

Terms of Service

Effective Date: January 15, 2025

We encourage you to read this document to understand the terms, policies, and conditions that apply to you when you use our websites, products, or services, including how we process your personal information.

Welcome and thank you for visiting Tomorrow Health!

Tomorrow Health, Inc. (“Tomorrow Health,” “Company,” “we,” “us,” or “our”) operates the websites located at tomorrowhealth.com, and other related websites or applications with links to these Terms of Use (“Terms”), including any online and mobile websites, platforms, services, and applications owned and operated by Tomorrow Health (collectively, the “Sites”) and all products and services related thereto (collectively, the “Services”). Users of the Sites or Services are referred below as “Users,” “Members,” “Providers,” “Suppliers,” “Service Coordinators,” “you,” “your,” or “yours.”

These Terms describe the rules for using the Sites and your receipt of Services. Please read these Terms carefully before using the Sites or Services. By visiting or using any of the Sites or Services, you are accepting the practices and provisions described in these Terms, as well as our [Privacy Policy](#). If you do not agree to these Terms, or any of the documents referenced above, please do not use our Sites or Services.

When visiting our Sites or using any of our Services, your information will be processed by Tomorrow Health for the purposes stated in and in accordance with the Tomorrow Health [Privacy Policy](#).

Update To These Terms and Conditions

Tomorrow Health’s Sites are owned and operated by Tomorrow Health. Our Sites are continually under development and changes to the Sites or Services may be made at any time. We reserve the right to revise or remove any part of these Terms in our sole discretion at any time and without prior notice to you, except where legally required. Thus, you should visit this page periodically to review the current Terms, so you are aware of any such revisions to which you are bound. By accessing and using the Sites or Services, you agree to such revisions. Any changes to these Terms are effective upon posting to the Sites, unless otherwise specified. If you disagree with these Terms, your sole remedy is to discontinue your use of the Sites and Services. Your continued use after a change has been posted constitutes your acceptance of the changes.

Certain provisions of these Terms may be superseded by expressly designated legal notices or terms located on particular pages within the Sites.

No Medical Advice or Practice of Medicine

Tomorrow Health does not engage in the practice of medicine, nor does it provide healthcare services or medical advice. Additionally, Tomorrow Health is not an insurance provider. We do offer an online procurement platform for providers and medical equipment suppliers; such providers and suppliers are not employed by us.

Healthcare practitioners, such as physicians and licensed clinicians, as well as medical equipment providers, are solely responsible for the services each provides to you. Each healthcare practitioner or equipment supplier is responsible for his or her services and compliance with the requirements applicable to his or her profession and license. Neither Tomorrow Health nor any third parties who support the Services or provide you with a link to the Services shall be liable for any professional advice you obtain from a clinician via the Services.

General health information that may be contained on one of our Sites is for informational purposes only and is not a substitute for professional health or medical care. **The Tomorrow Health Sites do NOT provide medical advice, diagnosis or treatment. Nothing on any Tomorrow Health Sites should be considered medical advice or an endorsement, representation or warranty that any particular medication, treatment, or piece of equipment is safe, appropriate, or effective for you. Never disregard professional medical advice or delay in seeking it because of something you have read on Sites.** Medical advice, diagnosis, treatment or recommendation regarding medication should only be made by licensed physicians or other licensed professionals permitted to render medical advice. Always seek the advice from your physician or other qualified health provider with any questions you may have regarding a medical condition. Dial 911 if you are in an emergency life-threatening situation or need emergency medical attention.

Privacy of Individual Information

We understand the importance of confidentiality and privacy regarding your information. Please see our [Privacy Policy](#) for information about how we collect and use your information collected through the Sites. The Privacy Policy is hereby incorporated into these Terms by reference and constitutes a part of these Terms.

For more information or questions about the collection, creation, maintenance, use and disclosure of any of your data that may constitute protected health information, as defined and protected by the federal Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (“HIPAA”), please refer to your health plan’s Notice of Privacy Practices, or your health care provider’s or supplier’s Notice of Privacy Practices.

The personal information we receive or obtain through your use of the Services may be subject to different state and federal privacy laws, including HIPAA., . Descriptions in the Terms and our [Privacy Policy](#) regarding our collection, use and disclosure of personal information may be subject to or further restricted by the requirements of these laws.

