of these Terms), including, but not limited to, conducting this transaction electronically, disclaimers of warranties, damage and remedy exclusions and limitations, and a choice of Georgia law.

From time to time we may update this Application and these Terms. Your use of this Application after we post any updated version of these Terms on this Application constitutes your agreement to those changes. You agree to review these Terms periodically to ensure that you understand the most recent version. Aflac may, in its sole discretion, and at any time, discontinue all of this Application or any part thereof, with or without notice, or may prevent your use of this Application with or without notice to you. You agree that you do not have any rights in this Application and that Aflac will have no liability to you if this Application is discontinued or your ability to access the Application or any content you may have posted on the Application is terminated.

## AFLAC CONTENT

Any and all rights, including but not limited to intellectual property rights, to the content on this Application that is provided by Aflac or its licensors, including certain graphics, photographs, images, screen shots, text, digitally downloadable files, trademarks, logos, product and program names, slogans, and the compilation of the foregoing ("Aflac Content") are owned by Aflac and its licensors, and are protected in the U.S., Japan and internationally under trademark, copyright, and other intellectual property laws.

You agree not to download, display or use any Aflac Content located on the Application for use in any publications, in public performances, on websites other than this Application for any other commercial purpose, in connection with products or services that are not provided by Aflac, in any other manner that is likely to cause confusion among consumers, that disparages or discredits Aflac and/or its licensors, that damages Aflac's or its licensor's property, or that otherwise infringes Aflac's or its licensors' intellectual property rights. You further agree to in no other way misuse any Aflac Content or third-party content (including data, software, information, applications, and other products, services, and/or materials) (collectively "Third-Party Content") that appears on this Application.

If you are a trademark or copyright owner and you believe that your trademark or copyright rights have been violated, please contact us as follows:

**Users in the U.S.:** [contactus@AflacChildhoodCancer.org](mailto:contactus@AflacChildhoodCancer.org)

**Users in Japan:** toll-free number 0120-127-377 (9:00-18:00 business days/ 9:00-17:00 Saturdays)

## BINDING ARBITRATION (Applicable Only to Users in the U.S.)

You and Aflac agree that any controversy or claim arising out of or relating to the Application, use of the Application, these Terms and/or the Privacy Policy shall be settled by binding arbitration in a location determined by the arbitrator as set forth herein (provided that such location is reasonably convenient for you in your hometown area), or at such other location as may be mutually agreed upon by the parties, in accordance with the applicable procedural rules set forth in the then prevailing Comprehensive Arbitration Rules and Procedures of JAMS ("JAMS Rules and Procedures"), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The JAMS Rules and Procedures are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling (800) 352-5267. The arbitrator shall be selected pursuant to the JAMS Rules and Procedures. Alternatively, you may assert your claims in small claims court in accordance with the terms of these Terms if your claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The arbitrator shall apply Georgia law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized at law. If you initiate arbitration against Aflac, you will not be responsible for professional fees for the arbitrator's services or any other JAMS fees. If Aflac initiates arbitration against you, Aflac will pay for the arbitrator's services and any other JAMS fees associated with the arbitration. If any part of this arbitration provision is deemed to be invalid, unenforceable or illegal (other than that claims will not be arbitrated on a class or representative basis), or otherwise conflicts with the rules and procedures established by JAMS, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, the portion that is deemed invalid, unenforceable or illegal is that claims will not be arbitrated on a class or representative basis, then the entirety of this arbitration provision shall be null and void, and neither claimant nor Aflac shall be entitled to arbitrate their dispute. THE ARBITRATION OF DISPUTES PURSUANT TO THIS PARAGRAPH SHALL BE IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED.

