

# Terms, Conditions of Use, & Privacy Policy

**BY ACCESSING OR USING THE 5-ACTIONS PROGRAM™, YOU ARE AGREEING TO DO SO WITHIN THE TERMS, CONDITIONS, AND PRIVACY POLICY OUTLINED IN THIS AGREEMENT. PLEASE READ IT CAREFULLY, AND IF YOU DO NOT ACCEPT THESE TERMS, THEN DO NOT USE THE PROGRAM.**

## ***Who We Are***

Digital Therapeutics Group LLC (Us, We, Our) is an Oregon-based company that develops and implements online/digital learning programs and services that help users address challenges with substance use and/or behavioral addictions. The 5-Actions Program™ (www.nm5actions.com) is the property of Digital Therapeutics Group LLC, that has licensed use of the program to New Mexico Human Services Department, Behavioral Health Services Division, through its affiliate relationship with ProtoCall Services, Inc. doing business as the New Mexico Crisis and Access Line.

## ***Medical Disclaimer***

The 5-Actions Program™ is not a certified or licensed healthcare provider, nor is it a treatment facility or medical organization. The 5-Actions Program™ does not give medical advice or diagnostic care, services, or supplies related to the health of an individual. Nothing contained in this Website or our services should be construed as medical advice or diagnostic care, services, or supplies related to the physical or mental health of an individual. We specifically disclaim any medical knowledge or affiliation.

The information presented and generated by us is educational and should never be a substitute for medical or psychological physician consultation, evaluation, diagnosis, or treatment. **Please consult with your physician before, during, and after visiting our site.**

## ***User Information***

The 5-Actions Program™ is a FREE online program for all residents of the state of New Mexico, paid for by New Mexico Human Services Department, Behavioral Health Services Division. By accepting this Agreement, you are affirming that you are a resident of the state of New Mexico. If you are not a resident of New Mexico, but would like access to the program, please email [info@nm5actions.com](mailto:info@nm5actions.com).

## ***No Guarantee of Specific Results***

At the 5-Actions Program™ we do our best to provide users with accurate, evidence-based information, tools, and resources to guide their change efforts specific to addiction. We disclaim any specific outcome. We do not guarantee that you will achieve the outcome you seek from use of our Site. We do not promise or guarantee that you will be cured or that your efforts related to the program will lead to successful behavior change. We do not guarantee any particular result or that the content herein will help you in your efforts to address addiction in your life.

## Terms & Conditions of Use

This Terms of Use Agreement (“Agreement”) sets forth the legally binding terms for your use of the 5-Actions Program™. By using the 5-Actions Program™ you have agreed to be bound by this Agreement, despite the fact that your use of the program is FREE and paid for by New Mexico Human Services Department, Behavioral Health Services Division. The term “User” refers to any registered User of the Site. You are only authorized to use the 5-Actions Program™ (regardless of whether your access or use is intended) if you agree to abide by all applicable laws and to this Agreement. Please read this Agreement carefully and save it. If you do not agree with it, you should leave the 5-Actions Program™ Website and discontinue use of the 5-Actions Program™ immediately. If you wish to become a User, you must read this Agreement and indicate your acceptance during the Registration process.

The 5-Actions Program™ may modify this Agreement from time to time and such modification shall be effective upon posting on the 5-Actions Program™ Site. You agree to be bound to any changes to this Agreement when you use the 5-Actions Program™ after any such modification is posted. It is therefore important that you review this Agreement regularly to ensure you are updated as to any changes.

This Site is protected by the copyright under the United States and foreign laws. Title to the Site remains with Digital Therapeutics Group LLC and the 5-Actions Program™. Any use of the Site not expressly permitted by these terms and conditions is a breach of these terms of conditions and may violate copyright, trademark, and other laws. The Site and its features are subject to change or termination without notice in the editorial discretion of the 5-Actions Program™. If you violate any of these terms and conditions, your permission to use the Site automatically terminates.

This Site is being presented for your personal use. The 5-Actions Program™ grants you a non-exclusive, non-transferable, non-sublicensable, limited right and license to access the Site for your personal use only. The 5-Actions Program™ reserves the right to refuse service, remove or edit content, or cancel a User at our sole discretion.

