

# Lolo Health End User Terms of Service

Last updated: November 1, 2021

**The Services are not intended for use in the event of an emergency. If you believe you may have a medical emergency, call 911 or your local emergency medical system immediately.**

These Lolo Health End User Terms of Service (these “Terms”) form a binding agreement between you (“End User” or “you”) and Innovative Health Ventures, Inc. d/b/a Lolo Health (“we,” “us,” “our,” the “Company,” or “Lolo”).

Among other things, these Terms:

- Outline your legal rights and explain the rights you give us when you access or otherwise use: (a) the Lolo platform (the “Platform”), the Lolo website located at <https://lolohealth.com> (or its successor website) (the “Website”), Lolo mobile applications (the “Apps” and collectively with the Platform and Website, the “Lolo Properties”) and (b) any of the services offered by Lolo or our third-party service vendors or their subcontractors or affiliates (our “Service Vendors”) and accessible by you within the Platform, Website or Apps (“Vendor Properties”) including all associated features and functionalities, software applications, websites and user interfaces associated with our services ((a) and (b) collectively, the “Services”), as well as all content accessible within or otherwise associated with the Services (“Content”);
- Describe the rules every user needs to follow when accessing the Services and Content; and
- Contain a class action waiver and an agreement to resolve disputes that may arise by arbitration.

Please note that certain aspects of your use of the Services may be governed by additional agreements, for example, separate terms governing access to Telehealth Services. Before you use any such services governed by additional agreements, you will be presented with any related additional terms, and you may have an opportunity to agree to additional terms. Some of those additional terms may be listed on the Website. To the extent that there is any irreconcilable conflict between any additional terms and these Terms, the additional terms shall prevail as related to the relevant Services only. Together these Terms and any additional terms are collectively the “Agreement”. The Agreement constitutes the entire agreement and understanding between you and Company with respect to the Services, and supersedes all prior or contemporaneous understandings and agreements, whether written or oral, with respect to Services.

We may revise and update these Terms in our sole discretion and will post any updates to the Terms on the Website. Your continued use of the Services means that you accept and agree to the updated Terms. You may opt in to receive email notification of any updated Terms.

Lolo may collect, store, process and use personal information collected from you in accordance with our Privacy Policy.

BY ACCESSING THE SERVICES OR CONTENT IN ANY CAPACITY, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE AGREEMENT; (B) REPRESENT THAT YOU ARE EIGHTEEN (18) YEARS OF AGE OR OLDER; AND (C) ACCEPT THE AGREEMENT AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THESE TERMS OR THE OTHER APPLICABLE TERMS OF THE AGREEMENT, YOU ARE PROHIBITED FROM ACCESSING THE SERVICES OR CONTENT IN ANY CAPACITY AND ANY LICENSES RELATED THERETO SHALL IMMEDIATELY TERMINATE.

If you are accessing Services through one of our third-party employer-subscribed clients (our “Employer Clients”), then to the extent that the Agreement conflicts with Lolo’s agreement (a “Client Agreement”) between Lolo and the applicable Employer Client, that Client Agreement shall control.

## 1. Rights; Limitations.

**Limited Usage Rights.** Subject to the terms of the Agreement, Lolo grants you a limited, revocable, non-exclusive, and non-transferable right to:

- (a) access and otherwise use the Services; and
- (b) download, install, and use the Platform and Apps for your personal, non-commercial use on a mobile device owned or otherwise controlled by you (each, a “Mobile Device”) strictly in accordance with any associated documentation.

Lolo reserves the right to terminate these limited rights at any time and for any reason, with or without notice to you.

**Limitations and Restrictions on Use.** You shall not:

- (a) copy the Services or Content, except as expressly permitted by this license;
- (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Services or Content;
- (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Services or Content, or any parts thereof;
- (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Services or Content, including any copy thereof;
- (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Content to any third party for any reason, including by making the Services or Content available on a network where it is capable of being accessed by more than one device at any time; or
- (f) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Services or Content.

**No Use of Services by Children.** You acknowledge that the Services are not intended for use by children under the age of eighteen (18) years old. Children under the age of eighteen (18) years old are prohibited from using the Services.

