

# Terms of Service

December 18, 2023

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BECAUSE THEY SET FORTH THE IMPORTANT TERMS YOU WILL NEED TO KNOW ABOUT OUR SERVICES.

IF YOU HAVE A MEDICAL EMERGENCY, IMMEDIATELY CALL YOUR DOCTOR OR DIAL 911.

AMONG OTHER ACTIVITIES, BIOGRAPHY HEALTH ENABLES COORDINATION AND COMMUNICATION WITH INDEPENDENT HEALTHCARE PROVIDERS. OUR SERVICES DO NOT REPLACE YOUR RELATIONSHIP WITH ANY PHYSICIAN. AND OUR SERVICES MIGHT NOT BE APPROPRIATE FOR ALL MEDICAL CONDITIONS OR CONCERNS.

THESE TERMS OF SERVICE CONTAIN A MANDATORY ARBITRATION OF DISPUTES PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES IN CERTAIN CIRCUMSTANCES, RATHER THAN JURY TRIALS OR CLASS ACTION LAWSUITS. VIEW THESE TERMS [HERE](#).

## Welcome to Biography Health - your partner in proactive healthcare

Biography Health offers a modern approach to healthcare. Rather than simply reacting to disease, Biography Health aims to help you be proactive throughout your life so that you live a healthier, more active, longer life. We strive to employ the latest technologies in order to provide you with the best scientific knowledge available. And we want to help you access medical professionals and other caregivers who support this new approach to medicine so you can receive the best advice from experts.

Biography Health operates through a suite of online technology that includes our Biography Health Platform (the “Platform”) and our various delivery partners, including CLIA-certified labs and test manufacturers. The Platform may receive information from you, your devices, and other services. The Platform has features that facilitate communication and coordination between you and our care coordinators, coaches, and providers. You may also receive access to content, educational materials, reports, videos, and courses (collectively, “Content”). Our Platform and Content is accessible on our website and our mobile apps.

The Biography Health Platform, Content, and any program, product, or any other good or service offered through the Biography Health Platform are collectively referred to as the “Services.”

These Terms govern your use and access to Biography Health’s products, software, services, and website (including but not limited to text, graphics, images, and other material and information) as accessed from time to time by you, regardless if the use is in connection with an account or not (collectively, the “Services”).

Please read the Terms carefully, and any policies, guidelines or rules applicable to such Services, as they constitute a legal agreement between Biography Health and you. We also encourage you to review our Privacy Statement for additional information. Of course, if you do not agree with our Terms or any other policies, then do not use the Services. You can delete your account from your Account Settings at any time. If you have any questions or concerns about these Terms, policies, or guidelines, please contact Biography Health at [support@biographyhealth.com](mailto:support@biographyhealth.com). We are here to assist you.

Access to our Services are currently limited to individuals who live in the United State. These Terms apply to you if you access our Services in the United States. If you live outside the United States, you should not access our Services.

## 1. Who Can Use the Services

We believe everyone should be entitled to receive personalized, precision healthcare. That said, there are a few restrictions about who can use our

Services. By using the Services or creating an account, you represent, warrant and agree that:

- You can form a binding contract with Biography Health;
- You are not a person barred from receiving the Services under the laws of the jurisdiction from which you use the Services;
- You are at least 18 years old;
- Any sample you provide to Biography Health is either your own, or the sample of a minor for whom you are a parent or legal guardian, or the sample of a person for whom you are a legally authorized representative;
- You are not an insurance company or an employer; and
- You will not use the Services for any investigative forensic genealogy uses.

## **Other Terms and Conditions**

If you choose to use or purchase additional Services for a business or commercial purpose, or any purpose other than personal use, they may have their own terms and conditions. The specific terms and conditions associated with the use or purchase of additional Services are made a part of these Terms by this reference. Just like you agree to these Terms, you agree to abide by those additional terms and conditions too. If there is a conflict between these Terms and the additional terms for a specific portion of the Services, the additional terms will govern your use or purchase of the additional Services. Biography Health's obligations, if any, with regard to Services are governed solely by the agreements according to which they are provided, and nothing presented through the Services should be construed to alter such agreements.

Biography Health reserves the right to modify these Terms at any time. We will make reasonable efforts to notify you of any significant changes, such as by posting a notice on our website or sending an email to the address associated with your account. Your continued use of the Services after such changes have been posted signifies your agreement to the updated Terms.

## **Risks and Considerations Regarding Biography Health Services**

Once you obtain your genetic information, the knowledge is irrevocable. You should not assume that any information provided to you, whether now or as genetic research advances, will be welcome or positive. As research advances, you may need to obtain further Services from Biography Health, your physician, a genetic counselor, or other healthcare provider. We encourage you to talk to your Precision Medical Physician to help you understand your results and testing options.

