

## Terms of Use

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### 1. ABOUT US

The ACT Guide is a product developed and maintained by the ACT Research Group (“us”, “we” or “our”) in the Psychology Department of the Emma Eccles Jones College of Education and Human Services at Utah State University (“USU”). The ACT Research Group’s contact information is: 2810 Old Main Hill, Logan, UT, 84322, USA, (385) 374-0338.

### 2. ABOUT OUR PROGRAM

The ACT Research Group believes in providing evidenced-based strategies to improve emotional wellbeing. The ACT Guide (the “Program”) offers helpful information and ways for practicing new skills in an easy-to-use online format. We deliver to users (“Users”, “you”, “your”) self-help tools via our online platform.

### 3. ABOUT THESE TERMS OF USE

These ACT Guide Terms of Use (“Terms of Use”) are legally binding terms for your use of the Program. You should also review ACT Guide’s Privacy Policy, currently located at <https://scce.usu.edu/services/act-guide/Privacy.pdf>, which contains important information about how we use data collected as a result of your use of the Program. By accessing and using the Program, you agree to comply with and be bound by these Terms of Use. ACT Guide reserves the right, at its sole discretion, to modify, discontinue, or terminate access to the Program at any time and without prior notice. If you do not agree to these Terms of Use, you should not access or use the Program.

### 4. CHANGES TO THESE TERMS OF USE

The ACT Research Group may change these Terms of Use from time to time as determined by USU. If we make any material changes to these Terms of Use, we will post a notification on the ACT Guide website and, if you are registered, notify you via email and/or by asking you to review the changes to these Terms of Use the next time you access the Program. Your continued use of the Program after the time the changes are communicated will indicate your acceptance of the Terms of Use, including those changes.

### 5. YOUR ACCOUNT

a. Eligibility. By creating an account, you represent and warrant that: (i) all required registration information you submit, whether through ACT Guide, is truthful and accurate; and (ii) you will maintain the accuracy of such information.

b. Your password. When you register, you will be asked to choose a username and a password. You are responsible for maintaining the confidentiality of your password and all use of your ACT Guide account. You agree not to use the account, username, or password of another User. You agree to notify us immediately if you suspect any unauthorized use of your ACT Guide account or access to your password.

c. Deactivation of account & information retention. The ACT Research Group may restrict, deactivate, or terminate your access to the Program or your ACT Guide account if we believe

that you are in breach of these Terms of Use. You understand that deactivation of your ACT Guide account by you or by us may remove information from our live databases, but that our servers may maintain certain information for archival or legal purposes.

## 6. PERMITTED USE OF PROGRAM

The Program is made available to you for your non-commercial use only. You agree not to use the Program or any of its Content to promote a product or service. You may not modify, reproduce, download, store, distribute, publish, license, or create derivative works from the Program or from the Content. You may not access the Program in any way that could damage, disable or overburden the Program. You may not use any third-party APIs, software, tools or scripts to access or modify the Program or underlying technology, unless you are authorized in writing by ACT Guide.

## 7. LICENSE & INTELLECTUAL PROPERTY OWNERSHIP

USU grants to you the personal, non-exclusive, revocable, non-transferable right to use the software and technology that is provided as part of the Program and Content for your use in accordance with these Terms of Use. You acknowledge that USU owns all right, title, and interest in and to the Program, including without limitation, all underlying software and technology, and all other Intellectual Property Rights in relation to the Program, other than that owned by third parties. "Intellectual Property Rights" means any and all intellectual property rights existing in any part of the world under applicable law, including without limitation patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all applications, renewals, extensions and restorations of such rights, now or hereafter in effect worldwide.

## 8. CONTENT

In all cases, "Content" means any and all text, images, photos, videos, sounds, messages, files, feedback, bug reports, or other materials and works of authorship. The Content that you encounter has different rules and restrictions, as set forth below:

a. ACT Guide Content and ownership. You acknowledge and agree that USU owns or controls all right, title and interest in the Program and in the Content included within the Program, including its logos and all other Intellectual Property Rights it controls ("ACT Guide Content").

b. Content restrictions. You agree not to (i) modify, copy, publish, display, transmit, distribute, perform, sell or create derivative works based on the Content and Program; (ii) rent, lease, loan or sell access to the Program; or (iii) decompile, reverse engineer or copy any Content (other than the Content you post) or the Program. You also agree to not remove, obscure or alter our or a third party's copyright notice, logos, trademarks or other proprietary rights notices affixed to or contained within the Program. You will not interfere with, disrupt or create an undue burden on the Program or the networks or services connected to the Program.