BY AGREEING TO THE ARBITRATION OF DISPUTES AS SET FORTH HEREIN, YOU AGREE THAT YOU ARE WAIVING YOUR RIGHT TO A JURY TRIAL AND LIMITING YOUR RIGHT TO APPEAL AND YOU UNDERSTAND THAT YOU ARE WAIVING YOUR RIGHTS TO OTHER AVAILABLE RESOLUTION PROCESSES, SUCH AS A COURT ACTION. DO NOT USE THIS APPLICATION IF YOU DO NOT AGREE TO THE FOREGOING BINDING ARBITRATION PROVISIONS.

## **USE OF THE APPLICATION AND POSTING POLICY**

From time to time on certain areas of our Application Aflac may allow you may be able to submit photos, written posts and certain other materials ("User Content"). In such cases, by using these features, you agree that you will not post any content that is unlawful, harmful, tortious, defamatory, libelous, obscene, invasive of the privacy of another person, threatening, harassing, abusive, hateful, racist, infringing, pornographic, violent or otherwise objectionable or inappropriate as determined by Aflac; that you will not post any content that contains personal information about any individual, violates the privacy/publicity of any other individual or entity, or anything that you are under a contractual obligation to keep private or confidential; that you will not impersonate any person or organization, including without limitation, the personnel of Aflac, or misrepresent an affiliation with another person or organization; you will not post any content that contains viruses, corrupted files, or any other similar software or programs that may adversely affect the operation of the Application, or feature of the Application. You further understand and agree that you do not have any rights related to materials you submit to us, to any account you may have with us, or other access to the Application or features therein. Aflac may cancel your account and delete all User Content associated with your account at any time, and without notice, if Aflac deems that you have violated these Terms, the law, or for any other reason. Aflac assumes no liability for any information removed from our Application, and reserves the right to permanently restrict access to the Application or a user account.

By displaying, publishing, or otherwise posting any User Content on or through the Application, you hereby grant to Aflac a non-exclusive, sub-licensable, worldwide, fully-paid, royalty free license to use, modify, publicly perform, publicly display, reproduce, and distribute such User Content in any and all media now known or hereinafter developed without the requirement to make payment to you or to any third party or the need to seek any third party permission. This license includes the right to host, index, cache, distribute, and tag any User Content, as well as the right to sublicense User Content to third parties, including other users, for use on other media or platforms known or hereinafter developed, such as for use on mobile phones, in video or music software computer programs. You continue to retain all the rights in your User Content, and you continue to have the right to use your User Content in any way you choose, subject to these Terms and the license described herein. You represent and warrant that you exclusively own the content submitted, displayed, published or posted by you on the Application and otherwise have the right to grant the license set forth herein, and the displaying, publishing or posting of any content you submit, and our use thereof does not and will not violate the privacy rights, publicity rights, copyrights, trademark rights, patents, contract rights or any other intellectual property rights or other rights of any person or entity.

You agree to indemnify and hold Aflac, its parents, subsidiaries, officers, employees, and website contractors and each of their officers, employees and agents harmless from any claims, damages and expenses, including reasonable attorneys' fees and costs, related to your violation of these Terms, including the Posting Policy, or any violations thereof by your dependents or which arises from the use of User Content you submitted, posted, or otherwise provided to Aflac or this Application.

## **APPLICATION USERS**

The Application may be accessed through use of a mobile device and wireless mobile data service, which must be obtained from your wireless carrier, and may require Internet access, which must be obtained from your service provider; you are responsible for obtaining and paying for such additional services and obtaining a suitable device, including without limitation all usage charges related thereto. If you are using a mobile device to access the Application, you are required to send and receive, at your cost, electronic communications related to the Application, including without limitation, administrative messages, service announcements, diagnostic data reports, and Application updates, from Aflac, your mobile carrier or third party service providers. If you do not have an unlimited wireless mobile data plan, you may incur additional charges from your wireless service provider in connection with your use of the Application. You are solely responsible for obtaining any additional subscription or connectivity services or equipment necessary to access the Application, including but not limited to payment of all third party fees associated therewith, including fees for information sent to or through the Application.