Some people may feel anxious about getting genetic health results as you may learn information about yourself that you do not anticipate. This is normal. If you feel very anxious, you should speak to your physician or a genetic counselor prior to collecting your sample for testing. Additionally, you may discover things about yourself that trouble you and that you may not have the ability to control or change (e.g., your father is not genetically your father, surprising facts related to your ancestry, or that someone with your genotype may have a higher than average chance of developing a specific condition or disease).

Any information about you provided by Biography Health is not intended to be used by the customer for any diagnostic purpose and is not a substitute for professional medical advice. The information is not intended to tell you anything about your current state of health, or to be used to make medical decisions, including whether or not you should take a medication, how much of a medication you should take, or determine any treatment. Other than any recommendations from your healthcare provider, you should not change your health behaviors on the basis of information received from Biography Health.

Biography Health does not endorse, warrant or guarantee the effectiveness of any specific course of action, resources, tests, physician or other healthcare providers, drugs, biologics, medical devices or other products, procedures, opinions, or other information that may be mentioned on our website. If we provide any recommendations and/or potential ways to take action, this information is intended for informational purposes only and for discussion with your physician or other healthcare provider. The Services are not intended to

be used by the customer for any diagnostic purpose and are not a substitute for professional medical advice.

Reliance on any information provided by Biography Health, Biography Health employees, others appearing on our website at the invitation of Biography Health, or other visitors to our website is solely at your own risk.

If you have concerns or questions about what you learn through Biography Health, you should contact your physician or other healthcare provider before making any healthcare or lifestyle changes.

## 2. Services we Offer

### A. Non-Clinical Services

Biography Health provides non-clinical Services, including your care coordination team, health coaching, the Platform and Content. You may also make use of our partner entities and clinical services, as further described below in section 2B.

Using the Services, including providing a personal medical history, does not create a physician-patient relationship between you and Biography Health, Inc. As stated in this Terms of Use, Biography Health's website and Platform do not provide medical advice.

Any written advice or analysis that may be provided as part of the Services, including in the DNABled Blueprint Report, Platform or in Content, is for informational purposes only and is not intended alone to replace or substitute any medical or other advice.

You acknowledge that although some of our allied staff have had some formal medical provider training, their scope of employment at Biography Health is limited to helping each client to develop and achieve self-determined goals related to health and wellness. Biography Health staff do not diagnose, treat, prescribe medications or interpret medical laboratory or imaging results. You

understand that only a licensed medical professional can perform those activities.

It is recommended that you consult with an appropriately trained and qualified medical services provider prior to enacting any suggestion that may be contained in the information available in the services.

## B. Clinical Services

Biography Health contracts with separate entities (including, without limitation, the Beverly Hills Institute for Precision Medicine) to engage independent physicians and other licensed clinicians (“Precision Medicine Physicians”) to provide clinical services to you.

All Precision Medicine Physicians performing clinical services through the Platform hold the required professional licenses issued by the applicable licensing boards or agencies in the states where they practice. Biography Health, Inc. is not responsible for any clinician’s acts or omissions, or for the content of any communications made by a Precision Medicine Physician through the Platform, including without limitation any medical advice, course of treatment, or diagnosis.

You can report a complaint to us at [support@biographyhealth.com](mailto:support@biographyhealth.com). In addition, you can report a complaint relating to the healthcare provider by contacting the professional licensing board in the state where you primarily receive care.

**Use of AI:** You understand and acknowledge that delivery partners may use internally developed artificial intelligence tools (“AI Tools”) as a resource when providing their services. The delivery partners shall not use the output of the AI Tools as a substitute for their independent judgment, and the delivery partner is ultimately responsible for any recommendations, advice, or any other information, subject to the understanding that the AI Tools are intended to supplement, not replace, such independent judgment.

## C. What to Expect

After signing up directly with us, you may be asked to provide certain information about yourself, including your lifestyle and goals. Shortly after you provide this information, you will receive a Biography Health Sample Collection Kit by mail. Please follow the instructions you receive to perform the test(s) and have them processed.

After your tests have been processed, you will be able to access the test results on our Platform. You will also virtually meet with one of our Precision Medicine Physicians (or their representative) who will review your test results, health goals, genomics, and your DNAbled Blueprint Report, a detailed report that uses your lifestyle factors, test results, and health goals to provide wellness and lifestyle recommendations, including about nutrition, exercise, and recovery. You may have access to further physician consultations, subject to additional costs.

You may also be able to purchase additional lab panels at any point in your journey with us, including at the time of your initial purchase. A licensed healthcare practitioner will then order them for you, if appropriate. You will then be provided instructions on how to receive and perform the lab panels.

