

## **Mission Bio, Inc. Terms of Use**

Last updated: 10 September 2018

This Agreement (as defined below) forms part of a legal agreement between Mission Bio, Inc., a Delaware corporation, with offices at 6000 Shoreline Court, Suite 104, San Francisco, CA 94080 (“Mission Bio”, “We”, “Our” or “Us”, as well as other derivatives thereof), and the customer as identified in the order form (“You”, as well as other derivatives thereof). These terms and conditions of use (these “Terms”), Our Privacy Policy (“Privacy Policy”) which is hereby incorporated by reference, any order form executed by or on behalf of You, and any documents expressly referenced or attached therein (collectively, this “Agreement”) govern your access and use of the Services (as defined below).

We or You may hereafter be referred to individually as “Party”, or together as “Parties”.

### **1. ENTERING THIS AGREEMENT**

You enter into this Agreement by (i) clicking a box indicating acceptance when it is presented to you, (ii) accessing or using any part of the Services, or (iii) placing an order by means of any form of acceptance of an order form. If you contract on behalf of another person or entity, You warrant that You have the authority to bind that person or entity, have read these Terms and agree on behalf of that person or entity to these Terms.

### **2. CHANGES TO THIS AGREEMENT**

Mission Bio reserves the right to modify these Terms from time to time. If you continue to use the Services after such modification, you will be deemed to have read, understood, and unconditionally agreed to such changes.

### **3. THE SERVICES**

The Services consist of the following: (i) the Tapestri Platform, (ii) Tapestri Insights, (iii) Tapestri Pipeline, and (iv) any other application, software, services, products, websites, and other related services provided by Mission Bio or any third party designated by Us (collectively, the “Services”).

The Tapestri Platform is hosted on servers that are managed by third parties. These servers may be located anywhere in the world. You may access and use the Services, but you have no right to receive a copy of the object code or source code of the any software contained therein.

For the avoidance of doubt and unless explicitly agreed otherwise, all of Our obligations and terms are obligations to use reasonable efforts.

The Services may contain links to third party external sites and/or content that are not owned or controlled by Us. We have no control over, and assume no responsibility for, the content, privacy policies, or practices of any third party websites. You agree that We are not liable in any manner for such sites and/or content. Any link to third party sites, content, services or tools may not be construed as an approval or endorsement of such third party sites, content, services or tools.

#### 4. HIPAA

If You are a “covered entity” or “business associate” under the Health Insurance Portability and Accountability Act Administrative Simplification Provisions and related regulations at 45 CFR Parts 160, 162 and 164 (“HIPAA”) or similar state law, the Services are designed so that We will not access, collect, receive, use, disclose or maintain Protected Health Information (as defined in HIPAA) (“PHI”) on your behalf. You agree and acknowledge that You will not provide us with any such PHI and acknowledge and agree that uploading, storing, or transferring any PHI using the Services without executing any necessary agreements is strictly prohibited under this Agreement. Notwithstanding the foregoing, You further agree to indemnify and hold harmless Mission Bio of and from any and all claims, demands, losses, causes of action, damages, lawsuits, judgments, including attorneys’ fees and costs, arising out of or relating to the your uploading, storing, or transferring of PHI using the Services.

#### 5. ACCOUNT TERMS AND REQUIREMENTS

5.1. In order to use the Services, You may be required to provide information about yourself as part of the registration process for the Services or as part of your continued use of the Services. You must provide your name, country, company/institution, a valid email address, and password to create one or more user accounts (“Account”) for persons that are authorized to access and use the Tapestry Platform (“Authorized User”). You understand that you are responsible for maintaining the confidentiality of your password and other Account information. Accordingly, you agree that you will be solely responsible to Mission Bio for all activities that occur under your Account, and We will not be responsible for problems with your Account due to misuse of your password and other Account information. If you become aware of, or suspect, any unauthorized use of your password or Account, you agree to notify Us immediately at [info@missionbio.com](mailto:info@missionbio.com).

5.2. There are several requirements related to the creation and maintenance of an Account:

- You must be a human to create an Account. Accounts registered by “bots” or other automated methods are not permitted.
- In order to open an Account, you must be age 13 or older. Mission Bio does not target our Services to children under 13, and We do not knowingly permit any individual under 13 years of age to use our Services. If We learn of any user under 13, We will terminate the user’s Account immediately. If you are a resident

of a country outside the United States, your country's minimum age may be older. In such a case, you are responsible for complying with your country's laws.

