

**Fysio LLC**  
**TERMS OF USE & SERVICE**  
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## 1. ACCEPTANCE OF TERMS

### 1.1 Overview

Welcome to Fysio (“Fysio,” “us,” “we” or the “Company”). These Terms of Use and Service (“TOU”) constitute a legally binding and enforceable agreement between you and Fysio, and governs all use by you of any Fysio website, domain and/or mobile application (including all web pages, sub-domains and subparts therein contained which shall be collectively referred to as the “Sites”). Other terms may apply to your use of a specific portion of our Sites. If there is a conflict between these TOU and terms posted for a specific portion of any of our Sites, the latter terms apply to your use of that portion of our Sites. The [[Fysio Privacy Statement](#)], which can be accessed via this link, is part of these TOU even though it’s a separate document.

### 1.2 Legally Binding Agreement

The Sites are owned and operated by Fysio. The Sites are offered subject to your acceptance **without modification** of all of the terms and conditions contained herein and all other operating rules, policies and procedures that may be published from time to time on the Sites by us.

BY USING OR ACCESSING ANY PART OF THE SITES, YOU AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN AND ALL OTHER OPERATING RULES, POLICIES AND PROCEDURES THAT MAY BE PUBLISHED FROM TIME TO TIME ON THE SITES BY US. IF YOU DO NOT UNEQUIVOCALLY AGREE TO ALL SUCH TERMS, CONDITIONS, RULES, POLICIES OR PROCEDURES, DO NOT USE OR ACCESS THE SITES.

### 1.3 Changes, Updates or Modifications to TOU

These Terms of Use may be updated, modified or changed from time to time. When we make changes, we will revise the “last modified” date at the top of this document. We encourage you to review these TOU periodically. Because your use of Fysio means you agree to these Terms of Use, if we revise and update these Terms of Use, your continued use of Fysio will mean that you accept those changes. If you do not agree to all of these Terms of Use, please do not use Fysio.

### 1.4 Language

We may translate these TOU, our Privacy Policy or any other agreements, rules, policies and/or procedures that may be published from time to time on the Sites into other languages for your convenience. The English language version of each of these documents is the version that governs your use of the Services and in the event of any conflict between the English language version and a translated version, the English language version will control.

## **1.5 Not Medical Advice**

Fysio provides users with online access to medical information from physicians and physical therapists. **FYSIO DOES NOT PROVIDE MEDICAL DIAGNOSIS, TREATMENT OR PRESCRIPTION OF ANY KIND.** ALL INFORMATION PROVIDED ON FYSIO OR IN CONNECTION WITH ANY COMMUNICATIONS SUPPORTED BY FYSIO, INCLUDING, BUT NOT LIMITED TO COMMUNICATIONS BETWEEN FYSIO MEDICAL EXPERTS AND CONSUMERS IS INTENDED TO BE FOR GENERAL INFORMATIONAL PURPOSES ONLY, AND IS IN NO WAY INTENDED TO CREATE A PHYSICIAN – PATIENT RELATIONSHIP AS DEFINED BY STATE AND FEDERAL LAW. **FYSIO IS NOT A SUBSTITUTE FOR PROFESSIONAL MEDICAL DIAGNOSIS OR TREATMENT. RELIANCE ON ANY INFORMATION PROVIDED BY FYSIO OR ANY FYSIO MEDICAL EXPERTS IS SOLELY AT YOUR OWN RISK.**

## **1.6 Accuracy of Information**

While Fysio tries to provide quality information, neither we nor any third parties provide any warranty or guarantee as to the accuracy, clarity, timeliness, performance, effectiveness, completeness or suitability of the information and materials found or offered on the Sites for any particular purpose. By accepting this agreement, you acknowledge that such information and materials may contain inaccuracies or errors and we expressly exclude and disclaim liability for any such inaccuracies or errors to the fullest extent permitted by law.

## **1.7 Use At Own Risk**

Your use of any information or materials on this Website or any information provided to you by Fysio is entirely at your own risk, for which we shall not be liable. This Website is not in any way intended as a substitute for the medical advice and supervision of your personal physician or physical therapist. Users are responsible for consulting a licensed healthcare professional before starting any exercise program. It shall be your own responsibility to ensure that any products, services or information available through the Sites meet your specific requirements. You agree that by participating in any of the activities found on the Sites or sent to you by Fysio, you do so entirely at your own risk. Any recommendations made by Fysio are entirely your responsibility and you should consult a physician prior to undergoing any physical therapy or physical exercise regimen. You agree that you are voluntarily participating in these activities and assume all risks of injury, illness, or death.