Finally, we will endeavor to make sure you always have reasonable access to your care coordination team, our Platform, and our support team. From time to time, we may also provide you Content through the Platform and additional products and services for purchase.

#### D. Payment

You agree to pay all fees due for services requested. When you order a service, you will be prompted for your payment details, such as your credit card information and any promotional codes you may have. By entering your payment information and submitting your request, you authorize us, our affiliates, or our third-party payment processors to charge the amount due. You understand and agree that you are responsible for all fees due to receive health care services and pharmacy services, including any fees charged by the health care organization(s) or provider(s). Your payments to Biography

Health may include fees charged by the healthcare organization(s) or provider(s) for health care services and/or pharmacy services, which Biography Health collects on their behalf. Any health care services or pharmacy services not made available through the Services are not included in the payments collected by Biography Health and you may be separately charged by the applicable health care providers for such services. In the event that your credit card expires or Biography Health, our affiliates, or our third-party payment processors are unable to process your payment, you may receive notice for you to provide an alternative payment method. Biography Health and/or the health care organization(s) and/or provider(s) reserve the right to withhold any health care services or pharmacy services unless and until full payment has been received and/or verified.

You acknowledge that any future technologies or services offered by Biography Health may come with additional fees and are not included in your initial purchase.

#### SPECIAL NOTICE TO MEDICARE AND MEDICAID BENEFICIARIES

Federal and state healthcare programs, such as Medicare and Medicaid, do not pay for all health care costs, even for some health care services and products that you or your health care provider have good reason to think you need. If you are a beneficiary of a federal or state health care program, and such program does not pay for certain services or products rendered to you, you may have to pay for these services and products. As we understand it, neither federal nor state health care programs currently pay for any of the medical services or products made available through the Services performed by affiliated health care organizations or providers, at least not in the way such services or products are provided (i.e., using telemedicine and bundled treatment offerings). By agreeing to use the Services, you acknowledge and agree that: (1) you will pay directly for any medical services and products provided to you, and (2) neither Biography Health nor any Biography Health affiliated health care organization or provider will bill any federal or state health care program for such medical services or products.

### 3. Accessing our Services

To protect our Platform and ensure that we may provide the Services to you, we require all users to comply with acceptable use requirements. We may suspend or terminate your access to the Services and Platform if you breach these Terms, including this Acceptable Use section, or for any other commercially reasonable reason. By accessing the Platform, and all features and functionalities associated therewith, you that you agree to:

- Comply with all applicable laws, rules, regulations, or other restrictions on use of the Services;
- Comply with these Terms and not act in manner in violation of Biography Health policies and instructions;
- Provide accurate and complete information and keep your payment information up-to-date;
- Not provide any inaccurate, incomplete, false or misleading information, including regarding your identity or medical condition, when using the Services;
- Create, access, and/or use only one user account, unless expressly permitted by Biography Health;
- Not impersonate any person or entity, including, but not limited to, anyone affiliated with Biography Health, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- Not share access to your account or access information for your account with any third party, unless permitted by Biography Health;
- Maintain the confidentiality and security of your username and password, and immediately notify us of any unauthorized use of your account;
- Not use any information received through the Services to attempt to identify other customers, to contact other customers, or obtain personal information of other customers;

- Not download any file posted by another user of the Service that you know, or reasonably should know, cannot legally be distributed in such manner;
- Not upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights (“Rights”) of Biography Health or any other party;
- Not advertise or offer to sell or buy any goods or services for any business purpose, unless such area specifically allows such messages;
- Not upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” or any other form of solicitation, except in those areas that are designated for such purpose and only to the extent such content is authorized by law;
- Not upload, post, email, or otherwise transmit any material 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;
- Not use manual or automated software, devices, scripts robots, other means or processes to access, “scrape,” “crawl” or “spider” any web pages or other services contained in the site, unless explicitly permitted by Biography Health;
- Not engage in “framing,” “mirroring,” or otherwise simulating the appearance or function of Biography Health’s website;
- Not attempt to or actually override any security component of Biography Health web services;
- Not interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service;
- Not assist or permit any third party to do anything prohibited by these Terms;
- Not use any meta tags or other hidden text or metadata utilizing our trademarks, logos, URLs or product names without our express written consent;
- Not harass, insult, abuse, intimidate, bully, or engage in inappropriate conduct towards anyone, including a Biography Health employee, or Service Provider;