**Security.** When you use the Services, it is your sole responsibility to restrict access to your computer and to maintain the confidentiality of your account information, password and any other account identifiers related to any personal account you create. You also agree to accept responsibility for all activity that occurs under your account. You should take reasonable steps to protect your computer systems and data from viruses, hackers, identity thieves and other similar problems.

## **2. Use of Navigation or Similar Concierge Searching and Booking Services (the “Navigation Services”); Conditions; Restrictions.**

**Use of Navigation Services.** Subject to availability to you under our Client Agreement (if you are an employee or dependent of an employee of one of our Employer Clients) or your individual subscription agreement, and the terms and conditions of this Agreement, you may use the Navigation Services to look up health care and diagnostic services providers.

**Service Fees.** If you are an employee (or dependent of an employee) of one of our Employer Clients, then the service fees for use of the Navigation Services have been paid by the Employer-Client through which you receive access. In the event that the Employer Client fails to pay for continued access to the Navigation Services, we reserve the right to suspend or terminate your use of the Navigation Services. If you are an individual (or a dependent of an individual) who subscribes for Services on their own and not through an Employer Client, and you

(or the individual through which you have access to the Services) fail to pay for continued access to the Navigation Services, we reserve the right to suspend or terminate your use of the Navigation Services.

**Provider Fees.** Except with respect to the Telehealth Services described below in these Terms, if Navigation Services are made available for your access through the terms of the applicable subscription, your right to use the Navigation Services, including the Platform and any App used for purposes of the Navigation Services, does not include any health care and diagnostic service providers' fees (for which you and your health insurance may be responsible). Likewise, we and the Service Vendors make no guarantee that any health care and diagnostic service providers who may be listed in the Navigation Services will be covered by any health insurance you may have or that such providers will agree to accept you as a patient, and make no representation or guarantee as to the quality, experience, or skill of any health care and diagnostic service provider

**Appointments; Requirements; Limitations.** In order to schedule appointments on your behalf, we must have accurate information. If you have not provided us with accurate information, it may not be possible to schedule appointments for you. In addition, you acknowledge and agree that: (a) you will promptly respond to and cooperate with our requests for information as necessary to schedule appointments on your behalf; (b) you may be required to separately contact the specialist or diagnostic service provider in order to schedule or confirm the appointment (for example, if a prescription must be presented in order to schedule or confirm an appointment with a specialist or diagnostic service provider, as the Navigation Services will not transmit any prescriptions when attempting to make appointments); (c) you will arrive to appointments we make on your behalf at least thirty (30) minutes prior to the scheduled appointment; and (d) you may be required to provide the health care or diagnostic service provider with additional information once you arrive for such appointments. You acknowledge that Company has no control over the health care and diagnostic services providers, and that Company cannot guarantee that such providers will be on time or otherwise timely honor appointments as scheduled.

**Modification of Service Fees.** Company reserves the right to modify the service fees imposed for the use of the Navigation Services.

**Internet Access.** You shall be solely responsible, financially and otherwise, for providing your own Internet access. You acknowledge that the Navigation Services are on-line systems that can only be accessed via the Internet.

**No Agency.** Nothing in this Agreement shall create a joint venture or shall authorize you to enter into any contract or commitment on behalf of Company.

### 3. Telehealth Services

The Company does not provide medical advice or care. However, subject to the applicable subscription with the Employer Client or individual through which you have access to the Services, telehealth services may be made available to you by one or more of our Service Vendors and accessed through the Services ("Telehealth Services"). Providers furnishing Telehealth Services (the "Providers" and each a "Provider") are employed by or contracted by our Service Vendors and not the Company to provide the Telehealth Services. The Providers, and not the Company, are responsible for the quality and appropriateness of the care they render to you. The Company and our Service Vendors do not provide any legal advice or representations in any way regarding any legal issues associated with advice, information, goods, or services offered by a Provider, including but not limited to compliance with standards of care, medical ethics, licensing board rules or guidance, or any other obligations or steps necessary to comply with any state or federal laws and regulations.

