



# TERMS OF SERVICE

## 1. Introduction

Welcome to PACT program! Your use of PACT services, including the services PACT program makes available through its website and any other software or services offered by PACT program in connection with any of those (the “Services”) is governed by these terms of use (the “Terms”), so please carefully read them before using the Services. For the purposes of these Terms, “we,” “our,” “us,” and “PACT” refer to PACT program., the providers and operators of the Services.

In order to use the Services, you must first agree to these Terms. If you are using the Services on behalf of an organization, you are agreeing to these Terms for that organization and promising that you have the authority to bind that organization to these Terms. In that case, “you” and “your” will also refer to that organization, wherever possible.

You must be over 13 years of age to use the Services, and children under the age of 13 cannot use or register for the Services. If you are over 13 years of age but are not yet of legal age to form a binding contract (in many jurisdictions, this age is 18), then you must get your parent or guardian to read these Terms and agree to them for you before you use the Services. If you are a parent or guardian and you provide your consent to your child’s registration with the Services, you agree to be bound by these Terms with respect of your child’s use of the Services.

You agree your purchases and/or use of the Services are not contingent on the delivery of any future functionality or features or dependent on any oral or written public comments made by PACT or any of its affiliates regarding future functionality or features.

BY USING, DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING THE SERVICES OR ANY MATERIALS INCLUDED IN OR WITH THE SERVICES, YOU HEREBY AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT ACCEPT THESE TERMS, THEN YOU MAY NOT USE, DOWNLOAD, INSTALL, OR OTHERWISE ACCESS THE SERVICES.

## 2. Not Medical Advice

You acknowledge and agree that the Services constitute, primarily, a personalized self-care training program with telehealth coaching designed to help you improve your own self-management of your pain condition, health and well-being and to address risk factors that may contribute to pain conditions and to train you to do protective actions that can improve your

health. If you choose to utilize the Services you are solely responsible for deciding which of the suggested strategies you put into your action plan. As such, you acknowledge that PACT is not a health care provider, and does not provide you with any medical advice. It is designed to educate and train you on options that can help.

Any advice or other materials provided through the Services are intended for general information purposes only. They are not intended to be relied upon and are not a substitute for professional medical advice based on your personal circumstances. Such advice and other materials are intended to support the relationship between you and your healthcare providers (as the case may be), and not replace it. We are not liable or responsible for any actions taken due to your having read or been told about such advice or other materials. In particular, to the fullest extent permitted by law, we give no representation or warranties about the accuracy, completeness, or suitability for any purpose of the advice or other materials and information published on or through the Services.

If you receive advice from a doctor or other qualified medical or health care professional which conflicts with anything contained in the Services then the former should take precedence. Never disregard professional medical advice or delay in seeking it because of something you have read through these Services. If you think you may have a medical emergency, call your doctor or 911 immediately.

### **3. Use of Services by Medical Professionals**

In addition to functioning as a personalized self-management training program, the Services may also be used by your health coach and certain medical or dental professionals and/or health care providers (“Medical Professionals”) to monitor or otherwise assist in their patient’s use of the Services (“Patients”). Such use shall require the Patient’s affirmative consent, and shall also be subject to the terms of a separate agreement (the “Medical Professionals Agreement”) located in the website. In the event of any conflict between these Terms and the terms of the Medical Professionals Agreement, the terms of the Medical Professionals Agreement shall control with respect to use of the Services by Medical Professionals. In all other matters, these Terms shall control.

### **4. Your Account**

In the course of registering for or using the Services, you may be required to provide PACT with certain information, including your name, email address, username and a password (“Credentials”) and risk assessments. PACT handles such information with the utmost attention, care and security. Nonetheless, you, not PACT, shall be responsible for maintaining and protecting your Credentials in connection with the Services. If your contact information, or other information relating to your username or password changes, you must notify PACT promptly and keep such information current. You are solely responsible for any activity using your Credentials, whether or not you authorized that activity. You should immediately notify PACT of any unauthorized use of your Credentials or if your email or password has been hacked or stolen. If you discover that someone is using your Credentials without your consent, or you discover any other breach of security, you agree to notify PACT immediately.