- Not upload, post, email, or otherwise transmit any material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that might reasonably be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, religious or political beliefs, or other statutorily protected status;
- Not access the Platform when you are physically outside the United States of America;
- Not seek care for an issue or injury arising from a Worker's Compensation claim;
- Not seek care for any medical emergencies. IF YOU ARE HAVING AN EMERGENCY CALL 911 OR YOUR LOCAL EMERGENCY NUMBER;

## **Violations of the Terms**

You agree that Biography Health may, in its sole discretion and without prior notice, terminate your access to the Services. You also agree that any violation by you of these Terms, including incorporated policies, such as the user conduct guidelines, will constitute an unlawful and unfair business practice, and will cause irreparable harm to Biography Health, for which monetary damages would be inadequate, and you consent to Biography Health obtaining any injunctive or equitable relief that Biography Health deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Biography Health may have at law, in equity, or as provided in these Terms.

Biography Health may preserve or disclose any information we have about you if we determine that such preservation or disclosure is necessary. Reasons for disclosure may include, but are not limited to: a connection with any investigation or complaint regarding your use of the Services, or to identify, contact or bring legal action against someone who may be causing injury to or interference with (either intentionally or unintentionally) Biography Health's rights or property, or the rights or property of visitors to or users of the Services, including Biography Health's customers. Biography Health reserves the right to preserve or disclose any information that Biography Health deems necessary to comply with any applicable law, regulation, or valid legal process.

If Biography Health does take any legal action against you as a result of your violation of these Terms, Biography Health will be entitled to recover from you, and you agree to pay all reasonable attorneys' fees and costs of such action, in addition to any other relief granted to Biography Health. You agree that Biography Health will not be liable to you or to any third party for termination of your access to the Services as a result of any violation or suspected violation of these Terms unless such termination is found to be without reasonable cause.

## **Accounts, Passwords and Security**

To use certain Services, you may need to create an account. You agree to provide Biography Health with accurate, updated, and complete information for your account. Any parent or guardian who uses the Services on behalf of their child who is under 18 assumes full responsibility for ensuring the information that they provide to Biography Health about their child is kept secure and that the information submitted is accurate. You are fully responsible for all activities that occur under your Biography Health account, so it's important to keep your account and password secure. If you think someone has gained access to your account, please contact our Customer Care Team immediately.

## **Consent to Treat - Telehealth Consent**

By using Biography Health, you consent to be treated using remote, electronic communications, including through the Platform and through online messaging, chat, audio, or video. You consent to other aspects of telehealth including but not limited to electronic transmission of medical records and/or personal health information ("PHI"), photo images, genomic data, and data from remote monitoring devices, medical devices and other wearables. You agree to be cared for by a Precision Medicine Physician in visits that will be conducted remotely or virtually, and not in-person. You understand that there are inherent risks and benefits to virtual care that include risks of a medical provider's ability to comprehensively assess and accurately diagnose an illness, disease, or injury using digital technology and limitations in some health screening tests.

Before participating in each telehealth visit, you agree to accurately provide the state you are physically located in. You acknowledge that you have access to a medical provider that is licensed in the state that you are located in at the time of the visit.

You understand that while Biography Health will make reasonable efforts to ensure that you are assigned to a specific Precision Medicine Physician for your care, we cannot guarantee this at all times. We also cannot guarantee that your assigned providers will always be available over the course of your involvement with Biography Health.

During your care and visits you consent to the following:

- Photos, data, audio and/or video may be recorded;
- Virtual examination of you;
- Details of your medical information may be discussed with your Precision Medicine Physician using electronic technology;
- Additional medical providers or non-medical providers may join your visit to assist with care.

You may withhold or withdraw consent to Biography Health at any time without affecting your right to future care or treatment.

## **Consent to Receive Communications**

You agree that Biography Health and the Precision Medicine Physicians may contact you regarding the Services or any related services that you inquire about through our website or mobile application. You consent to receive such communications electronically including, appointment reminders, confirmation emails, questions about scheduling or services, and health team communications.

You represent that you provided an up-to-date email and phone number that are yours, and that you consent to receive texts or emails about the Services you receive to the addresses and numbers provided.

Your consent to conduct actions electronically covers all interactions between you and Biography Health. If you later decide that you do not want to receive

certain future communications electronically, please contact us via the contact information listed below. You may also opt out of certain electronic communications through your account or by following the unsubscribe instructions in any communication you receive from Biography Health. Your withdrawal of consent will be effective within a reasonable time after we receive your withdrawal notice described above.

Biography Health will need to send you certain communications electronically regarding the Services, from which you may not opt out without discontinuing the Services. These communications include notifications of updates to the Terms or information about billing. Your withdrawal of consent will not affect the legal validity or enforceability of these Terms. If you withdraw your consent to receive communications electronically, certain Services may become unavailable to you. Keep in mind that if you opt out of receiving transactional text messages from us you may not receive important and helpful information and reminders about your appointments.

