

Terms of Service
Last Updated: November 1, 2021

Welcome to the Quantbiome, Inc., d/b/a as Ombre (“**Ombre**”) website! We use www.ombrelab.com; which brought you to these Terms of Service (the “**Terms**”) will be referred to as the “**Site**”. Please read these Terms and our Privacy Policy (www.ombrelab.com/privacy) carefully because they govern your use of our Site and our human microbiome analysis services accessible via our Site and our mobile device application (“**App**”). To make these Terms easier to read, the Site, our services and App are collectively called the “**Services**.”

Agreement to Terms

By using our Services, you agree to be bound by these Terms. If you don’t agree to be bound by these Terms, do not use the Services.

Privacy Policy

Please refer to our Privacy Policy (linked above) for information on how we collect, use and disclose information from our users. Our Services involve the collection of some information that people may find sensitive. Thus, it is important to understand that these Terms are meant to be read alongside our Privacy Policy because.

Changes to Terms or Services

We may modify the Terms at any time, in our sole discretion. If we do so, we’ll let you know either by posting the modified Terms on the Site or through other communications. It’s important that you review the Terms whenever we modify them because if you continue to use the Services after we have posted modified Terms on the Site, you are indicating to us that you agree to be bound by the modified Terms. If you don’t agree to be bound by the modified Terms, then you may not use the Services anymore.

Because our Services are evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.

ARBITRATION NOTICE: UNLESS YOU OPT OUT OF ARBITRATION WITHIN 30 DAYS OF THE DATE YOU FIRST AGREE TO THESE TERMS BY FOLLOWING THE OPT-OUT PROCEDURE SPECIFIED IN THE “ARBITRATION” SECTION BELOW, AND EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE “ARBITRATION” SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND OMBRE WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU ARE WAIVING YOUR RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING.

Who May Use the Services

Eligibility

You may use the Services only if you are 18 years or older and capable of forming a binding contract with Ombre and are not barred from using the Services under applicable law.

Registration and Your Information

To access most of the insightful and personalized features of our Services you’ll have to create an account (“**Account**”). You may also be able to link your Account with certain third-party social networking services

such as Facebook or Twitter (each, an “**SNS Account**”) or tracking services such as FitBit and MyFitnessPal (each a “**Health Tracker**”). We may extract from your SNS Account or Health Tracker certain personal information such as your name, email address, User Content (defined below), and other personal information that your privacy settings on the respective SNS Account or Health Tracker permit us to access.

It’s important that you provide us with accurate, complete and up-to-date information for your Account and you agree to update such information, as needed, to keep it accurate, complete and up-to-date. If you don’t, we might have to suspend or terminate your Account. You agree that you won’t disclose your Account password to anyone and you’ll notify us immediately of any unauthorized use of your Account. You’re responsible for all activities that occur under your Account, whether or not you know about them.

Purchasing and Payments

When you purchase an Ombre sequencing kit or a premium subscription (“**Subscription**”) through the Site, you authorize us to provide your credit card or other payment method that you have provided (your “**Payment Method**”) to our third party payment processors so we can complete your purchase and charge your Payment Method accordingly. By agreeing to these Terms and purchasing a Subscription, you acknowledge that your Subscription has recurring payment features and you accept responsibility for all recurring payment obligations prior to cancellation of your Subscription by you or us. If you have a Subscription, your Payment Method will be billed monthly in advance of your monthly subscription date (the same day of every month as the day you first subscribed). A Subscription continues until you elect to cancel it. You will be billed each month for the following month. Please note that our Subscription fees are subject to change, although we will notify you before any change in Subscription fees.

You may elect to cancel your Subscription through your account settings or by emailing us at [support@ombrelab.com]. **PLEASE NOTE THAT ALL SALES ARE FINAL. YOU WILL NOT RECEIVE A REFUND OF ANY PORTION OF THE SUBSCRIPTION FEE PAID FOR THE THEN-CURRENT SUBSCRIPTION PERIOD AT THE TIME OF CANCELLATION.** However, if you cancel a Subscription, we will allow you to continue to access the Services until the most recently paid-up Subscription period ends.

Your sequencing kit(s) will be delivered to you in accordance with the terms communicated to you when you place your order or Subscription Order.

Feedback

We welcome feedback, comments and suggestions for improvements to the Services (“**Feedback**”). You can submit Feedback by emailing us at [support@ombrelab.com]. You grant to us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sublicensable and transferable license under any and all intellectual property rights that you own or control to use, copy, modify, create derivative works based upon and otherwise exploit the Feedback for any purpose.

Information Rights

Definitions

To make this section easier to read, we use the following definitions:

- “**Content**” means text, graphics, images, music, software, audio, video, works of authorship of any kind, and information or other materials that are posted, generated, provided or otherwise made available through the Services.