## **1.8 User Responsibility To Seek Medical Advice**

The Fysio online assessment includes assessments for the presence of certain conditions that would require you to seek the advice of your personal physician. If any of these conditions exist, you must certify that your personal physician has cleared you to participate in the Fysio independent exercise program before completing the assessment and viewing any of the content on the Fysio Site. Completion of these questions does not eliminate risks of injury, illness, or death from the use of content on this Website. Your use of any information or materials or any information provided to you by Fysio is entirely at your own risk, for which we shall not be liable. The online assessment is in no way intended as a substitute for medical evaluation by your personal physician or regular healthcare provider. As noted above, regardless of the presence or absence of certain health conditions, all viewers of these programs are responsible for consulting a licensed healthcare professional before starting any exercise program including any of the programs provided by Fysio through its Website(s), newsletters, or any other form of communication.

**ALWAYS:**

**SEEK THE ADVICE OF YOUR PHYSICIAN OR YOUR OTHER QUALIFIED HEALTHCARE PROVIDER WHENEVER YOU HAVE A QUESTION ABOUT A MEDICAL CONDITION OR SYMPTOM.**

**NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE, OR DELAY SEEKING MEDICAL ADVICE OR TREATMENT BECAUSE OF SOMETHING YOU READ OR LEARN ON FYSIO.**

**CALL 911 OR YOUR DOCTOR IMMEDIATELY IF YOU BELIEVE YOU HAVE A MEDICAL EMERGENCY.**

## **1.9 Independence of Fysio Medical Experts**

Fysio Medical Experts and professionals or specialists utilizing or featured on Fysio are not employees or independent contractor service providers of Fysio. Any opinions, advice or information expressed by any such individuals are those of the individual and the individual alone and they do not reflect the opinions of Fysio. Fysio does not recommend or endorse any specific tests, physicians, products, procedures, opinions or other information that may be mentioned on Fysio or by a licensee of Fysio.

The inclusion of professionals and specialists on Fysio or in any professional directory on Fysio does not imply recommendation or endorsement of such professional nor is such information intended as a tool for verifying the credentials, qualifications, or abilities of any professional contained therein.

**SUCH INFORMATION IS PROVIDED ON AN “AS-IS” BASIS AND FYSIO DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY**

AND FITNESS FOR PARTICULAR PURPOSE. FYSIO SHALL IN NO EVENT BE LIABLE TO YOU OR TO ANYONE FOR ANY DECISION MADE OR ACTION TAKEN BY ANY PARTY (INCLUDING, WITHOUT LIMITATION, ANY USER) IN RELIANCE ON INFORMATION ABOUT PROFESSIONALS AND SPECIALISTS ON FYSIO. The use of Fysio by any entity or individual to verify the credentials of professionals or specialists is prohibited.

All opinions and statements expressed by Fysio Medical Experts on or through Fysio are solely the individual and independent opinions and statements of such individuals and do not reflect the opinions of Fysio, its affiliates or any other organizations or institutions to which such Fysio Medical Expert or such specialist or professional is affiliated or provides services.

## **2. YOUR ACCOUNT AND YOUR USE OF FYSIO**

### **2.1 Your Registration Obligations**

To be a registered user of the Sites you agree to (i) provide true, accurate, current and complete information about yourself as prompted by the registration form or directly to Fysio and to maintain and promptly update, if necessary, the Registration Data to keep it true, accurate, current and complete.

If you provide any information that is untrue, inaccurate, not current or incomplete, or Fysio has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Fysio has the right to suspend or terminate all of your accounts and refuse any and all of your current or future use of the Sites (or any portion thereof).

Please immediately notify us of any unauthorized use of your password or account. As a part of registration you will create a profile with a Public Profile Name. Like your password, if you wish to remain anonymous, use common sense: safeguard your Public Profile Name, pick a name that cannot be guessed by others, and keep it private. Do not use your real name, or the real name of any one related to you when selecting your Public Profile Name. Allowing any other person or entity to use your identity for posting on or using Fysio is not permitted. Do not include your real name or any other information that could be used to identify you in anything you post on Fysio, including questions, comments, or other submissions.