### **A. Marketing Communications**

By providing your email and accepting our terms, you may also receive marketing-related communications from Biography Health, such as updates, offers, promotions and educational content. You may also choose to consent to marketing text messages when signing up, in which case you authorize Biography Health to send automated marketing communications to the number you provide. You understand that consent to marketing communications is not required to make a purchase. If you wish to opt out of promotional emails, you can unsubscribe from our promotional email list by following the unsubscribe option in the promotional email itself.

### **B. Text Messaging Communication Policies**

Message and data rates may apply for text messages that you receive. To stop receiving text messages, text the word STOP from the mobile device receiving the message.

### **C. Updates or Legal Disclosures**

You agree that Biography Health may send the following to you by email or by posting them on our website and mobile application:

- legal disclosures;
- these Terms;
- the Privacy Policy;
- future changes to legal disclosures, these Terms or the Privacy Policy;
- Any other notices, policies, communications or disclosures and information related to the Services.

## **Privacy**

Your use of the Services is governed by our Privacy Policy. We encourage you to review our Privacy Statement to learn more about how we handle data.

## **Export Control and Applicable Laws and Regulations**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. Specifically, you agree 1) that providing your sample is not subject to any export ban or restriction in the country in which you reside, 2) that your sample and data may be transferred and/or processed outside the country in which you reside, and 3) that you will comply with all applicable laws regarding the transmission of technical data exported from the United States or the country from which you access any Service online.

# **4. Licensing and Intellectual Property Rights**

## **User Content**

“User Content” is all information, data, text, software, music, audio, photographs, graphics, video, messages, or other materials generated by users of the Services and transmitted, whether publicly or privately, to or through Biography Health. User Content does not include genetic or health information. To provide the Services to you, you must grant us a license to your User Content. We do not claim ownership of User Content, but you grant us a license to use it.

You give Biography Health, its affiliated companies, sublicensees and successors and assignees a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to host, reproduce, adapt, modify, translate, publish, publicly perform, store, publicly display, distribute, reproduce, edit, reformat, and create derivative works from any User Content that you submit, post, or display on or through the Services. This license is fully-paid and royalty free, meaning we do not owe you anything else in connection with our use of your User Content. You acknowledge and agree that this license includes a right for Biography Health to make such User Content available to other companies, organizations, or individuals with whom Biography Health has relationships, and to use such User Content in connection with the provision of those services.

What does it mean to provide us with a license to your User Content? It means:

- You represent and warrant to Biography Health that you have all the rights, power, and authority necessary to grant the above license.
- Unless otherwise specified, you retain copyright and any other rights you already hold over User Content that you create and submit, post, or display on or through the Services.
- You acknowledge and agree that you, and not Biography Health, are entirely and solely responsible for all User Content that you upload, post, email, or otherwise transmit via the Service.
- You acknowledge that Biography Health and its designees have the right (but not the obligation) to modify, or remove any available User Content. Without limiting the foregoing, Biography Health and its designees shall have the right to remove any content that violates the Terms or is deemed by Biography Health, in its sole discretion, to be otherwise objectionable. You acknowledge and agree that you bear all risks associated with the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.
- You understand that you should not expect any financial benefit from Biography Health as a result of having your information processed; made available to you; or, as provided in our Privacy Statement and

these Terms, shared with or included in reports or data shared with any research collaborator.

## **Limited License**

Other than User Content, all text, graphics, user interfaces, visual interfaces, photographs, trademarks, logos, sounds, music, artwork and computer code (collectively, "Content"), including but not limited to the design, structure, selection, coordination, expression, "look and feel" and arrangement of such Content, contained on the Services is owned, controlled or licensed by or to Biography Health, and is protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws.

Biography Health grants you a limited license to copy and distribute free of charge any information contained in Biography Health products and services (such as data sheets, knowledge base articles, and similar materials) purposely made available by Biography Health for sharing or downloading from the Services, provided that you do not:

- Remove any proprietary notice language in all copies of such documents;
- Copy or post such information on any networked computer or broadcast it in any media;
- Make modifications to any such information;
- Make any additional representations or warranties relating to such documents; and,
- Use such information for your non-personal, commercial purpose(s).

## **Product Warranty**

- Biography Health warrants that its products will be free from defects in materials and workmanship for the period of time applicable to such product. This warranty and any other product warranties, expressed or implied, are only valid on products purchased from Biography Health.com or from one of our official authorized retail partners.
- Biography Health does not support the unauthorized resale of its products, and Biography Health is unable to ensure the quality of its

products when sold by unauthorized sellers or through unauthorized channels. We strongly encourage our customers to purchase only from Biography Health.com or from one of our official authorized retail partners. Biography Health does not extend any warranty or satisfaction guarantee to products purchased from unauthorized resellers. We reserve the right to cancel orders and/or block future Biography Health.com purchases by customers that appear to be purchasing items for resale on third-party sites, or found to be using multiple accounts to attempt to surpass any quantity limits.