- **"Sample"** means any material submitted to Ombre for analysis, including but not limited to fecal, buccal, vaginal, or skin swabs, as well as soils, plants, or tissues.
- **"Sample Data"** means any information that does not personally identify any individual, drawn or deduced from analysis of a Sample by or for Ombre.
- **"Sample Report"** means the personalized report that we make available to you based on analysis of your Sample.
- **"User Content"** means any information that Account holders (including you) provide to be made available through the Services. This includes any information you provide to Ombre regarding your medical, behavioral, or family history, including information related to your Sample(s), diet, lifestyle, personal traits, ethnicity, gender, dietary supplements consumed, health symptoms and treatments, and history of family and personal medical conditions, as well as photographs you upload for your profile picture and communications made through the Services (excluding Feedback).

Content Ownership

Ombre does not claim any ownership rights in any User Content or Sample Report and nothing in these Terms will be deemed to restrict any rights that you may have to use and exploit your User Content or Sample Report. Subject to the foregoing and Ombre's Privacy Policy, Ombre and its licensors exclusively own all right, title and interest in and to the Services, Content, Samples, and Sample Data, including all associated intellectual property rights. You acknowledge that the Services, Content and Sample Data are protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services, Content or Sample Data.

Rights in User Content Granted by You

Subject to our Privacy Policy, by making any User Content available through the Services you hereby grant to Ombre a non-exclusive, transferable, sublicenseable, worldwide, royalty-free license to use, copy, modify, distribute, publicly display or perform (in a non-personally-identifying manner or in accordance with our Privacy Policy), and distribute your User Content in connection with operating and providing the Services to you and to other Account holders and in connection with creation of Sample Data and Sample Reports.

You are solely responsible for all your User Content. You represent and warrant that you own all your User Content or you have all rights that are necessary to grant us the license rights in your User Content under these Terms. You represent and warrant that neither your User Content nor your use and provision of your User Content to be made available through the Services, nor any use of your User Content by Ombre on or through the Services will infringe, misappropriate or violate a third party's intellectual property rights or rights of publicity or privacy. You also represent and warrant that neither your User Content, your use and provision of your User Content to be made available through the Services, nor any use of your User Content or Samples will result in the violation of any applicable law or regulation.

You can remove some of your User Content stored on our systems by specifically deleting it. However, in certain instances, some of your User Content (such as that maintained in aggregate, non-identifying form) may not be removed and copies thereof may continue to exist on the Services. We are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any User Content. We reserve the right to retain any User Content in aggregate form for any purpose and in our sole discretion.

Rights in Content Granted by Ombre

Subject to your compliance with these Terms, and in particular the “No Medical Advice” section below, Ombre grants you a limited, non-exclusive, non-transferable, non-sublicensable license to access and view the Content solely in connection with your permitted use of the Services and solely for your personal and non-commercial purposes.

Rights and Terms for Apps

Rights in App Granted by Ombre

Subject to your compliance with these Terms, Ombre grants you a limited non-exclusive, non transferable, non-sublicensable license to download and install a copy of the App on a mobile device or computer that you own or control and to run such copy of the App solely for your own personal non commercial purposes. You may not copy the App, except for making a reasonable number of copies for backup or archival purposes. Except as expressly permitted in these Terms, you may not: (i) copy, modify or create derivative works based on the App; (ii) distribute, transfer, sublicense, lease, lend or rent the App to any third party; (iii) reverse engineer, decompile or disassemble the App; or (iv) make the functionality of the App available to multiple users through any means. Ombre reserves all rights in and to the App not expressly granted to you under these Terms.

General Prohibitions and Ombre’s Enforcement Rights

You agree not to do any of the following:

- Post, upload, publish, submit or transmit any Content that: (i) infringes, misappropriates or violates a third party’s patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) is fraudulent, false, misleading or deceptive; (iv) is defamatory, obscene, pornographic, vulgar or offensive; (v) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (vi) is violent or threatening or promotes violence or actions that are threatening to any person or entity; or (vii) promotes illegal or harmful activities or substances.
- Use, display, mirror or frame the Services or any individual element within the Services, Ombre’s name (including Ombre and Ombre Lab); any Ombre trademark, logo or other proprietary information (including those related to the “Ombre” brand); or the layout and design of any page or form contained on a page; without Ombre’s express written consent;
- Access, tamper with, or use non-public areas of the Services, Ombre’s computer systems, or the technical delivery systems of Ombre’s providers;
- Attempt to probe, scan or test the vulnerability of any Ombre system or network or breach any security or authentication measures;
- Avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by Ombre or any of Ombre’s providers or any other third party (including another user) to protect the Services or Content;
- Attempt to access or search the Services or Content or download Content from the Services through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by Ombre or other generally available third-party web browsers;
- Send any unsolicited or unauthorized advertising, promotional materials, email, junk mail, spam, chain letters or other form of solicitation;

