

VIGOROOM

TERMS OF USE AND PRIVACY POLICY

PART I — TERMS OF USE

1. Acceptance of These Terms

These Terms of Use (the “Terms”) govern your access to and use of the Vigoroom website, mobile applications, software, programs, challenges, games, educational content, connected-device features, rewards, and related services (collectively, the “Services”) provided by ProActive Health Solutions, LLC (“Vigoroom,” “we,” “us,” or “our”).

By creating an account, accessing, or using the Services, you agree to be legally bound by these Terms and the Vigoroom Privacy Policy, which is incorporated into these Terms by reference. If you do not agree to these Terms or the Privacy Policy, do not create an account or use the Services.

If you are under 18 years of age, you may not use the Services unless Vigoroom has expressly authorized your participation in a program that permits users under 18.

2. Description of the Services

Vigoroom provides technology designed to support wellness, health, fitness, engagement, education, games, challenges, and related activities. Services available to you may vary depending on the program sponsored by your employer or other Vigoroom client, your eligibility, your connected devices, and other factors.

Vigoroom may change, suspend, or discontinue features of the Services from time to time.

3. Medical and Wellness Disclaimer

The Services are intended for general wellness, fitness, education, engagement, and informational purposes. The Services are not intended to diagnose, treat, cure, or prevent any disease or medical condition and are not a substitute for advice, diagnosis, or treatment from your physician or another qualified health professional.

You are responsible for determining whether participation in any activity is appropriate for you. Consult your physician or other qualified health professional before beginning or changing an exercise, wellness, nutrition, or other health-related program, particularly if you have a medical condition, injury, or other health concern.

If you experience pain, injury, illness, or other adverse effects while using the Services, stop the applicable activity and seek appropriate medical attention.

4. Voluntary Participation

Participation in Vigoroom programs, challenges, games, educational activities, and other activities is voluntary. Participation may be subject to additional program-specific rules communicated to you before or during participation.

Any wellness, educational, game, or reward benefit offered through the Services is not a promise or guarantee of a particular health outcome.

5. Accounts and Account Information

You must provide accurate information when creating an account and must keep information necessary to administer your account reasonably current.

Your account is personal to you. You may not create or use an account for another person, create multiple accounts for the purpose of obtaining additional plays or rewards, or allow another person to use your account in a manner that violates these Terms or applicable program rules.

Vigoroom does not store user passwords in readable form. You are responsible for maintaining the security of your account credentials and should promptly notify Vigoroom if you believe your account has been accessed without authorization.

6. Information Provided by Your Employer

If your Vigoroom account is sponsored or authorized by an employer or other Vigoroom client, that organization may provide Vigoroom with information necessary to invite you, establish your account, determine eligibility, administer the applicable program, and provide the Services. Depending on the program, this information may include your name, email address, date of birth, employer or employee identification number, job title, job location, prize preferences, and whether you are enrolled in the employer's health plan.

The information Vigoroom receives from an employer and how it is used are described in the Privacy Policy.

7. Connected Devices and Activity Information

If you choose to connect a supported health, fitness, or wearable device or service, Vigoroom may receive information made available through that connection. Vigoroom currently uses an Apple Health SDK and Terra Enabling Developers to facilitate integrations with supported wearable devices and services.

Information received from connected devices may include steps, calories burned, and other activity or wellness measurements depending on the device, service, and permissions you grant.

Vigoroom relies on connected devices and third-party services for certain information and cannot guarantee that device data will always be accurate, complete, timely, or available.

8. Activity Information and PHI

Vigoroom may use activity information such as steps and calories burned to administer programs, calculate participation, provide game plays, determine challenge results, and administer rewards.

Vigoroom does not treat a user's step count or calories-burned information collected for participation in Vigoroom's wellness activities as Protected Health Information ("PHI") under HIPAA solely because the information relates to physical activity or wellness. Whether information constitutes PHI is determined by applicable law and the circumstances under which the information is collected, received, maintained, or disclosed.

Certain activity information, including steps and calories burned, may be made available to an employer's Platform Administrator through applicable Vigoroom reports, games, challenges, or other program features, as described in the Privacy Policy. An employer's Platform Administrator is bound by agreement to keep user data private and secure.

9. Challenges, Games, Programs, and Participation

Vigoroom may offer programs, challenges, games, videos, educational activities, and other experiences. Participation requirements and methods for earning game plays or other benefits may vary by program.

You may not manipulate, falsify, interfere with, or attempt to circumvent activity measurements, wearable-device data, challenge rules, game-play calculations, reward eligibility requirements, or other mechanisms used by the Services.