### **2.2 Your Use Must Be Legal and You Must Be an Adult To Use Fysio**

Your use and enjoyment of Fysio must comply with all applicable federal and state laws, regulations and ordinances. You must be at least 18 years old to use Fysio.

### **2.3 Notices**

When you register as a member, you agree that Fysio may send notices to you by email at the email address you provide when you register, or a different email address that you update through your Account Settings.

## **2.4 Fysio is For Personal Use Only**

Fysio is a service for individuals to use to support and to enhance their personal health decisions. You may use Fysio for personal, but not for commercial, purposes. Organizations, companies, and businesses may not become registered members or use our Apps through individual members.

## **3. CONTENT & PROPERTY RIGHTS**

### **3.1 Site Content**

You are granted a limited license to access and make personal use of the Fysio Sites. You agree that all material, including without limitation information, data, software, text, design elements, graphics, images and other content (collectively, “Content”), contained in or delivered via the Sites or otherwise made available by Fysio in connection with the Sites (collectively, “Site Content”) is protected by copyrights, trademarks, service marks, trade secrets or other intellectual property and other proprietary rights and laws. Fysio may own the Site Content or portions of the Site Content may be made available to Fysio through arrangements with third parties.

Except as expressly authorized by Fysio in writing or in connection with your use of the intended functionality of the Sites, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works of any Site Content or post any Site Content on any other web site or in a networked computer environment for any purpose whatsoever. You shall only use the Site Content for purposes that are permitted by these TOU and as permitted by all applicable laws and regulations (foreign and domestic). Any rights not expressly granted herein are reserved.

### **3.2 You Must Ask Our Permission to Use Our Trademarks**

We have obtained or applied for various Trademarks and service marks. Fysio, the Fysio logo, other Fysio Trademarks and service marks and other Fysio logos and product and service names are our trademarks (the “Fysio Marks”). If you would like to use or display any Fysio Marks, you must ask our permission. Without our prior written permission, you agree not to display or use in any manner the Fysio Marks. All trademarks, brands, and content on Fysio are the property of their respective owners.

### **3.3 Your Content**

You acknowledge and agree that if you contribute, provide or make available any Content to the Sites (“Your Content”), you hereby grant to Fysio a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, transferable, sublicensable (through multiple tiers) right and license to use, reproduce, adapt, modify, distribute, translate, publish, create derivative works based on, perform, display and otherwise exploit Your Content, in whole or in part, in any media now known or hereafter developed, for any purpose whatsoever. You represent and warrant that you have all the rights, power and

authority necessary to grant the foregoing license, and that all Your Content (i) does not infringe, violate, misappropriate or otherwise conflict with the rights of any third party and (ii) complies with all applicable laws and regulations (foreign and domestic).

In using the Sites, you may be afforded the opportunity to provide feedback, comments and other opinions. Any feedback or commentary provided will be subject to and governed by this sub-section. We appreciate your candor and responsiveness; however, we ask that you please exercise good taste and judgment in providing feedback. For instance, do not provide any medical information regarding yourself or others.

By using the Sites, you understand and acknowledge that Fysio reserves the right to remove, in its sole and exclusive discretion, any of Your Content from the Sites at any time for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to Your Content). **Don't submit anything to us if you don't want to give us rights to it. If you wish to keep any business information, ideas, concepts or inventions private or proprietary, do not submit them on, through, or to Fysio, by email or otherwise.**

### **3.4 The Digital Millennium Copyright Act of 1998**

The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who reasonably believe that material appearing on the Internet infringes their rights under U.S. copyright laws. If you believe in good faith that any Content made available in connection with the Sites infringes your copyright, you (or your agent) may send us a notice requesting that the Content be removed or access to it blocked. Notices and counter-notices must meet the then-current statutory requirements imposed by the DMCA (see <http://www.loc.gov/copyright> for details). DMCA notices and counter notices should be sent to:

Fysio, LLC  
[Address]

### **3.5 Content of Submissions**

The personal information you submit to Fysio is governed by the **Fysio Privacy Policy**, the terms of which shall govern in the event of any inconsistency with this Agreement.

You agree that you will not upload or transmit any communications or content of any type that infringes or violates any rights of any party. You understand and agree that all Content you submit to Fysio is non-confidential and may be made available on the world wide web ("Public Areas"). As a reminder public information includes, but is not limited to questions, comments, interactions and information included in your profile.