- Use any meta tags or other hidden text or metadata utilizing an Ombre (or “ Ombre” brand) trademark, logo URL or product name without Ombre’s express written consent; • Use the Services or Content, or any portion thereof, for any commercial purpose or for the benefit of any third party or in any manner not permitted by these Terms;
- Forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services or Content to send altered, deceptive or false source identifying information;
- Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Services or Content;
- Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;
- Collect or store any personally identifiable information from the Services from other users of the Services without their express permission;
- Impersonate or misrepresent your affiliation with any person or entity, including misrepresenting your identity in Sample submissions;
- Violate any applicable law or regulation; or
- Encourage or enable any other individual to do any of the foregoing.

Although we’re not obligated to monitor access to or use of the Services or Content or to review or edit any Content, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms, and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any Content or any portion of the Site (including access to User Content and Sample Reports), at any time and without notice, including, but not limited to, if we, at our sole discretion, consider any Content to be objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

DMCA/Copyright Policy

Ombre respects copyright law and expects its users to do the same. It is Ombre’s policy to terminate in appropriate circumstances Account holders who repeatedly infringe or are believed to be repeatedly infringing the rights of copyright holders. Please see Ombre’s Copyright and IP Policy at [<https://www.ombrelab.com/copyright>], for further information.

Links to Third-Party Websites or Resources

The Services and App may contain links to third-party websites or resources. We provide these links only as a convenience and are not responsible for the content, products or services on or available from those websites or resources or links displayed on such websites. You acknowledge sole responsibility for and assume all risk arising from your use of any third-party websites or resources.

Termination

We may terminate your access to and use of the Services, at our sole discretion, at any time and without notice to you. You may cancel your Account at any time by sending an email to us at [support@ombrelab.com]. Upon any termination, discontinuation or cancellation of Services or your Account, the following provisions will survive: provisions addressing ownership, No Medical Advice, Warranty Disclaimers, Limitations of Liability, Dispute Resolution provisions, and all related sub-heading underlined titles therein.

Warranty Disclaimers

THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE, INCLUDING OMBRE AND ITS SERVICE PROVIDERS AND PARTNERS' EMPLOYEES' PROFESSIONAL QUALIFICATIONS, EXPERTISE, QUALITY OF WORK, OR ACCURACY IN PROVIDING THE SERVICES. WE MAKE NO WARRANTY REGARDING THE QUALITY, ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS, OR RELIABILITY OF ANY INFORMATION OBTAINED AS A RESULT OF YOUR USE OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO SAMPLE REPORTS. We make no warranty that the Services will meet your requirements or be available on an uninterrupted, secure, or error-free basis. We make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness or reliability of any Content.

NO MEDICAL ADVICE

THE HEALTH-RELATED INFORMATION YOU MAY FIND IN THE SERVICES IS BROAD IN NATURE AND SCOPE, HAS NOT NECESSARILY BEEN CLINICALLY VALIDATED, DESCRIBES ONLY GENERAL PRINCIPLES OF BIOLOGY, AND IS NOT INTENDED TO BE USED TO (I) DIAGNOSE, TREAT, CURE OR PREVENT DISEASES; (II) ACT AS A GUIDE FOR SELF-TREATMENT; OR (III) ACT AS A SUBSTITUTE FOR CONSULTING WITH YOUR HEALTH CARE PROFESSIONAL. THE SERVICES AND SAMPLE REPORTS DO NOT CONSTITUTE PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. THE INFORMATION, INCLUDING SAMPLE REPORTS, PROVIDED THROUGH THE SERVICES IS FOR INFORMATIONAL AND EDUCATIONAL USE ONLY AND YOUR USE OF THIS INFORMATION IS SOLELY AT YOUR OWN RISK. YOU SHOULD CONSULT A PHYSICIAN OR PROFESSIONAL HEALTHCARE ADVISOR WHO IS FAMILIAR WITH YOUR PERSONAL CIRCUMSTANCES BEFORE CHANGING YOUR HEALTH BEHAVIORS, ESPECIALLY IF SUCH CHANGES ARE BASED ON INFORMATION, INCLUDING SAMPLE REPORTS, OBTAINED THROUGH OUR SERVICES. NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF INFORMATION MADE AVAILABLE ON OUR SERVICES. WE DO NOT GUARANTEE THAT THE SERVICES ARE RELIABLE AND PROPER FOR EVERY INDIVIDUAL. OMBRE DOES NOT RECOMMEND OR ENDORSE ANY SPECIFIC TESTS, PHYSICIANS, PRODUCTS, PROCEDURES, OPINIONS, OR OTHER INFORMATION THAT MAY BE MENTIONED ON THE SERVICES OR BY ANY OTHER MEANS.

