



LOOKINBODY WEB SUBSCRIPTION AGREEMENT & TERMS OF SERVICE FOR ANALYSIS FACILITY

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Revision No. 15

Terms and Conditions of the LookinBody Web Subscription Agreement (“Agreement”)

Introduction:

- A. This Agreement is deemed to include the terms and conditions regarding your subscription to the Site and use of certain Services, including the API, if applicable to you. Any information we provide with or collect through your use of the Site is subject to this Agreement. This Agreement will be available to you prior to your subscription to the Site. We will notify you should we change our terms and such new terms will be posted on the Site. When you use the Service after a modification is posted, you are telling us that you accept the modified terms. However, in order to subscribe to the Site, you must accept this Agreement expressly and if you do not, then you are not permitted to subscribe to and use the Site.
- B. This Agreement applies to a business, an association, an enterprise, or an organization who provides and/or uses of the Service(s); or a facility where the Service(s) is located (“Analysis Facility”). You agree and acknowledge that you are an Analysis Facility.
- C. This Agreement applies to the following:
 - 1. InBody's body composition analysis devices, stadiometers, grip-testing devices, and related accessories (the “Products”);
 - 2. InBody-provided applications that gives you access to view, add, update, or delete data (collectively, the “Mobile App”);
 - 3. InBody’s application program interface solution (“API” or “Application”);
 - 4. InBody data management website(s) and/or an extension of the website(s), including, but not limited to, <https://usa.lookinbody.com> and the LookinBody App, as well as InBody developer website(s) (collectively the “Site”); and
 - 5. The data, analyses and other content collected, processed, analyzed, generated or delivered by a Product, the Mobile App, or the Site, including without limitation, text, graphs, calculations, copy, audio, video, photographs, illustrations, images, graphics and other visuals (the “InBody Content”) (all collectively, the “Service” or “Services”).

As such, you agree to the following:

I. Definitions:

- A. End User - An individual, member, patient or a customer who receives and/or uses our Product(s) and/or Service(s).
- B. Analysis Facility – A business, an association, an enterprise, or an organization who provides and/or uses the Service(s); or a facility where the Service(s) is located.
- C. Facility User – An employee, a representative or a staff member of the Analysis Facility; can be an Administrator or a Staff Member.
- D. Administrator – The employee or an associate of the Analysis Facility who is in charge of the Site’s account and has a higher level of authority.
- E. Staff Member – An employee or an associate staff member of the Analysis Facility who uses the Site but has limited access.
- F. Aggregated or De-Identified Information – Information that does not identify End User as a specific individual.

- G. The words “InBody”, “we”, “us” and “our” refers to Biospace, Inc. DBA InBody.
- H. “You” and “your” refers to the Analysis Facility and/or the Facility User(s) as the context may require.
- I. Protected Health Information – According to the Health Insurance Portability and Affordability Act of 1996, Public Law 104-191, as amended, and inclusive of the Privacy Rule, Security Rule, Breach Notification Rule and Enforcement Rule (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services (“HIPAA”), Protected Health Information is information that is a subset of health information including demographic information collected from an individual that: (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (2) relates to an individual’s past, present, or future physical or mental health or condition, the provision of health care to the individual, or the past, present, or future payment for the provision of health care to an individual; (3) identifies the individual or for which there is reasonable basis to believe the information can be used to identify the individual; and (4) is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium.
- J. Personal Information – End User’s non-public information which InBody receives through End User’s use of the Service that can be used, alone or in combination with other information in InBody’s possession, to identify a particular individual. It may include information such as name, email address, telephone number and other personal information the End User provides InBody and it may include Protected Health Information that an individual provides to the Covered Entity.
- K. Server – Dedicated Service data storage and processing servers in InBody’s possession and control.
- L. Covered Entity – The definition of the Covered Entity remains the same as in 45 CFR § 160.103 of HIPAA.
- M. Custody – Maintaining information about a user (End User or Facility User) that has been transmitted to a Server.
- N. Control – Maintaining information in a manner so that the information can be viewed, added, edited, deleted, and/or transferred by or to InBody for the purposes described in this Agreement.
- O. Personal Data Breach – a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored, or otherwise processed by either Party or its respective subsidiaries, affiliates, and/or partners.

II. Analysis Facility Rights and Account Administration

- A. Subject to this Agreement, InBody grants you the non-exclusive, non-transferable, revocable, limited right to access and use the Service and to view the InBody Content related to body composition data of an End User obtained through a Product, either by an End User’s use of a Product provided at your Analysis Facility or by an End User associated with your Analysis Facility providing you with such InBody Content and, in either case, solely for the purposes of your discussion regarding the InBody Content with such End User. You also have the right to modify, export, print, download and save the InBody Content related to an End User for the sole purpose of discussing the InBody Content with such End User.
- B. InBody grants you the Custody and Control of the Personal Information and Personal Health Information of an End User, pending their authorization to disclose their Personal Information and Personal Health Information, contributed by you at your Analysis Facility. The intellectual property rights of the Personal Information and Personal Health Information will remain under InBody’s ownership, but Control and Custody over the Personal Information and Protected Health Information is granted to you.
- C. InBody grants you the option to use the Site or an extension of the Site to contact the End User solely for purposes of your discussion regarding the InBody Content with the End User.
- D. You may elect, at an additional cost to you, to utilize a Membership Subscription feature on the Site which allows you, the Site account administrator, to limit how many times and in what time period End Users associated with your Site account can use the Services. The Membership Subscription feature is optional and does not need to be a part of your business model, but you agree that, if you elect to utilize this feature, to abide by the additional terms and conditions specified under this Agreement.
- E. You may elect, at an additional cost to you, to utilize a Health Kiosk feature on the Site. The Health Kiosk feature is optional and does not need to be a part of your business model, but you agree that, if you elect to utilize this feature, to abide by the additional terms and conditions specified under this Agreement or as otherwise provided to you, including additional costs and fees.

- F. You may use the Services to administer an InBody Challenge health, wellness, and fitness competition for your End Users; additional terms and conditions, which shall be provided separately, as well as additional costs and fees, will apply to such InBody Challenges.
- G. The InBody Content is provided to you for informational purposes pertaining to discussion between you and an End User's InBody Content and does not constitute professional medical advice, consultation, diagnosis, treatment, cure or recommendations of any kind to you or the End User.
- H. You understand that you may enable nutritional recommendations, exercise recommendations, or supplement recommendations (each, a "Health Recommendation") be made available to End Users via the Mobile App, Site, and/or other Service; you understand that you may control what Health Recommendations are made available to your End Users; you are aware that the Health Recommendations are third-party products and/or resources made available to you by InBody as a courtesy to enhance your End Users' experience while using the Services and that InBody is not affiliated or associated with any of the third-party Health Recommendations selected and/or available to you and your End Users. You agree and understand that your election to utilize the Health Recommendation feature is solely at your discretion. You agree and understand that the Health Recommendations should not be deemed to constitute medical advice and should not be relied upon without expert or professional insight and approval. You agree and understand that InBody disclaims any and all warranties and liability regarding the Health Recommendations and that you shall not hold InBody liable or responsible for any consequences resulting from your or your End Users' use of or reliance upon any Health Recommendation.
- I. You acknowledge and agree that you are responsible for securing adequate authorization from an End User before you allow them to take advantage of any InBody Services available through your facility.
- J. You agree that you will take all reasonable measures to:
1. Ensure the accuracy of the Personal Information and Personal Health Information on your consent/authorization form;
 2. Provide the End User a signed copy of the consent/authorization form and keep the original for record purposes, in either physical or digital format;
 3. Process the revocation request by the End User in a timely manner; and
 4. Ensure that when a personal representative acts upon an End User's behalf, that representative have the proof and authority to do so.
- K. You understand and agree that you are responsible for maintaining the authorization form until an End User revokes their authorization. End User will not be allowed to use Products or Services until they consent to a Privacy Policy and terms to be provided by InBody.
- L. You acknowledge and agree that an End User shall have the ability to use the Service on a limited basis through a Mobile App provided by InBody.
- M. In order to gain full access and use of the Service, an employee or representative of the Analysis Facility must create an Administrator account. You must create a login credential and password for the Site. The Administrator has the authority to access the settings and change the account's setup. The Administrator may assign or unassign a Staff Member to an End User for the purposes of the Email/Chat Feature. The Administrator may also track the total tests taken at their Analysis Facility to compare different groups, biological sexes, test dates, etc. An update or change to the administrative and other features provided to the Administrator may occur at any time and we have the right to change these features of the Services without prior notice to you.
- N. Two Staff Member accounts are provided by default to Analysis Facility for purposes permitted under this Agreement, including registering a new End User to use the Product, editing End User information, chatting with the End Users, viewing, sharing, and printing results generated by Products and/or Services, etc. Staff Members have limited accessibility to the Site, and any change to the settings must be made by the Administrator. The Staff Member may edit their account information and may not share the login credentials with anyone else for security reasons. The different tiers (i.e. Administrator vs. Staff Member) have different functionalities that can be discussed with our representative when purchasing the Service. Staff Members may choose their own password for the Site, but it must be between 4 – 14 alphanumeric characters. The password is personal, and Staff Members must not transfer it or make it available to others. It is the Staff Member's responsibility to ensure that the password is inaccessible to third parties. If any Facility User becomes aware that the password is or may have been compromised, they are obligated to inform us at LBSupport@inbody.com.
- O. Analysis Facilities, Administrators, and/or Staff Members are solely responsible for all activity that occurs in association with their LookinBody Web account. InBody will not be deemed or otherwise held liable for any loss or damages caused by a failure to maintain the confidentiality of your account credentials. At our sole and absolute discretion, we reserve the right to change any password if there is a risk that the password has been compromised or is used in violation of this Agreement or with your consent for purposes of customer service troubleshooting.

- P. Prior to the termination or other change of status of an Administrator, the Analysis Facility shall immediately notify InBody by email of such termination or change so that InBody will have a reasonable period of time to deactivate the login credential and password of the terminated or changed Administrator. InBody shall not be deemed or otherwise held liable for any breaches of confidentiality stemming from Analysis Facility's failure to give such reasonable notice to InBody.
- Q. Changes to a login credential may only be made by us upon the request of the designated Administrator of the Analysis Facility. If you want to change your login credential, please have the Analysis Facility Administrator contact us at LBSupport@inbody.com.
- R. We may elect to disable and/or request the deletion of your account pursuant to the Termination section of this Agreement.
- S. If you are utilizing an API, the following terms and conditions also apply:
1. If you are developing in conjunction with our platform, or using our platform, on behalf of a company or other entity, you represent and warrant that you have full legal authority to register an Application on behalf of that entity and bind it to this Agreement.
 2. InBody makes API available to developers and Analysis Facilities as follows:
 - a. **"Self-Serve API Program"** where you can develop Applications using APIs that are available to you immediately upon registration for an API key on our Site if you are developing by utilizing a pre-vetted API program, as described below, and have agreed to this Agreement; and
 - b. **"Vetted API Program(s)"** where you can develop Applications using APIs that are available only to developers that meet the applicable Vetted API Program eligibility criteria and have agreed to this Agreement. Only a developer can apply for a Vetted API Program.
 1. **Self-Serve API Program Eligibility Criteria:** In addition to your compliance with the other requirements and obligations set forth in this Agreement, you may participate in the Self-Serve API Program and display InBody Content retrieved via the applicable API in your Application if:
 - i. you are developing an Application designed to help InBody registered End Users ("**Members**") utilize, access, and understand their information more quickly, effectively, and efficiently;
 - ii. your Application DOES NOT make more than 500 daily calls, per device and per call parameter (such as name, ID number, or other parameter) to an API; or
 - iii. your Applications are used by sales or other selling professionals for generating or finding prospects or leads, for sales intelligence or training, for relationship management, for systematic matching of individuals with their InBody profiles, or for anything with similar functionality.
 3. You may elect, at an additional cost to you, to add an InBody Health Kiosk feature with the API. The Health Kiosk feature is optional and does not need to be a part of your business model, but you agree that, if you elect to utilize this feature, to abide by the additional terms and conditions specified under this Agreement or as otherwise provided, including additional costs and fees.
 4. Your use of any of our API and display of InBody Content in your Application must comply with the technical documentation, usage guidelines, call volume limits, and other documentation maintained at the Site or otherwise made available to you (together, the "Developer Documentation"). In the event of any conflict between the Developer Documentation and this Agreement, this Agreement shall control; please note that Developer Documentation can change at any time and that you will be notified of such changes.