### **Product Diversion and Resale of Biography Health Products**

- Only our authorized retail partners are permitted to resell Biography Health products. No other parties are authorized to sell Biography Health products or purchase products from Biography Health.com or from an authorized retail partner for the purpose of reselling the products. No person or entity, without the express written consent of Biography Health, is authorized to sell on any e-commerce platform, such as, but not limited to, Amazon, eBay or Walmart. Authorized retail partners are prohibited from, and shall take reasonable steps to avoid, selling to any third party that intends to resell Biography Health products. In the event an authorized retail partner becomes aware, or is informed by Biography Health, that it is selling products to an unauthorized reseller, such authorized retail partner shall immediately cease doing business with such unauthorized reseller.
- Authorized retail partners agree to handle and store all Biography Health products in accordance with the Material Safety Data Sheets and any other Biography Health requirements, which are provided to authorized retail partners. Additionally, all products must be stored in secure, climate-controlled facilities. To ensure the safety and well-being of consumers, all authorized retail partners agree to cooperate with Biography Health with respect to any product recalls or other consumer safety information dissemination efforts. Authorized retail partners further agree to maintain customer service phone and email response functions to handle customer complaints, returns and other customer service functions. Authorized retail partners further agree to represent Biography Health products with current images of the products and

offerings. Unauthorized retailers do not have any licenses to any Biography Health copyright or trademark rights.

- Authorized retail partners shall only sell Biography Health products in their original packaging. Relabeling, repackaging, and other alterations to Biography Health products or their packaging is not permitted. Tampering with, defacing, or otherwise altering any serial number, UPC code, batch or lot code, SKU or other identifying information on products or their packaging is prohibited. Authorized retail partners may not remove, translate, or modify the contents of any label or literature on or accompanying the products. Authorized retail partners shall not use Biography Health trademarks, logos, icons, product names, taglines, and slogans supplied by Biography Health, other than as permitted by Biography Health. Authorized retail partners shall promptly take down any use of Biography Health trademarks that Biography Health requests to be taken down. Authorized retail partners shall not advertise, market, display, or demonstrate non-Biography Health products together with Biography Health products in a manner that would create the impression that the non-Biography Health products are made by, endorsed by, or associated with Biography Health. For specific business reasons, certain authorized retail partners, with prior written consent from Biography Health, may be granted exceptions to the above provisions.
- Promptly upon receipt of Biography Health products, authorized retail partners must inspect the products for damage, defects, evidence of tampering, product expiration, or other non-conformances. If any defect is identified, such defective product must not be offered for sale and must promptly be reported to Biography Health.

## 5. Disclaimers and Limitation of Liability

### **Indemnity**

You agree to defend and hold Biography Health, and its subsidiaries, affiliates, officers, agents, contractors, partners, employees, successors, and assigns harmless from any claim, or demand, including reasonable attorneys' fees, made by any third party due to or arising out of User Content you submit, post

to, or transmit through the Service; your use of the Service; your connection to the Service; your violation of the Terms; or your violation of any rights of another.

If you have submitted a sample or otherwise provided your own information, you will defend and hold harmless Biography Health, its employees, contractors, successors, and assignees from any liability arising out of the use or disclosure of any information obtained from analyzing your sample and/or analyzing your information, which is disclosed to you consistent with our Privacy Statement or results from any third-party add-ons to tools we provide. In addition, if you choose to provide your information to third parties - whether individuals to whom you facilitate access, intentionally or inadvertently, or to third parties for diagnostic or other purposes - you agree to defend and hold harmless Biography Health, its employees, contractors, successors, and assignees from any and all liability arising from such disclosure or use of your information.

### **Disclaimer of Warranties**

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT: (1) YOUR USE OF THE SERVICES ARE AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, Biography Health EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. (2) Biography Health MAKES NO WARRANTY THAT (a) THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, UNFAILINGLY SECURE, OR ERROR-FREE; (c) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS AND (e) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. (3) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR

OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. (4) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Biography Health OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS AND SHALL NOT BE RELIED UPON AS MEDICAL ADVICE. (5) YOU SHOULD ALWAYS USE CAUTION WHEN GIVING OUT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT YOURSELF OR THOSE FOR WHOM YOU HAVE LEGAL AUTHORITY. Biography Health DOES NOT CONTROL OR ENDORSE ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES AND, THEREFORE, Biography Health SPECIFICALLY DISCLAIMS ANY LIABILITY WITH REGARD TO ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES.