1. No Reproduction of Materials. The material on the Site is protected under state and federal copyright and trademark law. By accessing the material on the Site, you do not obtain any ownership interest or rights to the material found on the website, nor are you permitted to create any derivative works of such material. All rights to the content of the site, or the content or material thereon, automatically terminates the permission or license granted by us hereunder. Copyright and trademark infringement are violations of federal and state law, and are subject to criminal and civil penalties.
2. Liability of the 5-Actions Program™ and its Licensors. The use of the 5-Actions Program™ is at your own risk. When using the 5-Actions Program™ Site, information will be transmitted over a medium which is beyond the control and jurisdiction of the 5-Actions Program™. Accordingly, the 5-Actions Program™ assumes no liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with use of the 5-Actions Program™ Site.

The 5-Actions Program™ Site is provided on an “as is” basis. The 5-Actions Program™ to the fullest extent permitted by law, disclaims all warranties, either express or implied, statutory, or

otherwise, including but not limited to the implied warranties of merchantability, non-infringement of third parties rights and fitness for a particular purpose. Specifically, the 5-Actions Program™ makes no representations or warranties about the following:

- A. The effectiveness, accuracy, reliability, completeness, or timeliness of the content, text, graphics, links, or communications provided on or through the use of the Site.
  - B. The effectiveness of the Site in helping you to reach a personal goal. In no event, shall the 5-Actions Program™, its licensors or any third parties mentioned on the 5-Actions Program™ site be liable for any damages (including without limitation, incidental and consequential damages, personal injury/wrongful death, lost profits, or damages resulting from lost data or business interruption) resulting from the use or inability to use the site, whether based on warranty, contract, tort or any other legal theory, and whether or not the 5-Actions Program™ is advised of the possibility of such damages. The 5-Actions Program™ is not liable for any personal injury, including death, caused by the use of misuse of the Site. Any claims arising in connection with your use of the Site must be brought within one year of the date of the event giving rise to such action occurred. Remedies under these Terms and Conditions are exclusive and are limited to those expressly provided for in these Terms and Conditions.
3. No Unlawful or Prohibited Use/Intellectual Property. You are granted a non-exclusive, non-transferable, revocable license to access and use the Site strictly in accordance with these terms of use. As a condition of your use of the Site, you warrant to The 5-Actions Program™ that you will not use the Site for any purpose that is unlawful or prohibited by these Terms. You may not use the Site in any manner which could damage, disable, overburden, or impair the Site or interfere with any other party's use and enjoyment of the Site. You may not obtain or attempt to obtain any materials of information through any means not intentionally made available or provided for through the Site.

All content included as a part of the site, such as text, graphics, logos, images, as well as the compilation thereof, and any software used on the site, is the property of The 5-Actions Program™ or its suppliers and protected by copyright and other laws that protect intellectual property and proprietary rights. You agree to observe and abide by all copyright and other proprietary notices, legends or other restrictions contained in any such content and will not make any changes thereto.

You will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works, or in any way exploit any of the content, in whole or in part, found on the Site. The 5-Actions Program™ content is not for resale. Your use of the Site does not entitle you to make any unauthorized use of the Site or of any protected content, and in particular you will not delete or alter any proprietary rights or attribution notices in any content. You will use protected content solely for your personal use, and will make no other use of the content without express written permission of The 5-Actions Program™. You agree that you do not acquire any ownership rights in any protected content. We do not grant you any licenses, express or implied, to the intellectual property of The 5-Actions Program™ or our licensors except as expressly authorized by these terms and conditions.