III. Payment

- A. You agree to pay InBody fees invoiced to you for the use of the Services ("Fees"); for updated and current pricing please consult the Service pricing chart/information located at inbodyusa.com/product/lookinbody-web. You further agree to maintain all payment information current and that failure to do so will be subject to the Late Payment provisions below.
- B. **Waived Fee:** Customer may have Fees waived by InBody, but may be assessed Fees at a later date, at InBody's sole discretion; for purposes of this section, any fees or costs assessable to Customer by InBody for similar services rendered by InBody to Customer prior to the Effective Date may be assessed at a later date, at InBody's sole discretion. Customer may terminate this Agreement if Customer disagrees with the assessed Fees.
- C. **No Refunds:** You agree and understand that no refunds will be issued for any cancellation of the Services.
- D. **Fee Change:** Fees may be subject to change at any time; you will be provided adequate notice prior to the effectuation of these new Fees.

- E. LookinBody Web Subscription: Please note that you will be required to maintain an active LookinBody Web subscription in order to utilize API; cancellation of your LookinBody Web subscription will automatically disable your API.
- F. Payment Due: Within the first three (3) business days of a given month, Customer will compile all Services usage by Customer and Customer affiliates and clients for the immediately preceding month and provide a summary report of all such Services, and whether they were installed and/or interlinked in that immediately preceding month, and InBody shall issue to Customer an invoice with all applicable fees stemming from that immediately preceding month to be payable within fifteen (15) business days following the beginning of the new month.
- G. Late Payment: If payment is late, or is dishonored for any reason, Customer will be assessed a late fee of \$99.00. If the account is forwarded to a collection agency, Customer will be assessed an additional **twenty-five percent (25%)**, which will be added to the total amount due. If payment by company/personal check is returned, Customer will be liable for a charge of **USD 25.00** returned check fee. Customer is liable for any returns on credit card payment at a rate of **three percent (3%)** of the total amount due. In the event of any payment default, Customer agrees to pay any and all reasonable attorney fees and costs of collection to the extent permitted by law. This Section shall be enforced in accordance with the laws of the State of California, Los Angeles County.
- H. Should InBody change the costs and fees associated with the use of the Services or any developer tools and features, you do not have any obligation to continue to use the Services.
 - 1. Regarding API, Developers may not charge Analysis Facilities or Members incremental fees for access to our InBody Content or APIs.
- I. Back Pay: Customer understands that Services, including access to End User information and InBody Content, may be suspended upon Customer's failure to provide timely payment under this Agreement. However, InBody reserves the right to permit Customer to provide retroactive back pay and access to such suspended Services, End User information, and InBody Content generated during that time, if any, following Customer's entry into a payment plan and timely payments to InBody under that payment plan.

IV. Analysis Facility Representations, Warranties, Restrictions and Obligations

- A. You are entitled to use the Service as long as you are providing Services to End Users.
- B. You agree that you will obtain prior verifiable written consent of the parent or guardian of any End User who has not reached the age of majority in their jurisdiction of residence prior to providing Services to such an End User.
- C. You will use all reasonable best efforts to ensure that all Personal Information and Personal Health Information you collect and input in one or more Services is accurate, current, and is collected in compliance with and subject to this Agreement.
- D. You may use your authorization form to get consent from an End User as long as it includes the same purposes of collection and use required by InBody.
- E. You agree that you will keep the consent and authorization form secure until the End User revokes their consent.
- F. You must delete the Personal Information and Personal Health Information of an End User from the Site if and when an End User requests to revoke the authorization.
- G. The revocation protocols must be set by your facility, and you should have internal procedures to process such requests.
- H. We will not be held liable for any failure by you to acquire proper authorization from any End User or End User's guardian.
- I. You are authorized to use the Site's Email/Chat Feature only to contact the End User about that End User's InBody Content; marketing and third-party solicitation efforts are not permissible and InBody reserves the right to terminate your access to the Services for misusing the Email/Chat Feature.
- J. Your jurisdiction may require additional consent or notice for you to conduct business with us. You represent and warrant that you have obtained all such consents.
- K. Support for any issues related to the Services will be provided by InBody to you until this Agreement terminates.
- L. The Parties agree and understand that Personal Information collected from an End User will remain in your Custody and Control, unless otherwise agreed to between you and InBody or you and another third-party; However, and

notwithstanding anything to the contrary, InBody will retain access to the Personal Information subject to this Agreement and End Users will retain access and ownership rights to all Personal Information accessible via the Site.

- M. Issues arising from the accuracy or access of the Personal Information by the End User will be addressed by End User to you and, if issues continue to arise or be present, you will process such issues to us for support.
- N. Issues arising from the use or functionality of the Services by you shall be directed to us for support. InBody provides no guarantee of a solution for any issue.
- O. Warranty for the Services applies to the support provided to you through phone, email, remote access, or any other virtual help. Cases that require in-person support do not apply.
- P. InBody reserves the right to contract third parties for support related purposes.
- Q. InBody shall not provide support to any Service when damage or malfunction results from:
 - 1. Customer abuse, misuse, negligence, or an issue caused by the End User.
 - 2. Customer fails to follow the installation, operation, or maintenance instructions described in the setup/user's manual.
 - 3. Acts of God (storm, flood, earthquake, etc.), power failures or surges, actions of third parties, and any other event to the Server or the physical location of the stored data outside of InBody's reasonable control or not arising under normal conditions.
- R. Notwithstanding the above, each Party may retain a copy of this Agreement and such other confidential information of the other Party as reasonably required for legal and auditing purposes.
- S. Except for:
 - 1. exporting, downloading, copying or printing an End User's own body composition data analysis for the End User's personal use or for purposes of discussion with an End User; and
 - 2. editing an End User's Personal Information, Personal Health Information, and data at the End User's request or for purposes of discussion with an End User:

you will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, broadcast or otherwise exploit the Services, or InBody Content, except as expressly permitted in this Agreement. No licenses, rights, custody or control are granted to you by implication or otherwise under any intellectual property rights owned or controlled by InBody or its licensors, except for the licenses, rights, Custody and Control expressly granted in this Agreement. You may not perform, attempt to perform or encourage or assist others in performing any of the following while accessing or using the Service: (a) use, display, mirror or frame the Service or any individual element within the Service, InBody's name, any InBody trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page, without InBody's express written consent; (b) access or tamper with non-public areas of the Service, InBody's computer systems or the technical delivery systems of InBody's service providers; (c) test the vulnerability of any InBody system or breach any security or authentication measures; (d) circumvent any technological measure implemented by InBody or any of InBody's service providers or any other third party (including another End User) to protect the Service or InBody Content; (e) access the Service(s) through the use of any mechanism other than through the use of the Service; or (f) modify, decompile, disassemble, reverse engineer, tamper with or otherwise attempt to derive the source code of any software that InBody provides to you or any other part of the Service.

- T. You warrant and agree that, while using the Services, you shall not: (1) impersonate any person or entity or misrepresent your affiliation with any other person or entity; (2) insert your own or a third party's advertising, branding or other promotional content into any of the Services' content, redistribute, republish or exploit such content or service for any further commercial or promotional purposes without InBody's prior written and express permission; or (3) attempt to gain unauthorized access to other computer systems through the Services.
- U. You shall not: (1) engage in spidering, "screen scraping", "database scraping", harvesting of e-mail addresses, wireless addresses or other contact or personal information, or any other automatic means of obtaining lists of users or other information from or through the Services, including without limitation any information residing on any server or database connected to the Services; (2) obtain or attempt to obtain unauthorized access to computer systems, materials or information through any means; (3) use the Services in any manner with the intent to interrupt, damage, disable, overburden, or impair the Services, including, without limitation, sending mass unsolicited messages or "flooding" Servers with requests; (4) use the Services in violation of InBody's or any third party's intellectual property or other proprietary or legal rights, or otherwise violate InBody's or any third party's intellectual property or other proprietary or legal rights; (5) use the Services, in particular, the Email/Chat Feature on the Site for any other purposes unrelated to the

InBody Content of the End User with whom you use such feature; or (6) use the Services in violation of any applicable law, including without limitation, any applicable privacy or anti-spam law. You further agree that you shall not attempt (or encourage or support anyone else's attempt) to circumvent, reverse engineer, decrypt, or otherwise alter or interfere with the Services, or any content thereof, or make any unauthorized use thereof. You agree that you shall not use the Services in any manner that could damage, disable, overburden, or impair the Services or interfere with any other party's use and enjoyment of the Services. You shall not obtain or attempt to obtain any materials or information through any means not intentionally made publicly available or provided for through the Services.

- V. We may allow, at our sole discretion, an End User or you to post materials, comments, and any other content related to the End User, on the Site. Any content that is related to the End User, except Personal Information, Personal Health Information, and body composition information that is processed and/or analyzed by the Analysis Facility, ("User Content"). The End User will retain all rights to the User Content that the End User and/or you may post to the Site; however, by submitting User Content, you grant to us a to a world-wide, perpetual, irrevocable, non-exclusive, and unrestricted license to copy, reproduce, adapt, transmit, edit, modify, or otherwise use, publicly display, distribute, translate and create compilations and derivative works from User Content (in any format or media); and waive all moral rights in and to all of User Content in favor of us and anyone authorized by us. For greater certainty, this applies to body composition information and the name and logos of Analysis Facilities only to the extent needed for us to provide, operate, test, or improve the Services or to develop new products and/or services.
- W. You are responsible for any content related to the End User contributed by you. You represent and warrant that the content you contribute to the End User content, and the use and provision of the End User content contributed by you on the Service, will not: (1) infringe, misappropriate, or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (2) violate, or encourage any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (3) be fraudulent, false, misleading or deceptive; (4) be defamatory, obscene, pornographic, vulgar, or offensive; (5) promote discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (6) be violent or threatening or promote violence or actions that are threatening to any person or entity; or (7) promote illegal or harmful activities or substances. You represent and warrant that you may edit, modify, delete, and add the Personal Information and Personal Health Information of an End User for purposes of complying with this Agreement, and you will not use this control in an inappropriate way.
- X. Certain InBody devices feature a biometric scanning function which allows end-users to scan their fingerprint for quick and easy log-in to their respective InBody profiles on that device. You will be able to determine whether to utilize this function on your device. You can choose to not use this function. By choosing to utilize the biometric scan, you understand that end user biometric data will be recorded and stored within the device and you accept any and all risks associated with end user data being stored on the device, pursuant to these Terms. Responsibility for storing and securing your end users' data lies with you, not InBody; InBody disclaims and waives all responsibility for securing your end users' biometric data and any concerns brought up by your end users should be brought to you.

V. **InBody Warranty Terms, Conditions and Exclusions:**

- A. To the extent permissible by applicable law, the Analysis Facility is responsible for any or all risks arising from the use of the Site. InBody disclaims any other warranties, including but not limited to the warranties of merchantability, fitness for specific purposes, and implied warranty regarding ownership or non-infringement, whether express or implied, to the maximum extent permitted by the applicable laws.
- B. Support for any issues related to the Site will be provided until the subscription is active.
- C. InBody warrants that Personal Information collected from an End User will remain in your Custody and Control. InBody will have access to the Personal Information for purposes described this Agreement.
- D. Issues arising from the accuracy or access of the personal information by the End User will be processed to you. If you are unable to solve the issue, the End User may contact us for support.
- E. Issues arising from the use or functions of the Site by you may be directed to us for support. InBody does not warrant and/or guarantee a solution to your issue.
- F. Warranty for the Site applies to the support provided to you through phone, email, remote access, or any other virtual help. Cases that require in-person support will be treated as special cases and will be judged on a case by case basis.
- G. Repairs, troubleshooting, and/or remote access support will be provided to you whenever necessary, but understand that we may require additional support from our contracted third parties.
- H. Service to errors, bugs, or malfunctions shall not be provided when they result from:
 - 1. Customer abuse, misuse, negligence, or an issue caused by the user.

2. Customer fails to follow the installation, operation, or maintenance instructions described in the setup/user's manual.
3. Damage(s) caused by Acts of God (storm, flood, earthquake, etc.), power failures or surges, actions of third parties, and any other event to the Server or the physical location of the stored data, outside InBody's reasonable control or not arising under normal conditions.