Indemnity

You will indemnify and hold harmless Quantibiome and its officers, directors, employee and agents, from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees arising out of or in any way connected with (i) your access to or use of the Services, (ii) your User Content, or (iii) your violation of these Terms.

Limitation of Liability

NEITHER OMBRE NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES, INCLUDING SAMPLE REPORTS WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND

WHETHER OR NOT OMBRE HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

IN NO EVENT WILL OMBRE'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS YOU HAVE PAID TO OMBRE FOR USE OF THE SERVICES OR ONE HUNDRED DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO OMBRE, AS APPLICABLE.

THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN OMBRE AND YOU.

Dispute Resolution

Governing Law

These Terms and any action related thereto will be governed by the laws of the State of California without regard to its conflict of laws provisions.

Agreement to Arbitrate

You and Ombre agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof or the use of the Services or Content (collectively, "**Disputes**") will be settled by binding arbitration, except that each party retains the right: (i) to bring an individual action in small claims court and (ii) to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights (the action described in the foregoing clause (ii), an "**IP Protection Action**"). Without limiting the preceding sentence, you will also have the right to litigate any other Dispute if you provide Ombre with written notice of your desire to do so by email or regular mail at [support@ombrelab.com],[2261 Market Street #4488, San Francisco, CA 94114] within thirty (30) days following the date you first agree to these Terms (such notice, an "**Arbitration Opt-out Notice**"). If you don't provide Ombre with an Arbitration Opt-out Notice within the thirty (30) day period, you will be deemed to have knowingly and intentionally waived your right to litigate any Dispute except as expressly set forth in clauses (i) and (ii) above. The exclusive jurisdiction and venue of any IP Protection Action or, if you timely provide Ombre with an Arbitration Opt-out Notice, will be the state and federal courts located in the [Northern District of California] and each of the parties hereto waives any objection to jurisdiction and venue in such courts. Unless you timely provide Ombre with an Arbitration Opt-out Notice, **you acknowledge and agree that you and Ombre are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding.** Further, unless both you and Ombre otherwise agree in writing, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this "Dispute Resolution" section will be deemed void. Except as provided in the preceding sentence, this "Dispute Resolution" section will survive any termination of these Terms.

Arbitration Rules

The arbitration will be administered by the American Arbitration Association ("**AAA**") in accordance with

the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the “AAA Rules”) then in effect, except as modified by this “Dispute Resolution” section. (The AAA Rules are available at www.adr.org/arb_med or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

Arbitration Process

A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. (The AAA provides a general [Demand for Arbitration](#) and a separate [Demand for Arbitration for California residents](#).) The arbitrator will be either a retired judge or an attorney licensed to practice law and will be selected by the parties from the AAA’s roster of arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

Arbitration Location and Procedure

Unless you and Ombre otherwise agree, the arbitration will be conducted in the county where you reside. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of the documents that you and Ombre submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

Arbitrator’s Decision

The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator’s decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator’s award of damages must be consistent with the terms of the “Limitation of Liability” section above as to the types and amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant’s individual claim. If you prevail in arbitration you will be entitled to an award of attorneys’ fees and expenses, to the extent provided under applicable law. Ombre will not seek, and hereby waives all rights it may have under applicable law to recover, attorneys’ fees and expenses if it prevails in arbitration.

Fees

Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$75,000, Ombre will pay all such fees unless the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)).

Changes

Notwithstanding the provisions of the “Modification” section above, if Ombre changes this “Dispute Resolution” section after the date you first accepted these Terms (or accepted any subsequent changes to these Terms), you may reject any such change by sending us written notice (including by email to support@ombrelab.com) within 30 days of the date such change became effective, as indicated in the “Last Updated” date above or in the date of Ombre’s email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and Ombre in

accordance with the provisions of this “Dispute Resolution” section as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms).

General Terms

These Terms constitute the entire and exclusive understanding and agreement between Ombre and you regarding the Services, and these Terms supersede and replace any and all prior oral or written understandings or agreements between Ombre and you regarding the Services. If any provision of these Terms is held invalid or unenforceable (either by an arbitrator appointed pursuant to the terms of the “Arbitration” section above or by court of competent jurisdiction, but only if you timely opt out of arbitration by sending us an Arbitration Opt-out Notice in accordance with the terms set forth above), that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect. You may not assign or transfer these Terms, by operation of law or otherwise, without Ombre’s prior written consent. Any attempt by you to assign or transfer these Terms, without such consent, will be null. Ombre may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

Any notices or other communications provided by Ombre under these Terms, including those regarding modifications to these Terms, will be given: (i) via email; or (ii) by posting to the Services. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is transmitted.

Ombre’s failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Ombre. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

Contact Information

If you have any questions about these Terms or the Services, please contact Ombre at [support@ombrelab.com].