Engaging in any conduct that restricts or inhibits any members' use or enjoyment of Fysio, or which, in our sole judgment, exposes the Company or any of our customers, partners or suppliers to any liability or detriment of any type is prohibited.



IN CONSIDERATION FOR PERMISSION TO USE FYSIO YOU AGREE TO ABIDE BY ALL OTHER TERMS OF USE WHEN POSTING AND NOT TO DO ANY OF THE FOLLOWING, WHICH CAN RESULT IN IMMEDIATE ACCOUNT CANCELLATION:

- **No Individual or Specific Patient Questions.** Do not post any facts that give the impression that a question is patient-specific or are about a specific person, including yourself.
- **Only Adults May Post.** Minors may not create their own profiles on Fysio and Fysio does not permit the posting of questions by persons under 13 years of age. Caregivers may post educational questions related to care recipients (such as the mother posting questions about an infant).
- **No Posting of Personally Identifiable Information.** Do not post name(s), email address(es), or telephone number(s), URLs, or any other confidential or personally identifiable information for you or any other person or entity on Fysio.
- **No Posting for Illegal Purposes.** Do not use Fysio for any purpose in violation of local, state, federal, or international laws.
- **No Infringing or Impersonating Postings.** Do not post material that infringes on the copyrights or other intellectual property rights of others or on the privacy or publicity rights of others; do not post impersonating another person or entity.
- **No Inappropriate Postings.** Do not post material that is unlawful, obscene, derogatory, defamatory, threatening, harassing, abusive, slanderous, hateful, or embarrassing to any other person or entity as determined by us in our sole discretion.
- **No Promotions or Links.** Do not post advertisements or solicitations or links to other websites or individuals.
- **No Spam or Schemes.** Do not post the same question more than once or "spam" the forum; no posting of chain letters or pyramid (or other) schemes.
- **No Detrimental Behavior.** Engaging in any other conduct that restricts or inhibits any other person from using or enjoying the Public Area or Fysio, or which, in the judgment of the Company, exposes us or any of our members, partners or suppliers to any liability or detriment of any type.

### **3.6 You Agree to Our Enforcement of These Terms and Conditions and the Rules**

By using (including by accessing or attempting to access), Fysio you agree that we have the right (but are not obligated) to: investigate an allegation that a communication or Content does not conform to these TOU and determine in our sole discretion to remove

or request the removal of the communication or Content; remove Content (including member-submitted questions) that we determine, in our sole discretion, to be abusive, illegal or disruptive, or that otherwise fails to conform to these TOU; terminate a member's access to Fysio upon any breach of any of these TOU; terminate a member's access to Fysio if the member's registration information and/or email address is no longer valid; and remove any communication in Fysio; regardless of whether such communication violates these standards. We reserve the right to take any other action we deem necessary to protect the personal safety of our guests, visitors, and the public.

#### **4. FYSIO MEDICAL EXPERTS**

##### **4.1 About Fysio Medical Experts**

Fysio's Medical Experts include respected doctors and physical therapists throughout the United States. Only U.S.-licensed doctors and physical therapists may apply to be and participate as Medical Experts on Fysio. Physicians whose licenses are or become suspended or revoked, for any reason, are not permitted and agree not to participate in any way, including but not limited to, submitting Content to Fysio as a Medical Expert on Fysio.

##### **4.2 Specific Limitation of Liability Regarding Expert Content**

Content on the site created, submitted or validated by Medical Experts or other healthcare experts on Fysio (collectively, "Expert Content") are subject to the following additional terms and conditions. (When we use the term Content elsewhere in this TOU, this term includes Expert Content.) The authors or third party posting such content ("Posters") are solely responsible for their content. While we hope that you will find the Expert Content informative and educational, neither we nor the Poster make any representations or warranties with respect to any information offered or provided within or through the Expert Content regarding treatment of medical conditions, action, or application of medication. Posters are solely responsible for their content. Under no circumstances, as a result of your use of the Expert Content or this Site, will the Expert Content Poster or such Poster's employer or sponsor be liable to you or to any other person for any damages or harm—including any direct, indirect, special, incidental, exemplary, consequential or other damages under any legal theory, including, without limitation, tort, contract, strict liability or otherwise, even if advised of the possibility of such damages. Without limiting the generality of the foregoing, the Poster (and such Poster's employer and/or sponsor) shall have absolutely no liability in connection with Fysio for: (a) any loss or injury caused, in whole or in part, by the Poster's actions, omissions, or negligence, in procuring, compiling, or delivering information within or through Expert Content; (b) any errors, omissions, or inaccuracies in such information regardless of how caused, or delays or interruptions in delivery of such information; or (c) any decision made or action taken or not taken in reliance upon such information. This means you should not rely on the Expert Content or make medical or other important decisions based on it, and it also means that the Posters are not responsible for what you do or don't do with the Content. For medical advice, treatment, or diagnosis, see your personal physician or expert healthcare provider. You agree to indemnify and hold the Poster (and the Poster's