I. Cancellation. You may cancel this Agreement at any time, including during a Trial period, by contacting our product support team. When you cancel your account under this Agreement, any Staff Members associated with your account will also lose access to the Site and to any new mobile data provided through the Mobile App or other Service.

1. You may cancel your subscription at any time through the Site; a Cancellation Request Form will also be made available to you upon request.
2. You agree to follow the steps provided to you on the Cancellation Request Form, should you request one, including submitting such Cancellation Request Form to LBSupport@inbody.com.
3. We may require your name, username, facility's name, and a Facility User's name and/or phone number to confirm your identity and authorization to cancel your subscription.
4. Please allow us three (3) business days to process your request and cancel your subscription.
5. If you cancel the Agreement after paying for the Services, you will be provided an additional month of Services for no extra charge; if you are charged after the cancellation, please contact us as soon as you become aware so that we may resolve the issue in a timely manner.
6. Following cancellation, we will not be held liable for:
 - a. your inability or refusal to turn off the cloud service;
 - b. technical or mechanical error from your Analysis Facility or its device;
 - c. misunderstanding between our support representative and you; and/or
 - d. no contact to our support representative by you

which results in a breach of End User Personal Information and/or Personal Health Information.

7. You must cancel your Agreement at least three (3) calendar days before the renewal date of your account in order to avoid charges for that following month.
8. Please do not assume that your account has been canceled until you receive notice regarding confirmation of cancellation from InBody.
9. You may reinitiate your subscription at any time after cancellation following renewal of this Agreement and any other agreements as may be required.
10. You agree and understand that no refunds will be issued for cancellation of the Services.
11. You further agree and understand that your canceled account will be retained in a temporary archive for one (1) year following receipt of your notice of cancellation, during which time you are free to resume your subscription; you understand, however that following such one (1) year temporary account archive and suspension, your account will be permanently deleted and your data will become permanently unrecoverable.

J. Trial and Beta

1. You may be provided with a two-month, free of charge trial version of the Site and/or a version of Services including certain beta features (each a "Trial Version").
2. The Trial Version is only available on select devices. Your device may not be compatible with the Site. For more information contact our product support team.
3. You may participate in the Trial Version within one year from the purchase date of your InBody body composition analysis device. To check if you are eligible for the Trial Version, please contact us.
4. You shall abide by all obligations, including those regarding maintaining security of Personal Information and Personal Health Information, under this Agreement, as well as any other applicable agreements for the duration of the Trial Version.
5. Any Personal Information and Personal Health Information, including test results, processed at your Analysis Facility will become unavailable to you on the Site once the Trial Version expires. The data on the InBody body composition analysis device will not be impacted by the Trial Version and expiration thereof.
6. Following expiration of the Trial Version, you will be provided the opportunity to enter into a paid subscription agreement for Site; should you fail to enter into such paid subscription agreement, the Trial Version shall expire and become a "Failed to Activate" account.
7. Failed to Activate accounts shall be permanently deleted ninety (90) calendar days following becoming a Failed to Activate account.

8. You may request for data to be deleted permanently from InBody's Server after the Trial Version expires and during Failed to Active, but you agree and understand that it may impact the data available to your customers/patients on their Mobile App.
9. If you decide to reinitiate the subscription after cancelling the Trial Version or during a Failed to Activate period, you agree and understand that your data may not be available to you.
10. You may call our product support team to cancel your Trial Version prior to expiration and a Cancellation Request Form will be provided to you.

VI. Data Protection:

- A. Personal Information that is acquired at your Analysis Facility is in your Custody and Control. You have the ability to review, analyze, edit, modify and delete information about End User's InBody Content (except personal use device's content).
- B. You are responsible for securing the End User's Personal Information, exchanged content and media in your Custody and Control, according to the applicable law of your jurisdiction.
- C. You are responsible for all data that is inputted into the Site by you pursuant to your use of the Product, including the data that is transmitted through the Service. You represent and warrant that all data provided by you through the Site for processing or analysis is correct and true.
- D. You agree and understand that in the event your Site subscription, including a Trial Version, is cancelled or deleted, InBody shall nevertheless retain intellectual property rights to data provided/included in accordance with the terms and conditions in this Agreement.
- E. Protected Health Information that is acquired at your Facility is in your Custody and Control. You may review, analyze, edit, and modify information related to InBody Content (except personal use device's InBody Content).
- F. You are responsible for securing the Protected Health Information, exchanged content, and media in your Custody and Control according to the applicable law of your jurisdiction.
- G. You are responsible for all data that is uploaded onto the Site by you pursuant to your use of the Services. You represent and warrant that all data provided by you through the Site for processing or analysis is correct and true.

VII. Security Measures: We work very hard to protect the data you provide. We take reasonable and appropriate measures to protect the data you submit, including physical, organizational, and technological security measures. Furthermore, we promise to never sell Personal Information. By entering into this Agreement, the Analysis Facility acknowledges that unintentional data loss may occur despite the efforts made in good faith by InBody, its third-party affiliates, or the Analysis Facility. However, we expect your network, operating system and the software of your web servers, databases, and computer systems (collectively, "Systems") to be properly configured to securely operate Application and process InBody Content. If requested, you must complete InBody's security questionnaire (which InBody will provide to you). The purpose of access and process by the third-party affiliates in different jurisdiction will remain consistent with this Agreement. Processing and access may be possible from other countries whose data protection laws may differ from the jurisdiction in which you are located. As a result, this information may be subject to access requests from governments, courts, or law enforcement in those jurisdictions according to laws in those jurisdictions. You represent and warrant to InBody that you attained and will continue to attain and maintain all necessary consent and provide all necessary notices as required by applicable laws for the purposes of this Agreement.

- A. **Technical Safeguards:** The Parties shall use a variety of security measures, including encryption and authentication tools to help protect information. Third parties, including, but not limited to, InBody Co., Ltd., should utilize extended levels of security to protect the electronic data.
- B. **Physical Safeguards:** The Parties will review information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to their respective offices. Third Parties such as InBody Co., Ltd. should restrict their offices to authorized personnel only, and other forms of restriction are applied to access the server(s).
- C. **Administrative Safeguards:** The Parties shall restrict access to Personal Information and Protected Health Information to employees, contractors, and agents who need to know Personal Information or Protected Health Information in order to process required information. They will be subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations. Third parties are also required to limit the access to server(s) to authorized personnel only who use the information for the purposes indicated in this Agreement.

- D. Security Breach.** You must promptly report any security deficiencies in, or intrusions to, your Systems that you discover (or are reported publicly or to you) to InBody in writing via email to LBSupport@InBody.com or subsequent contact information posted on the Site if such intrusions could reasonably be expected to affect the InBody Content, InBody, or its Members in any way. You will work with InBody to immediately correct any security deficiency, will disconnect any intrusions or intruders, and will inform, guide, and give notice that the deficient application will be unavailable to the public until the security breach/issue is resolved. In the event of any security deficiency or intrusion involving the Application, APIs or InBody Content, you will make no public statements (e.g., press, blogs, social media, bulletin boards, etc.) without prior written and express permission from InBody in each instance.
- E. Breach Source.** In order to determine the source of a Member's Personal Data Breach, you shall conduct a thorough investigation to determine the identity of the breaching party for post-incident action plan. You warrant that you have safeguards, policies, and procedures in place to detect and counter a Personal Data Breach from your Custody and Control.
- F. Data Breach Detection and Responding Policies.** We have technological and organizational measures in place to detect a Personal Data Breach in our system. You warrant that you have technological measures in place to detect Personal Data Breach in your systems; furthermore, the Parties shall have policies and procedures in place:
1. to access the level of risk to Protected Health Information subjects as soon as feasible;
 2. to ensure that the Personal Data Breach is contained as soon as possible;
 3. to provide information pertaining to the Personal Data Breach; and
 4. to notify supervisory authorities (applicable to your jurisdiction) and Protected Health Information subjects and others of the Personal Data Breach in accordance with this Agreement.
- G. Notification to Supervisory Authorities -** We may notify a supervisory authority, in case of a Personal Data Breach, once we become aware of it. If assessed that the Personal Data Breach poses a real risk of significant harm to a Member, we will notify the supervisory authority and within a reasonable amount of time after a Personal Data Breach determination has been made by us. You warrant that you have necessary procedures and protocols in place to notify the supervisory authority and any other related party that may be at risk of harm stemming from the Personal Data Breach within a reasonable time following that Member's Personal Data Breach.
- H. Notification to Protected Health Information Subjects –** We have policies and procedures to notify the affected Members of the Personal Data Breach; if we determine that said Member(s) is or are at a real risk of significant harm, we shall notify the Member in the prescribed manner and form. You warrant that you will notify the affected Members if it is determined that the Personal Data Breach occurred from your Analysis Facility and/or Custody and Control.

VIII. Breach Notification and Incident Reporting

- A.** Breach is defined as an impermissible use or disclosure under the Privacy Rule of Health Information Portability and Affordability Act ("HIPAA") that compromises the security or privacy of Protected Health Information.
- B.** You warrant that you hold the Custody of and Control over the Personal Information and Protected Health Information of the End Users and the Facility Users at your Facility and are responsible for any incident, if any, that leads to compromise of the Personal Information or Protected Health Information from your facility.
- C.** If you experience a breach in respect to any Personal Information or Protected Health Information in your Custody, without unreasonable delay and, in any event, no more than forty-eight (48) hours after discovery, you shall report to InBody any suspected or actual: (1) use or disclosure of Personal Information not provided for or permitted by this Agreement; (2) Breach of unsecured Protected Health Information (3) a Security Incident; and (4) use or disclosure of Protected Health Information in violation of any applicable laws or regulations, of which you become aware.
- D.** You must have policies and procedures in place to implement security protocols to avoid such incidents, and "after incident" protocols to determine the requirement of the notification.
- E.** You must notify us and any other related party, such as the End User, of any unauthorized breach of Protected Health Information that occurs while in your control.
- F.** In order to determine the source of the Breach, thorough investigation will be conducted to conclude the responsible party for post-incident action plan.

G. You warrant that you have safeguards, policies and procedures in place to detect and counter a Breach in your Custody and Control.

H. **Data Breach Detection and Responding Policies.** We have technological and organizational measures in place to detect personal data Breach in our system. You warrant that you have technological measures in place to detect personal data Breach.

1. We have policies and procedures in place:
 - a. to ensure that the personal data Breach is contained as soon as possible;
 - b. to access the level of risk to data subjects as soon as feasible;
 - c. to inform all interested persons within the company of the personal data Breach and the affiliated companies that may be affected by such Breach; and
 - d. to notify supervisory authorities (applicable to your jurisdiction) and data subjects and others of the Breach in accordance with applicable law.
2. We will notify the supervisory authorities if deemed necessary according to HIPAA and its section 45 CFR §§ 164.400-414.
3. If we determine that the Breach poses a real risk of significant harm to an individual, we will notify the Office of Inspector General in the prescribed form and manner and within the feasible amount of time after we determine that the breach has occurred.
4. You warrant that you have necessary procedures and protocols in place to notify the supervisory authority and any other related party that may suffer harm as a result of the breach when you become aware of the personal data Breach.
5. We have policies and procedures to notify the affected individuals of the personal data Breach. If we determine that it is of a real risk of significant harm, we shall notify the individuals as required by law.
6. You warrant that you will notify the affected individual if it is determined that the Breach occurred at or from your Analysis Facility and/or Custody and Control.

IX. Information We Collect

A. Information We Collect from an End User:

1. Mobile App: When an End User registers for the Mobile App, we require the following information: End User's name, email address, telephone number, age, height, weight, and biological sex (at birth).
2. Product: Our InBody Body Composition Analyzer collects multiple data points from End User and outputs information such as BMI, PBF, Lean Body Mass, Skeletal Muscle Mass, and level of Body Water. Accessories connected to the InBody Body Composition Analyzer collect and output many different data points. Results from the device and accessories are pooled together and associated with End User's registered ID and/or telephone number. If End User wishes to be left anonymous and unidentifiable, End User may use the Product as a Guest. Height, weight, age, and biological sex (at birth) are still required from a Guest user to process the data. The storage of End User's data on the Server allows the End User to track changes over multiple tests and multiple Service(s). A Guest user may not be able to track their results. Also, depending on the model of the Product, additional body composition measurement information may be stored, such as visceral fat level, and leg lean mass.
3. Wearable devices: Wearable devices track End User's sleep, calories, activity, and steps. End Users have the option to measure additional functions such as activity time, distance traveled, and calories burned. End Users may also selectively choose to hide any of the functionalities (except battery, time, and body composition analysis) from the screen of the Wearable device. The Ranking system function, derived from the Wearable device, in the Mobile App is available for End Users to compare steps and/or scores activity with friends and family who have this system available and turned on. This optional feature requires End Users to provide access to their contacts and opt-in to share results with the contacts through settings. To know more about ranking system and the different functions of the Wearable device, please refer to the "Terms of Service for End User".
4. As it pertains to the Personal Information that End Users share about themselves to InBody using InBody's Service directly, without an Analysis Facility, End User's agree that no Protected Health Information is included, and HIPAA does not apply to such Personal Information.