User Accounts

You are obligated to register with Tomorrow Health in order to access our Sites. When you register on the Sites, you are required to create an account (“Account”) by entering your name, email address, password and certain other information collected by Tomorrow Health (collectively “Account Information”).

When you register and create an Account, you agree to these Terms of Service. In order to create an Account, you must be of the legal age to enter into a contract (i.e., be 18 in most states, or be an emancipated minor). You agree that the Account Information that you provide to us, including during registration and in any uploads to the Sites, will be true, accurate, current, and complete. You may not transfer or share your Account password with anyone, or create more than one Account (with the exception of sub-accounts established for children of whom you are the parent or legal guardian).

You are responsible for maintaining the confidentiality of your Account password and for all activities that occur under your Account. You also agree to promptly notify us of any unauthorized use of your username, password or any other breach of security that you become aware of involving or relating to the Sites by contacting us using the below contact information. We reserve the right to take any and all action, as we deems necessary or reasonable, regarding the security of the Sites and your Account Information. In addition, you agree to exit from your Secure User account at the end of each session.

In no event and under no circumstances shall we be held liable to you for any liabilities or damages resulting from or arising out of your use of the Sites, your use of the Account Information or your release of the Account Information to a third party. You may not use anyone else's account at any time.

Communications

Short Message Service or SMS

Tomorrow Health or its affiliates may contact you by short message service ("SMS") text message from time to time regarding your account or the Services to provide appointment reminders, service announcements, privacy notices, administrative messages and other communications about the Services ("SMS Communications"). These SMS Communications are considered part of the Services and your Account.

By agreeing to these Terms and providing your telephone number to us or our affiliates, you: (i) consent to receive SMS Communications from or on behalf of us or any of its affiliates at the telephone number you provide; and (ii) acknowledge and agree that your information may be processed in accordance with, and you are to be bound by, our [Privacy Policy](#). You can stop receiving SMS Communications from us at any time by emailing us at support@tomorrowhealth.com.

Other Communications

You agree that we may send to you additional communications through electronic means including, but not limited to, (1) by email, using the address that you provided to us during registration, or (2) by posting communications on the Sites (collectively, "Communications"). In some cases we may contact you by telephone. If you do not wish to be contacted by phone, you may send an email request to support@tomorrowhealth.com.

We may need to send you certain communications electronically regarding the Services. You will not be able to opt out of those communications. Your withdrawal of consent will not affect the legal validity or enforceability of the Terms provided to and accepted by you. If you withdraw your consent to receive communications electronically, certain Services may become unavailable to you.

You acknowledge that text messages and emails are not always secure and there is a risk that such messages and emails will be intercepted because they travel over networks that we do not control. As such, we cannot guarantee the security or

confidentiality of messages sent by text messages or email. By providing us with your cell phone number and email address, you agree that we may communicate with you by text message and email, despite these risks.

Agreement to be Bound by Electronic Signature

Your affirmative act of using the Sites, or registering for or scheduling any Service offered through the Sites, constitutes your electronic signature to these Terms and your consent to enter into agreements with us electronically.

Site Security & Acceptable Use

Security

Tomorrow Health's Sites require users to create unique identifiers (such as a username and password) in order to log into many areas of the Sites. We utilize these unique identifiers to verify the user's identity and eligibility, in order to protect our members from the release of sensitive or personally identifiable information to unauthorized users.

To help protect the privacy of data you transmit through the Sites, where personally identifiable information is requested, we also use technology designed to encrypt the information that you input before it is sent to us using Secure Sockets Layer (SSL) or similar encryption technology. In addition, we take steps to protect the user data we collect against unauthorized access. However, you should keep in mind that the Sites and our Services are run on software, hardware and networks, any component of which may, from time to time, require maintenance or experience problems or breaches of security beyond our control.

You must exercise caution, good sense and sound judgment in using the Sites. You are prohibited from violating, or attempting to violate, the security of the Sites. Any such violations may result in criminal and/or civil penalties against you. We may investigate any alleged or suspected violations and, if a criminal violation is suspected, we will cooperate with law enforcement agencies in their investigations.