4. General Restrictions. You may not transfer, copy, or display the content, except as permitted herein. In addition, you may not sell, rent, lease, distribute, broadcast, sublicense or otherwise assign any right to the content to any third party. You may not remove any proprietary notices or label on the Site. You may not attempt to disable, bypass, modify, defeat, or otherwise circumvent any digital rights management system used as part of the Site or use the Site for any illegal purpose.
5. User Submissions. 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 agree that such submission is non-confidential for all purposes. If you make such submission, you are warranting that the owner of such content has expressly granted the 5-Actions Program™ a royalty-free, perpetual, irrevocable, worldwide non-exclusive right to use, reproduce, create derivative works from, modify, publish, edit, translate, distribute, perform and display the communication or content in any media or medium, or any form or format now known or hereafter developed.
6. The 5-Actions Program™ Electronic Communications. Visiting the Site or sending emails to the 5-Actions Program™ constitutes electronic communications. You consent to receive electronic communications and you agree that all agreements, notices, disclosures, and other communications that we provide to you electronically, via email and on the Site, satisfy any legal requirement that such communications be in writing.
7. Advertising and Links to Other Sites. The 5-Actions Program™ does not endorse the content of any third party website. The 5-Actions Program™ is not responsible for the content of links, third-party sites, sites framed within the 5-Actions Program™ Site or third-party advertisements and does not make any representations regarding their content or accuracy. Your use of third-party websites is at your own risk. The 5-Actions Program™ does not endorse any product advertised on the 5-Actions Program™ Site.
8. Eligibility. Use of the 5-Actions Program™ is void where prohibited. By using The 5-Actions Program™, you represent and warrant that (a) all registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information; (c) you are 18 years of age or older; and (d) your use of the 5-Actions Program™ does not violate any applicable law or regulation. Your profile may be deleted, and your use may be terminated without warning if you do not abide by this eligibility criteria set forth herein.
9. Term. This Agreement shall remain in full force and effect while you use the 5-Actions Program™ or are a User. You may terminate your User account at any time, for any reason, by using the contact page and informing us you would like to terminate your account. The 5-Actions Program™ may terminate your account at any time, without warning. Even after your account is terminated, this Agreement will remain in effect.
10. Fees. Use of the 5-Actions Program™ is FREE for all Users of the state of New Mexico within the scope of this Agreement. Digital Therapeutics Group LLC reserves the right to charge for the 5-Actions Program™ and to change its fees from time to time should the cost of the program not be covered by the state. If The 5-Actions Program™ terminates your account because you have breached the Agreement, you shall not be entitled to the refund of any unused portion of subscription fees.

11. Password. When you sign up to become a User, you will also be asked to choose a password. You are entirely responsible for maintaining the confidentiality of your password. You agree not to use the username or password of another User at any time or to disclose your password to any third party. You agree to notify The 5-Actions Program™ immediately if you suspect any unauthorized use of your account or access to your password. You are solely responsible for any and all use of your account.
12. Non-Commercial Use by Users. The 5-Actions Program™ is for your personal use only and may not be used in connection with any commercial endeavors except those that are specifically endorsed or approved by the 5-Actions Program™. Illegal and/or unauthorized use of The 5-Actions Program™, including collecting usernames and/or email addresses of Users by electronic or other means for the purpose of sending unsolicited email or unauthorized framing of or linking to the 5-Actions Program™ Site is prohibited. Appropriate legal action will be taken for any illegal or unauthorized use of the 5-Actions Program™ services.
13. Disclaimers. The 5-Actions Program™ is not responsible for any incorrect or inaccurate Content posted on the 5-Actions Program™ Site or in connection with the 5-Actions Program™ services. Profiles created and postings made by Users on the 5-Actions Program™ Site may contain links to other websites. The 5-Actions Program™ is not responsible for the Content, accuracy or opinions expressed on such websites, and such websites are in no way investigated, monitored, or checked for accuracy or completeness by The 5-Actions Program™. Inclusion of any linked website on The 5-Actions Program™ does not imply approval or endorsement of the linked website by The 5-Actions Program™. When you access these third-party sites, you do so at your own risk. The 5-Actions Program™ takes no responsibility for third party advertisements that are posted on the 5-Actions Program™ Site or through the 5-Actions Program™ services, nor does it take any responsibility for the goods or services provided by its advertisers. The 5-Actions Program™ is not responsible for the conduct, whether online or offline, of any User of The 5-Actions Program™. The 5-Actions Program™ assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, any User communication. The 5-Actions Program™ is not responsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of any email or players due to technical problems or traffic congestion on the Internet or on any of the 5-Actions Program™ services or combination thereof, including any injury or damage to Users or to any person's computer related to or resulting from participation or downloading materials in connection with the 5-Actions Program™. Under no circumstances shall the 5-Actions Program™ be responsible for any loss or damage, including personal injury or death, resulting from use of the 5-Actions Program™, attendance at a 5-Actions Program™ event, from any Content posted on or through the 5-Actions Program™ services, or from the conduct of any Users of the 5-Actions Program™, whether online or offline. The 5-Actions Program™ is provided "AS-IS" and as available and the 5-Actions Program™ expressly disclaims any warranty of fitness for a particular purpose or non-infringement. The 5-Actions Program™ cannot guarantee and does not promise any specific results from use of the 5-Actions Program™ services.
14. Limitation on Liability. IN NO EVENT SHALL THE 5-ACTIONS PROGRAM™ BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT DAMAGES ARISING FROM YOUR USE OF THE