employer and/or sponsor) harmless from any claim or demand, including attorneys' fees, made by any third party as a result of (1) any content posted or made available by you through Expert Content, (2) any violation of law that occurs by you through your use of Expert Content or this Site, and/or (3) anything you do using Expert Content, this Site and/or the information contained therein.

NEITHER US, OUR MEDICAL EXPERTS, OR ANY OF OUR LICENSORS MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN ONE HUNDRED DOLLARS (\$100).

## **5. CONDUCT**

### **5.1 Certain Restrictions**

You understand that you are solely liable for all Content, in whatever form, that you provide or otherwise make available to or through the Sites, including to Visitors and other users of the Services. You agree not to use the Sites to:

- i. upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- ii. harm minors in any way;
- iii. facilitate gambling, gaming, lotteries, raffles, contests, sweepstakes and/or any other activity featuring the award of a prize other than raffles, contests or sweepstakes which shall be conducted in a manner that complies with all applicable and governing laws and regulations;
- iv. impersonate any person or entity, including, but not limited to, a Fysio representative or falsely state or otherwise misrepresent your affiliation with any person or entity;
- v. upload, post, email, transmit or otherwise make available any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- vi. upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other intellectual property or proprietary rights of any person or entity;

- vii. upload, post, email, transmit or otherwise make available any Content that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or to otherwise interact with the Sites in a manner not permitted by this TOU or expressly authorized by Fysio;
- viii. interfere with or disrupt the Sites or servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services; or
- ix. intentionally or unintentionally violate any applicable law or regulation (foreign or domestic), including without limitation (a) regulations promulgated by the U.S. Securities and Exchange Commission and any rules of any national or other securities exchange (*e.g.*, the New York Stock Exchange, the American Stock Exchange or the NASDAQ) and (b) laws and regulations (foreign or domestic) regarding the sale or resale of tickets (including without limitation with respect to licensure requirements, maximums or limits on ticket prices, etc.).

## **6. THIRD PARTY INFORMATION & LINKS**

Now or in the future, the Content and Sites may link you to other web sites or information, software, data, or other contents, on or off the Internet. These other sites or and contents are not Fysio, and the information there is outside of our control. We do not control, endorse, or review the content of these sites. We do not review the contents that may be reached by such links, and we are not responsible for such content. Your linking to any other pages on other sites is at your own risk. The information, software, data, or other contents (including opinions, claims, comments) contained in linked references are those of the companies responsible for such sites, and should not be attributed to us. We have not attempted to verify the truth or accuracy of any such opinion, claim, or comment, nor do we endorse or support them. We do not warrant, nor are we in any way responsible for, information, software, data, privacy policies, or other content that is outside of our control.

## **7. DISCLAIMER OF WARRANTIES**

ANY CONTENT PROVIDED BY FYSIO THROUGH ITS WEBSITE, NEWSLETTERS, OR ANY OTHER MEDIUM IS “AS IS” AND WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FYSIO DOES NOT WARRANT THAT THE CONTENT, DATA OR FUNCTIONS CONTAINED WITHIN