The Providers are independent of the Company and are using the Services as a way to communicate with you. Any information or advice received from a Provider comes from them alone, and not from the Company or any of our Service Vendors. Your interactions with Providers who are not your regular health care providers via the Telehealth Services are not intended to take the place of your relationship with your regular health care practitioners or primary care physician. Neither we, nor any of our affiliates, Service Vendors or any other third party who may

promote the Services or provide a link to the Services, shall be liable for any professional advice obtained from a Provider via the Services, nor any information obtained on the Services. We do not recommend or endorse any specific Providers, tests, physicians, medications, products, or procedures. You acknowledge that your reliance on any Providers or information delivered by the Providers via the Services is solely at your own risk and you assume full responsibility for all risks associated herewith.

#### **4. Consent to Communications.**

When you use the Services, or send e-mails, messages, and other communications from your desktop or mobile device to us, you are communicating with us electronically. You consent to receive electronic communications from us and, if applicable, our Service Vendors. You agree that (a) all agreements and consents can be signed electronically and (b) all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such notices and other communications be in writing. The Company and our Service Vendors may contact you by telephone, mail, or email to verify your account information. The Company and our Service Vendors may request further information from you and you agree to provide such further information to ensure that you have not fraudulently created your account. If you do not provide this information in the manner requested within 14 days of the request, we reserve the right to suspend, discontinue, or deny your access to and use of the Services until you provide the information to us as requested.

#### **5. Intellectual Property.**

As between you and the Company, you acknowledge that the Company is the sole and exclusive owner of the Lolo Properties. You further acknowledge that nothing in this Agreement shall constitute an assignment or other transfer of rights in the Services or Content to you. All rights associated with the Platform, Apps and Lolo Properties, including without limitation all Company copyrights, patents, and trade secrets, shall remain the sole and exclusive property of Company. All rights associated with the Vendor Properties, including without limitation all copyrights, patents, and trade secrets, shall remain the sole and exclusive property of the respective Service Vendor. Lolo and its Service Providers expressly reserve all intellectual property rights in the Services and Content.

You acknowledge that Company is the owner of various trademarks, including LOLO HEALTH™, and such additional marks as Company may adopt in the future (collectively, the “Company Trademarks”). In addition, you acknowledge that the Lolo Properties, Services or Content may include trademarks of third parties, including one or more of our Service Vendors, and that such third parties are the owners of such trademarks (collectively, the “Third-Party Trademarks”). You may not use any of the Company Trademarks without Company’s express written permission (which may be withheld). Under no circumstances shall you adopt or use any trademarks that are confusingly similar to any of the Company Trademarks or the Third-Party Trademarks.

#### **6. User Content on the System**

To the extent portions of the Services allow you to comment or otherwise post regarding content on the Services (“**User Content**”), you may not post User Content that:

- Violates any copyright, trademark rights, patent rights, rights in know-how, privacy or publicity rights, trade secret rights, confidentiality rights, contract rights, or other rights of any individual or legal entity;
- Is harmful; hateful; threatening; abusive; harassing; defamatory or libelous; sexually explicit, vulgar, lewd, obscene, or pornographic; racially, ethnically, or otherwise objectionable or offensive; inappropriate; or inflammatory;
- You know (or reasonably should know) is false, deceptive, or misleading;
- Contains information that could be used for identity theft purposes, such as social security numbers, credit card, bank account, or other financial information, driver’s license numbers, security codes, or passwords;
- Links to materials or other content, directly or indirectly, to which you do not have a right to link or that violates these restrictions; or

- Violates any applicable local, state, national, or international law.

By posting User Content on the System, you are granting us and the applicable Service Providers a non-exclusive, worldwide, full paid-up and royalty-free, fully assignable, transferable, and sub-licensable license to use, copy, perform and display publicly, distribute, and prepare derivative works based on User Content, in whole or in part, throughout the universe in any form, format, or medium now or hereafter known. By posting User Content on the System, you represent and warrant that the posting of your User Content does not violate these Terms or applicable laws.

We do not and shall not have any obligation to review User Content, and therefore we do not guarantee the accuracy, integrity, or quality of User Content and we cannot assure you that harmful, inaccurate, deceptive, offensive, threatening, defamatory, unlawful, or otherwise objectionable User Content will not appear on our System. We do, however, reserve the right to review any or all User Content in our sole discretion. In addition, we reserve the right to alter, edit, or remove any User Content, in whole or in part, at our sole discretion.