Vigoroom may correct activity, participation, or reward records when reasonably necessary to address data errors, technical problems, fraud, abuse, or violations of program rules.

10. Rewards and Prizes

Rewards and prizes may be offered in connection with particular Vigoroom programs or challenges or general engagement. Eligibility, amounts, types, and methods of delivery may vary and may be subject to additional rules communicated to you.

Vigoroom may use third-party reward or fulfillment providers to deliver rewards. Vigoroom may provide those providers with information reasonably necessary to fulfill the applicable reward, such as your email address.

Vigoroom may withhold, cancel, or correct a reward when eligibility was obtained through fraud, manipulation, technical abuse, multiple accounts, inaccurate information, or violation of applicable program rules.

You are responsible for any taxes or other obligations associated with rewards or prizes to the extent required by applicable law.

11. Limited License

Vigoroom grants you a nonexclusive, nontransferable, revocable, limited license to access and use the Services for your personal, noncommercial use and for participation in an authorized employer or client program. You may not rent, lease, loan, sell, sublicense, or commercially exploit the Services.

12. Prohibited Conduct

You may not:

- use the Services for an unlawful purpose or in violation of applicable law;
- attempt to gain unauthorized access to the Services, accounts, systems, networks, or data;
- reverse engineer, decompile, disassemble, or attempt to derive source code from the Services except to the extent expressly permitted by applicable law;
- scrape, copy, reproduce, distribute, or commercially exploit the Services or their content without authorization;
- introduce malicious code or interfere with the operation or security of the Services;
- use profane language in chats or upload pornographic or offensive images;
- falsify activity or device information or manipulate challenge, game, or reward mechanisms;
- create multiple accounts to obtain additional benefits; or
- use the Services in a manner that violates these Terms or applicable program rules.

13. Intellectual Property

The Services, including their software, design, content, trademarks, service marks, graphics, game implementations, challenge mechanisms, algorithms, and other materials, are owned by ProActive Health IP, LLC or its licensors and are protected by applicable intellectual-property laws.

The Services are leased to and made available to users by ProActive Health Solutions, LLC. You acquire no ownership interest in the Services. You may not remove or obscure copyright, trademark, or other proprietary notices.

14. Third-Party Services and Content

The Services may integrate with or contain links to third-party products, services, devices, websites, applications, or content. Vigoroom is not responsible for third-party services or content and does not control the practices of third parties.

Your use of a third-party service may be subject to that provider's separate terms and privacy policy.

15. Service Availability

Vigoroom seeks to maintain reliable Services but does not guarantee that the Services will always be available, uninterrupted, error-free, or compatible with every device or system. The Services may be unavailable because

of maintenance, upgrades, technical problems, third-party services, connectivity issues, or circumstances beyond Vigoroom's reasonable control.

16. Disclaimer of Warranties

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." VIGOROOM DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, AVAILABILITY, AND THAT THE SERVICES WILL MEET YOUR PARTICULAR REQUIREMENTS OR PRODUCE A PARTICULAR HEALTH OR WELLNESS RESULT.

17. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VIGOROOM AND ITS AFFILIATES, PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, SUCCESSORS, ASSIGNS, AND THIRD-PARTY SERVICE PROVIDERS (COLLECTIVELY, THE "COVERED PARTIES") WILL NOT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR LOST PROFITS, DATA, GOODWILL, OR BUSINESS OPPORTUNITIES, ARISING OUT OF OR RELATED TO THE SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF THE COVERED PARTIES FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE SERVICES WILL NOT EXCEED FIVE HUNDRED DOLLARS (\$500).

Nothing in these Terms is intended to exclude or limit liability that cannot lawfully be excluded or limited under applicable law.

18. Indemnification

To the maximum extent permitted by applicable law, you agree to defend, indemnify, and hold harmless Vigoroom and its officers, directors, employees, partners, affiliates, agents, contractors, successors, and assigns from claims, liabilities, damages, losses, costs, and reasonable attorneys' fees arising from your unlawful use of the Services, your violation of these Terms, your fraud or intentional misconduct, or your violation of another person's rights.

Vigoroom will provide reasonable notice of a covered claim. You may not settle a claim in a manner that imposes an obligation or admission on Vigoroom without Vigoroom's prior written consent.

19. Suspension and Termination

Vigoroom may suspend or terminate access to the Services when reasonably necessary to protect the Services, users, Vigoroom, or a client; to address fraud, abuse, security concerns, or violations of these Terms; or when the applicable employer or client no longer authorizes your participation.