- You acknowledge that Mission Bio will use the email address you provide as the primary method of communication.
- A breach or violation of any term in these Terms, as determined in the sole discretion of Mission Bio, will result in an immediate termination of your Account and your access to the Services.

### 5.3. You shall not:

- make unauthorized use of the Services;
- transfer to any other person any of your rights to use the Services;
- sell, rent or lease the Services or otherwise use the Services under a service desk or similar arrangement;
- make the Services available to anyone who is not an Authorized User;
- create any derivative works based upon the Services or Services documentation;
- translate, modify, adapt, enhance, decompile, disassemble or reverse engineer the Services and/or the underlying software or otherwise determine or attempt to determine source code or protocols from the executable code of the software;
- extract ideas, algorithms, procedures, workflows or hierarchies from the Services or otherwise use the Services for the purpose of creating another product or service; or
- access the Services in order to build a competitive solution or to assist someone else to build a competitive solution.

5.4. You understand and agree that You will not provide to Us any PHI or other personally identifiable information such as a name, address, date, identifiable name or other information that could be used, alone or in combination with other information, to identify a particular individual.

5.5. Your use of the Services must not violate any applicable laws, including copyright or trademark laws, privacy laws, or other laws in your jurisdiction. You are responsible for making sure that your use of the Services is in compliance with laws and any other applicable regulations.

## 6. GENOMIC DATA

6.1. You are solely responsible for the content and accuracy of the genomic data that You provide to Us (“Genomic Data”). The Services may only be used with data generated by the Mission Bio platform.

6.2. You warrant that the Genomic Data is provided, and will be used, in accordance with all provisions of applicable law and regulations, including any laws and regulations in relation to the processing of personal data. Furthermore, you warrant that the provision of Services in relation to the Genomic Data, as agreed between Us, does not violate any provision of applicable law and regulation.

6.3 You warrant and agree that all disclosures and uses of Genomic Data You provide to Us is provided in compliance with all applicable law including, without limitation, the Genetic Information Nondiscrimination Act of 2008 and related and similar laws, rules and regulations, and that none of the Genomic Data shall be used for underwriting, insurance, employment, benefits or other purposes except in compliance with all applicable laws and regulations.

## 7. PRIVACY POLICY

Our Privacy Policy describes how Your information is stored, used, and shared. Mission Bio may update the Privacy Policy from time to time, so please periodically review the Privacy Policy.

## 8. CONFIDENTIALITY

Each Party shall not disclose and shall keep secret all confidential information which it receives from the other Party. Each Party will use the same degree of care to protect the other Party’s confidential information as it uses to protect its own information of like nature, but in no circumstances with less than reasonable care. Confidential information shall include the Genomic Data. Each Party shall only use such confidential information for the purposes of their contractual relationship with each other except as expressly permitted under this Agreement or as expressly authorized in writing by the disclosing Party.

Confidential information does not include information that:

- is or later becomes, generally known to the public (other than by breach of any agreement or undertaking of confidentiality);
- is lawfully obtained free from confidentiality constraints from any third party who has lawfully obtained such information free from confidentiality constraints;
- was obtained by the disclosing Party without the breach of this confidentiality clause; or

- was developed by employees or agents of the recipient independently of and without any reference to any confidential information received from the disclosing party or other information that the disclosing party has disclosed in confidence of any third party.

The obligation of confidentiality does not apply when the disclosure is required or authorized pursuant to any applicable statute, law, rule, or regulation of any governmental or regulatory authority or following any judicial order. Confidential information may be disclosed by a Party as permitted by the Privacy Policy.

The confidentiality obligations shall continue for a duration of seven (7) years following termination of expiry of the contractual relationship between the Parties.

## 9. INTELLECTUAL PROPERTY RIGHTS

All right, title and interest in and to the Services and all modifications, enhancements, and derivatives of the Services, and all intellectual property contained in any of the foregoing, shall be owned by Us except as expressly stated otherwise. Each Party remains owner of his or her intellectual property rights and such Party does not grant the other Party, implied or otherwise, a license to the other Party's intellectual property. If You provide Us with tools or materials in the context of Our providing the Services, you shall remain the owner of such tools and materials. You provide Us with a limited, non-exclusive, non-transferable license to use such tools and materials in the context of the provision of the Services. We may also make such tools and materials available to third parties for use by such third parties, to the extent necessary or useful for the provision of the Services. All use rights in and to the Services not expressly granted herein are reserved to Us.