Acceptable Use

In your use of our Sites or any Services, you agree not to:

- Send or otherwise transmit to or through our Sites any unlawful, infringing, harmful, harassing, defamatory, threatening, hateful or otherwise objectionable material of any kind, any material that can cause harm or delay to the Sites or computers of any kind, or any unsolicited advertising, solicitation or promotional materials;
- Misrepresent your identity or affiliation in any way;
- Restrict or inhibit any person from using the Sites, disclose personal information obtained from the Sites, or collect information about users of the Sites;
- Reverse-engineer, disassemble or decompile any section or technology on the Sites, or attempt to do any of the foregoing;
- Gain unauthorized access to the Sites, to other users' accounts, names, personally identifiable information or other information, or to other computers or websites connected or linked to the Sites;
- Launch or use any automated system, including without limitation, "robots," "spiders," or "offline readers," that access the Sites in a manner that sends more request messages to our servers in a given period of time than a human can reasonably produce in the same period by using a conventional web browser;

- Send or otherwise transmit to or through the Sites chain letters, unsolicited messages, so-called “spamming” or “phishing” messages, or messages marketing or advertising goods and services;
- Post, transmit or otherwise make available any virus, worm, spyware or any other computer code, file or program that may or is intended to damage or hijack the operation of any hardware, software or telecommunications equipment;
- Violate any applicable laws or regulations or these Terms;
- Use abusive, harassing or threatening language or make abusive, harassing, bullying or threatening communications toward any person at Tomorrow Health, or any other user of the Sites;
- Create a hostile environment for any person at Tomorrow Health or any other user of the Sites based on such person’s race, age, national origin, disability, gender or reassignment thereof, religion or belief, sex, sexual orientation, marriage/partnership status, or pregnancy/maternity.
- Alter or modify any part of the materials or Services offered on the Sites; or
- Assist or permit any persons in engaging in any of the activities described above.

Any of the foregoing may result in actions including, but not limited to, termination of your access to the Sites or any of the Services.

Our Intellectual Property Rights

The content on the Sites, including, without limitation, any text, software, graphics, photos, sounds, music, videos, audiovisual combinations, patents, interactive features, any trademarks, service marks and logos contained therein and any other materials you may view on, access through, or contribute to the Sites (collectively “Materials”) are owned by or licensed to Tomorrow Health, subject to copyright, trademark and other intellectual property rights under United States and foreign laws and international conventions. No ownership interest is transferred to you or any other entity by virtue of Tomorrow Health making the Materials available on the Sites.

No Materials from the Sites may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way without written permission of Tomorrow Health. You agree not to circumvent, disable, or otherwise interfere with security related features of the Sites or features that prevent or restrict use or copying of any Materials or content. These Terms permit you to use the Sites for your personal, non-commercial use only.

Modification of any Materials or use of any Materials for any other purpose is a violation of the copyrights and other proprietary rights of Tomorrow Health, or of other entities or persons where so indicated, unless Tomorrow Health or the owner has provided said Material for such express purpose. Permission for all other uses of Materials contained herein, including reproducing and distributing multiple copies or using Materials on any other website or networked computer or linking to any secured or private page at the Sites must be obtained from Tomorrow Health or the appropriate rights owner in advance; otherwise, such use is prohibited. Requests for such authorization from Tomorrow Health should be submitted via an email to support@tomorrowhealth.com.

All design rights, databases and compilation and other intellectual property rights associated with the Sites, in each case whether registered or unregistered, and related goodwill, are proprietary to Tomorrow Health.

Links to Other Sites

As you view the Sites, you may see links to third-party websites. These links are for convenience only. If you use these links, you will leave the Sites. Certain of these linked websites may make use of Tomorrow Health's proprietary intellectual property rights (such as copyrights, trademarks, service marks, logos and trade names) under license from us. Tomorrow Health is not responsible for the availability or content of these other websites or for any viruses or other damaging elements encountered in linking to a third-party website. These Terms do not apply to any other websites.

Any reference made by this website or any other Tomorrow Health site to any specific commercial product, process, or service (or provider of such product, process or service) by trade name, trademark, hyperlink, or otherwise, does not constitute or imply an endorsement, recommendation, or favoring by Tomorrow Health. Any opinions, advice, statements, services, offers or other information expressed or made available by third parties, including information providers, users or others, are those of the respective author(s) or distributor(s) and do not necessarily state or reflect those of Tomorrow Health.