UNDER NO CIRCUMSTANCES SHALL **LOLO** OR ITS SERVICE PROVIDERS BE LIABLE IN ANY WAY FOR ANY USER CONTENT POSTED ON OR MADE AVAILABLE THROUGH THE SYSTEM. We do not control, have no obligation to monitor, and are not responsible for what users post, and are not responsible for any offensive, inappropriate, obscene, unlawful, infringing, or otherwise objectionable or illegal User Content.

## **7. Updates.**

Company and/or its Service Vendors may from time to time in its sole discretion develop and provide updates to the Lolo Properties or Services (as applicable), which may include upgrades, bug fixes, patches, other error corrections, new features, or a replacement of prior Services due to a replacement of Service Vendors (collectively, including related documentation, "Updates"). Updates may also modify, replace or delete in their entirety certain features and functionality. You agree that Company has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality.

Based on your Mobile Device settings, when your Mobile Device is connected to the internet either: (a) an App may automatically download and install all available Updates; or (b) you may receive notice of or be prompted to download and install available Updates. You shall promptly download and install all Updates and acknowledge and agree that Apps, or portions thereof may not properly operate should you fail to do so.

You further agree that all Updates will be deemed part of the respective Lolo Property or Services and be subject to all terms and conditions of this Agreement.

## **8. Third-Party Materials.**

The Services or Content may display, include, or make available third-party content (including data, information, applications, and other products, services, and/or materials) or provide links to third-party websites or services, including through third-party advertising (collectively, "Third-Party Materials"). You acknowledge and agree that Company is not responsible for Third-Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect thereof. Company does not assume and will not have any liability or responsibility to you or any other person or entity for any Third-Party Materials. Third-Party Materials and links thereto are provided solely as a convenience to you and you access and use them entirely at your own risk and subject to such third parties' terms and conditions.

## **9. Termination; Survival.**

**Termination.** The term of Agreement commences when you access the Lolo Properties or enroll in the Services and will continue in effect until terminated by you or Company as set forth in this Section. With respect to the Services, you may terminate this Agreement at any time by deleting the Lolo App and all copies thereof from your Mobile Device and by notifying Company that you wish to terminate your access to the Services. Company reserves the right to terminate this Agreement at any time and without prior notice to you; in addition, this Agreement will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement or, unless otherwise agreed by the Company and to the extent your access is made available to you through one of our Employer Clients, if the Client Agreement between the Company and the applicable Employer Client with respect to your access to Lolo Properties and Services terminates.

Upon termination, all rights granted to you under this Agreement will also terminate; and you must cease all use of the Platform and Services, including all Apps and delete all copies of all Apps from your Mobile Device. Termination will not limit any of Company's rights or remedies in this Agreement or otherwise by law or in equity.

**Survival.** Your obligations arising out of and the restrictions contained in Sections 1, 5, 9, 10, 11, 12, 13, and 14 shall survive termination of this Agreement.

#### **10. Disclaimer of Warranties.**

You acknowledge that the Services and Content may not always be available, either by virtue of the Company's actions or conditions entirely beyond Company's control and Company shall not be liable to you for any loss relating to the unavailability of the Services or Content. You further acknowledge that the Company is not making any recommendations as to any particular health care or diagnostic services provider, but rather, is merely providing information about potential providers as that information was made available to the Company.

Company does not warrant the accuracy of information regarding health care and diagnostic service providers that you may identify through the Services. You agree that you will independently verify information about potential health care and diagnostic service providers prior to selecting and using such providers, and that you will not rely upon the information that may be provided through the Services.

THE SERVICES ARE PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE COMPANY, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND SERVICE VENDORS AND ITS AND THEIR RESPECTIVE LICENSORS AND THIRD-PARTY SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE LOLO PROPERTIES, SERVICES AND CONTENT, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, THE COMPANY PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LOLO PROPERTIES, SERVICES OR CONTENT WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS, OR BE ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

#### **11. Limitation of Liability.**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY OR ITS AFFILIATES OR SERVICE VENDORS, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR THIRD-PARTY SERVICE PROVIDERS, HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE OR ACCESS ANY OR ALL

PORTIONS OF THE SERVICES OR CONTENT FOR: (A) PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES; OR FOR (B) DIRECT DAMAGES IN AMOUNTS THAT IN THE AGGREGATE EXCEED \$100. THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR THE COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY, SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

## **12. Indemnification.**

You agree to indemnify, defend, and hold harmless the Company and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees and court costs, arising from or relating to: a) any treatment or services that you may receive from health care and diagnostic service providers; or b) your use or misuse of the Services, Content or your breach of the Agreement, including but not limited to the content you submit or make available through the Services.

