

## GENETIC HEALTH MAP - TERMS OF SERVICE

Kyowa Kirin International PLC is a company registered in Scotland under company number SC198780, with its registered office at Galabank Business Park, Galashiels, TD1 1QH, VAT number GB750487814 (the "**Company**").

The Company runs an online web-based tool called the "Genetic Health Map" (the "**GHM**") made available via the URLs: at.gh-map.com; cee.gh-map.com; gcc.gh-map.com; ksa.gh-map.com; uk.gh-map.com; nordic.gh-map.com; benelux.gh-map.com; es.gh-map.com; it.gh-map.com; pt.gh-map.com; de.gh-map.com; and fr.gh-map.com. Please note that the Company has sub-contracted certain parts of the provision of the GHM to Bionical Solutions Limited but Your contract will at all times be with the Company, not Bionical Solutions Limited.

These terms of service (these "**Terms**") describe how You may access and use the GHM. These Terms will be binding on You when You access and use the GHM.

**Please note the GHM is only to be used by geneticists, healthcare professionals and medical professionals.**

The Company is a manufacturer of pharmaceutical products, and as such seeks to operate at all times, including in respect of the GHM and these Terms, in compliance with the Association of the British Pharmaceutical Industry's Code of Practice for the Pharmaceutical Industry (the "**ABPI Code**", available at <https://www.abpi.org.uk/what-we-do/working-with-industry-and-academia/the-abpi-code-of-practice/>) and all other applicable laws, regulations and industry codes.

Please note that the Company only uses personal information provided in accordance with its privacy policy available here: <https://intl.gh-map.com/pdf/privacy-policy.pdf>.

Please read these Terms carefully before accessing and using the GHM.

### 1. Definitions and interpretation

1.1 In these Terms, in addition to those defined above, the following terms shall have the following meanings:

"**Account**" has the meaning given to it in Clause 2.1;

"**Applicable Law**" means in respect of either Party, all laws, statutes, regulations, directions, guidelines and codes of conduct of any governmental or other regulatory body of competent jurisdiction and any orders of any court or other tribunal of competent jurisdiction which are applicable to the performance by that Party of its rights and/or obligations under these Terms;

"**Company IP**" has the meaning given to it in Clause 6.1;

"**Event of Force Majeure**" means a fire, flood, lightning, storm, earthquake or other similar geological or metrological event or condition or Act of God, national emergency, war, act of terrorism, riot or criminal act or damage, strike, lockout or other industrial action not involving the employees of the Company, communication failure or failure of technical or broadcasting facilities (to the extent such failure is beyond the reasonable control of the Company) or any other event beyond the control of the Company;

"**Intellectual Property Rights**" means all intellectual property rights of any nature whatsoever throughout the world and for the full duration of any and all intellectual property protection afforded to the same including all: (a) patents, registered trade marks, service marks, copyright, designs and any and all applications for registration of any of the same wheresoever made; (b) unregistered trade marks, service marks, designs, design right and copyright; and (c) know how, trade secrets and Confidential Information howsoever arising and any right or interest in any of the foregoing;

"**Map**" has the meaning given to it in Clause 3.3;

"**Party**" means each of You and the Company, and "**Parties**" shall be construed accordingly;

"**Technical Support Services**" has the meaning given to it in 4.2;

"**Training Materials**" has the meaning given to it in Clause 4.1; and

"**You**" means you, the person accessing or using the GHM for purposes relating to your trade, business, craft or profession, and "**Your**" shall be construed accordingly.

1.2 In these Terms (except where the context otherwise requires):

1.2.1 any reference to a "**Clause**" is to the relevant clause of these Terms;

1.2.2 use of the singular includes the plural and vice versa;

1.2.3 any reference to a statute, statutory provision, subordinate legislation, code or guideline ("**legislation**") is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation;

1.2.4 any phrase introduced by the terms "**including**", "**include**", "**such as**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5 in writing includes by email unless otherwise indicated.

## **2. Registering an account**

2.1 You will need to register an account with the Company in order to access and use the GHM (the "**Account**"). You will be asked to provide certain information (such as Your email address) and to create a password, as part of the Company's security procedures. Your application to register an Account is an offer to the Company, which the Company accepts by sending You an email confirmation. To activate Your Account You must click through on the link contained in the email confirmation and login in to Your Account.

2.2 You must treat Your password as confidential and You must not disclose it to any third party.

2.3 The Company has the right to disable Your Account and/or password, at any time, if in its reasonable opinion You have failed to comply with any of the provisions of these Terms.

2.4 You are responsible and liable for any unauthorised use of Your Account login details.

## **3. Using the GHM**

3.1 The GHM is an online familial mapping tool for geneticists, healthcare professionals and medical professionals **only**. If the Company becomes aware that You are not a qualified geneticist, healthcare professional or medical professional, the Company shall terminate Your access to the GHM immediately.

3.2 The GHM is free of charge to use.

3.3 Once You have set up an Account, You will be able to input information about Your patients and their families into the GHM which will allow a family map to be generated (the "**Map**").