ANY PART OF ITS WEBSITE (INCLUDING, WITHOUT LIMITATION, USER-GENERATED CONTENT) OR ANY OF ITS COMMUNICATIONS WILL MEET YOUR REQUIREMENTS, THAT DEFECTS WILL BE CORRECTED, THAT ANY PARTS OF THE WEBSITE OR THE SYSTEMS THAT MAKE THE CONTENT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL OBJECTS, THAT USER DATA IS ABSOLUTELY SECURE, THAT THE OPERATION OF ANY OF ITS SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF ANY OF YOUR EQUIPMENT OR SOFTWARE. THE WEBSITE AND PRODUCTS/SERVICES CONTAINED THEREON ARE IN NO WAY INTENDED TO SERVE AS SUBSTITUTES FOR THE ADVICE AND TREATMENT OF A LICENSED HEALTH CARE PROFESSIONAL. IT IS YOUR RESPONSIBILITY TO CONSULT A LICENSED HEALTH CARE PROFESSIONAL BEFORE USING THIS WEBSITE. NOT ALL PRODUCTS AND SERVICES ARE SUITED FOR EVERYONE. WE DO NOT ASSUME, AND SHALL NOT HAVE, ANY LIABILITY TO USERS FOR INJURY OR LOSS IN CONNECTION WITH THIS WEBSITE. WE MAKE NO REPRESENTATIONS OR WARRANTIES AND EXPRESSLY DISCLAIM ANY AND ALL LIABILITY CONCERNING ANY TREATMENT OR ANY ACTION FOLLOWING THE INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE WEBSITE. IF YOU HAVE SPECIFIC CONCERNS OR A SITUATION IN WHICH YOU REQUIRE PROFESSIONAL OR MEDICAL ADVICE, YOU SHOULD CONSULT WITH AN APPROPRIATELY TRAINED AND QUALIFIED SPECIALIST, SUCH AS A LICENSED PHYSICAL THERAPIST, PHYSICIAN OR OTHER HEALTH PROFESSIONAL. NEVER DISREGARD THE MEDICAL ADVICE OF A LICENSED PHYSICAL THERAPIST, PHYSICIAN OR OTHER HEALTH PROFESSIONAL, OR DELAY IN SEEKING SUCH ADVICE, BECAUSE OF THE INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE WEBSITE. BY ACCEPTING THIS AGREEMENT, YOU AGREE THAT YOU ARE VOLUNTARILY PURCHASING PRODUCTS OR SERVICES, PARTICIPATING IN RECOMMENDED ACTIVITIES, AND USING THIS WEBSITE AND ASSUME ALL RISKS OF INJURY, ILLNESS, OR DEATH. YOU ACKNOWLEDGE THAT YOU HAVE CAREFULLY READ THIS "WAIVER AND RELEASE" AND FULLY UNDERSTAND THAT IT IS A RELEASE OF LIABILITY. YOU EXPRESSLY AGREE TO RELEASE AND DISCHARGE ALL INDEMNIFIED PARTIES (AS DEFINED BELOW) FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION AND YOU AGREE TO VOLUNTARILY GIVE UP AND IRREVOCABLY WAIVE AND RELEASE ANY RIGHT THAT YOU MAY OTHERWISE HAVE TO BRING A LEGAL ACTION AGAINST ANY INDEMNIFIED PARTY FOR PERSONAL INJURY OR PROPERTY DAMAGE. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

## **8. INDEMNIFICATION**

You agree to fully and effectively defend, indemnify and hold, on demand, to the broadest extent allowed by law, Fysio, and each of its former, present and future officers, directors, shareholders, agents, designees, employees, assignees, successors, independent contractors, assigns, administrators, principals, parents, subsidiaries, affiliates, divisions, partners, co-venturers, members and attorneys harmless, at your sole cost and expense, from and against any and all claims, liabilities, losses, demands, actions, causes of action, notices, proceedings, disputes, costs, expenses, liens, encumbrances, disagreements and notices, including without limitation, reasonable attorneys and accountancy fees and all costs in any manner related thereto in whole and in part (“Claim(s)”), further including without limitation, any and all attorneys’ fees, experts’ fees, accountants’ fees and actual costs occasioned by or arising out of any actual, alleged or anticipated breach (each a “Breach”) by you of these TOU, or any claim inconsistent with any agreement, covenant, representation, warranty or promise made or assumed by you hereunder or otherwise with respect to the rights and/or privileges granted to you by Fysio.

You will fully reimburse Fysio on demand for any and all payments made by or on behalf of Fysio at any time in respect of any claim to which the foregoing indemnity relates. Fysio agrees to give you written notice of any such claim to which the foregoing indemnity relates and you shall immediately undertake at your own cost and expense the defense thereof, including attorneys’ fees, arising out of or related to any products or services purchased by you in connection with the Site or any use of the Site in violation of this Agreement.