## **13. Interpreting the Agreement.**

**Severability.** If any provision of the Agreement is illegal or unenforceable under applicable law, the remainder of the provision will be amended to achieve as closely as possible the effect of the original term and all other provisions of the Agreement will continue in full force and effect.

**Force Majeure.** Except with respect to payment obligations, neither party shall be liable for any failure or delay in its performance or equipment due to causes beyond such party's reasonable control, including without limitation: acts of God, fire, flood, hurricanes, or other catastrophes; any law, order, regulation, direction, action, or request of any governmental entity or agency, or any civil or military authority; national emergencies, insurrections, riots, wars; unavailability of rights-of-way or materials; or strikes, lock-outs, work stoppages, or other labor difficulties; or failure of the Internet.

**Waiver.** No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder.

**Notice.** All notices hereunder to the Company will be considered effective if delivered personally or sent by certified mail, postage prepaid, to: Lolo Health, PO Box 27613, Golden Valley, MN 55427.

**Assignment.** The Company may, in its sole discretion, assign any or all rights under this Agreement to an affiliate or any third party without any additional notice to or consent from you. You may not assign any or all of your rights under this Agreement to a third party without the Company's prior written approval, and the Company shall have sole discretion to determine whether to provide or withhold such approval.

**Third-Party Beneficiary.** You acknowledge and agree that, except as otherwise provided in this Agreement, there shall be no third-party beneficiaries to this Agreement.

**Governing Law and Judicial Forum.** This Agreement will be interpreted in accordance with the laws of the State of Minnesota without regard to conflict- or choice-of-law principles. In the event that you have opted out of arbitration (as set out below) or that the agreement to arbitrate is otherwise found not to apply to you or your claim, you and Lolo agree that any judicial proceeding (other than as described above) may only be brought in a court of competent jurisdiction in Minnesota. Both you and Lolo consent to venue and personal jurisdiction there.

Notwithstanding the foregoing, you and Lolo may bring an action in any court of competent jurisdiction (i) to compel arbitration pursuant to the Terms below or (ii) to enforce an arbitral award issued thereunder.

#### **14. Dispute Resolution and Agreement to Arbitrate on an Individual Basis.**

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU AND LOLO TO ARBITRATE CERTAIN DISPUTES AND CLAIMS ON AN INDIVIDUAL BASIS AND LIMITS THE MANNER IN WHICH YOU AND LOLO CAN SEEK RELIEF FROM EACH OTHER.

You agree that any and all past, present and future disputes, claims or causes of action between you and Lolo arising out of or relating to the Agreement, the Services or the Content, the formation of the Agreement, or any other dispute between you and Lolo or any of Lolo's Service Vendors, licensors, distributors, suppliers or agents (including any third-party application store or platform from which the Services are accessed or downloaded), and whether arising prior to or after your agreement to this Section, (collectively, "Dispute(s)") will be governed by the procedure outlined below. You and Lolo further agree that any arbitration pursuant to this Section shall not proceed as a class, group, or representative action.