## 5. Content and License from You

A variety of information, reviews, recommendations, messages, comments, posts, text, graphics, software, photographs, videos, data, and other materials (“Content”) may be made available through the Services by PACT or its suppliers (“PACT-Supplied Content”). While PACT strives to keep the Content that it provides through the Services accurate, complete, and up-to-date, PACT cannot guarantee, and is not responsible for the accuracy, completeness, or timeliness of any PACT-Supplied Content.

You acknowledge that you may also be able to create, transmit, publish or display information (such as data files, written text, computer software, music, audio files or other sounds, photographs, videos or other images) through use of the Services. All such information is referred to below as “User Content.”

You agree that you are solely responsible for (and that PACT has no responsibility to you or to any third party for) any User Content, and for the consequences of your actions (including any loss or damage which PACT may suffer) in connection with such User Content. If you are registering for these Services on behalf of an organization, you also agree that you are also responsible for the actions of associated Users and for any User Content that such associated Users might upload, record, publish, post, link to, or otherwise transmit or distribute through use of the Services.

PACT may refuse to store, provide, or otherwise maintain your User Content for any or no reason. PACT may remove your User Content from the Services at any time if you violate these Terms or if the Services are canceled or suspended. If User Content is stored using the Services with an expiration date, PACT may also delete the User Content as of that date. User Content that is deleted may be irretrievable. You agree that PACT has no responsibility or liability for the deletion or failure to store any User Content or other communications maintained or transmitted through use of the Services.

PACT reserves the right (but shall have no obligation) to remove User Content from the Services, in its discretion.

By submitting, posting or otherwise uploading User Content on or through the Services you give PACT a worldwide, royalty-free, nonexclusive, fully sub-licensable, and perpetual license as set below:

- With respect to User Content that you submit, post or otherwise make publicly or generally available through the Services (such as postings made on the Services’ public forums), the license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly perform, and publicly display such User Content (in whole or part) worldwide via the Services or otherwise, and/or to incorporate it in other works in any form, media, or technology now known or later developed for any legal purpose; and
- With respect to User Content that you submit, post or otherwise make available privately via the Services (such as communications made to a specific user or User Content which

you upload for your own personal use), the license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly perform and publicly display such User Content for the sole purpose of enabling PACT to provide you with the Services.

## **6. Proprietary Rights**

You acknowledge and agree that PACT (or PACT's licensors) own all legal right, title and interest in and to the Services and that the Services are protected by copyrights, trademarks, patents, or other proprietary rights and laws (whether those rights happen to be registered or not, and wherever in the world those rights may exist).

Except as provided in Section 5, PACT acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you create, submit, post, transmit, share or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with PACT, you agree that you are responsible for protecting and enforcing those rights and that PACT has no obligation to do so on your behalf.

## **7. License from PACT and Restrictions on Use**

Once you are approved to use PACT, it will give you a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the software and PACT-Supplied Content provided to you as part of the Services. This license is for the sole purpose of allowing you to utilize the Services as a personalized self-management training program to help you improve your health and well-being and to address pain issues, in the manner permitted by these Terms. Additionally, if you are a Medical Professional utilizing these Services in conjunction with a patient who is also a user of the Services, you may utilize the Services for the limited purpose of monitoring or assisting such patient with the same.

You may not (and you may not permit anyone else to): (a) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Services or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by PACT, in writing (e.g., through an open source software license); or (b) attempt to disable or circumvent any security mechanisms used by the Services or any applications running on the Services.

You may not engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services).

You may not access the Services in a manner intended to avoid incurring fees.

You may not access the Services for the purpose of bringing an intellectual property infringement claim against PACT or for the purpose of creating a product or service competitive with the Services.