Third-Party Interactions

Your interactions with entities or individuals found on or through the Sites or the Services provided through the Sites, including delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such entities or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any third party. You are solely responsible for, and will exercise caution, discretion, common sense and judgment in, using the Sites and disclosing personal information.

You agree that Tomorrow Health shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings. If there is a dispute between you and any third party, you understand and agree that we are under no obligation to become involved.

Jurisdictional Issues

Our Sites are controlled and operated by, and our Services are offered by Tomorrow Health from our office within the United States of America. The Sites and the Services are intended for use only within the United States and its territories. We make no representation that the Sites and the Services are appropriate, or are available for use, outside the United States and its territories.

By submitting data to the Sites or Services, you affirmatively consent to its use and processing in the United States as set forth in these Terms and Tomorrow Health's [Privacy Policy](#).

IF YOU ARE A RESIDENT OF A COUNTRY OTHER THAN THE UNITED STATES, YOU MAY USE THE SITES AND/OR THE SERVICES ONLY WHEN YOU ARE PHYSICALLY LOCATED IN THE UNITED STATES AND ITS TERRITORIES. YOUR LICENSE AND RIGHT TO USE THE SITES AND/OR THE SERVICES AUTOMATICALLY TERMINATE UPON YOUR DEPARTURE FROM THE UNITED STATES AND ITS TERRITORIES. YOU UNDERSTAND AND AGREE THAT NON-UNITED STATES RESIDENTS MAY NOT USE THE SITES AND/OR THE SERVICES OUTSIDE OF THE UNITED STATES AND ITS TERRITORIES.

Termination

Tomorrow Health may terminate, cancel, suspend, or block your use of the Sites and/or Services at any time, without cause and/or without notice.

We will terminate your access to the Sites and its features or any Services if, under appropriate circumstances, you are determined to be a repeat infringer of third-party rights or in breach of the applicable Terms. Upon any such termination, you must destroy all Materials obtained from the Sites and all copies thereof.

Subject to applicable law, we reserve the right to maintain, delete or destroy all communications and materials posted or uploaded to the Sites pursuant to our internal record retention and/or content destruction policies. After such termination, we will have no further obligation to provide the Services, except to the extent we are obligated to provide you access to your health records.

The provisions of these Terms concerning Sites' security, prohibited activities, copyrights, trademarks, disclaimer, limitation of liability, indemnity and jurisdictional issues shall survive any such termination. You agree that if your use of the Sites is terminated pursuant to these Terms, you will not attempt to use the Sites under any name, real or assumed, and further agree that if you violate this restriction after being terminated, you will indemnify and hold us harmless from any and all liability that we may incur therefore.

You may deactivate your Account and end your registration at any time, for any reason, by sending an email to support@tomorrowhealth.com.

Disclaimer

The materials in the Sites are provided "as is" and without warranties of any kind, either express or implied. To the fullest extent permissible pursuant to applicable law, Tomorrow Health disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose. We do not warrant that the functions contained in the Materials will be uninterrupted or error-free, that defects will be corrected or that the Sites or the server that makes access to the Sites available is free of viruses or other harmful components. Tomorrow Health does not make any representations or warranties regarding the use or the results of the use of the Materials in the Sites in terms of their correctness, accuracy, reliability or otherwise.

Jurisdiction and Governing Law

These Terms and your use of the Services shall be governed by the laws of the State of New York, without giving effect to the principles of conflict of laws. Subject to the requirement to arbitrate set forth below, exclusive jurisdiction for all disputes that do not require arbitration will be the state and federal courts located in New York, New York, and you consent to the jurisdiction of those courts. If any provision of these Terms shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

Dispute Resolution

Certain portions of this section are deemed to be a “written agreement to arbitrate” pursuant to the Federal Arbitration Act. You and Tomorrow Health agree that we intend that this section satisfies the “writing” requirement of the Federal Arbitration Act.

