

Terms & Conditions – EMPOWER-SMS

EMPOWER-SMS (“Program”) is a text messaging service provided by the Westmead Breast Cancer Institute (“we”/“our”/“us”). The Program is described on the registration page. A reference below to the Program includes a reference to the text messages that we will send to you, unless the context otherwise requires.

You are applying to receive the Program. Please read these terms and conditions (“T&C”) carefully, for they govern the Program. If you complete and submit your application, then as a condition of access to the Program, you will be required to accept these T&C.

The Program provides short and general information by way of text messages written in simple English of approximately 160 characters or less; it does not provide comprehensive or detailed information. The Program is designed to provide you with general information, primarily in the form of one-way communication from us to you. We do not monitor the Program daily. If you send us a message that requires a response, please expect a delay of approximately 2 – 5 days.

Disclaimer – *The Program should never be used as a substitute for seeking professional advice or help.* In particular, the Program is not intended for and should not be used for any therapeutic purpose, including the diagnosis, prevention, monitoring, treatment or alleviation of any disease. The Program is provided “as is” without warranty of any kind, excluding warranties regarding the quality, accuracy, effectiveness, timeliness, completeness or reliability of the Program. To the maximum extent permitted by law, we and our partners accept no liability for any loss or damage you (or any other person) suffer because you (or they) have directly or indirectly relied on any information provided by the Program.

Emergencies – In life threatening or emergency situations, please call Triple Zero (000) for Police, Fire or Ambulance. The Program is not suitable for use in such situations.

1. Purpose

- 1.1. **Nature** – The Program is made available to you for your general informational and educational purposes only. It is provided for your own personal use and is not intended for and should not be used by any other person. The information you provide to us is used to ensure the Program is appropriate for your condition generally, not tailored to meet any unique features of your diagnosis and/or lifestyle. We have not, and will not, verify the information that you provide to us (including that we will not conduct any examination or assessment of you).
- 1.2. **Advice** – If you require or desire medical advice, please contact a qualified healthcare professional (e.g. your general practitioner or specialist). Similarly, for advice on diet or nutrition, please contact a suitably qualified professional (e.g. a general practitioner or accredited practising dietitian). We are not able to provide you with such advice.

2. Program

- 2.1. **Duration** – This is a voluntary service. Unless you withdraw, we expect to send you messages for approximately 6 months.
- 2.2. **Withdrawal** – You can withdraw from receiving the Program at any time without having to give a reason by replying ‘STOP’ to any of our messages. Requests for withdrawal will be honoured as soon as possible and almost always within 5 business days.
- 2.3. **Cost** – We do not charge you for the Program. You are responsible for the payment of personal fees with your mobile phone carrier, including monthly subscription fees and fees for any messages that you send to us. In Australia, the majority of mobile phone subscription plans do not charge their customers for receiving standard in-coming text messages. If you are unsure, please clarify with your mobile phone service provider before signing up for the Program.
- 2.4. **Changes** – We may change, suspend or discontinue, temporarily or otherwise, any or all of the Program at any time with or without notice or liability to you.
- 2.5. **Termination** – If the Program is suspended, discontinued or terminated the following terms survive: 3.1, 3.4, 4.7, 4.8, Disclaimers.

3. Use

- 3.1. **Contrary Advice** – If any of the information in our messages contradicts recommendations or advice that you have received from the Australian Government, a qualified healthcare professional (e.g. your doctor) or the like, their advice should take precedence to the general information that we provide.

- 3.2. **Privacy and Burst SMS** – You acknowledge that you have read our Privacy Statement and that of Known Pty Ltd (ABN 40 116 431 700) trading as 'Burst SMS' ("Burst SMS"). By using the Program, you agree we can collect, store and use your information in accordance with our Privacy Statement and that Burst SMS can do so in accordance with their statement. To the extent permitted by law, the University is not liable for the actions or omissions of Burst SMS.
- 3.3. **Security** – You also acknowledge that there is a risk to your privacy when messages are received on your mobile phone. This can be minimised by ensuring your phone or hand-held device has a secure passcode lock known only to you and the message preview function is disabled. If you discover or suspect a security breach has occurred in relation to your device or the Program, please urgently contact the Westmead Breast Cancer Institute on 8890 5656 or send an email to BCI-BreastCareNurses@health.nsw.gov.au.
- 3.4. **Technology** – To receive text messages, you will need a working mobile phone, with sufficient charge, memory and reception. You acknowledge that it is possible that text messages may fail, be interrupted and/or be delayed.
- 3.5. **Intellectual Property Rights** – Except as permitted under clause 1.1 (Personal Use) or by law, you may not reproduce, modify, communicate or exploit any part of the Program.
© Dr Anna Singleton 2020 – all rights reserved. We own and retain the copyright in the messages we send to you and all other intellectual property rights including design, logo, graphics and software which are owned or licensed to the Westmead Breast Cancer Institute. You agree not to copy, use, change or remove any copyrights or other intellectual property associated with the Program without our permission.
- 3.6. **Research** – During or after your use of the Program, we may ask if you wish to participate in research regarding the Program (e.g. through a survey). Any participation will be voluntary and subject to further communication.

4. General

- 4.1. **Details** – Please ensure that the details that you provided to us are accurate. If you lose your phone, are about to travel overseas or want to change your phone number, please contact call Westmead Breast Cancer Institute on 8890 5656 or send an email to BCI-BreastCareNurses@health.nsw.gov.au and we will pause the Program or help you re-register with your new number.
- 4.2. **Eligibility** – You must be aged 18 years or older, have completed active breast cancer treatment* (surgery and/or chemotherapy and/or radiotherapy) and own a mobile phone with Australian mobile number to receive the Program. *Note: you can still be on targeted therapy (e.g. Herceptin) or taking endocrine (anti-hormone) therapy tablets. You may only accept these T&C and use the Program if you meet all eligibility criteria.
- 4.3. **Australian Consumer Law** – If the *Competition and Consumer Act 2010* (Cth) or other laws confer certain guarantees, rights or remedies on you in relation to our supply of any services under the Program, which are not able to be excluded, restricted or modified, the University's liability for breach of such a guarantee, right or remedy is limited, at the University's option: to the resupply of the relevant services; or payment of the cost of having the services resupplied.
- 4.4. **Liability Cap** – To the extent permitted at law, each party's liability to the other party for breach of contract, negligence or otherwise is limited to \$10,000.
- 4.5. **Severability** – If any part of these T&C is held to be invalid and/or unenforceable, that part shall be severed from these T&C, and the remainder of these T&C will continue to be valid and enforceable.
- 4.6. **Entire Agreement** – these T&C, together with the registration page and our Privacy Statement, constitute the entire agreement between you and the us regarding the Program. In the event of any inconsistency, these T&C prevail to the extent necessary.
- 4.7. **Advice** – Please seek *independent legal advice* if you have any questions or concerns about these T&C before accepting them.
- 4.8. **Governing Law** – These T&C are governed by and construed in accordance with the law in force in New South Wales, Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place.

5. Amendment

- 5.1. These Terms and Conditions may be amended at any time. The amended Terms and Conditions will be posted on our website or otherwise provided to you. These Terms and Conditions were last updated on 17 October 2023.