SERVICES, EVEN IF THE 5-ACTIONS PROGRAM™ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE 5-ACTIONS PROGRAM™'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO THE 5-ACTIONS PROGRAM™ FOR THE 5-ACTIONS PROGRAM™ SERVICES DURING THE TERM OF USE.

15. Disputes. If there is any dispute about or involving the 5-Actions Program™, you agree that the dispute shall be governed by the laws of Oregon, USA, without regard to conflict of law provisions and you agree to exclusive personal jurisdiction and venue in the state and federal courts of the United States located in Oregon. Either the 5-Actions Program™ or you may demand that any dispute between the 5-Actions Program™ and you about or involving the 5-Actions Program™ services must be settled by arbitration utilizing the dispute resolution procedures of the American Arbitration Association (AAA), provided that the foregoing shall not prevent the 5-Actions Program™ from seeking injunctive relief in a court of competent jurisdiction.
16. Indemnity. You agree to indemnify and hold the 5-Actions Program™, its subsidiaries, and affiliates, and their respective officers, agents, partners and employees, harmless from any loss, liability, claim, or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your use of the 5-Actions Program™ Services in violation of this Agreement and/or arising from a breach of this Agreement and/or any breach of your representations or warranties set forth above and/or if any Content that you post on the 5-Actions Program™ Site or through the 5-Actions Program™ services causes the 5-Actions Program™ to be liable to another.
17. Other. This Agreement is accepted upon your use of the 5-Actions Program™ Site or any of the 5-Actions Program™ services and is further affirmed by your becoming a User. This Agreement constitutes the entire agreement between you and the 5-Actions Program™ regarding the use of the 5-Actions Program™. The failure of the 5-Actions Program™ to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The sections titles in this Agreement are for convenience only and have no legal or contractual effect. The 5-Actions Program™ is a trademark of Digital Therapeutics Group LLC dba the 5-Actions Program™. This Agreement operates to the fullest extent permissible by law. If any provision of this Agreement is unlawful, void, or unenforceable, that provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.
18. General. Use of the 5-Actions Program™ is permissible in the state of New Mexico within the scope of this Agreement. Use of the 5-Actions Program™ makes no claims that the Site is appropriate or may be accessed and used outside of the state of New Mexico. Access to the Site may not be legal by certain persons or in certain countries. If you access the 5-Actions Program™ Site from outside the United States, you do so at your own risk, and you are solely responsible for compliance with the laws of your jurisdiction. All of the provisions of this Agreement survive the expiration or termination of the terms and conditions for any reason whatsoever.
19. Jurisdiction. You expressly agree that exclusive jurisdiction for any dispute with the 5-Actions Program™, or in any way relating to your use of the 5-Actions Program™ site, resides in the Courts of Oregon and you further agree and expressly consent to the exercise of personal jurisdiction in the Courts of Oregon in connection with any dispute including any claim involving The 5-Actions

Program™ or its affiliates, subsidiaries, employees, contractors, officers, directors, telecommunication providers and content providers.

These Terms and Conditions are governed by the laws of Oregon, without respect to its conflicts of law principles. If any provisions of these Terms and Conditions are found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms and Conditions, which shall remain in full force and effect. No waiver of any of these Terms and Conditions shall be deemed a further or continuing waiver of such term or condition or any other term or condition.

Complete Agreement, Except as Expressly Provided in a Particular “Legal Notice” on the 5-Actions Program™ Site.

These Terms and Conditions constitute the entire Agreement between you and the 5-Actions Program™ with respect to the use of the 5-Actions Program™ Site. Your use of the 5-Actions Program™ Site is also subject to the 5-Actions Program™ disclaimers and policies posted herewith.

## **Privacy Policy**

At the 5-Actions Program™, protecting your privacy is important to us. We understand you may have questions or concerns regarding disclosing personal information and how this information will be used. With this in mind, we have developed this Privacy Policy.