As between You and Mission Bio, You own and will continue to own all right, title and interest in and to Your data including, without limitation, the Genomic Data You provide to Us. You grant Us the limited right to view, modify, collect and use your data, solely for the purpose of providing the Services, including for purposes of troubleshooting any user problems, to monitor and ensure quality control, to improve our customer service and data quality and to enhance and update the Company's services.

## 10. WARRANTIES AND LIABILITY

### 10.1. OUR WARRANTIES

We warrant that: (i) the Services will function substantially as described in the documentation; and (ii) We have the right to provide the Services to You. The remedies set out in this section constitute Your sole remedies for non-conformity, any breach, or infringement and third party claims.

- If the Services do not function substantially in accordance with the documentation and in case this nonconformity was confirmed by a final court decision, We shall, at Our option, either make commercially reasonable efforts to (i) modify the Services to conform to the documentation; or (ii) provide a

workaround solution that will reasonably meet Your requirements. If neither of these options is commercially feasible, either Party may terminate the contractual relationship, in which case and unless agreed otherwise no pre-paid fees shall be refunded.

- If the normal operation, possession or use of the Services by You is found to infringe any third party intellectual property right and in case this infringement was confirmed by a final court decision, or in any case when We believe that this infringement is likely, We shall at Our option either (i) make commercially reasonable efforts to obtain a license from such third party for Your benefit; (ii) make commercially reasonable efforts to modify the Services so that they no longer infringe; or (iii) if neither of these options is commercially feasible, terminate the contractual relationship, in which case and unless agreed otherwise no pre-paid fees shall be refunded.
- We have no warranty obligations with respect to (i) software that has been modified by You or any third party; and (ii) problems in the Services caused by any third party software or hardware, by accidental damage or by other matters beyond Our reasonable control.
- Parties will cooperate in the course of the defense of any claim, suit or demand. However, We may at Our sole discretion assume the sole defense and control of any claim against You asserted by a third party. This includes the settlement of this claim on Your behalf.
- All claims under this provision must be made within two (2) years after the termination or expiry of this contractual relationship.

To the fullest extent permitted by law, We disclaim all other warranties with respect to the Services, whether express or implied.

Whenever We provide you with free Services (e.g., in the context of a trial), such free Services are provided “as is” and, to the fullest extent permitted by law, We disclaim all warranties, indemnification obligations and all other liabilities in relation thereto.

You agree that the Services make use of a series of third-party tools, which may be chosen or imposed by You. If such tools are developed by third parties, such tools are provided subject to the end user conditions and warranties provided by such third parties. Although We use reasonable care in the selection of such third-party tools, to the fullest extent permitted by law, We do not accept liability for any errors or issues resulting from the use of such third-party tools in the context of Our Services, nor do We warrant the uninterrupted or error-free use of such third-party tools. By using such third party tools, You consent to such end user (license) conditions. To the fullest extent permitted by law, We do not warrant that any documentation provided in relation to such third party tools is accurate, complete, reliable, current or error-free, and You accept that We are not liable therefor. You acknowledge that you are liable for any use of or reliance upon such third party tools and/or the results they generate. We do not accept

and have no liability for your use of third-party tools or services that infringe, misappropriate, or are alleged to infringe or misappropriate any third-party patent, trademark, copyright, trade secret, or other intellectual property right.

## 10.2. YOUR WARRANTIES

You represent and warrant that Your use of the Service at all times:

- will comply with all applicable laws and regulations;
- will not violate the terms of this Agreement;
- will not circumvent or render ineffective Our technological and other measures to protect and control the Services and, in particular, the Tapestri Platform; and
- will not directly or indirectly provide Us with any personally identifiable information or personal health information and that you shall indemnify us to the fullest extent for any liability that results from your intentional or inadvertent disclosure of such information.

## 10.3. DISCLAIMER OF WARRANTIES

You acknowledge and agree that the Services merely assist You in Your own activities; and You accept sole responsibility for the access to and use of the Services, any related material/services and any of the effects/results thereof in relation to the Genomic Data. The processing of Genomic Data by means of the Services occurs in accordance with generally accepted practices and We do not guarantee, in the current of state of research and technology, that such processing shall be entirely free of errors or issues.

## 10.4 LIMITATION OF LIABILITY AND DAMAGES WAIVER

WE AND OUR AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS SHALL NOT HAVE ANY LIABILITY UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES; LOSS OF PROFITS OR REVENUES; OR LOSS OF DATA; EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

OUR TOTAL LIABILITY PURSUANT TO THIS AGREEMENT IS LIMITED IN THE AGGREGATE TO THE FEES ACTUALLY PAID BY YOU DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT OR PER AFFILIATE.