- A. **First – Try to Resolve Disputes and Excluded Disputes.** If any controversy, allegation, or claim arises out of or relates to the Services or these Terms, whether heretofore or hereafter arising (collectively, “Dispute”), or to any of Tomorrow Health’s actual or alleged intellectual property rights (an “Excluded Dispute”), which includes those actions set forth in subsection (C), then you and we agree to send a written notice to the other providing a reasonable description of the Dispute or Excluded Dispute, along with a proposed resolution of it. Our notice to you will be sent to you based on the most recent contact information that you provide us. But if no such information exists or if such information is not current, then we have no obligation under this subsection (A). Your notice to us must be sent to: Support@tomorrowhealth.com. For a period of sixty (60) days from the date of receipt of notice from the other party, Tomorrow Health and you will engage in a dialogue in order to attempt to resolve the Dispute or Excluded Dispute, though nothing will require either you or Tomorrow Health to resolve the Dispute or Excluded Dispute on terms with respect to which you and Tomorrow Health, in each of our sole discretion, are not comfortable.
- B. **Binding Arbitration.** If we cannot resolve a Dispute as set forth in subsection (A) (or agree to arbitration in writing with respect to an Excluded Dispute) within sixty (60) days of receipt of the notice, then ANY AND ALL DISPUTES ARISING BETWEEN YOU AND TOMORROW HEALTH (WHETHER BASED IN CONTRACT, STATUTE, REGULATION, ORDINANCE, TORT—INCLUDING, BUT NOT LIMITED TO, FRAUD, ANY OTHER INTENTIONAL TORT OR NEGLIGENCE—COMMON LAW, CONSTITUTIONAL PROVISION, RESPONDENT SUPERIOR, AGENCY OR ANY OTHER LEGAL OR EQUITABLE THEORY), WHETHER ARISING BEFORE OR AFTER THE EFFECTIVE DATE OF THESE TERMS, MUST BE RESOLVED BY FINAL AND BINDING ARBITRATION. THIS INCLUDES ANY AND ALL DISPUTES BASED ON ANY PRODUCT OR SERVICE PURCHASED THROUGH TOMORROW HEALTH WEBSITES OR ADVERTISING AVAILABLE ON OR THROUGH THE TOMORROW HEALTH WEBSITES. For U.S. residents, the Federal Arbitration Act (“FAA”), not state law, shall govern the arbitrability of all disputes between Tomorrow Health and you regarding these Terms and the Services, including the “No Class Action Matters” subsection below. BY AGREEING TO ARBITRATE, EACH PARTY IS GIVING UP ITS RIGHT TO GO TO COURT AND HAVE ANY DISPUTE HEARD BY A JUDGE OR JURY. Tomorrow Health and you agree, however, that the applicable state, federal or provincial law, as contemplated in the “Jurisdiction and Governing Law” section above, shall apply to and govern, as appropriate, any and all claims or causes of action, remedies, and damages arising between you and Tomorrow Health regarding these Terms and the Services, whether arising or stated in contract, statute, common law, or any other legal theory, without regard to any jurisdiction’s choice of law principles.

Any Dispute will be resolved solely by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association (“AAA”), except as modified herein, and the arbitration will be administered by the AAA. A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the Commercial Arbitration Rules of the AAA. If a party properly submits the Dispute to the AAA for formal arbitration and the AAA is unwilling to set a hearing then either party can elect to have the arbitration administered by the Judicial Arbitration and Mediation Services Inc. (“JAMS”) using JAMS’ streamlined Arbitration Rules and Procedures, or by any other arbitration administration service that you and an officer or legal representative of Tomorrow Health consent to in writing. If an in-person arbitration hearing is required and you are a U.S. resident, then it will be conducted in New York