- B. Information We Collect from an Analysis Facility:** An Analysis Facility may be asked to provide InBody with Personal Information of Facility Users who may access the Site. Such information can include their full name, telephone number, email address, and date of birth. The Staff member is a sub-tier account to the Admin account with limited access to the Site. Each Analysis Facility may have a different staff structure, and the level of access to the End Users' information will be determined by InBody at our sole discretion by reference to the Facility User's responsibility and role at the Analysis Facility. A Facility User's personal information is used to create account logins for the Site during the creation of an Administrator account and/or Staff member account. The Facility User is responsible for the accuracy of the information, any changes or updates on the account, and the confidentiality of the login credentials for the Site. A Facility User may be asked to provide identifiable information to InBody if they call in for support.
- C. Analysis Facility – Covered Entity:** In the event that a Covered Entity purchases the LookinBody Web Subscription, InBody shall become its Business Associate and both parties must comply with HIPAA Privacy and Security Rules. An Analysis Facility that is a Covered Entity hereby represents and warrants to InBody that such Analysis Facility has obtained the necessary Authorization Form(s) to ensure that such Analysis Facility has consent to disclose each End User's Personal Information and Personal Health Information, which shall comply with HIPAA and other applicable state and federal privacy laws. The Covered Entity that discloses the Personal Health Information to InBody must enter into and comply with terms of a mutually agreeable Business Associate Agreement.
- D. Information Collected Automatically:** We may automatically collect the following information from your use of the Service(s) through cookies, web beacons, and other technologies: your domain name, browser type, operating system, web pages you view, links you click, your IP address, the length of time you visit our Site and/or use our Mobile App, mobile device, mobile number, and the referring URL, the webpage that led you to our Site, and other similar information. We may also have access to other data such as location, calls, mobile camera, photo gallery, and contacts, if you allow. Note that this information that is automatically collected does not include Protected Health Information.
- E. Information Collected Purposely:** Should your Product be connected to InBody's Services, in particular the LookinBody Web cloud-based data management software, you agree and understand that InBody may access and extract from your Product certain quality control reports, including error codes, for Product support and research & development purposes; this includes Product calibration information and software information, the most recent one hundred (100) tests (without Personal Information), and noise information.
- F. Cookies and Other Collection Tools:** We may use our cookies and other collection tools to track information about your use of our Site and other Services, or to track aggregate and statistical information about End User activity. A cookie is a small file containing a string of characters that is sent to your computer when you visit a website, in this case the Site. When you visit the Site again, the cookie allows the Site to recognize your browser. Cookies may store user preferences and other information such as a login credential and/or password. You can reset your browser to refuse all cookies or to indicate when a cookie is being sent. Other technologies are used for similar purposes as a cookie on other platforms where cookies are not available or applicable. Some cookies allow us to make it easier for you to navigate our Site and other Services, while others are used to enable a faster login process or to allow us to track your activities on our Site. All cookies are allowed by default, but you can adjust this setting and clear cookies for all sites or for certain pages. You can disable or remove first-party and third-party cookie information and data. If you remove cookies, things like saved preferences on websites might get deleted and some website features or services may not function as well. But if you prefer, you can edit your browser options to block them in the future. The help portion of the toolbar on most browsers will tell you how to prevent your browser from accepting new cookies, how to have the browser notify you when you receive a new cookie, and/or how to disable cookies altogether.
- G. Misc.:** The application of this Agreement is subject to the required equipment(s) and application(s) to upload and/or download the data to and from our Server and is subject to the requirements or provisions of applicable federal and state legislation, federal and state regulations, agreements or the ruling of any court or other lawful authority. All Analysis Facility Users with access to End User's Personal Information are required to comply with this Agreement.

X. Use of Information

- A. Use of End User's Information: by Analysis Facility**
1. To track End User's performance at that Analysis Facility such as total amount of body fat lost, and total amount of lean body mass gained.
 2. To track total End Users and the Facility's performance such as total tests, existing users, and new users. This allows Facility Administrator to track how well their Analysis Facility is doing.
 3. To serve End Users:
 - a. To provide End Users with Personal Health Information such as BMI, PBF (Percent Body Fat), Lean Body Mass, Body Water, BMR, and Systolic and Diastolic Blood Pressure measurements.
 - b. Analysis Facility may assign a Facility User(s) to chat with End Users. This additional feature is provided to help End Users stay connected with their fitness/health advisor. Any changes or updates to the assigned advisor should be discussed with the Analysis Facility.

B. Collection of End User's Information: for the End User

1. Personal Information is stored on the Server so that End Users can access data from the Mobile App.
2. We may have access to End User data generated by an End User's mobile phone, with End User's consent. This may include accessing and using:
 - a. Location – To allow End User's wearable device and phone to pair and report fitness level(s);
 - b. Camera – To allow you to take pictures and share with the Facility User;
 - c. Call – To make calls to a Facility User and to allow call notifications to be sent to End User's wearable Product;
 - d. Gallery – To allow End Users to share their images with the Facility User; and
 - e. Contacts – To allow End Users to track and rank their family and friends who use the Mobile App and the Product.
3. End User's email address is used to send a temporary password if Mobile App credentials are lost; it may also be used for other services related to End User's password to confirm End User identity.
4. We may send End User an electronic message through email or SMS where we take End User's consent in accordance with applicable law.

C. Use of End User's Information: by InBody

1. To serve you:
 - a. To provide support to inquiries made by you or End Users regarding the Service(s); In the case of an inquiry, name and/or ID will be used by us for identification purposes.
2. To give access to third parties to process that Personal Information:
 - a. Third parties that are affiliated with us may have access to Personal Information to process information and/or to provide services.
 - b. When the information is entered on the Product (that is connected to the internet), Mobile App or the Site, it automatically gets uploaded on the Server. Access to the Server is open to InBody and its contracted affiliates for the same purposes as InBody.

D. Other Uses of Personal Information: Other uses and disclosures of Personal Information not covered by this Agreement, and permitted by applicable laws that apply to us, may be made with End User consent or where permitted or required by applicable law. If we are authorized or required to use or disclose Personal Information, End User or End User's legal representative may revoke that authorization in writing at any time with the Analysis Facility, except to the extent that we have taken action relying on the authorization or if the authorization was obtained as a condition of obtaining End User's account, or if we are legally required to make a particular use or disclosure of End User's information.

XI. Disclosure of Information: We may share Personal Information with the following entities for the purposes described below, provided that our sharing of Personal Information and their use of Personal Information complies with HIPAA and other applicable state and federal privacy laws:

A. Business Transfers: We may disclose Personal Information in connection with the sale, merger, sale of assets or reorganization of InBody or its affiliates. In such an event, all information will transfer to the acquiring company. Notice of such a transfer will be provided by posting to the Site or via another form of communication.

B. Third Parties: We have a relationship with third-party service providers including, but not limited to, InBody Co., Ltd. They help us provide services to you and End Users, administer our business, and design, maintain, improve our Service(s), systems, procedures, protocols, and security. When we allow our contracted third-party service provider to have access to Personal Information, they are permitted to use it only for purposes that are consistent with this Agreement. We ensure, through agreements in place, that these third parties have equivalent levels of protection established in their organizations for sturdy protection of such information. If a substantial change in our or any of our associate's business model occurs that impacts the use of such information, updated terms will be provided. Below is the list of some of the third parties that may use Personal Information:

1. **Use of Personal Information: By InBody Co., Ltd.:** InBody Co., Ltd. may share or sell aggregated, de-identified data that does not identify End Users with partners and the public, in various ways, such as by providing research or reports about health and fitness or in connection with contests, challenges, or other events.
 - a. To administer and maintain the Server and thus the Personal Information contained therein;
 - b. To provide the highest level of support, if needed, to understand and solve any issue that may arise.
 - c. To improve InBody's content;
 - i. The collection of Personal Information also helps create, develop, operate, deliver, and improve Services.
 - ii. To track and respond to safety concerns and to further develop and improve Services.

- d. InBody Co., Ltd. may use the aggregated data, so they can administer and improve the Site, analyze trends and gather broad demographic information, as well as for various business purposes, including Service development and improvement activities.
- C. **With Service Providers and Business Partners:** We may collaborate with other companies and individuals to perform services on our behalf. Any such subcontractor will be treated with and under the compliance of 45 CFR § 164.502(b). Examples of providers include data analysis firms, credit card processing companies, customer service and support providers, email and SMS vendors, web hosting and development companies and fulfillment companies. Companies may also include our co-promotion partners for Services that we jointly develop and/or market with. These third parties may be provided with access to the Personal Information needed to perform functions for us, but the use will be subject to contracts and agreements in place that protect the confidentiality of the information. Third party integration with our Services, such as Site, may require access to the Personal Information in a non-traditional manner which will be subject to different terms.
- D. **Law Enforcement:** We may disclose and report to law enforcement agencies information related to activities that we reasonably believe to be unlawful, or that we reasonably believe may aid a law enforcement investigation into unlawful activity. In addition, we reserve the right to release your information to law enforcement agencies if we determine, in our sole judgment, that the release of your information may help protect the safety or property of any person or entity.
- E. **Required or Permitted by Law:** We may disclose your information to others as required or permitted by law. This may include disclosing your information to governmental entities, or pursuant to court orders, subpoenas, warrant, summons or similar process.
- F. **Protection for Us and Others:** We may disclose the information we collect from you where we believe it is necessary to investigate, prevent, or take action regarding illegal activities, suspected fraud, situations involving potential threats to the safety of any individuals, violations of this Agreement, or as evidence in litigation in which we are involved.
- G. **Data That You May Direct Us To Share:** You can direct us to share your data with other parties or users. You may also direct us to share Personal Information with any other third-party app or website which will be subject to different set of terms and conditions.

XII. Data Retention and Deletion: We and our affiliates actively retain Personal Information for ten years for the purposes described above or as permitted or required by applicable law. Aggregation of data will take place after ten years of End User's inactivity. Personal Information is aggregated when an End User's account is inactive on the Mobile App AND End User has not used the Product for ten years. When Personal Information is aggregated, Protected Health Information, name, ID, phone number, and email address are deleted permanently. Only the de-identifiable information is kept for development, improvement, and/or marketing purposes. Inactivity is defined by two requirements:

- 1. When an End User is inactive (has not logged in) on the Mobile App; and
- 2. When an End User has not used the Product at the Facility.
- A. Inactivity or cancellation of the subscription from the Product or the Service by the Analysis Facility does not impact access to previous test results or the test results produced by InBody wearable products. If an End User is continuously using the Product, End User's information will be retained until End User becomes inactive for ten years or deletes the information by making a request to the Facility.
- B. Data can be deleted (1) if an Administrator of the Site deletes the data or account on the Site; or (2) if End User manually deletes the test results on the Mobile App (which does not mean that data has been deleted on the Facility's Site), or upon account expiration.
- C. To delete Personal Information permanently, an End User must talk to Administrator or Staff Member to delete End User's information. Analysis Facility has Custody and Control over data that was acquired at the Facility.
- D. Deleting records and Personal Information is permanent; however, please note that in some cases we may be required to retain certain information where permitted or required by law, including, without limitation, if such information is the subject of a legal dispute. InBody Co., Ltd. may wait for a certain time before permanently deleting your records or Personal Information in order to help avoid accidental or malicious removal of information.
- E. **Backups:** A Backup is defined as data stored that matches the data on the Analysis Facility's Product(s). The Backup will be maintained for the duration of the End User account or active LookinBody Web account until data is permanently deleted from the account. Data may be stored in the Backup even after someone deletes an End User account or information to avoid accidental or malicious deletion of information. After a reasonable time period has passed, the data will be deleted permanently or restored if requested. After the data is deleted permanently, the Backup will be deleted,

subject to any legal requirements.