When your authorization to use the Services ends, your user information may be archived as described in the Privacy Policy.

20. Changes to These Terms

Vigoroom may update these Terms from time to time. Minor changes may become effective when posted. For material changes, Vigoroom will provide notice by an appropriate method when required or appropriate. The updated Terms will identify their effective or last-updated date. Your continued use of the Services after the effective date of revised Terms constitutes acceptance of the revised Terms to the extent permitted by law.

21. Binding Arbitration and Dispute Resolution

IMPORTANT: This Section affects your legal rights. It requires most disputes between you and Vigoroom to be resolved by binding, individual arbitration rather than in court, and it limits the ability to participate in a class action. Please read it carefully.

Agreement to Arbitrate. To the maximum extent permitted by applicable law, you and Vigoroom agree that any dispute, claim, or controversy arising out of or relating to the Services, these Terms, the Privacy Policy, your account, or your relationship with Vigoroom, including claims concerning privacy, data, rewards, or the use or termination of the Services, will be resolved by final and binding arbitration rather than in court, except as expressly provided below.

Federal Arbitration Act. The parties agree that the Federal Arbitration Act ("FAA") governs the interpretation and enforcement of this arbitration provision to the fullest extent permitted by law.

Individual Arbitration Only. Arbitration will be conducted only on an individual basis. Neither you nor Vigoroom may participate in a class action, class-wide arbitration, collective action, or representative action concerning a dispute covered by this Section, and the arbitrator may not consolidate the claims of different persons or conduct any form of representative or class proceeding, except to the extent applicable law expressly provides that such a waiver cannot be enforced.

Small Claims Court. Either party may bring an individual claim in small claims court if the claim qualifies for that court and the action remains an individual claim. If a party initiates an eligible small-claims action, the arbitration requirement will not apply to that claim unless the action is transferred, removed, or otherwise determined not to qualify for small claims court.

Informal Resolution. Before initiating arbitration, the party seeking relief will provide the other party with written notice describing the dispute and the requested resolution. The parties will have at least 30 days after receipt of the notice to attempt to resolve the dispute informally. Notice to Vigoroom must be sent to: ProActive Health Solutions, LLC, PO Box 445, Kaysville, Utah 84037, with a copy to privacy@vigoroom.com for privacy-related disputes.

Arbitration Administrator and Rules. Unless the parties agree otherwise, arbitration will be administered by JAMS under its applicable consumer arbitration rules. If JAMS is unavailable or cannot administer the dispute, the parties will select another nationally recognized arbitration provider with substantially similar consumer procedures. The arbitrator will be neutral and independent and will have authority to award the same individual remedies that a court could award under applicable law.

Location and Procedure. Arbitration may be conducted remotely by video, telephone, or other electronic means when appropriate. If an in-person hearing is required, it will take place in the county where you reside or another location mutually agreed by the parties, subject to applicable law and the administrator's rules.

Arbitration Costs. Vigoroom will pay or reimburse arbitration fees to the extent required by the applicable consumer arbitration rules or applicable law. Each party remains responsible for its own attorneys' fees and costs unless the arbitrator or applicable law provides otherwise.

Exceptions. Nothing in this Section prevents either party from seeking temporary, preliminary, or emergency injunctive relief from a court of competent jurisdiction when necessary to protect intellectual property, confidential information, account security, or prevent immediate harm while arbitration is pending, to the extent permitted by law.

Severability. If any portion of this arbitration provision is found unenforceable, the remainder will remain in effect to the fullest extent permitted by law, except that if the prohibition on class, collective, or representative proceedings is found unenforceable as to a particular claim, that claim will proceed in court to the extent required by applicable law rather than in class or representative arbitration.

No Jury Trial. To the extent a dispute is permitted to proceed in court rather than arbitration, you and Vigoroom each knowingly waive any right to a jury trial to the extent permitted by applicable law.

This arbitration provision survives termination of these Terms and your use of the Services.

23. General Provisions

If any provision of these Terms is determined to be invalid or unenforceable, the remaining provisions will remain in effect. Vigoroom's failure to enforce a provision does not waive its right to enforce that provision later. You may not assign your rights or delegate your obligations under these Terms without Vigoroom's prior written consent.

24. Contact

Questions concerning these Terms may be directed to ProActive Health Solutions, LLC, PO Box 445, Kaysville, Utah 84037.