You agree that you will not upload, record, publish, post, link to, transmit or distribute User Content, or otherwise utilize the Services in a manner that: (i) advocates, promotes, incites, instructs, informs, assists or otherwise encourages violence or any illegal activities; (ii) infringes or violates the copyright, patent, trademark, service mark, trade name, trade secret, or other intellectual property rights of any third party or PACT, or any rights of publicity or privacy of any party; (iii) attempts to mislead others about your identity or the origin of a message or other communication, or impersonates or otherwise misrepresents your affiliation with any other person or entity, or is otherwise materially false, misleading, or inaccurate; (iv) promotes, solicits or comprises inappropriate, harassing, abusive, profane, hateful, defamatory, libelous, threatening, obscene, indecent, vulgar, pornographic or otherwise objectionable or unlawful content or activity; (v) is harmful to minors; (vi) utilizes or contains any viruses, Trojan horses, worms, time bombs, or any other similar software, data, or programs that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, personal information, or property of another; or (vii) violates any law, statute, ordinance, or regulation (including without limitation the laws and regulations governing export control, unfair competition, anti-discrimination, or false advertising).

You may not use the Services if you are a person barred from receiving the Services under the laws of the United States or other countries, including the country in which you are resident or from which you use the Services. You affirm that you are over the age of 13, as the Services are not intended for children under 13.

## **8. Pricing Terms**

Subject to the Terms, the Services are provided only to you based on the payment of fees by you, your employer, or health plan. Please see PACT's Pricing Terms at for details regarding pricing for the Services.

## **9. Privacy Policies**

These Services are provided in accordance with our Privacy Policy, which can be found on this website. You agree to the use of your User Content and personal information in accordance with these Terms and PACT's Privacy Policy.

Notwithstanding anything to the contrary, if you are using the Services on behalf of an organization, you agree to permit PACT to identify you as a customer and to use your name and/or logo in PACT's website and marketing materials.

## **10. Modification and Termination of Services**

PACT is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which PACT provides may change from time to time without prior notice to you, subject to the terms in its Privacy Policy. Changes to the form and nature of the Services will be effective with respect to all versions of

the Services; examples of changes to the form and nature of the Services include without limitation changes to fee and payment policies, security patches, added functionality, automatic updates, and other enhancements. Any new features that may be added to the website or the Services from time to time will be subject to these Terms, unless stated otherwise.

You may terminate these Terms at any time by canceling your account on the Services. You will not receive any refunds if you cancel your account.

You agree that PACT, in its sole discretion and for any or no reason, may terminate your account or any part thereof. You agree that any termination of your access to the Services may be without prior notice, and you agree that PACT will not be liable to you or any third party for such termination.

If you connect with your Medical Professional through using the Services and later remove the connection with that Medical Professional, you will be asked to sign a HIPAA authorization if you want to continue to use the Services. If you do not sign the HIPAA authorization, PACT will be required to terminate the Services and your account. You will also be asked to sign a HIPAA authorization to continue to use the Services if the relationship between PACT and your Medical Professional terminates.

Upon any termination of the Services or your account these Terms will also terminate, but all provisions of these Terms which, by their nature, should survive termination, shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, and limitations of liability.

## **11. Changes to the Terms**

These Terms may be amended or updated from time to time without notice and may have changed since your last visit to the website or use of the Services. It is your responsibility to review these Terms for any changes. By continuing to access or use the Services after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new Terms, please stop using the Services. Please visit this page regularly to review these Terms for any changes.

## **12. DISCLAIMER OF WARRANTY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES ARE AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE.”

PACT, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS MAKE NO EXPRESS WARRANTIES AND DISCLAIM ALL IMPLIED WARRANTIES REGARDING THE SERVICES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PACT, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU

THAT: (A) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS, (B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, AND (C) USAGE DATA PROVIDED THROUGH THE SERVICES WILL BE ACCURATE.

NOTHING IN THESE TERMS, INCLUDING SECTIONS 12 AND 13, SHALL EXCLUDE OR LIMIT PACT'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW.

### **13. LIMITATION OF LIABILITY**

SUBJECT TO SECTION 12 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT PACT, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

SOME STATES AND JURISDICTIONS MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN NO EVENT SHALL PACT'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) EXCEED THE AMOUNT THAT YOU HAVE ACTUALLY PAID FOR THE SERVICES IN THE PAST TWELVE MONTHS, OR ONE HUNDRED DOLLARS (\$100.00), WHICHEVER IS GREATER.