Aflac may, at its discretion, automatically download Application updates to your device from time to time. You agree to accept these Application updates, and to pay for any costs associated with receiving them. The Application may not work with all devices or all mobile carriers. Aflac makes no representations that the Application will be compatible with or provided by all mobile carriers. In the event that fees are charged for the Application, or other third party service providers charge a fee for the products or services they provide, you agree to pay such fee to the respective party in exchange for your continued use of such products or services. Some services may be subject to different or additional terms (including fees), which you will be required to agree to prior to your use of such services.

## **USERS OF THE APPLE APPLICATION**

If you download and use our iPhone or iPad Application: You, the end-user of this Application, acknowledge that these Terms are entered into by and between Aflac and its affiliates, and you, and not with Apple, Inc., and Apple, Inc. is not responsible for the Application, the Services, and/or the Content. Notwithstanding the foregoing, you acknowledge that Apple, Inc. and its subsidiaries are third-party beneficiaries of these Terms and that Apple, Inc. has the right (and is deemed to have accepted the right) to enforce these Terms. You acknowledge that Apple, Inc. has no obligation whatsoever to maintain or support the Application. You acknowledge that you have reviewed and agree to the App Store Terms and Conditions (located online at <http://www.apple.com/legal/itunes/us/terms.html#APPS>), including the Usage Rules set forth therein. This agreement incorporates by reference the Licensed Application End User License Agreement (the "LAEULA") published by Apple, Inc. (located online at <http://www.apple.com/legal/itunes/appstore/dev/stdeula/>). For purposes of this Agreement, the Application is considered the "Licensed Application" as defined in the LAEULA and we are considered the "Application Provider" as defined in the LAEULA. If any provisions of these Terms conflict with the terms of the LAEULA, the provisions of these Terms shall control. In the event of any failure of the Application to conform to any applicable warranty set forth herein, you acknowledge that to the maximum extent permitted by applicable law, Apple, Inc. will have no other warranty obligation whatsoever with respect to the Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty. You further acknowledge and agree that in no event will Apple, Inc. be responsible for any claims relating to the Application (including, without limitation, a third party claim that the Application infringes that third party's intellectual property rights) or your use or possession of the Application, including but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

## **REPRESENTATION AND LIMITATIONS OF LIABILITY**

Aflac makes no representations about the reliability of the features of this Application, the Content, User Content, or any other Application feature, and disclaims all liability in the event of any service failure. You acknowledge that any reliance on such material or systems will be at your own risk. Aflac makes no representations regarding the amount of time that any Content or User Content will be preserved.

Aflac does not endorse, verify, evaluate or guarantee any information provided by users and nothing shall be considered as an endorsement, verification or guarantee of any User Content. You shall not create or distribute information, including but not limited to advertisements, press releases or other marketing materials, or include links to any sites which contain or suggest an endorsement by Aflac without the prior review and written approval of Aflac.

THIS APPLICATION IS PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE MADE WITH RESPECT TO THIS SITE OR ANY INFORMATION OR SOFTWARE THEREIN. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL AFLAC BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (COLLECTIVELY, "DAMAGES") THAT RESULT FROM THE USE OF OR INABILITY TO USE THIS SITE, NOR SHALL COMPANY BE RESPONSIBLE FOR ANY DAMAGES WHATSOEVER THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE WHETHER OR NOT CAUSED BY EVENTS BEYOND COMPANY'S REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO ACTS OF GOD, COMMUNICATIONS LINE FAILURE, THEFT, DESTRUCTION, OR UNAUTHORIZED ACCESS TO THIS SITE'S RECORDS, PROGRAMS, OR SERVICES. UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO A NEGLIGENT ACT, WILL AFLAC OR ITS AFFILIATES OR AGENTS BE LIABLE FOR ANY DAMAGE OF ANY KIND THAT RESULTS FROM THE USE OF, OR THE INABILITY TO USE, THE SITE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES; AS A RESULT, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. AND THE FOREGOING PARAGRAPH SHALL NOT APPLY TO A RESIDENT OF NEW JERSEY TO THE EXTENT DAMAGES TO SUCH NEW JERSEY RESIDENT ARE THE RESULT OF AFLAC'S NEGLIGENT, FRAUDULENT OR RECKLESS ACT(S) OR INTENTIONAL MISCONDUCT.