### **Limitation of Liability**

WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT Biography Health SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF Biography Health HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICES; (b) ANY ACTION YOU TAKE BASED ON THE INFORMATION YOU RECEIVE IN, THROUGH OR FROM THE SERVICES, (c) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL, (d) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (e) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (f) THE IMPROPER AUTHORIZATION FOR THE SERVICES BY SOMEONE CLAIMING SUCH

AUTHORITY; or (g) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES.

## 6. Dispute Resolution and Arbitration

### **Dispute Resolution (including Arbitration, Class Action Waiver and Time to Initiate Action)**

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

- a. Initial Dispute Resolution. We are available by email at [customercare@Biography Health.com](mailto:customercare@Biography Health.com) to address any concerns you may have regarding your use of the Service. Most concerns may be quickly resolved in this manner. You agree to use best efforts to settle any dispute, claim, question, or disagreement directly through consultation and good faith negotiations which shall be a precondition to either party initiating a lawsuit or arbitration.
- b. Agreement to Binding Arbitration. If we do not reach an agreed upon solution within a period of thirty (30) days from the time informal dispute resolution is pursued pursuant to the Initial Dispute Resolution section above, then either you or we may initiate binding arbitration. Except for any disputes excluded below in (d), all claims arising out of or relating to these Terms (including their formation, performance and breach), the parties' relationship with each other and/or your use of the Services shall be finally settled by binding arbitration administered on a confidential basis by JAMS, in accordance with the JAMS Streamlined Arbitration Rules and Procedures, excluding any rules or procedures governing or permitting class actions. Each party will have the right to use legal counsel in connection with arbitration at its own expense. The parties shall select a single neutral arbitrator in accordance with the JAMS Streamlined Arbitration Rules and Procedures. An impartial arbitrator, mutually agreed upon by both parties, and not any federal, state or local court or agency, shall have authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of these Terms, including, but not limited to, any claim that all or any part of these Terms

is void or voidable. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be in writing and provide a statement of the essential findings and conclusions, shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. The interpretation and enforcement of these Terms shall be subject to the Federal Arbitration Act, in conjunction with the laws of the state where the Service Provider is located. The JAMS rules governing the arbitration may be accessed at

<https://www.jamsadr.com/adr-rules-procedures>. If you initiate arbitration, to the extent the filing fee for the arbitration exceeds Two Hundred and Fifty U.S. Dollars (\$250), and where the claim is found to be non-frivolous, we will pay the additional cost. If we are required to pay the additional cost of the filing fees, you should submit a request for payment of fees to JAMS along with your form for initiating the arbitration, and we will make arrangements to pay all necessary fees directly to JAMS. We will also be responsible for paying all other arbitration costs arising in connection with the arbitration, other than costs incurred by you for legal counsel, travel and other out-of-pocket costs and expenses not constituting fees or amounts payable to JAMS. You will not be required to pay fees and costs incurred by use if you do not prevail in arbitration. We will also pay JAMS to reimburse you for any portion of the \$250 filing fee that is more than what you would otherwise have to pay to file suit in a court of law. You understand that, absent this mandatory provision, you would have the right to sue in court and have a jury trial. You further understand that the right to discovery may be more limited in arbitration than in court.

- c. **Class Action and Class Arbitration Waiver.** You and we each further agree that any arbitration shall be conducted in our respective individual capacities only and not as a class action, and you and we each expressly waive our respective right to file a class action or seek relief on a class basis. The arbitrator may award in the arbitration the same damages or other relief available under applicable law, including injunctive and declaratory relief, as if the action were brought in court on an individual basis. Notwithstanding anything to the contrary in the foregoing or herein, the arbitrator may not issue a "public injunction" and any such "public injunction" may be awarded only by a federal or state court. If either party seeks a "public injunction," all other claims and

prayers for relief must be adjudicated in arbitration first and any prayer or claim for a “public injunction” in federal or state court stayed until the arbitration is completed, after which the federal or state court can adjudicate the party’s claim or prayer for “public injunctive relief.” In doing so, the federal or state court is bound under principles of claim or issue preclusion by the decision of the arbitrator. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above in (b) shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