## 9. SUBSCRIPTION & OTHER CHARGES

We require a one-time access fee charged in advance. Your payment will be charged and processed by PayPal, Inc. and transferred to us.

a. If you purchase access to the Program, you agree that your access is personal to you, and you may not share your account and password with others. Any such sharing by you of your account and password is a violation of these Terms of Use and may result in the cancellation of your access without refund. You must be at least 18 years of age to sign up and use the Program. After purchase, you will be able to use the Program for six months after the date of your purchase.

b. Payment. When you pay for access, we will take your credit card or other payment information and billing address and will collect and use such information in accordance with the ACT Guide Privacy Policy. If your designated payment method is refused or returned, you acknowledge that we may immediately cancel your access. Prices and payments are in United States currency only, and you are responsible for paying any applicable taxes, unless stated otherwise.

c. Refund. If, for any reason, the Program does not meet your expectations, we will offer a full refund if you contact us within 10 days of purchasing access. If you receive a refund, you will no longer be able to access the Program. Data you provide us with while using the Program will still be retained in accordance with our Privacy Policy, unless you request that your data be deleted.

## 10. YOUR BREACH OF THESE TERMS OF USE

Any breach by you of these Terms of Use may result in, among other things, termination or suspension of your rights to use the Program and deactivation of your account.

## 11. LEGAL OBLIGATIONS

In order to cooperate with legitimate government or regulator requests, subpoenas or court orders, to protect our systems and Users, to protect the property and rights of USU or a third party, to protect the safety of the public or any person, or to prevent or stop activity we may consider to be, or to pose a risk of being, illegal, unethical or legally actionable, we may access and disclose any information and Content we consider necessary or appropriate, including, without limitation, account information, device ID, IP address, usage history and other information and data.

## 12. DISCLAIMER OF WARRANTIES

THE PROGRAM IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITH NO WARRANTIES WHATSOEVER. NEITHER USU NOR ACT GUIDE MAKES ANY CLAIMS WHATSOEVER ABOUT ANY MEDICAL OR HEALTH BENEFITS FROM THE USE OF THE PROGRAM AND DOES NOT PURPORT TO GIVE MEDICAL ADVICE. IT IS SOLELY YOUR RESPONSIBILITY TO CONSULT WITH YOUR OWN LICENSED MEDICAL AND HEALTH PRACTITIONERS ABOUT YOUR OWN PHYSICAL AND MENTAL HEALTH. NO DOCTOR-PATIENT RELATIONSHIP IS CREATED BY YOUR USE OF THE PROGRAM. USU AND ITS ACT RESEARCH GROUP EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES ASSOCIATED WITH THE PROGRAM, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT OF PROPRIETARY RIGHTS. USU DISCLAIMS ANY WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AVAILABILITY, QUALITY AND

PERFORMANCE OF THE PROGRAM. USU DISCLAIMS ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM YOUR USE OF THE PROGRAM, AND DOES NOT GUARANTEE THAT YOU WILL RECEIVE ANY BENEFIT FROM YOUR USE OF THE PROGRAM. YOU UNDERSTAND AND AGREE THAT YOU USE THE PROGRAM AT YOUR OWN DISCRETION AND RISK.

### 13. LIMITATION OF LIABILITY

Under no circumstances shall USU, the ACT Research Group, or the Emma Eccles Jones College of Education and Human Services, or any of their officers, directors, employees, students, agents, or representatives be liable to you in connection with your use or misuse of the Program. Such limitation of liability shall apply to prevent recovery of indirect, incidental, consequential, special, exemplary, and punitive damages whether such claim is based on warranty, contract, tort (including negligence), or otherwise (even if ACT Guide has been advised of the possibility of such damages). This limitation of liability shall apply whether the damages arise from use or misuse of and reliance on the Program, from inability to use the Program, from any claim relating to the user of the Program, or from the interruption, suspension, or termination of the Program. Some states or other jurisdictions do not allow the exclusion or limitation of liability for incidental or consequential damages, so the above limitations and exclusions may not apply to you.