## **9. SERVICE MODIFICATIONS/SUSPENSIONS**

Fysio reserves the right at any time to, and from time to time may, modify, suspend or discontinue, temporarily or permanently, the Services (or any part thereof) for any reason or no reason with or without notice. You agree that Fysio shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services.

## **10. TERMINATION**

Fysio, in its sole discretion, may terminate your password, accounts (or any part thereof) and/or your right to use the Services, and remove and discard any and all of Your Content within the Services, at any time for any reason or no reason, including, without limitation, for lack of use, failure to timely pay any fees or other monies due Fysio, or if Fysio believes that you have violated or acted inconsistently with the letter or spirit of these TOU. You agree that any termination of your use of the Services may be effected without prior notice, and acknowledge and agree that Fysio may immediately deactivate or delete your account and all related Content and files related to your account and/or bar any further access to such files or the Services. Further, you agree that Fysio shall not be liable to you or any third-party for any termination of use of or access to the Services. All provisions of these TOU that by their nature should survive termination of your right to use the Services shall survive (including, without limitation, all limitations on liability,

releases, indemnification obligations, disclaimers of warranties and intellectual property protections and licenses).

## **11. LIMITATION OF LIABILITY**

Any physical therapy program and physical exercise regimen involves the risk of injury. You assume all risks and hazards associated with the use of information provided by Fysio through its Website(s) or through any other forms of communication from Fysio. By accepting this agreement, you agree that by participating in any physical exercise or training activities provided by Fysio through its Website, newsletters or any other mode of communication, you do so entirely at your own risk. You acknowledge that this risk may involve the risk of injury, death, or other unforeseen consequences. You also certify that you are in proper physical condition to participate in the activities provided by Fysio, and that you have no illnesses, disease or existing injury or physical defect that would be aggravated by your participation.

Fysio, its licensors, its suppliers, or any third parties mentioned on Fysio are not liable for any personal injury, including death, attributable to or caused by your use or misuse of Fysio or Content (including member supplied Content or Medical Expert supplied Content). Any claims arising in connection with your use of Fysio or any Content must be brought within one (1) year of the first date of the event giving rise to such action. Remedies under these Terms and Conditions are exclusive and are limited to those expressly provided for in these Terms and Conditions.

Limitations of liability in this section do not apply to breaches of intellectual property provisions by you or your indemnification obligations relating hereunder.

## **12. REMEDIES**

IF YOU ARE DISSATISFIED WITH ANY OF THE CONTENT OR MATERIALS ON OUR SITE, OR ANY SERVICES OR INFORMATION AVAILABLE THROUGH THE SITE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE ACCESSING AND USING OUR SITE. THIS LIMITATION APPLIES EVEN IF YOUR REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

All rights and remedies provided to Fysio in this Agreement are cumulative and not exclusive of any other rights or remedies which Fysio otherwise has at law, in equity or otherwise. These terms and conditions shall be binding upon you and your executors, heirs, successors and assigns. If any provision of our Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability of any other provisions contained in this Agreement, and the remaining portions of this Agreement shall continue in full force and effect (other than as set forth Section 23.3 below).



### **13. RELEASE**

IN CONSIDERATION OF BEING PERMITTED TO ACCESS AND USE THE SERVICES, YOU HEREBY AGREE TO RELEASE FYSIO, AND EACH OF ITS FORMER, PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, DESIGNEES, EMPLOYEES, ASSIGNEES, SUCCESSORS, INDEPENDENT CONTRACTORS, ASSIGNS, ADMINISTRATORS, PRINCIPALS, PARENTS, SUBSIDIARIES, AFFILIATES, DIVISIONS, PARTNERS, CO-VENTURERS, MEMBERS AND ATTORNEYS, AS WELL AS EACH OF THE FORMER, PRESENT AND FUTURE OFFICERS, DIRECTORS, AGENTS, CO-BRANDERS, OTHER PARTNERS, AND EMPLOYEES (TO THE EXTENT APPLICABLE) FROM ALL DAMAGES (WHETHER DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHERWISE), LOSSES, LIABILITIES, COSTS AND EXPENSES OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH DISPUTES BETWEEN YOU AND THIRD PARTIES (INCLUDING OTHER ORGANIZERS, BUYERS, AND OTHER NON-ORGANIZERS) IN CONNECTION WITH THE SERVICES, YOUR ACCESS AND USE OF THE SERVICES, OR YOUR EVENT.