### ***Applicability of Privacy Policy***

This Privacy Policy applies solely to information we collect through the Site. On some of the pages on the Site, you may be able to conduct personal tests, submit queries, download information, and be referred to links outside the website that are in no way associated with the 5-Actions Program™ (see below Links to Other Sites).

The types of information we collect when you access the Site may include the following:

1. Your electronic mail (“email”) address
2. The county you reside in
3. Whether you are using the site for yourself, a loved one, or as a healthcare provider
4. Any information that you may provide in a form on the Site
5. The Internet Protocol address from which you accessed the Site
6. Contents of queries
7. The items you clicked on the applicable web page
8. Information and data that you *provide permission to collect* for research and outcome purposes

## ***Our Use of Your Information***

For Users of this Site, we may aggregate the responses of your data, tests, or other non-personal data to create anonymous aggregated data, and provide the anonymous aggregated data to the state of New Mexico. For any User, we may aggregate your non-personal data with the non-personal data of our other Users. We also collect and analyze general traffic patterns within our Site to help maintain the flow and content of the Site, and we may use some or all of this anonymous aggregated information to support our commercial activities or for any other reason.

In addition, we may collect other personally identifiable information about you through the Site to learn more about you and to provide you with services. Except as specified in this Privacy Policy or as otherwise authorized by you, we will not disclose your personally identifiable information to any third party, unless required to do so by law; provided, however that we may (i) use such information to support customer satisfaction initiatives, (ii) from time to time disclose such information to other companies that are affiliates of the 5-Actions Program, and (iii) disclose such information to a third party that is a successor to all or part of our business, provided that such third party agrees to comply with the provisions of our Privacy Policy with respect to the use of your information. We may from time to time send information or offers to the email address you provide to us. If you prefer not to receive such emails, please follow the procedures set forth at the end of each email explaining how you can have your email address removed from the applicable email list. Alternatively, you may contact us at [info@nm5actions.com](mailto:info@nm5actions.com) “opt out” of receiving such email.

We are a private entity not affiliated with any business, organization, public agency or with the federal, state, or municipal government. In the event that you are becoming a User of our Site through or by invitation of a business, organization, public agency or the federal, state or town government or any municipal organization, we welcome you; however please be advised that we are providing services to the governmental organization by contract and we are not a public agency or governmental affiliate. We are not responsible for the actions or inactions of the business, organization or governmental entity of any nature including the privacy and security of information which you may supply to the public or governmental agency.

We will never sell or rent your private information.

## ***Links to Other Sites***

When you are on the Site you could be directed to other third party sites that are beyond our control. We do not endorse, and are not responsible for, the privacy practices or the content of these websites. Moreover, these other sites may send their own cookies to users, collect data, or solicit personal information. While the 5-Actions Program™ strives to protect its Users’ personal information disclosed online, this Privacy Policy does not extend to anything that is inherent in the operation of the Internet, and therefore beyond the 5-Actions Program’s control, and is not to be applied in any manner contrary to applicable law or governmental regulation.



### ***Information from Children***

We do not knowingly solicit or collect information from any individuals under the age of 18, nor do we provide any of our products or services to individuals under the age of 18. If you believe that we have inadvertently collected any such information, or provided any such products or services, please contact us immediately so that we may delete the information.

### ***Our Commitment to Data Security***

To prevent unauthorized access to your personally identifiable information, maintain data accuracy, and ensure the correct use of such information, we have put in place certain physical, electronic and managerial procedures to safeguard and secure the information we collect, although no system is completely secure. We urge you to take adequate precautions to protect your personal data, which should include never sharing your username and password with anyone.

### ***Changes to Our Privacy Policy***

We reserve the right to revise this Privacy Policy from time to time in our discretion. If we modify this Privacy Policy, we will post the revised Privacy Policy, which will take effect immediately upon posting, and we may attempt to notify you of such a change through the email address you provide to us. It is your responsibility to periodically review this Privacy Policy.

### ***How to Contact Us***

Should you have questions or concerns about this Privacy Policy or any other matter pertaining to our privacy practices, please contact us at the numbers stated below, or send an email to the following address: [\*\*info@nm5actions.com\*\*](mailto:info@nm5actions.com).