PART II — PRIVACY POLICY

1. Introduction

This Privacy Policy explains how ProActive Health Solutions, LLC ("Vigoroome," "we," "us," or "our") collects, uses, discloses, retains, and protects information in connection with the Vigoroome Services.

By creating a Vigoroome account or using the Services, you acknowledge that you have reviewed this Privacy Policy.

2. Information We Collect

The information Vigoroome collects depends on how you participate in the Services and the program offered by your employer or other Vigoroome client.

3. Information Provided by Your Employer or Client

When an employer or other client invites you to create a Vigoroome account, Vigoroome may receive information supplied by that organization. Depending on the program, this may include:

- Name
- Email address
- Date of birth
- Employer or employee identification number
- Job title
- Job location
- Prize preferences
- Whether you are enrolled in the employer's health plan

This information may be used to invite you to Vigoroome, establish and administer your account, determine program eligibility, administer participation and rewards, and provide the Services.

4. Information You Voluntarily Provide

After creating an account, you may voluntarily provide additional information, including health conditions, interests, fitness level, height, body weight, body measurements, and other information relating to your health, wellness, preferences, or goals.

This information may be used to personalize content recommendations, educational materials, challenges, activities, and other Services.

Information you voluntarily provide for personal recommendations is not made available to employer staff through Vigoroome's employer reporting or administrative functions.

Vigoroome personnel or authorized service providers may have limited access when necessary to operate, maintain, secure, troubleshoot, support, or improve the Services.

5. Activity and Participation Information

Vigoroome may collect information about your participation in the Services, including whether and when you participate in programs, challenges, educational activities, videos, games, or other platform activities.

Vigoroome may use participation information to administer the Services, calculate participation and rewards, generate reports, maintain security, and improve the Services.

Vigoroom does not necessarily retain the specific name or title of every program, challenge, video, or other activity that you access or participate in.

6. Activity, Fitness, and Connected-Device Information

Vigoroom may collect activity and fitness information, including steps taken, calories burned, and other activity measurements obtained from connected devices or services.

Vigoroom currently supports integration with Apple Health through an Apple Health SDK and uses Terra Enabling Developers to facilitate integrations with other supported wearable devices and services.

The information Vigoroom receives depends on the device or service and the permissions you authorize.

7. How Activity Information Is Used

Activity information may be used to calculate participation, activity levels, game plays, challenge results, program participation, reward eligibility, and other features of the Services.

Certain activity information, including steps and calories burned, may be displayed to you and may be made available to your employer through applicable Vigoroom reports, games, challenges, or other program features.

8. Employer Access to Information

Vigoroom is designed to provide employers with information about participation in employer-sponsored wellness programs while protecting information that users provide for personal recommendations.

Depending on the applicable program, an employer may be able to see:

- whether you have created your Vigoroom account;
- whether you have connected a wearable device or other supported device;
- whether you have downloaded and logged into the Vigoroom mobile application;
- activity information such as steps and calories burned that is made available through applicable Vigoroom reports, games, challenges, or program features; and
- aggregated, non-identifying information made available through employer reporting.

Employer staff do not have access through Vigoroom to health conditions, interests, fitness level, height, body weight, body measurements, or other personal-profile information that you voluntarily provide for personalized recommendations.

9. Health Information and HIPAA

Vigoroom takes the privacy and security of health and wellness information seriously. Different federal and state privacy laws may apply depending on the circumstances in which information is collected, received, maintained, or disclosed.

Where Vigoroom acts as a business associate of a HIPAA-covered entity, Vigoroom will handle Protected Health Information in accordance with applicable HIPAA requirements and the applicable Business Associate Agreement.

Information that is not Protected Health Information under HIPAA may nevertheless constitute personal information, health information, or other protected information under other applicable laws.

Vigoroom does not treat a user's step count or calories-burned information collected for participation in Vigoroom's wellness activities as PHI under HIPAA solely because the information relates to physical activity or wellness. Whether information constitutes PHI is determined by applicable law and the circumstances in which the information is collected, received, maintained, or disclosed.

10. How We Use Information

Vigoroom may use information to:

- create and administer accounts;
- provide, maintain, and improve the Services;
- administer employer-sponsored programs;
- calculate participation, game plays, challenge results, and rewards;
- provide personalized content and recommendations;
- connect and synchronize supported devices and services;
- provide customer support;
- maintain security and prevent fraud or abuse;
- communicate with users about the Services and applicable programs;
- fulfill rewards and prizes;
- perform analytics and improve platform functionality; and
- comply with legal obligations and protect the rights, safety, and security of Vigoroom, users, and others.