## 10.5. INDEMNIFICATION

You agree to defend at your own expense and hold Us harmless, and Our respective affiliates, subsidiaries, partners, officers, directors, employees, agents, successors and assigns (collectively, the "Indemnified Parties") from and against any and all third party

claims, actions, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and expenses incurred by the Indemnified Parties, arising from or relating to (i) Your violation of any rights of a third party; (ii) any breach by You of your obligations under this Agreement; (iii) Your unlawful and/or unauthorized use of, or activities in connection with the Services; (iv) Your violation of any applicable law; and (v) any negligent acts, omissions or willful misconduct by You. The foregoing indemnities shall survive expiration or termination of this Agreement.

## 11. TERMINATION

The duration of our contractual relationship shall be determined in the order form.

Upon termination or expiration, Your right to access and use the Services shall immediately cease. Upon termination or expiration, We will provide You with limited access for thirty (30) days to download your data.

If the contractual relationship has an indefinite duration, each Party may terminate the contractual arrangement for any reason by registered letter with three (3) months' notice. If the contractual relationship has a definite duration, You may not cancel the order form.

In "pay as you use" arrangements, We shall be entitled to terminate this Agreement with immediate effect, if you have not used the Services for more than three (3) months.

Each Party may terminate this Agreement with immediate effect by written notice if the other Party:

- is in material breach, and this breach remains uncured at the end of a thirty (30) days' notice period; or
- ceases its profession or business or if there is a threat of cessation, or in case of bankruptcy or evident insolvency or general cessation of payment.

We may terminate the contractual arrangement, in whole or part, by written notice with immediate effect if:

- You commit a breach of any of Your obligations, irrespective if they were remedied or not;
- the control of Your ownership directly or indirectly changes; or
- a force majeure event lasts longer than thirty (30) days.

Any such termination shall have no effect on clauses that are explicitly or implicitly intended to stay in force after termination of this Agreement.

## 12. MISCELLANEOUS

## 12.1. GOVERNING LAW AND JURISDICTION

This Agreement, the relationship of the Parties, and any dispute arising under this Agreement shall be governed by the substantive laws of the State of California, without respect to its or any other state's conflict of laws principles. Any claim or dispute between You and Mission Bio that arises in whole or in part from the Services shall be decided exclusively by a court of competent jurisdiction located in the County of San Francisco, California, and You hereby consent to such venue and to the jurisdiction of such courts over the subject matter of such proceeding and themselves.

## 12.2. SEVERABILITY AND WAIVER

In the event that any provision of these Terms (or any portion thereof) is illegal, invalid or otherwise unenforceable, such provision will be replaced with a provision that is to the most possible extent consistent with the stated intention of the Parties and fully complies with the minimum requirements for legality, validity and enforceability and the remainder of this Agreement shall remain in full force and effect notwithstanding.

No right or claim shall be deemed waived, unless there is the explicit consent thereto in writing and signed by the Party waiving this right or claim.

## 12.3. ASSIGNMENT

You may not transfer, assign, or charge this Agreement to any third party without Our prior written consent (which shall not be unreasonably withheld). Any unauthorized assignment and delegation by you is void.

We will have the right to assign this Agreement to an affiliate or another third party without Your written consent. We are entitled to subcontract any part of the Services.

## 12.4. ENTIRE AGREEMENT

Except as expressly agreed otherwise in writing, this Agreement, including any document expressly incorporated into these terms by reference, constitute the entire agreement between the Parties and supersede all prior agreements, written or oral, concerning the subject matter of this Agreement.

## 12.5. NOTICES

You agree that Mission Bio may provide you with notices, including those regarding changes to this Agreement, by email or postings on the Mission Bio website or the Services.

## 12.6. SECTION HEADINGS AND SUMMARIES

Throughout this Agreement, each section includes titles. These section titles are not legally binding.

## 12.7. FORCE MAJEURE

No Party shall be liable for the failure to perform or delay in the performance of its obligations under this Agreement to the extent such failure or delay is caused by or results from an event caused by a circumstance beyond a Party's reasonable control and that could not have been prevented or avoided by the exercise of all due diligence. We shall not be liable to You for any costs or expenses incurred as a result of any such event.

## 12.8. AMENDMENTS

These Terms may only be modified by a written amendment signed by an authorized representative of Mission Bio.

## 12.9. QUESTIONS

If you have questions or comments about these Terms, please contact Us at the following e-mail address: [info@missionbio.com](mailto:info@missionbio.com).