## **THIRD PARTY WEBSITES AND CONTENT**

This Application may hyperlink to sites not maintained by or related to Aflac. Hyperlinks are provided as a service to users and are not sponsored by or affiliated with this Application or Aflac, and you acknowledge Aflac is not responsible for Third-Party Content and makes no representations or warranties about the content, completeness, or accuracy of those third party sites and/or Third-Party Content. Information you submit at a third party site accessible from this Application is subject to the terms of that site's privacy policy, and Aflac has no control over how your information is collected, used, or otherwise handled. Aflac does not assume and will not have any liability or responsibility to you or any other person or entity for any Third-Party Content.

All providers of Third-Party Content retain all right, title and interest in and to such Third-Party Content and all copies thereof, including all copyright and other intellectual property rights. Your use of any Third-Party Content shall be subject to, and you shall comply with, the terms and conditions of these Terms, and the applicable restrictions and other terms and conditions set forth in any Third-Party Content documentation or materials.

This Application may use or include one or more of the open source software components listed within the "Settings" section of the Application. Please refer to this listing for the open source license disclosures and terms and conditions.

## COMPLIANCE RULES

- (1) Users of this Application must comply with the provisions of these Terms and follow the cautions, rules, directions, etc. provided through the Application when using the Application.
- (2) No users are allowed to commit the following acts while using the Application.
  - (2.1) Acts that collect, store, post or transmit any posted content containing personal information of the user himself/herself or that of other persons (i.e. any information that can identify a particular person such as the name, address, phone number, email address, etc.)
  - (2.2) Acts that violate the laws, or the judgement, decision or order of the courts or other public institutions, or any other acts that encourage the foregoing
  - (2.3) Criminal acts
  - (2.4) Acts that are against the public order or acts that damage good morals
  - (2.5) Acts that damage or interfere the functions of the computer systems, etc. related to this Application
  - (2.6) Acts that could disturb the operation of this Application
  - (2.7) Acts that collect or accumulate information, etc. of other users
  - (2.8) Acts that impersonate other users
  - (2.9) Acts that violate other persons' intellectual property right, publicity right, privacy, honor, or any other rights or interests
  - (2.10) Acts that post or transmit untrue information, or acts that post or transmit uncertain information, etc. in a way that could cause misunderstanding.
  - (2.11) Acts that post or transmit information that falls under any of the items below:
    - (2.11.1) Information containing extremely violent expressions
    - (2.11.2) Information containing explicit sexual expressions
    - (2.11.3) Information containing expressions that may lead to discrimination of race, nationality, belief, gender, social class, family, etc.
    - (2.11.4) Information containing expressions that incite or encourage suicide, self-injury behavior, or drug abuse.
    - (2.11.5) Information containing inhumane expressions, anti-social expressions, or any other expressions that other people may find it unpleasant.
  - (2.12) Acts that use this Application for purposes other than the intended purposes of use of this Application (including the followings)
    - (2.12.1) Selling, advertising, promotion, solicitation or any other acts for profit (except for those permitted by Aflac)
    - (2.12.2) Acts intended for meeting, dating or performing indecent acts with unacquainted persons of opposite sex
    - (2.12.3) Acts intended to cause harassment or abuse
    - (2.12.4) Political activities or any acts intended to promote thoughts, etc. of political groups
    - (2.12.5) Religious activities or any acts intended to encourage people to join religious groups