11. When We Share Information

Vigoroom does not sell or lease users' personal information or health and wellness information. Vigoroom does not monetize users' personal information by selling it to advertisers, data brokers, or other third parties.

Vigoroom may disclose information as reasonably necessary to provide the Services, including to:

- employers and other Vigoroom clients, as described in this Privacy Policy and the applicable program;
- technology and cloud service providers;
- security, support, and operational service providers;
- wearable-device and health-data integration providers;
- reward and prize fulfillment providers;
- professional advisers and service providers where reasonably necessary;
- government authorities or other parties when required or permitted by law; and
- successors or transaction counterparties in connection with a merger, acquisition, financing, reorganization, sale of assets, or similar transaction, subject to applicable law.

12. Rewards and Prize Fulfillment

When you are eligible for a reward or prize, Vigoroom may provide information reasonably necessary to a third-party reward or fulfillment provider. For example, Vigoroom may provide your email address to Amazon or another provider to deliver an electronic gift card or other reward.

Vigoroom seeks to limit information provided to reward providers to information reasonably necessary for fulfillment.

13. Cookies, Logs, and Technical Information

Vigoroom may collect technical information necessary to operate, secure, troubleshoot, and improve the Services, which may include device type, operating system, application version, IP address, log information, crash information, and similar technical information.

14. Data Security

Vigoroom maintains administrative, technical, and organizational safeguards designed to protect personal information against unauthorized access, acquisition, disclosure, alteration, or destruction.

Vigoroom limits access to personal information to authorized personnel, contractors, and service providers who require access to perform their responsibilities or provide services to Vigoroom.

No method of transmitting, storing, or processing information can be guaranteed to be completely secure. Vigoroom therefore cannot guarantee that information will never be accessed, disclosed, altered, or destroyed through unauthorized means.

15. Data Retention and Deletion

Vigoroom retains user information while the user is authorized to access and participate in the Services and as reasonably necessary to operate, secure, administer, and support the Services.

When a user is no longer authorized by the applicable Vigoroom client to use the Services, the user's information is archived and is no longer available for active participation in the Services.

When the applicable client terminates its Vigoroom service agreement, Vigoroom will delete or destroy active and archived user information associated with that client, except to the extent Vigoroom is required or permitted by law to retain certain information.

Information maintained in backups may persist for a limited period while those backups are overwritten or securely deleted.

16. Your Privacy Rights and Choices

Depending on where you live and applicable law, you may have rights concerning your personal information, including rights to request access to, correction of, deletion of, or information about the processing of your personal information.

You may also have rights to obtain information about certain disclosures or processing, or to exercise other rights provided by applicable state or federal law.

To submit a privacy-related request, contact privacy@vigoroom.com. Vigoroom may need to verify your identity before completing certain requests. Certain information may be retained when required or permitted by law or when necessary to protect the security and integrity of the Services.

17. Connected Services and Revoking Permissions

If you connect a wearable, health, fitness, or other supported service, you authorize Vigoroom to access the information made available through the permissions you grant. You may revoke permissions or disconnect a service through the applicable device or service settings. Disconnecting a service may affect your ability to participate in certain Vigoroom activities.

18. Third-Party Privacy Practices

Third-party services, including connected-device providers and reward fulfillment providers, may have their own privacy practices and terms. Vigoroom is not responsible for the privacy practices of third parties except as required by applicable law or contractual obligations.

19. Children's Privacy

The Services are not intended for children under 18, because they are not legally able to agree to the terms of use. If Vigoroom expressly permits participation by individuals under 18 in a particular program, additional requirements may apply. Vigoroom does not knowingly collect personal information from children under 18 without appropriate authorization.

20. Changes to This Privacy Policy

Vigoroom may update this Privacy Policy from time to time. The updated version will identify the date it was last updated. All user's will be required to accept the updated Terms and Privacy Policy from time to time and when material changes have been made to the agreements. Your continued use of the Services after the effective date of an updated Privacy Policy constitutes acknowledgment of the updated policy to the extent permitted by law.

21. Applicable Law and State-Specific Rights

Privacy rights and obligations may vary depending on your state or other jurisdiction. Where a state-specific notice is required, Vigoroom may provide that notice as an addendum or supplemental section to this Privacy Policy.

22. Contact Us

Privacy questions and requests may be submitted to:

Vigoroom Privacy Team
ProActive Health Solutions, LLC
PO Box 445
Kaysville, Utah 84037
privacy@vigoroom.com