### **14. Indemnification**

You agree to hold harmless and indemnify PACT, and its subsidiaries, affiliates, officers, agents, employees, advertisers, licensors, suppliers or partners (collectively "PACT and Partners") from and against any third party claim arising from or in any way related to (a) your breach of the Terms, (b) your use of the Services, (c) your violation of applicable laws, rules or regulations in connection with the Services, or (d) your User Content, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature.

### **15. Copyright Policy**

We respect the intellectual property rights of others and expect our users to do the same. In accordance with the Digital Millennium Copyright Act, Title 17, United States Code, Section

512(c)(2) (the “DMCA”), we will respond expeditiously to claims of copyright infringement committed using the Services if such claims are reported to our Designated Copyright Agent identified in the sample notice below.

#### DMCA Notice of Alleged Infringement (“Notice”)

- Identify the copyrighted work that you claim has been infringed, or if multiple copyrighted works are covered by this Notice, you may provide a representative list of the copyrighted works that you claim have been infringed.
- Identify the material or link you claim is infringing (or the subject of infringing activity) and to which access is to be disabled, including at a minimum, if applicable, the URL of the link or the exact location where such material may be found.
- Provide your company affiliation (if applicable), mailing address, telephone number, and, if available, email address.
- Include both of the following statements in the body of the Notice:
  - “I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use).”
  - “I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of, the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed.”
- Provide your full legal name and your electronic or physical signature. This will deliver this Notice, with all items completed, to our Designated Copyright Agent:

Fish & Richardson P.C.  
612 337 2535  
60 South 6th St  
Minneapolis, MN 55402

## 16. Third-Party Content

The Services may include hyperlinks to other web sites, as well as content or resources or email content provided by companies or persons other than PACT (“Third Party Content”). PACT has no control over such Third Party Content.

You acknowledge and agree that PACT is not responsible for the availability of any Third Party Content, and does not endorse any advertising, products or other materials on or made available through such Third Party Content.

You acknowledge and agree that PACT is not liable for any loss or damage which may be incurred by you or other users as a result of your use of or reliance upon Third Party Content, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or made available through, such Third Party Content.

## 17. Third Party Software

The Services incorporate certain third party software (“Third Party Software”), which is licensed subject to the terms and conditions of the third party licensing such Third Party Software. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable license for such Third Party Software.

## **18. Feedback**

You may choose to or we may invite you to submit comments or ideas about the Services, including without limitation about how to improve the Services or our products. By submitting any feedback, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place PACT under any fiduciary or other obligation, and that we are free to use such feedback without any additional compensation to you, and/or to disclose such feedback on a non-confidential basis or otherwise to anyone.

## **19. Miscellaneous**

These Terms, together with our Privacy Policy and Pricing Terms (and Medical Professionals Agreement, if applicable), constitutes the entire agreement between the parties relating to the Services and all related activities. These Terms shall not be modified except in writing signed by both parties or by a new posting of these Terms issued by us. If any part of these Terms is held to be unlawful, void, or unenforceable, that part shall be deemed severed and shall not affect the validity and enforceability of the remaining provisions. The failure of PACT to exercise or enforce any right or provision under these Terms shall not constitute a waiver of such right or provision. Any waiver of any right or provision by PACT must be in writing and shall only apply to the specific instance identified in such writing. You may not assign these Terms, or any rights or licenses granted hereunder, whether voluntarily, by operation of law, or otherwise without our prior written consent. These Terms and any action related thereto will be governed by the laws of the State of California without regard to its conflict of laws provisions. The exclusive jurisdiction and venue of any action with respect to the subject matter of these Terms will be the state and federal courts located in San Francisco, California, and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

## **20. Contact Us**

If you have any questions about these Terms or if you wish to make any complaint or claim with respect to the Services, please contact us at: [preventingchronicpain@gmail.com](mailto:preventingchronicpain@gmail.com)

When submitting a complaint, please provide a brief description of nature of your complaint and the specific services to which your complaint relates.