County, New York. You and we will pay the administrative and arbitrator's fees and other costs in accordance with the applicable arbitration rules; but if applicable arbitration rules or laws require Tomorrow Health to pay a greater portion or all of such fees and costs in order for this section to be enforceable, then Tomorrow Health will have the right to elect to pay the fees and costs and proceed to arbitration. The arbitration will be conducted by a single arbitrator who will apply and be bound by these Terms, and will determine any Dispute according to applicable law and facts based upon the record and no other basis, and will issue a reasoned award only in favor of the individual party seeking relief and only to the extent to provide relief warranted by that party's individual claim. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration and class action waiver provisions are for the court to decide. The arbitrator will render an award within the time frame specified in the Commercial Arbitration Rules of the AAA. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator will have the authority to award monetary damages on an individual basis and to grant, on an individual basis, any non-monetary remedy or relief available to an individual to the extent available under applicable law, the Commercial Arbitration Rules of the AAA, and these Terms. The arbitrator's award of damages and/or other relief must be consistent with the terms of the "Limitation of our Liability" section below as to the types and the amounts of damages or other relief for which a party may be held liable. If a claim is brought seeking public injunctive relief and a court determines that the restrictions prohibiting the arbitrator from awarding relief on behalf of third parties are unenforceable with respect to such claim (and that determination becomes final after all appeals have been exhausted), the claim for public injunctive relief will be determined in court and any individual claims will be arbitrated. In such a case, the court shall stay the claim for public injunctive relief until the arbitration pertaining to individual relief has been entered in court. In no event will a claim for public injunctive relief be arbitrated. Attorneys' fees will be available to the prevailing party in the arbitration only if authorized under applicable substantive law governing the claims in the arbitration. If the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), Tomorrow Health will have the right to recover its attorneys' fees and expenses. This arbitration provision shall survive termination of these Terms or the Services. You can obtain AAA and JAMS procedures, rules, and fee information as follows: AAA: 800.778.7879 and <http://www.adr.org> and JAMS: 800.352.5267 and <http://www.jamsadr.com>.

- C. Special Additional Procedures for Mass Arbitration. If twenty-five (25) or more similar claims are asserted against Tomorrow Health by the same or coordinated counsel or are otherwise coordinated, you understand and agree that the resolution of your Dispute might be delayed. You also agree to the following coordinated bellwether process and application of the AAA Multiple Consumer Case Filing Fee Schedule. Counsel for the claimants and counsel for Tomorrow Health shall each select five (5) cases (per side) to proceed first in individual arbitration proceedings as part of a bellwether process; the parties may but are not required to agree in writing to modify the number of cases to be included in the bellwether process. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings pursuant to this provision. In the bellwether process, a single arbitrator shall preside over each case. Only one (1) case may be assigned to each arbitrator during the bellwether process unless the parties agree otherwise. After decisions have been rendered in the first ten (10) cases, Tomorrow Health and all claimants shall engage in a global mediation in an attempt to resolve the remaining cases with the benefit of the decisions in the bellwether cases. If the parties are unable to resolve the remaining cases after the mediation, each side shall select another ten (10) cases (per side) to proceed to individual arbitration proceedings as part of a second bellwether process. After decisions have been rendered in the second group of twenty (20) cases, Tomorrow Health and all claimants shall engage in a second global mediation in an attempt to resolve the remaining cases with the benefit of the decisions in the decided bellwether cases; if a global settlement cannot be reached in the second

mediation, the parties also may discuss with the mediator the process for resolving the remaining cases with the benefit of the decisions in the first two (2) rounds of bellwether cases; the parties are not required to agree to any modifications to the process set forth herein. Absent a settlement or agreement to modify the procedure for arbitrating the remaining cases, in order to increase the efficiency of administration and resolution of arbitrations, the arbitration provider shall: (i) administer the arbitration demands in batches of fifty (50) demands per batch (to the extent there are fewer than fifty (50) arbitration demands left over after the batching described above, a final batch will consist of the remaining demands); (ii) designate one (1) arbitrator for each batch; and (iii) provide for a single filing fee due per side per batch. You agree to cooperate in good faith with Tomorrow Health and the arbitration provider to implement such a “batch approach” or other similar approach to provide for an efficient resolution of claims, including the payment of single filing and administrative fees for batches of claims. This “batch arbitration” provision shall in no way be interpreted as authorizing class arbitration of any kind. Tomorrow Health does not agree or consent to class arbitration, private attorney general arbitration, or arbitration involving joint or consolidated claims under any circumstances, except as set forth in this subsection (C). The statute of limitations and any filing fee deadlines shall be tolled for claims subject to this subsection (C) from the time of the first cases are selected for a bellwether process until the time your case is selected to proceed, withdrawn, or otherwise resolved. A court shall have authority to enforce this subsection (C) and, if necessary, to enjoin the mass filing or prosecution of arbitration demands against Tomorrow Health.