- d. Exceptions. Notwithstanding the parties’ agreement to resolve all disputes through arbitration, either party may seek relief (i) in a small claims court for disputes or claims within the scope of that court’s jurisdiction, and (ii) any disputes relating to intellectual property rights, obligations, or any infringement claims.
- e. 30 Day Right to Opt-Out. You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in (b) and (c) by sending written notice of your decision to opt-out by emailing us at [arbitrationoptout@Biography Health.com](mailto:arbitrationoptout@Biography Health.com). The notice must be sent within thirty (30) days of your first use of the Service, or the effective date of the first set of Terms containing an Arbitration and Class Action and Class Arbitration Waiver section otherwise you shall be bound to arbitrate disputes in accordance with the terms of those sections. If you opt-out of these arbitration provisions, we also will not be bound by them.
- f. Term for Cause of Action. 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 the Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- g. Exclusive Venue for Litigation. To the extent that the arbitration provisions set forth in (b) do not apply or if you have opted out of arbitration, you agree that any litigation shall be filed exclusively in state or federal courts located in Santa Clara County, California (except for small claims court actions which may be brought in the county where you reside). You and we expressly consent to exclusive jurisdiction in

Santa Clara County, California for any litigation other than small claims court actions. In the event of litigation relating to these Terms or the Service, you agree to waive, to the maximum extent permitted by law, any right to a jury trial, except where a jury trial waiver is not permissible under applicable law.

## 7. Other things to know

**Modification.** Biography Health reserves the right at any time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. If you violate the Terms, or if Biography Health has substantial evidence to believe that you have violated the Terms, Biography Health reserves the right to suspend or terminate your account, and may refuse any and all current or future use of the Services (or any portion thereof).

**Termination.** Biography Health reserves the right to terminate its legal agreement with you under the following circumstances: (1) You have breached the Terms or any policies incorporated herein, such as the user conduct guidelines, or have demonstrated through your actions that you do not intend to, or are unable to comply with, the provisions of the Terms; (2) Biography Health is legally required to do so; (3) The partner through whom Biography Health offered the Services to you has ended its relationship with Biography Health or ceased to offer the Services to you; (4) Biography Health has decided to discontinue providing the Services to users in the country or state in which you reside or from which you use the Services; (5) Biography Health determines that providing the Services to you is no longer commercially viable. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Services may be referred to appropriate law enforcement authorities. You acknowledge and agree that Biography Health shall not be liable to you or any third party for any termination of your access to the Services, and you will defend and indemnify Biography Health and its affiliates against any liability, costs, or damages arising out of the breach of the representation. Finally, Biography Health may, in its sole discretion, restrict access to the website for any reason.

**Force Majeure.** Biography Health and Precision Medicine Physicians shall be excused from performance under these Terms of Service, to the extent it is prevented or delayed from performing, in whole or in part, as a result of an event or series of events caused by or resulting from: (a) weather conditions or other elements of nature or acts of God; (b) acts of war, acts of terrorism, insurrection, riots, civil disorders, or rebellion; (c) quarantines, pandemics, or embargoes; (d) labor strikes; (e) error or disruption to major computer hardware or networks or software failures; or (g) other causes beyond the reasonable control of Wild Health or its Contractors.

**Survival of Terms.** When the Terms come to an end, regardless of who terminates them, both you and Biography Health will continue to be bound by all but the following sections: Limited License, Modifications to Service.

### **Hyperlinks and the Biography Health Website**

The Service provides, and third parties may provide, links to other sites and resources on the Internet. Because Biography Health has no control over such sites and resources, you acknowledge and agree that Biography Health is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You should read the terms and conditions, including privacy policies, of any third parties to understand the rules and policies governing your use of their services or products.

### **Miscellaneous**

**Entire Agreement.** The Terms make up the entire agreement between you and Biography Health, and supersedes any prior agreements. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software.

**Governing Law.** These Terms will be governed by and construed in accordance with the laws of the state where the Service Provider is located, without giving effect to any conflict of laws, rules or provisions.

**Waiver.** If we do not enforce a provision in these Terms, it will not be considered a waiver.

**Severability Clause.** If any portion of these Terms is found to be unenforceable, the remaining portion will remain in full force and effect.

**Assignment.** Neither party may assign or delegate any rights or obligations under this agreement without the written consent of the other party. Any purported assignment and delegation without such consent shall be ineffective, fully or partially, only after providing you with a minimum of 30 days' notice. We may also substitute, by way of unilateral novation, effective upon notice to you, Biography Health for any third party that assumes our rights and obligations under this agreement.

## **Notice**

Notices to you will be made via email, unless otherwise requested by you. Biography Health will also provide notices of changes to the Terms or other matters by displaying notices or links to notices to you on or through the Services. Official notices must be sent to us at:

Biography Health, Inc.  
ATTN: General Counsel  
4018 Blue Hollow Ct  
Columbia, MO 65203

Additionally, Biography Health accepts service of process at this address. Any notices that you provide without compliance with this section on Notices shall have no legal effect.