XIII. Data Accuracy: InBody works hard to ensure that the information within its Custody and Control is accurate. The method for updating Personal Information depends on the information source. Personal Information comes from one of the following:

1. Entered by End User on the Mobile App or the Product; or
2. Entered by the Analysis Facility on the Site or the Product.

- A. Information deleted, updated, or added on the Mobile App is stored only on End User's phone.
- B. Any factors of Personal Information that are dynamic (change frequently), for example Weight, Age or Phone Number, should be updated by End User or the Analysis Facility accordingly. As the Analysis Facility has full authority to change or update any part of the Personal Information, InBody and its affiliates do not take responsibility for test results and/or decisions made based on inaccurate Personal Information.

XIV. API-Specific Terms and Conditions

A. **Application Registration:** To begin using the API, please contact us at LBSupport@inbody.com for further information. You must sign-in to <https://apiusa.lookinbody.com> using your LookinBody Web account's username and password, and then register your Application. Both the Application registration and your LookinBody Web account must contain accurate and up-to-date information at all times.

1. You agree that we can use, store, and share information submitted by you to InBody in connection with your Application to contact you, for attribution purposes, handling inquiries from Members or potential Members about your Application, for other purposes under this Agreement (for example, we may email you with updates regarding the developer program), and as otherwise permitted. You acknowledge that if you share the contact information of your employees or independent contractors with us, we may contact them in accordance with this Agreement.

B. **Access Credentials:** Once you have successfully registered an Application and met all other applicable requirements for your API, the account holder will receive a confirmation email to be given access to your API credentials for your Application. "Access Credentials" means the necessary security keys, secrets, tokens, and other credentials to access the applicable API. The Access Credentials enable us to associate your API activity with your Application and the Web account using it. All activities that occur using those access credentials are your responsibility. You agree that InBody shall not be deemed liable for any activities occurring under those Access Credentials. Keep your Access Credentials secret. Do not sell, share, transfer, or sublicense them to any other party other than your employees or independent contractors in accordance with Section 3.1 below. Do not try to circumvent them and do not require your users to obtain their own Access Credentials to use your Application (for example, in an attempt to circumvent call limits).

C. InBody's Right Regarding API:

1. We may suspend or terminate your use of all or any of the APIs or InBody Content at any time if we believe you have violated this Agreement, or, in our sole discretion, we believe the availability of the APIs in your Application is not in our or the Members' best interests; we reserve the right to terminate your use of all or any of the APIs with or without notice to you.
2. **Penalties:** Your failure to abide by any of the terms and conditions in this Agreement may result in financial and reputational damage to our business, as well as financial and reputation damage to our other customers and users; as such, InBody reserves the right to hold you liable for any failure to abide by the terms and conditions in this Agreement and demand liquidated damages of up to 500,000.00 USD for each violation or breach of this Agreement, which the parties agree is a fair, accurate, and justifiable penalty based on the value of the Services and the API.
3. We may discontinue the availability of some or all of the APIs or any InBody Content at any time for any reason. We shall provide you with thirty (30) calendar days' notice unless we discontinue such availability to protect the security or integrity of the APIs and related offerings, to address End User security or End User privacy issues, for legal compliance reasons, or to the extent necessary to mitigate damages in relation to third party litigation.
4. We reserve the right to suspend an API account if:
 - a. The account API has been unused for a period of ninety (90) consecutive calendar days; or
 - b. The account API is delinquent in payment or other requirement and the delinquency has not been corrected following thirty (30) calendar days' notice.
 - c. We notice suspicious activity or a breach or possible breach of this Agreement.

- d. We reserve the right to disable your account with or without notice to you.
 - e. Following API account suspension, you will be required to re-submit an API application form to us.
- 5. We may also impose limits on certain features and Services or restrict your access to some or all of the APIs, InBody Content, or our Services. Although we will endeavor to provide prior notice of our exercise of our rights pursuant to this Section, it may not be practical or commercially reasonable in all circumstances. Accordingly, all of our rights in this Agreement may be exercised without prior notice or liability to you.
- D. Test Profiles:** You may create up to one hundred test profiles for purposes of testing your Application only. You must create the profiles manually and not via automated means, such as scripts. Test profiles must be standard Member profiles. You shall delete all test profiles upon completion of testing.
- E. API License:** Subject to your compliance with this Agreement, we grant you a limited, non-exclusive, non-sublicensable (except to independent contractors so they may host, develop, test, operate, modify or support your Application), non-transferable, non-assignable license under InBody's intellectual property rights during the Term (A) to use the API to develop, test, operate and support your Application; (B) to distribute or allow access to your integration of the API within your Application to end users of your Application; and (C) to display the InBody Content accessed through the API within your Application. You have no right to distribute or allow access to the stand-alone APIs.
- F. Monitoring:**
 - 1. You will provide us with at least two (2) full-feature client level accounts to access your Application (and/or other materials relating to your use of the APIs and/or the InBody Content) as reasonably requested by us to verify your compliance with this Agreement (including, in particular, your security and privacy obligations under this Agreement).
 - 2. You also agree to assist InBody in verifying your compliance with this Agreement by providing us with information about your Application and storage of InBody Content, which may include access to your Application and other materials or Systems related to your use of the APIs. If you do not demonstrate full compliance with this Agreement, as determined in our sole discretion, we may restrict or terminate your access to the APIs.
 - 3. You acknowledge that InBody may monitor any API activity from its own systems for the purpose of ensuring quality, improving InBody products and Services, and ensuring compliance with this Agreement. You must not interfere or attempt to interfere with such monitoring or otherwise obscure from InBody your API activity. InBody may use any technical means to overcome such interference.
- G. API Agreements:** Your Application must include, and you agree to bind Members to, your own user agreement and privacy policy. Your user agreement and privacy policy must be prominently identified or located where Members download or access your Application. Your privacy practices must meet applicable legal standards of your jurisdiction and accurately disclose the collection, use, storage, and sharing of data. Furthermore and in addition to this Agreement, your use of the Service, and the terms you provide to End Users, shall also be in accordance with our Terms of Service for End Users. We will provide you with a copy of the Terms of Service for End User upon request. You agree that you shall not take any actions or fail to take any actions that would cause, or have the same effect as, a breach of the Terms of Service for End Users by us. In the event of a conflict between the Terms of Service for End User and this Agreement, the Terms of Service for End User shall take precedent.
 - 1. If your Application is a franchise application, you must enter into customer agreements with your franchise customers that describe how you will be accessing InBody accounts and InBody Content on the End Users' behalf.
 - 2. You must promptly notify us of any breaches of your user agreement or privacy policy that impact or may impact Members. Your privacy policy must be at least as stringent and user-friendly as the policies in this Agreement.
- H. API Content:** You must not capture, copy or store any InBody Content or any information expressed by the InBody Content (such as hashed or transformed data), except to the extent permitted by this Agreement.
 - 1. You may only store InBody Content in a manner which enables you to identify, segregate and selectively delete such InBody Content. The InBody Content must not be stored in a data repository that would enable any third-party access (other than the customer, End User, or Member to which it relates).
- I. API Tokens:** You may store the Application-specific ID, mobile number that we provide to you for identifying users of your Application ("User ID") or the authentication tokens that we provide to you when a Member authenticates your Application to their InBody account ("User Token").
- J. API Member Profiles:**

1. You must obtain legally valid consent, as required under your jurisdiction, from a Member before you may store that Member's Profile Data and InBody Content.
2. **"Profile Data"** means any or all of a Member's profile data available through an applicable API, subject to a Member's profile visibility and other privacy settings.
3. If you want to refresh the Member's Profile Data, you may only do so when the Member is actually using your Application and not on an automated schedule.
4. You must promptly delete and/or de-identify all InBody Content collected through the APIs about a particular Member, including the User ID and the User Token, upon request by that Member, when the Member uninstalls your Application or when the Member closes their account with you.
5. The restrictions of this Section do not apply to data that Members provide to you or that is separately entered or uploaded to you outside of the Application by the user of your Application.

K. API Warranties

1. You agree and understand that you are responsible for any or all risks arising from the use of the API. InBody disclaims any other warranties, including but not limited to the warranties of merchantability, fitness for specific purposes, and implied warranty regarding ownership or non-infringement, whether express or implied, to the maximum extent permitted by applicable law.
2. You agree and understand that you will take all available best efforts to ensure that Analysis Facilities using the Site and/or any Services are in good standing and remain in good standing with all applicable entities, including InBody.
3. You agree that, upon the Effective Date of this Agreement, you shall establish a user-defined HTTP callback (webhook) between the services, and shall maintain such webhook at all times during the Term of this Agreement; you agree and understand that establishing and maintaining a webhook are mandatory elements of this Agreement and that a failure to comply may be cause for termination and/or penalties.
4. Before obtaining information from Members, you must obtain their legally valid consent pursuant to your jurisdiction's requirements which, at a minimum, shall include: (1) how their data will be used, (2) when it will be collected (e.g., will the Application pull a Member's Profile Data more than once); and (3) how a Member can withdraw their consent. The consent must be freely given (in accordance with applicable law in your jurisdiction) and given by a statement or a clear affirmative action.
5. We are mindful that the Services will be attractive and of benefit to potential End Users under the age of 18 or local age of majority and it is our policy, regardless of the country in which the Analysis Facility is located, to ensure that parents or legal guardians can monitor data collected in respect of such End Users. Our Service(s) is available to End Users who are below the age of 18 or local age of majority. The parent or legal guardian of any End User aged below 18 years of age is required to consent to the collection and use of his/her child's Personal Information and Protected Health Information at the time of registering and use of our Services. When End User consent to this Agreement, if applicable, End User consent to the collection, use, and disclosure of Personal Information and Protected Health Information of End User's child. A parent or legal guardian of any child who has not attained 18 years of age or local age of majority can review his/her child's Personal Information and Protected Health Information, ask to have it deleted, and refuse to allow any further collection or use of the child's information from the Analysis Facility.
6. You agree and acknowledge that you are solely responsible for securing and obtaining any consent, especially and including, but not limited to, parental consent, adequate for compliance in your jurisdiction, as may be required; further you hereby release us, any parent companies, and of our affiliates, and any of our officers and employees from any and all liability directly or indirectly stemming from a failure to obtain and secure adequate consent.
7. In addition to the other terms and conditions in this Agreement, except as expressly set forth herein, you agree not to do the following:
 - a. Implement features or business practices, or use the APIs or InBody Content in a way, that may harm Members;
 - b. Disclose or provide the APIs or Access Credentials to any person or entity other than to your employees or independent contractors, provided (1) such employees or independent contractors enter into an agreement with you at least as protective of InBody's rights as this Agreement, and (2) you hereby agree to be responsible for, and liable to InBody for, any breaches of such agreements by such employees or independent contractors;
 - c. Impersonate an end-user or facility in order to gain access to information and data available through InBody's network, Services, or InBody Content;