### 14. RELEASE

You hereby release USU, our officers, directors, employees, students, agents, and representatives from claims, demands, any and all losses, damages, rights, claims, and actions of any kind including, without limitation, personal injuries, emotional distress, death and property damage, that is either directly or indirectly related to or arises from (i) your use of the Program or (ii) your participation in any offline events. If you are a California resident, you hereby waive California Civil Code Section 1542, which states: "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."

### 15. INDEMNITY

You agree to defend, indemnify and hold USU, its officers, directors, employees, students, agents, and representatives harmless from and against any claims, liabilities, damages, losses and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or in any way connected with your access to or use of the Program or your violation of these Terms of Use.

### 16. RESPONSIBILITY

Your interaction with third parties, including any payment or delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and the third party. You agree that USU will not be responsible for any loss or damage incurred as the result of any such dealings or with respect to any third party's use or disclosure of your personal information that you make available to them. If there is a dispute between you and any third party, we are under no obligation to become involved and you agree not to involve us unless we request otherwise in writing; however, we reserve the right, but have no obligation, to monitor disputes between you and third parties.

## 17. THIRD PARTY SERVICES AND PARTNER COMMUNITIES

The Program may contain links to third party applications, websites or services, and also may be accessed via a plug-in through third party applications, websites or services (“Third Party Services”). We may also enable sharing and interoperability to Third Party Services, Partner Communities and other Users or use other means that allow you to connect the Program to Third Party Services, Partner Communities and other Users. You use all such connections to Third Party Services and Partner Communities at your own risk. To the extent such links are provided by us, they are provided only as a convenience and do not imply our endorsement of or affiliation with such Third Party Service or Partner Community. While we will always strive to select the best partners, we accept no responsibility for the quality, content, policies or reliability of Third Party Services or Partner Communities or for links back to the Program. You should review applicable terms and policies, including privacy and data gathering practices, for any Third Party Services or Partner Communities and should make whatever investigation you feel necessary or appropriate and choose appropriate settings for sharing your personal information before proceeding with any interaction with a Third Party Service or Partner Community.

## 18. COMMENTS

If you have comments on the Program or ideas on how we might improve, please contact us at [ACTGuide@usu.edu](mailto:ACTGuide@usu.edu). If you submit any comments or ideas to us, you hereby grant to us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sub-licensable and transferable license under any and all Intellectual Property Rights that you own or control to use, copy, modify, create derivative works based upon and otherwise exploit the comments and ideas for any purpose. The licenses granted under this Section shall survive the termination or expiration of these Terms of Use.

## 19. INITIAL RESOLUTION OF QUESTIONS OR DISPUTES

If you have any questions or concerns about the Program or these Terms of Use, we strongly encourage you to first contact us at [ACTGuide@usu.edu](mailto:ACTGuide@usu.edu) directly.

## 20. ARBITRATION

For any claim where the total amount of the award sought is less than \$10,000 (excluding claims for injunctive or other equitable relief), either party may elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. In the event a party elects arbitration, they shall initiate such arbitration through an established alternative dispute resolution (“ADR”) provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: (i) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner shall be chosen by the party initiating the arbitration; (ii) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and (iii) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Any dispute resolution proceedings, whether in arbitration or court, will be conducted only on an individual basis and not in a class or representative action or as a named or unnamed member in a class, consolidated, representative or private attorney general legal action.

## 21. LAW AND JURISDICTION

These Terms of Use shall be governed by the laws of the State of Utah without giving effect to any conflicts of laws principles that would require the application of the law of a different jurisdiction. You agree that any claim or dispute you may have against USU or ACT Guide must be resolved by a court located in Cache County, Utah, except as otherwise agreed by the parties or as in the arbitration option. You agree to submit to the personal jurisdiction of the courts located within Cache County, Utah for the purpose of litigating all such claims or disputes.

## 22. MISCELLANEOUS PROVISIONS

If for any reason a court finds any provision or portion of these Terms of Use to be unenforceable, the remainder of the Terms of Use will continue in full force and effect. The provisions of these Terms of Use that by their nature are continuing will survive any termination. The Terms of Use is the entire agreement between the parties with respect to the use of the Program and supersedes and replaces all prior or contemporaneous communications or agreements, written or oral. Any waiver of any provision of these Terms of Use will be effective only if in writing and signed by ACT Guide.

- I hereby agree to the Terms of Use. I warrant that I am at least eighteen (18) years of age. I understand and agree that by checking this box, I am electronically signing and agreeing to be bound by the Terms of Use.