- (2.13) Acts that reproduce, transmit, handover, lease or change this Application, other equipment, information, etc.
- (2.14) Reverse engineering of this Application, other equipment, information, etc. (including acts that analyze source codes)
- (2.15) Acts that use the electronic communication feature of this Application for any purpose that is abusive, intrusive on another's privacy, harassing, libelous, defamatory, embarrassing, obscene, threatening, or hateful
- (2.16) Acts that upload, post, reproduce or distribute any information, software or other material protected by copyright or any other intellectual property right (as well as rights of publicity and privacy) without obtaining the permission of the rights holders.
- (2.17) Acts that use this Application for any commercial purpose not expressly approved by Aflac in writing
- (2.18) Acts that upload, post, email or otherwise transmit any advertising or promotional materials or any other form of solicitation or unauthorized communication
- (2.19) Acts that upload, post, email or otherwise transmit any material that contains viruses or any other computer code, files, or programs which might interrupt, limit, or interfere with the functionality of any computer software or hardware or telecommunications equipment.
- (2.20) Acts that are against the provisions of these Terms or the cautions, rules, directions, etc. provided through this Application, related websites, instruction handbook, etc.
- (2.21) Other acts determined by Aflac as inappropriate

## **CHANGE OF MANAGEMENT BODY OF THIS APPLICATION**

The management body of the Application may be changed from Aflac to a third party appointed by Aflac. In that case, the user of the Application shall agree that Aflac will transfer the rights and obligations pertaining to these Terms and disclose and provide information related to the Application to that third party, to the extent required for the change of the management body.

## **PROHIBITION ON TRANSFER OF RIGHT, ETC**

No user of this Application is allowed to assign or transfer to a third party or use as collateral all or part of the rights and obligations arising to the user in relation with this Application.

## **MISCELLANEOUS**

It is not permitted for any Child to use the Application without the permission of a parent or legal guardian. It is also not permitted for any Child to impersonate a parent or legal guardian or download the Application without the permission of a parent or legal guardian.

Both you and Aflac acknowledge and agree that no partnership is formed and neither of you nor Aflac has the power or the authority to obligate or bind the other.

These Terms will be governed by and construed in accordance with the internal laws of Georgia for users who reside in the U.S. and with the laws of Japan for users who reside in Japan, without regard to conflicts

of laws principles. By using this site, you hereby agree that any and all disputes regarding these Terms will be subject to the courts located in Muscogee County, Georgia, USA, or the Tokyo District Court depending on the place of residence of the user. You agree that, to the extent permitted by applicable law, any and all disputes, claims, and causes of action arising out of or connected with this Application and/or these Terms, will be resolved individually, without resort to any form of class action. These Terms operate to the fullest extent permissible by law.

Please read our Privacy Policy for more information about our information collection and use practices.

The failure of Aflac to comply with these Terms because of an act of God, war, fire, riot, terrorism, earthquake, actions of federal, state or local governmental authorities or for any other reason beyond the reasonable control of Aflac, shall not be deemed a breach of these Terms.

If Aflac fails to act with respect to your breach or anyone else's breach on any occasion, Aflac is not waiving its right to act with respect to future or similar breaches.

If any provision of these Terms shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

These Terms constitute a binding agreement between you and Aflac, and is accepted by you upon your use of the Application or your account. These Terms constitute the entire agreement between you and Aflac regarding the use of the Application and your account. By using the Application you represent that you are capable of entering into a binding agreement, and that you agree to be bound by these Terms.

## **COPYRIGHT**

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Aflac herein means American Family Life Assurance Company of Columbus and American Family Life Assurance Company of New York. WWHQ | 1932 Wynnton Road | Columbus, GA 31999.



## **THIRD PARTY NOTICES**

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Designed with  by Sproutel in Providence, RI.

Protecting Your Child's Privacy Online:

<https://www.consumer.ftc.gov/articles/0031-protecting-your-childs-privacy-online>