- d. Use the APIs or InBody Content for any illegal purposes, or in any manner which would violate this Agreement, or breach any laws or regulations regarding privacy or data protection, or violate the rights of third parties or expose InBody or its users to legal liability;
- e. Remove any legal, copyright, trademark or other proprietary rights notices contained in or on materials you receive or access pursuant to this Agreement, including, but not limited to, the API, the Developer Documentation, and the InBody Content;
- f. Sell, lease, share (with the exception of making the InBody Content available to users through the Application), transfer, sublicense or otherwise make available any InBody Content, directly or indirectly, to any third party (e.g. you may not sell InBody measurement data or access to same), including, but not limited to, any data broker, ad network, ad exchange, or other advertising or monetization-related party;
- g. Use the InBody Content for any other purpose other than to allow your End Users to use the InBody Content in your Application;
- h. Use any InBody Content in any advertisements or for purposes of targeting advertisements specifically to any individual user (whether such advertisements appear in the Application or elsewhere), or to generate mass messages, promotions or offers;
- i. Make any statements or use any API or InBody Content in a manner that expresses or implies that you, your Application or your use of the InBody Content is sponsored or endorsed by InBody (e.g., you must not state or in any way imply that InBody has “verified” or “confirmed” the veracity of any InBody Content);
- j. Use any API in any manner that, as determined by InBody in its reasonable discretion, constitutes abusive usage, which includes making more than 500 daily calls, per device, per parameter, to an API;
- k. Interfere with or disrupt the Services or servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services, or transmit any viruses, worms, defects, Trojan horses, or any items of a destructive nature through your use of any API;
- l. Use the APIs to retrieve InBody Content that is then aggregated with third party data in such a way that an end user cannot attribute the InBody Content to InBody (i.e., aggregated search results);
- m. Provide functionality that proxies, requests or collects InBody usernames or passwords;
- n. Copy, adapt, reformat, reverse-engineer, disassemble, decompile, decipher, translate or otherwise modify any API, Access Credential, InBody Content, Services, InBody Brand Features or other information or service from InBody, through automated or other means;
- o. Use InBody Content as an input in reports or scores that could be used for the purposes of determining eligibility for credit, insurance, employment or other business purposes, unless otherwise expressly permitted by InBody, in writing, under separate terms;
- p. Use InBody Content in any manner that facilitates bias or discriminatory practices, including data "redlining," whether intentional or inadvertent, based on any sensitive or legally protected categories or characteristics;
- q. Use InBody Content in any manner that facilitates government surveillance (either directly or as a contractor for a government entity);
- r. Try to exceed or circumvent limitations on API calls and use. This includes creating multiple Applications for identical, or largely similar, usage;
- s. Distribute or allow third parties access to any stand-alone API;
- t. Attempt to re-identify any Aggregated or De-Identified Information;
- u. Access, store, display, or facilitate the transfer of any InBody Content obtained through the following methods: scraping, crawling, spidering or using any other technology or software to access InBody Content outside the API (such content, collectively, “**Non-Official Content**”). This restriction applies (1) whether the Non-Official Content was obtained indirectly through a third party, such as a customer or third-party developer, and (2) whether or not the Non-Official Content is stored or displayed in the Application or some other resource, product or service; or
- v. Use the APIs in any Application that includes adult content, promotes gambling, involves the sale of tobacco or alcohol to persons under 21 years of age, or otherwise violates any applicable law or regulation.

XV. Accessing and Correcting Personal Information: End User and Analysis Facility have full authority to add, update, or delete any part of End User’s Personal Information.

XVI. InBody Member Consent:

- A. Before obtaining information from Members, you must obtain their legally valid consent pursuant to your jurisdiction's requirements which, at a minimum, shall include: (1) how their data will be used, (2) when it will be collected (e.g., will the Application pull a Member's Profile Data more than once); and (3) how a Member can withdraw their consent. The consent must be freely given (in accordance with applicable law in your jurisdiction) and given by a statement or a clear affirmative action.
- B. We are mindful that the Services will be attractive and of benefit to potential End Users under the age of 18 or local age of majority and it is our policy, regardless of the country in which the Analysis Facility is located, to ensure that parents or legal guardians can monitor data collected in respect of such End Users. Our Service(s) is available to End Users who are below the age of 18 or local age of majority. The parent or legal guardian of any End User aged below 18 years of age is required to consent to the collection and use of his/her child's Personal Information and Protected Health Information at the time of registering and use of our Services. When End User consent to this Agreement, if applicable, End User consent to the collection, use, and disclosure of Personal Information and Protected Health Information of End User's child. A parent or legal guardian of any child who has not attained 18 years of age or local age of majority can review his/her child's Personal Information and Protected Health Information, ask to have it deleted, and refuse to allow any further collection or use of the child's information from the Analysis Facility.
- C. You agree and acknowledge that you are solely responsible for securing and obtaining any consent, especially and including, but not limited to, parental consent, adequate for compliance in your jurisdiction, as may be required; further you hereby release us, any parent companies, and of our affiliates, and any of our officers and employees from any and all liability directly or indirectly stemming from a failure to obtain and secure adequate consent.

XVII. Safeguards: We work very hard to protect the data you provide. We take reasonable and appropriate measures to protect the data you submit, including physical, organizational, and technological security measures. Furthermore, we promise to never sell Personal Information. Please be aware, however, that the Internet is a global communications vehicle open to threats, viruses, and intrusions from others. By entering into this Agreement, the Analysis Facility acknowledges that unintentional data loss may occur despite the efforts made in good faith by InBody, its third-party affiliates, or the Analysis Facility.

- A. The purpose of access and process by the third-party affiliates in different jurisdiction will remain consistent with this Agreement. Processing and access may be possible from other countries whose data protection laws may differ from the jurisdiction in which you are located. As a result, this information may be subject to access requests from governments, courts, or law enforcement in those jurisdictions according to laws in those jurisdictions. You represent and warrant to InBody that you attained and will continue to attain and maintain all necessary consent and provide all necessary notices as required by applicable laws for the purposes of this Agreement.
- B. **Technical Safeguards:** We use a variety of security measures, including encryption and authentication tools to help protect your information. Third parties, including, but not limited to, InBody Co., Ltd. utilize extended levels of security to protect the electronic data.
- C. **Physical Safeguards:** We review our information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to our office. Third Parties such as InBody Co., Ltd. restrict their offices to authorized personnel only, also other forms of restriction are applied to enter the department with access to the Server.
- D. **Administrative Safeguards:** We restrict access to Personal Information and Personal Health Information to InBody employees, contractors, and agents who need to know Personal Information or Personal Health Information in order to process something for us. They are subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations. Third parties are also required to limit the access to our Server(s) to authorized personnel only who use the information for the purposes indicated in this Agreement.

XVIII. Incident Management: InBody and its third-party affiliates have developed a comprehensive incident readiness and response plan designed to identify the cause, extent and nature of an incident involving Personal Information and Personal Health Information and to allow timely reporting in accordance with our contractual terms or legal obligations.

XIX. Anti-Discrimination: We promise not to retaliate or discriminate against anyone exercising consumer rights under the California Consumer Protection Act or any other applicable consumer protection regulation, and we reserve the right to adjust our pricing based on services offered.

XX. Relationship with InBody

- A. You acknowledge and agree that you and InBody are independent contractors and that you and InBody are not affiliates, employees, partners, joint venturers, representatives or agents of each other. You acknowledge and agree that you are

solely responsible for any and all opinions, advice, media, text messages, calls, analyses, statements, procedures, recommendations or other information (collectively, the "**Materials**") provided by you to the End User, including, without limitation Materials arising out of, related to or in connection with InBody Content, including without limitation the InBody Content, and we are not in any way responsible for such Materials. InBody has reviewed and does not endorse or recommend any Materials provided by you to any End User. Under no circumstances shall InBody be responsible for any loss or damage resulting from any End User's reliance on Materials provided to an End User by you. You provide such Materials to an End User solely at your own risk.

- B. Any contests, events, and other promotions sponsored by you or your partners is your sole responsibility, and we are not in any way responsible for such contests, events, or promotions. Under no circumstances shall InBody be responsible for any loss or damage resulting from any End User's participation, or any other person's participation in any contests, events, or promotions and your participation in such contests, events, or promotions sponsored by you.
- C. InBody shall not be held liable for your failure to obtain proper authorization from the End User. You are responsible for securing the consent and authorization and maintaining an adequate record of such consent and authorization for your record purposes.
- D. The Personal Information and Protected Health Information shall be and remain the property of InBody. You agree that you acquire no title or rights to the Personal Information and Personal Health Information, including any De-Identified Information, as a result of this Agreement.
- E. In addition to this Agreement, your use of the Service shall also be in accordance with our Terms of Service for End Users. We will provide you copy of the Terms of Service for End User upon request and it is also accessible to the End User from one or more Services. You agree that you shall not take any actions or fail to take any actions that would cause, or have the same effect as, a breach of the Terms of Service for End Users by us. In the event of a conflict between the Terms of Service for End User and this Agreement, the Terms of Service for End User shall take precedent.
- F. Notwithstanding any other agreement between you and an End User, you shall not require an End User to pay any amounts to you in order to access the End User's InBody Content through: any Mobile App that InBody may provide to such End User or any other Services that are provided directly to the End User.

XXI. Relationship with End User

- A. You acknowledge and agree that any individual who takes a test at your Analysis Facility is an independent third party. We do not have any control over your relationship with the End User. You acknowledge and agree that you will have access to InBody Content about an End User who has used the Services at your Analysis Facility, including some of the data generated by such End User's wearable device, if applicable. In addition, you have the ability to review, analyze, edit, modify, delete and make comments on the Site about the End User's InBody Content that was acquired at your Analysis Facility, without further notice to the End User or us. You hereby represent and warrant to us that you will use the ability provided to you to add, review, analyze, edit, modify, delete, and make comments to the InBody Content (except personal use device's content) responsibly and in compliance with this Agreement and any other applicable law of your jurisdiction.
- B. Any contact that Staff Member may have with the End User through features available from the Service (the "**Email/Chat Feature**") must be first authorized by the Administrator. The End User cannot initiate the use of the Email/Chat Feature with you. In order to initiate the use of the Email/Chat Feature with an End User, you must assign the End User to you or have End User assigned to you by the Administrator. Once the End User has been assigned to a Staff Member, such member, as well as administrators, may contact the End User through the Service or the extension of the Service, such as the Mobile App. The End User may be assigned to a Facility User for contact through the Email/Chat Feature only after you have obtained all necessary consent and authorization for the use of that feature, such that the End User is aware of any contact that you may choose to originate from your side using the Email/Chat Feature. You are responsible for any media, content, statements, comments, conversations and/or data you share with the End User. We are not liable for any activities that may compromise Personal Information, Personal Health Information, and/or chat history you share with the End User. The Email/Chat Feature is available for you to encourage beneficial body composition behavior; any other use is not warranted or encouraged by InBody.
- C. Staff Members may call, send and receive media, text messages, memos and set alarms and schedules through the Mobile App. To use any of these features, you must provide express permission to each Staff Member individually. These features are turned off by default but may be turned on through the mobile device's settings. You may also retract your permission for any one of these functions by adjusting the settings of your mobile device. Any content that is shared between you and the End User is not administered by us, and you understand and agree that we may surveil it at any time if you ask to do so and/or for law enforcement purposes.

- D. If you use the Email/Chat Feature, you are responsible for securing any and all consents from the End User necessary for compliance with applicable law. You represent and warrant to InBody that you have taken all necessary steps to secure such consent in compliance with all applicable laws and will provide evidence of such consent to InBody at our request. Without limiting any other portion of this Agreement, you further represent and warrant that you will only use the Email/Chat Feature in accordance with all applicable laws, including without limitation, all applicable privacy and anti-spam laws.
- E. We do not have Control over the Personal Information and Personal Health Information of any End User that is contained within your Analysis Facility's Product(s). Any deletion of data from the Service and the Product(s) is permanent; you agree to consult the End User before deleting their Personal Information or Personal Health Information. Deletion of data from End User's Mobile App and/or personal products will have no impact on the data contained within your Analysis Facility's Service and the Product(s). Nevertheless, if the End User wishes to permanently delete Personal Information, Personal Health Information, or test results generated by Products and/or Services, including the data in your control, he/she may request you to do so, and you will comply with such request.
- F. **Accuracy of the Information.** Any information that is in the custody of the End User (such as on the personal and/or home use devices) may be deleted or updated without prior notice to you or us. You understand that when an End User updates Personal Information or Personal Health Information on their Mobile App, it will not impact their information on the Site or the Products at the Analysis Facility. To update information on the Site, the End User must make a request to you. For assistance on updating the End User's information or transferring data from an old account to a new account, you may reach out to us at the phone number or email address given below in section "**Contact Us**".
- G. **Release from Liability.** You agree and acknowledge that you are solely responsible for securing and obtaining any consent, especially and including, but not limited to, parental consent, adequate for compliance in your jurisdiction, as may be required; further you hereby release us, any parent companies, and of our affiliates, and any of our officers and employees from any and all liability directly or indirectly stemming from a failure to obtain and secure adequate consent.