IN CONNECTION WITH THE FOREGOING RELEASE, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE 1542 AND ANY OTHER APPLICABLE LAW OR STATUTE, WHICH SAYS, IN SUBSTANCE: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

### **14. CHOICE OF LAW & VENUE**

Any disputes arising out of or related to these TOU and/or the Sites or Services shall be governed by the internal laws of the State of Illinois without regard to its choice of law rules and without regard to conflicts of laws principles except that the Arbitration provision set forth in Section 15 shall be governed by the Federal Arbitration Act.

To the extent a claim or dispute is not subject to binding arbitration as set forth below or a court of competent jurisdiction determines that the within arbitration provision is not enforceable to the fullest extent set forth herein, any such claim or dispute between you and Fysio arising out of or relating to this Agreement shall be decided exclusively by a court of competent jurisdiction located in the State of Illinois. Either you or Fysio may seek any interim or preliminary relief from a court of competent jurisdiction in Illinois necessary to protect the rights or property of you or Fysio (or its agents, suppliers, and subcontractors) pending the completion of any judicial proceeding, including arbitration if mandated by Fysio as provided below.



## 15. ARBITRATION

We will make every reasonable effort to resolve any disagreements that you may have with Fysio.

If those efforts fail, you agree that any claim, dispute, or controversy you may have with or against Fysio arising out of, relating to, or connected in any way with these TOU, the Sites or the Services shall be resolved – at Fysio’s sole and exclusive discretion and election – by final and binding arbitration administered by the Judicial Arbitration and Mediation Services, Inc. (“JAMS”). If Fysio elects to exercise this provision and mandate arbitration, judgment on the arbitration award may be entered in any court having competent jurisdiction thereof. You agree further that:

- (a) the arbitration shall be held at a location determined by JAMS pursuant to the Rules and Procedures (provided that such location is reasonably convenient for you), or at such other location as may be mutually agreed upon by you and Fysio;
- (b) the arbitrator shall apply Illinois law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized at law;
- (c) **there shall be no authority for any claims to be arbitrated on a class or representative basis; arbitration can decide only your and/or Fysio’s individual claims;** and the arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated;
- (d) in the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, Fysio will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive; and
- (e) with the exception of subpart (c) above, if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, 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, subpart (c) is found to be invalid, unenforceable or illegal, then the entirety of this Arbitration Provision shall be null and void, and neither you nor Fysio shall be entitled to arbitrate their dispute.

## **16. GENERAL**

### **16.1 Entire Agreement**

This Agreement, and the other agreements referenced in it (like our Privacy Policy), is the entire agreement between you and us relating to Fysio. This Agreement replaces any prior agreements unless such prior or subsequent agreement explicitly provides otherwise and specifically references this agreement. If there is any conflict between this agreement and a mutually signed written agreement between you and us related to Fysio, the signed written agreement will control.

### **16.2 No Third Party Beneficiary**

Other parties may have rights under this agreement. A “third party beneficiary” is another party (for example, a company) who is not directly mentioned in an agreement, but who may have some rights arising out of an agreement. Our licensors may be third party beneficiaries to this Agreement pursuant to our agreements with them. To the extent our licensors are third party beneficiaries to this Agreement, the rights and protections provided to us under this Agreement inure to their benefit. Other than these licensors, there are no other third party beneficiaries to this Agreement. The parties are independent contractors, and nothing in this agreement creates an agency, partnership, or joint venture.

The failure or delay of Fysio to exercise or enforce any right or provision of these TOU shall not constitute a waiver of such right or provision. No oral waiver, amendment or modification shall be effective under any circumstance whatsoever. If any provision of these TOU is found by an arbitrator or court of competent jurisdiction to be invalid, the parties nevertheless agree that the arbitrator or court should endeavor to give effect to the parties’ intentions as reflected in the provision, and the other provisions of this TOU shall remain in full force and effect.

### **16.3 Time to File Claim**

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or these TOU must be filed within two (2) years after such claim or cause of action arose or be forever barred.

### **16.4 Headings**

The section headings and descriptions in these TOU are for convenience only and have no legal or contractual effect.

## **16.5 Violations**

Please report any violations of these TOU by email to **[email address]**.

## **16.6 Contact Information**

You may contact us by writing to:

**Fysio, LLC**  
**[Address]**

If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.