- (a) **Informal Dispute Resolution.** Lolo wants to address your concerns without the need for a formal legal dispute. Before filing a claim against Lolo, you agree to try to resolve the Dispute informally by contacting [claims@lolohealth.com](mailto:claims@lolohealth.com). Similarly, if you have provided an email address to us as part of your enrollment in the Platform or any Services, Lolo agrees to do the same. If a dispute is not resolved within 30 days after the email noting the Dispute is sent, you or Lolo may initiate an arbitration proceeding as described below.
- (b) **We Both Agree to Arbitrate.** By agreeing to these Terms, you and Lolo each and both agree to resolve any Disputes—including any Dispute concerning the enforceability, validity, scope, or severability of this agreement to arbitrate—through final and binding arbitration as discussed herein, except as set forth below.
- (c) **Opt-out of Agreement to Arbitrate.** You may decline this agreement to arbitrate by contacting [notice@lolohealth.com](mailto:notice@lolohealth.com) within 30 days of first accepting these Terms and stating that you (include your first and last name, and email address) decline this arbitration agreement. By opting out of the agreement to arbitrate, you will not be precluded from using the Platform or Services, but you and Lolo will not be permitted to invoke the mutual agreement to arbitrate to resolve Disputes under the terms otherwise provided herein.
- (d) **Arbitration Procedures and Fees.** You and Lolo agree that JAMS in Minneapolis, Minnesota will administer the arbitration under its JAMS Comprehensive Arbitration Rules & Procedures ("JAMS Rules"). Those rules are available at <https://www.jamsadr.com/rules-comprehensive-arbitration/> (or its successor website). Arbitration will proceed on an individual basis and will be handled by a sole arbitrator in accordance with those rules. The arbitration proceeding and any award shall be confidential. You and Lolo further agree that the arbitration will be held in Minneapolis, Minnesota, or, at your election, will be conducted telephonically or via video conference or other remote electronic means. The JAMS Rules will govern payment of all arbitration fees. This Section shall be construed under and be subject to the Federal Arbitration Act, notwithstanding any other choice of law set out in this Agreement.
- (e) **Arbitration Shall Proceed Individually.** You and Lolo agree that the arbitration of any Dispute shall proceed on an individual basis, and neither you nor Lolo may bring a claim as a part of a class, group, collective, coordinated, consolidated or mass arbitration (each, a "Collective Arbitration"). Without limiting the generality of the foregoing, a claim to resolve any Dispute against Lolo will be deemed a Collective Arbitration if (i) two (2) or more similar claims for arbitration are filed concurrently by or on behalf of one or more claimants; and (ii) counsel for the claimants are the same, share fees or coordinate across the arbitrations. "Concurrently" for purposes of this provision means that both arbitrations are pending (filed but not yet resolved) at the same time.
- (f) **Class Action and Collective Arbitration Waiver.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU NOR LOLO SHALL BE ENTITLED TO CONSOLIDATE, JOIN, OR COORDINATE DISPUTES BY OR AGAINST OTHER INDIVIDUALS OR ENTITIES, OR PARTICIPATE IN ANY COLLECTIVE ARBITRATION (AS



DEFINED ABOVE) OR ARBITRATE OR LITIGATE ANY DISPUTE IN A REPRESENTATIVE CAPACITY, INCLUDING AS A REPRESENTATIVE MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. IN CONNECTION WITH ANY DISPUTE (AS DEFINED ABOVE), ANY AND ALL SUCH RIGHTS ARE HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVED. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, IN THE EVENT ALL OR ANY PORTION OF SUBSECTIONS (E) OR (F) OF THIS SECTION ARE FOUND TO BE INVALID OR LESS THAN FULLY ENFORCEABLE, THEN THE ENTIRETY OF THIS SECTION MAY BE DEEMED VOID AND AS HAVING NO EFFECT UPON EITHER PARTY'S ELECTION.

- (g) **Intellectual Property Claims.** You agree that notwithstanding the requirement that all Disputes be resolved through binding arbitration, in the event the Company has a claim against you relating to copyright infringement, trademark infringement, patent infringement, actual or threatened misappropriation of trade secrets, or actual or threatened breach of the confidentiality provisions in this Agreement, the Company may commence an action in state or federal court in Minneapolis, Minnesota to obtain a temporary or preliminary injunction to prevent any or all such acts from continuing, with or without notice to you. Under such circumstances, you acknowledge that any such violation will result in irreparable harm to the Company, and therefore you consent to the immediate issuance of a temporary or preliminary injunction. You further agree that such an injunction shall be conditioned upon the Company posting an injunction bond in the amount of \$5,000.00. Immediately following the entry of a temporary or preliminary injunction, the court that issued the injunction shall issue a stay of the proceedings pending resolution of binding arbitration consistent with the rest of this section. In the event the Company prevails in the binding arbitration as to the issues or claims that resulted in the issuance of the temporary or preliminary injunction, the arbitrator in its decision shall convert the preliminary or temporary injunction to a permanent injunction.