XXII. InBody's Rights

- A. We are entitled at any time, without notice, to delete, disable or change your account and your right to access and use the Service in the event of your violation or suspected violation of this Agreement or any applicable law. In addition, we are entitled at any time, without notice, to delete, disable or change any End User's account and the End User's right to access and use the Service in the event of such End User's violation or suspected violation of our Terms of Service for End Users or any applicable law.
- B. The InBody Content and the Services, including all underlying technology and intellectual property rights embodied therein, are and remain InBody's sole and exclusive property. You have Custody and Control of the functions of the Services provided to you, but the property rights belong to InBody. Accuracy, deletion, addition, modification, and use of the InBody Content, at your Analysis Facility is provided to you. If you submit comments, ideas, or feedback to us, you agree that we can use them without any restriction or compensation to you. We do not waive any rights to use similar or related ideas or feedback previously known to us, developed by InBody or obtained from sources other than you.
- C. The InBody Content, the Service and their underlying technology are protected by copyright, trademark, patent, intellectual property and other applicable laws of the United States.
- D. Other than as expressly allowed herein, any commercial or promotional distribution, publishing or exploitation of the Services, or any content, code, data, or materials associated with the Services is strictly prohibited unless you have received the express prior written permission of InBody. Other than as expressly permitted herein, you may not download, post, display, publish, copy, reproduce, distribute, transmit, modify, perform, broadcast, transfer, create derivative works from, sell or otherwise exploit any such content, code, data or materials. You further agree that, except as expressly allowed herein, you may not alter, edit, delete, remove, otherwise change the meaning or appearance of, or repurpose, any of the content, code, data, or other materials on or available through the Services, including, without limitation, the alteration or removal of any trademarks, trade names, logos, service marks, or any other proprietary content or proprietary rights notices. You acknowledge that you do not acquire any ownership rights by downloading any copyrighted material from or through the Services. If you make other use of the Services, or the InBody Content, code, data or materials therein or available through the Services, except as otherwise provided above, you may violate copyright and other laws of the United States, as well as applicable provincial/territorial laws and may be subject to liability for such unauthorized use.
- E. We are not obligated to monitor access or use of the Service, InBody Content, or User Content or to review or edit any

InBody Content or User Content, but we have the right to do so for the purpose of operating the Service, to ensure compliance with this Agreement, and to comply with applicable laws or other legal requirements. We may consult with and disclose unlawful conduct to law enforcement authorities; and pursuant to valid legal process, we may cooperate with law enforcement authorities to prosecute users who violate the law or this Agreement. We reserve the right (but are not required) to remove or disable access to the Service, any InBody Content, or User Content at any time and without notice, and at our sole and absolute discretion, if we determine that the InBody Content, User Content or your use of the Service is objectionable or in violation of this Agreement or any applicable law. We have the right to investigate violations of this Agreement and any conduct that affects the Service.

- F. Additional terms and conditions may apply to contests and other promotions sponsored by InBody. It is your responsibility to carefully review those terms and conditions.
- G. InBody maintains rights to the End User's Personal Information and Protected Health Information and may use De-Identified Personal Information for commercial purposes.
- H. We may at any time, in our own discretion and without notice, close, change, discontinue or reorganize any feature of component of the Services. We are not liable to you or to any third party for any modification, suspension or discontinuance of any feature or component of the Services. We reserve the right to determine the timing and content of any updates to the Services, including without limitation software updates, which may be automatically downloaded and installed by InBody without further prior notice to you.

XXIII. Disclaimers

- A. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE INBODY SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, INBODY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTIES OF NON-INFRINGEMENT, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS. THE SERVICES MAY BE MODIFIED, UPDATED, INTERRUPTED, SUSPENDED OR DISCONTINUED AT ANY TIME WITHOUT NOTICE OR LIABILITY.
- B. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, INBODY DOES NOT MAKE ANY REPRESENTATION OR WARRANTY THAT: (1) THE SERVICES WILL BE COMPATIBLE WITH YOUR DEVICE AND SOFTWARE; (2) THE SERVICES WILL BE AVAILABLE OR WILL FUNCTION WITHOUT INTERRUPTION OR ERROR; (3) THE USE OF THE SERVICES WILL BE FREE OF ANY VIRUSES, TROJAN HORSES, WORMS OR OTHER DESTRUCTIVE, INTRUSIVE OR DISRUPTIVE COMPONENTS; (4) THE TRANSMISSION OF INFORMATION TO AND FROM THE SERVICES WILL BE SECURE; (5) THE USE OF THE SERVICES WILL NOT INFRINGE UPON THE RIGHTS (INCLUDING, WITHOUT LIMITATION, INTELLECTUAL PROPERTY RIGHTS) OF ANY PERSON; OR (6) THE USE OF THE SERVICES WILL NOT CAUSE ANY DAMAGE TO YOUR DEVICE, SYSTEMS, SOFTWARE OR ELECTRONICS.
- C. COMMENTS OR OPINIONS EXPRESSED REGARDING THE SERVICES ARE THOSE OF THEIR RESPECTIVE USERS ONLY. THE VIEWS EXPRESSED ON THE SERVICES AND IN USER CONTENT DO NOT NECESSARILY REPRESENT OR REFLECT THE VIEWS OF INBODY. INBODY IS NOT RESPONSIBLE FOR, AND DISCLAIMS LIABILITY IN RELATION TO, THE USER CONTENT POSTED, UPLOADED OR OTHERWISE SUBMITTED TO OR THROUGH THE SERVICES.
- D. SERVICES ARE OFFERED IN JURISDICTIONS WHERE THEY CAN BE LEGALLY OFFERED. THE SERVICES ARE NOT OFFERED OR SOLICITED BY ANYONE IN ANY JURISDICTION IN WHICH AN OFFER OR SOLICITATION CANNOT BE MADE LEGALLY.
- E. WE MAKE NO ENDORSEMENT, REPRESENTATION OR WARRANTY OF ANY KIND ABOUT ANY INBODY SERVICE(S). NOTWITHSTANDING THE FOREGOING, INBODY MAY AT ANY TIME INVESTIGATE AND EDIT (INCLUDING ANONYMIZING) PROCESSED DATA IF SUCH ACTIONS ARE (1) PROMPTED BY THIRD PARTY REQUESTS; (2) REQUIRED UNDER APPLICABLE LAW; OR (3) NECESSARY FOR COMPLIANCE WITH THIS AGREEMENT. WE ARE NOT RESPONSIBLE FOR THE ACCURACY, RELIABILITY, EFFECTIVENESS, OR CORRECT USE OF THE INBODY SERVICE(S). IF YOU RELY ON ANY INBODY SERVICE(S), YOU DO SO SOLELY AT YOUR OWN RISK.
- F. WE MAKE NO REPRESENTATION OR WARRANTY THAT THE INBODY 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 THE INBODY SERVICE. YOU ACKNOWLEDGE AND AGREE THAT IF YOU RELY ON ANY INBODY CONTENT OR THE SERVICE, YOU DO SO SOLELY AT YOUR OWN RISK.

XXIV. Limitation of Liability

- A. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER INBODY NOR THEIR RESPECTIVE SUPPLIERS OR LICENSORS, NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICE, SHALL BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR DAMAGES FOR THE USE OF OR INABILITY TO USE THE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING (1) LOSS OF PROFITS, CONTRACTS, TURNOVER, BUSINESS, BUSINESS OPPORTUNITY, LOSS OR CORRUPTION OF DATA OR RECOVERY OF DATA, GOODWILL, SECURITY BREACH, ANTICIPATED SAVINGS OR REVENUE (REGARDLESS OF WHETHER ANY OF THESE ARE DIRECT, INDIRECT OR CONSEQUENTIAL); (2) ANY LOSS OR DAMAGE ARISING IN CONNECTION WITH LIABILITIES TO THIRD PARTIES (WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL); OR (3) ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.
- B. IN NO EVENT WILL INBODY'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS YOU HAVE PAID TO INBODY FOR USE OF THE SERVICES OR ONE HUNDRED DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO INBODY, AS APPLICABLE.
- C. THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN INBODY AND YOU.

XXV. Indemnity: You will indemnify and hold harmless InBody and their respective, officers, directors, shareholders, employees and agents, from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable attorneys' fees arising out of or in any way connected with (1) your access to or use of the Services, (2) Materials provided by you to an End User, (3) modification or deletion of any information related to an End User by you; (4) the termination or suspension of an End User account by you or at your request; (5) the termination or suspension of a Facility User or End User account by us in connection with a breach of this Agreement or the Terms of Service for End User; (6) your breach of any representations, warranties or agreements made by you hereunder or (7) your breach of any other provision of this Agreement. We reserve the right to assume control of the defense of any third-party claim that is subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses.

XXVI. Term and Termination

- A. You may elect to disable and/or request the cancellation of your account and any and all associated data from the Services by submitting a written request via email to LBSupport@inbody.com. An email or phone request to cancel your account to any InBody representative alone will not constitute a proper request for cancellation. Your account will remain active until the end of the month following your receipt of a confirmation notice of cancellation from an agent of InBody.
 - 1. Certain Personal Information, such as a Facility User's name, username, and/or phone numbers may be required to confirm your identity and terminate this Agreement.
 - 2. Although our cancellation process is automated for your convenience, you will be provided, upon your request, with certain steps by our support representative during termination to ensure the security of the Personal Information at your Analysis Facilities. The Parties agree that InBody shall not be held liable for any transmission of the End User's Personal Information from your Analysis Facilities, even after the termination, caused by:
 - a. technical or mechanical error from your Analysis Facilities or its device(s), regardless of ownership status of those devices;
 - b. misunderstanding between our support representative and you;
 - c. your failure to contact our support representative; and/or
 - d. failure to follow instructions.
 - 3. If you are a pay-per-month subscriber, you must terminate at least three (3) calendar days before the renewal date of your account to avoid next month's charges; failure to do so may result in the subsequent month's fee being charged to you.

4. Please do not assume that your account has been canceled until you receive confirmation of cancellation from our representative.
 5. You may reinitiate the Service anytime you want after cancellation.
- B.** Either Party may terminate this Agreement: (1) if the other Party files a voluntary petition for bankruptcy or a petition or answer seeking a reorganization; (2) if the other Party has filed against it an involuntary petition for bankruptcy that has not been dismissed within sixty (60) calendar days thereof; (3) if the other Party becomes insolvent, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of its creditors; (4) if the other Party applies for or consents to the appointment of a receiver, trustee or liquidator for substantially all of its assets or such receiver, trustee or liquidator is appointed for the other Party; or (5) upon the occurrence of a material breach of this Agreement by the other Party, if such breach is not cured within ten (10) business days after written notice identifying the matter constituting the material breach is provided by the non-breaching Party.
- C.** Upon termination of this Agreement:
1. all licenses granted under this Agreement will terminate immediately;
 2. upon request, each Party will promptly return to the other Party, or delete, all tangible embodiments of confidential information of such other Party in its possession, Custody or Control;
 3. you will comply with the requirements to delete stored InBody Content; and
 4. InBody will make commercially reasonable efforts to remove all references and links to your Application from the Services (InBody has no other obligation to delete copies of, references to, or links to your Application).
- D.** You will have the ability to modify or delete any and all data or InBody Content related to a Facility User or an End User saved at your Analysis Facility.
- E.** You agree that you will modify or delete data related to a Facility User or terminate or suspend the account of a Facility User from your Analysis Facility's access to the Services only with the prior written authorization of such Facility User or only pursuant to terms and conditions of binding written agreements between you and the Facility User that allow such modification, deletion, termination or suspension.
- F.** We may, at our sole and absolute discretion, terminate your or any of your Facility User's rights to access and use the Services or cancel your or any of your Facility User's accounts, at any time for any reason or no reason without notice or liability to you. If we do so, any rights granted to you herein will immediately cease.
- G.** Your license to use the Service, and the license of your Facility Users to use the Service, are subject to your compliance with any agreements that we may have with you for payment of fees, such as this Agreement. If you default in payment of any fees to us or otherwise breach this Agreement, we shall have the right to suspend your ability to use the Service and any Facility User's ability to use the Service (whether through the Site, extension of the Site, Product, or otherwise), until such default or breach is cured to our satisfaction; such suspension will affect your End Users as well and we shall assume no liability for any damages stemming from such suspension.
- H.** If you violate this Agreement, we reserve the right to deactivate or cancel your account and the accounts of your Facility Users, at our sole and absolute discretion, at any time and without notice or liability to you. Upon any such cancellation, we may delete any data related to you and/or your Facility Users and other information related to your account and your Facility Users' accounts. Furthermore, you agree and understand that InBody Products may be remotely deactivated, effectively removing your access to the Product, in the event that InBody finds you in violation of this Agreement, Product and/or Service use terms and conditions, or should InBody, in its sole and reasonable discretion, determine that your continued use of the Products or Services may constitute a violation of the law or subject another to potential harm.