- D. Limited Time to File Claims. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IF YOU OR WE WANT TO ASSERT A DISPUTE (BUT NOT AN EXCLUDED DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN SUBSECTION (A)) WITHIN ONE (1) YEAR AFTER THE DISPUTE ARISES – OR IT WILL BE FOREVER BARRED.
- E. Injunctive Relief. The foregoing provisions of this section will not apply to any legal action taken by Tomorrow Health to seek an injunction or other equitable relief in connection with, any loss, cost, or damage (or any potential loss, cost, or damage) relating to the Tomorrow Health Websites and/or the Services and/or Tomorrow Health’s intellectual property rights (including such Tomorrow Health may claim that may be in dispute), Tomorrow Health’s operations, and/or Tomorrow Health’s products or services.
- F. No Class Action Matters. YOU AND TOMORROW HEALTH AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING OR AS AN ASSOCIATION. Disputes will be arbitrated only on an individual basis and will not be joined or consolidated with any other arbitrations or other proceedings that involve any claim or controversy of any other party. There shall be no right or authority for any Dispute to be arbitrated on a class action basis or on any basis involving Disputes brought in a purported representative capacity on behalf of the general public, or other persons or entities similarly situated. But if, for any reason, any court with competent jurisdiction holds that this restriction is unconscionable or unenforceable, then our agreement in subsection (B) to arbitrate will not apply and the Dispute must be brought exclusively in court in accordance with the section above. Notwithstanding any other provision of this section, any and all issues relating to the scope, interpretation and enforceability of the class action waiver provisions contained herein (described in this “No Class Action Matters” section), are to be decided only by a court of competent jurisdiction, and not by the arbitrator. The arbitrator does not have the power to vary these class action waiver provisions.

G. Small Claims Matters are Excluded from Arbitration Requirement. Notwithstanding the foregoing, either of us may bring qualifying claim of Disputes (but not Excluded Disputes) in small claims court of competent jurisdiction.

Limitation of Liability

TO THE EXTENT PERMITTED UNDER ANY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL ANY TOMORROW HEALTH PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death, or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages that are directly or indirectly related to:

1. The Tomorrow Health Sites and/or the Services;
2. Your use of or inability to use the Sites and/or Services, or the performance of the Sites or the Services;
3. Any action taken in connection with an investigation by Tomorrow Health or law enforcement authorities regarding your access to or use of the Sites or the Services;
4. Any action taken in connection with copyright or other intellectual property owners or other rights owners;
5. Any errors or omissions in the Sites' or the Services' technical operation; or
6. Any damage to any user's computer, hardware, software, modem, or other equipment or technology, including damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line, or network failure or any other technical or other malfunction, including losses or damages in the form of lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or equipment failure or malfunction.

The foregoing limitations of liability will apply even if any of the foregoing events or circumstances were foreseeable and even if Tomorrow Health was advised of or should have known of the possibility of such losses or damages, regardless of whether you bring an action based in contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of god, telecommunications failure, or destruction of the Sites or the Services).

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages of the sort that are described above, so the above limitation or exclusion may not apply to you.

EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOMORROW HEALTH'S TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE TOMORROW HEALTH WEBSITES OR THE SERVICES AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID TOMORROW HEALTH IN CONNECTION WITH THE TRANSACTION(S) THAT UNDERLIE THE CLAIM(S); PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE.

Indemnity

You agree to indemnify, defend and hold Tomorrow Health and its directors, officers, employees, agents and contractors harmless from and against any and all claims, damages, losses, costs (including without limitation reasonable attorneys' fees) or other expenses that arise directly or indirectly out of or from (i) your breach of any provision of these Terms, or (ii) your activities in connection with the Sites.

Owner and Data Controller

Any services associated with Tomorrow Health are all provided by, and you are thereby contracting with:

Tomorrow Health, Inc.
217 Broadway
9th floor
New York, NY 10007
USA

To contact us with questions or concerns about these Terms, please contact us using the information provided below under "Contact Us".

Contact Us

217 Broadway, Floor 9, New York, NY 10007
844-402-4344
support@tomorrowhealth.com