XXVII. Dispute Resolution

- A.** Governing Law: The resolution of any disputes between you and InBody arising out of or relating to this Agreement or a breach thereof (collectively, the "**Disputes**") shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of laws principles.
- B.** Informal Dispute Resolution: We want to address your concerns without needing a formal legal case. Before filing a claim against InBody, you agree to try to resolve the Dispute informally by contacting LBSupport@inbody.com. We'll

try to resolve the Dispute informally by contacting you through email. If a Dispute is not resolved within fifteen (15) business days after submission, you or InBody may bring a formal proceeding.

- C. Any unresolved Dispute shall be settled by binding arbitration administered by JAMS in accordance with its Streamlined JAMs Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If all parties to the Dispute agree, a mediator involved in the parties' mediation may be asked to serve as the arbitrator. The arbitrator(s) will have no authority to award punitive, consequential, incidental or other damages not measured by the prevailing party's actual damages, except as may be required by statute. Each party shall bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration. The arbitration shall be held exclusively in Los Angeles County, California.
- D. No Class Actions: You may only resolve Disputes with InBody on an individual basis and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations are hereby waived by the parties to this Agreement.
- E. Judicial Forum for Disputes: In the event that the agreement to arbitrate is found not to apply to you or your claim, you and InBody agree that any judicial proceeding (other than small claims actions) will be brought in the federal or state courts of Los Angeles County, California. Both you and InBody consent to venue and personal jurisdiction of the courts there. We both agree to waive our right to a jury trial.
- F. Limitation on Claims: Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to your use of the Services must be filed within one (1) year after such claim or cause of action arose, or else that claim, or cause of action will be barred forever.
- G. Confidentiality: You and we shall keep confidential any information exchanged during the arbitration as well as the decision of the arbitrator made with respect to any Disputes arbitrated under the arbitration clause in this Agreement and, with the exception of disclosure to your or our attorneys, accountants, auditors, and other legal or financial advisors, shall not disclose such information or decision to any other person unless required to do so by law.
- H. Penalties: Your failure to abide by any of the terms and conditions in this Agreement may result in financial and reputational damage to our business, as well as financial and reputation damage to our other customers and users; as such, InBody reserves the right to hold you liable for any failure to abide by the terms and conditions in this Agreement and demand liquidated damages of up to 500,000.00 USD for each violation or breach of this Agreement, which the parties agree is a fair, accurate, and justifiable penalty based on the value of the Services.

XXVIII. Copyright Dispute Policy

- A. We respect the intellectual property rights of others and expect our Analysis Facilities and their Facility Users and End Users to do the same. It is our policy, in appropriate circumstances and at our discretion, to disable and/or terminate the accounts of Facility Users and Analysis Facilities who repeatedly infringe the copyrights of others. If you are a copyright owner, or are authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, and believe that any material available on or through the Services, including Applications, Products, InBody Content, Materials, User Content, posts or materials on user forums, or any other content (collectively referred to as "**Disputed Content**"), infringes upon your copyrights, you may report alleged copyright infringements by providing the information in the following Notice of Alleged Infringement ("Notice") and delivering it to InBody's Designated Copyright Agent identified below. Upon receipt of the Notice, we will take whatever action, in our sole and absolute discretion, we deem appropriate, including removal of the Disputed Content. If we remove or disable access in response to such a notice, we may in our sole discretion notify the owner or administrator of the Disputed Content. We reserve the sole and absolute right to remove any content, including without limitation any Disputed Content, from the Services at any time and for any reason.
- B. Please note that filing a report of intellectual property infringement is a serious matter with legal consequences. Any person who knowingly materially misrepresents that material or activity is infringing could be liable for damages. Accordingly, if you are not sure whether material available online infringes your copyright, we suggest that you first contact an attorney. You acknowledge that if you fail to comply with all of the notice requirements below, your copyright notice may not be valid.
- C. Please ensure to complete the following steps when issuing a formal Notice of Alleged Infringement to Biospace, Inc., as it relates to these Terms:
 - 1. Identify the copyrighted work that you claim has been infringed, or - if multiple copyrighted works are covered by this Notice - you may provide a representative list of the copyrighted works that you claim have been infringed.

2. Identify the material that you claim is infringing (or to be the subject of infringing activity) and that is to be removed or access to which is to be disabled, and provide information reasonably sufficient to permit us to locate the material, including at a minimum, if applicable, the URL of the link shown on the Site(s) where such material may be found.
3. Provide your mailing address, telephone number, and, if available, email address. (Note that we may provide your contact information, including your name and email address, the name and address of the owner of the right in question, and/or the contents of your report to the person who posted the material you are reporting.).
4. Include both of the following statements in the body of the Notice:

“I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use or dealing).”

“I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed.”
5. Provide your full legal name and your electronic or physical signature.
6. Return a completed notice to the following address:

Attn: Product Support Biospace dba InBody Inc.,
13850 Cerritos Corporate Dr., Unit C, Cerritos, CA 90703

XXIX. Trade Compliance: The export of any product and software purchased from InBody must be made in accordance with all relevant rules and regulations set forth by InBody. You are not allowed to export or be associated in any export of product(s) outside of the United States.

XXX. Marketing: By entering into this Agreement, you agree to be identified as an InBody client and Services user, and you agree that InBody may refer to you by name, trade name and trademark, if applicable, and may briefly describe your business in InBody's marketing materials and website. You hereby grant InBody a fully-paid, irrevocable, perpetual, world-wide license to use your name and any of your trade names, trademarks, logos solely in connection with the rights granted to InBody pursuant to this marketing section.

XXXI. Contact: For any inquiry, information, or request, unless otherwise specified in this Agreement, please contact us at the following:

LBSupport@inbody.com
(323) 932-6503
13850 Cerritos Corporate Dr. Unit C Cerritos, CA 90703

XXXII. General

- A. This Agreement constitutes the complete and exclusive agreement between you and InBody concerning your use of the Services and supersedes and replaces all prior oral or written understandings, proposals, agreements or other communications between you and InBody regarding the Services provided by us. If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.
- B. You may not assign or transfer this Agreement, by operation of law or otherwise, without InBody's prior written consent. Any attempt by you to assign or transfer any of the aforementioned without such consent will be deemed void. InBody may freely assign or transfer this Agreement without restriction. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their successors and permitted assigns.
- C. Nothing contained in this Agreement can be construed as creating any agency, partnership or other form of joint enterprise between you and InBody. Our failure to require your performance of any provision hereof will not affect our full right to require such performance at any time thereafter, nor may our waiver of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
- D. Any notices or other communications provided by InBody under this Agreement, including those regarding modifications to this Agreement, will be given: (1) via email; or (2) by posting to the Site. For notices made by e-mail, the date of receipt on the message will be deemed the date on which such notice is transmitted.

E. Each Party will bear its own costs and expenses in performing its obligations under this Agreement.

XXXIII. **Links:** The Site may provide links to other sites that provide information related to our Services. Once you link to another site, you are subject to the policies of the new site. You can also find a list of Services at our website www.inbody.com.

XXXIV. **Support and Updates:**

- A. We may provide you with support for the Services in our sole discretion and we may stop providing support to you at any time without notice or liability to you. We are not obligated to provide any training, support or technical assistance for the Services directly to your Members and you agree to communicate to your Members that you (and not InBody) are responsible for any such support.
- B. We may modify or release subsequent versions of the Services, and/or subsequent versions of this Agreement, and require that you use those subsequent versions. Unless we release a new version of the Services for security or legal reasons, you will have a reasonable amount of notice to migrate to subsequent versions of the Services. You acknowledge that once InBody releases a subsequent version of a Service, the prior version of such Service may stop working at any time or may no longer work in the same manner. Your continued use of the Services following a subsequent release will be deemed your acceptance of all modifications. You agree and understand that it is your responsibility to be aware of new updates; you may find update notifications here: <https://inbodyusa.com/terms-of-use/>

XXXV. **All Rights Reserved:** As between the Parties, we own all rights, title, and interest in and to the (A) APIs, and all elements, components, and executables of the APIs, (B) InBody Content; (C) Services; and (D) Our Brand Features (collectively, the “**InBody Materials**”), and, subject to the foregoing, you own all rights, title, and interest in and to the Application and Your Brand Features. Except to the limited extent expressly provided in this Agreement, neither Party grants, nor shall the other Party acquire, any right, title or interest (including any implied license) in or to any property of the first Party under this Agreement. All rights not expressly granted in this Agreement are reserved.

XXXVI. **Feedback:** Either Party may from time to time elect to provide suggestions, comments, improvements, ideas, or other feedback to the other Party related to the other Party’s products and services (“**Feedback**”). Feedback is provided on an “as is” basis with no warranties of any kind and the receiving Party will have a royalty-free, worldwide, sublicenseable, transferable, non-exclusive, perpetual and irrevocable right and license to use Feedback. Each Party agrees not to provide Feedback that it knows is subject to any intellectual property claim by a third party or any license terms which would require products or services derived from that Feedback to be licensed to or from, or shared with, any third party.

XXXVII. **Brand Features License and Publicity Rights:**

- A. Subject to this Agreement and our **Branding Guidelines**, we grant you a limited, non-exclusive, non-assignable, non-sublicenseable, and non-transferable license during the Term to display Our Brand Features within the Application and to accurately promote or advertise your integration of the APIs in your Application. “**Our Brand Features**” means any trade names, trademarks, service marks, logos and domain names that InBody makes available to you.
- B. You agree not to display Our Brand Features (1) in any way that violates applicable law, including laws regarding libel, slander, obscenity and infringement; (2) in any way that is misleading, implies that your Application is approved, created or endorsed by InBody (or otherwise embellishing your relationship with InBody); or (3) in a way that is otherwise objectionable to InBody in its sole discretion, unless otherwise permitted via the Agreement. If you are planning any formal, proactive press outreach, you will submit the content (press release, blog post, etc.) to us for prior written approval (email acceptable), unless expressly allowed in our **Branding Guidelines**. Any good will in Our Brand Features resulting from your use will inure solely to InBody.
- C. By entering into this Agreement, you agree to be identified as an user of InBody, you agree that we may to display your trade names, trademarks, service marks, logos and domain names (collectively, “**Your Brand Features**”) to promote or advertise your use of the Services, and you agree that InBody may refer to you by name, trade name, and trademark, if applicable, and may briefly describe your business in InBody’s marketing materials and website. You hereby grant InBody a fully-paid, irrevocable, perpetual, world-wide license to use your name and any of your trade names, trademarks, logos and Your Brand Features solely in connection with the rights granted to InBody pursuant to this Section. Any good will in Your Brand Features resulting from our use will inure solely to you.
- D. For the Term, you grant us a royalty-free, non-exclusive, worldwide, irrevocable right and license, under all of your intellectual property rights, to: (A) use, perform, and display your Application and its content for purposes of marketing, demonstrating, and answering inquiries; (B) link to and direct Members to your Application; and (C) sublicense the foregoing rights to InBody Affiliates.

- E. We may, without your consent, publicly refer to you, orally or in writing, as a licensee of the Services and/or user of the InBody Content. We may also publish your name and logo (with or without a link to your Application) on our Services, in press releases, and in promotional materials without additional consent or notice to you.

XXXVIII. Independent Development: Each Party acknowledges that the other Party may independently create applications, content and other products or services that may be similar to or competitive with those of the other Party and nothing in this Agreement will be construed as restricting or preventing each Party from creating and fully exploiting such applications, content and other products or services, without any obligations to the other Party.

XXXIX. Legal Compliance: You represent and warrant to InBody that: (A) you have the right to use, reproduce, transmit, publicly display, publicly perform, and distribute your Application (excluding InBody Materials); (B) use of your Application by InBody and its Members in accordance with the Application's terms of use will not violate the rights of any third party (e.g., copyright, patent, trademark, privacy, publicity, or other proprietary right of any person or entity), or any applicable regulation or law, including the Digital Millennium Copyright Act, the laws of any country in which your Application is made available and any applicable export laws; and (C) you will comply with all applicable local, state, federal, and foreign laws, including, without limitation, any laws or regulations relating to privacy and data protection, which includes acquisition of all necessary consent and authorization forms that your jurisdiction may require, in connection with its performance under this Agreement.

By registering, subscribing, and/or using our Service, you agree to be bound to this Agreement to its fullest extent.