3.4 Once a Map has been created, You are able to:

3.4.1 export the Map as a PDF;

- 3.4.2 save the file locally on Your computer; and
- 3.4.3 save the file in the cloud via a secure online network server.
- 3.5 You may share digital or hard copies of a Map only with those individuals included as part of that Map and any relevant and appropriate healthcare professionals, provided in each such case the recipient is entitled under all Applicable Law to receive it. You shall not share any Map with any other third parties. You shall be responsible for ensuring that You use the GHM and Map with appropriate consideration of Your duties of confidentiality.
- 3.6 The Company shall endeavour to provide constant, uninterrupted access to the GHM, however:
  - 3.6.1 the GHM may not be uninterrupted, timely, secure or error-free; and
  - 3.6.2 from time to time, the Company may need to suspend access to the GHM to carry out upgrade and/or maintenance work.
- 4. Support**
  - 4.1 The Company will provide You with access to training materials including a help document, available via the GHM, which will provide You with some guidance on how to use the GHM (the "**Training Materials**").
  - 4.2 In the event that You have any technical difficulty accessing or using the GHM, the Company will provide technical support to You (the "**Technical Support Services**"), in accordance with this Clause 4.2 and Clause 4.3, and endeavour to resolve the issue.
  - 4.3 The Technical Support Services will only be available in the English language and during UK business hours (09:00am – 17:30pm UK time) which you can access by using the following e-mail address: [support@gh-map.com](mailto:support@gh-map.com).
- 5. Acceptable Use**
  - 5.1 You shall:
    - 5.1.1 only access and use the GHM for the purposes of conducting Your business as a geneticist, healthcare professional or medical professional;
    - 5.1.2 comply with all Applicable Law in the use of GHM, the Training Materials and any Maps; and
    - 5.1.3 comply with all policies, regulations and guidelines issued by all applicable NHS trusts professional bodies in the use of GHM, the Training Materials and any Maps.
  - 5.2 You agree not to:
    - 5.2.1 copy, or otherwise reproduce or re-sell any part of the GHM unless expressly permitted to do so in these Terms;
    - 5.2.2 do any act or thing that might damage, disrupt or otherwise interfere with the operation of the GHM or any equipment, network or software used in operating the GHM; or
    - 5.2.3 use the GHM in any way that breaches these Terms or any Applicable Law.

## **6. Intellectual property**

- 6.1 The Company is the owner or licensee of all Intellectual Property Rights in the GHM, including all content found on the GHM (other than any data inputted by You for the purposes of creating a Map), the Map and the Training Materials (the "**Company IP**").
- 6.2 The Company grants You a limited, non-exclusive, non-transferable, royalty-free licence to use the Company IP in each Map for the sole purpose of conducting Your professional business as a geneticist, healthcare professional or medical professional.
- 6.3 The Company grants You a limited, non-exclusive, non-transferable, royalty-free licence to use the Company IP in the Training Materials solely for the sole purpose of accessing and using the GHM in accordance with these Terms.
- 6.4 You acknowledge and agree that You will not acquire any type of ownership in relation to the Company IP other than the licences granted under Clause 6.2 and 6.3.
- 6.5 No part of the GHM, the Training Materials or any Map including in each case the text, designs, graphics, photographs and images contained in it, may be copied, reproduced, republished, uploaded, re-posted, modified, transmitted or distributed or otherwise used in any way by You other than as expressly set out in these Terms.

## **7. Data Protection**

- 7.1 Company will collect and process information relating to You solely for the purposes of carrying out its obligations under this Agreement.
- 7.2 You are the data controller for all data You record in the GHM and the Map, and Company is the data processor. You are responsible for ensuring that Your use of GHM and the Map is in accordance with applicable data protection laws.
- 7.3 The subject-matter of the processing is the processing of personal data You record in the Map and the GHM. This will include health data and basic identifiers relating to XLH patients and their family members. Company will process this data on Your behalf for the purpose of providing an online familial mapping tool to You. Company will process this personal data for as long as You have an Account. When Company ceases providing services to You, Company will return or delete the data to You on Your request.
- 7.4 Company shall:
  - 7.4.1 process personal data only in accordance with these Terms, and inform You if in the Company's reasonable opinion Your instructions infringe applicable data protection law;
  - 7.4.2 maintain accurate records to demonstrate compliance with these Terms and allow for audits by You or Your designated auditor;
  - 7.4.3 keep the data confidential and inform You without undue delay if the Company becomes aware of a security breach affecting the data You have stored in the Map or the GHM;
  - 7.4.4 assist You in responding to any data subject requests, to the extent that You are not able to do so by accessing the GHM and the Map and assist You with respect to security, breach notifications, privacy impact assessments and consultations with supervisory authorities or regulators;
  - 7.4.5 engage Bionical Solutions Limited as a sub-processor, and give You notice, and the opportunity to object, to any changes in Company's use of subprocessors.
- 7.5 Company shall not transfer data outside of the European Economic Area or the UK.

## **8. Indemnity**

- 8.1 You shall indemnify and hold the Company harmless against any losses, costs, liabilities, damages and expenses suffered or incurred by the Company and its affiliates in connection with:
  - 8.1.1 any use by You of the GHM, the Training Materials or any Map that infringes Applicable Law; and/or
  - 8.1.2 any breach by You of these Terms.

**9. Liability**

- 9.1 Except as expressly set out in these Terms, all conditions, warranties, stipulations and other statements whatsoever that would otherwise be implied or imposed by statute, at common law or otherwise howsoever are excluded to the fullest extent permitted by law.
- 9.2 Nothing in these Terms excludes or limits the Company's liability for:
- 9.2.1 death or personal injury caused by our negligence;
  - 9.2.2 fraud or fraudulent misrepresentation; and
  - 9.2.3 any matter in respect of which it would be unlawful for the Company to exclude or restrict its liability.
- 9.3 You agree that GHM is not intended to be a medical or healthcare device and is not intended as a medical diagnostic tool. The purpose of the GHM is to provide the functionality to be able to produce a digital version of a family map for certain diseases. The Company does not through the GHM provide medical or healthcare advice, nor advise You of how to interpret any Map. Any information provided by the Company (or on the Company's behalf) in connection with the GHM (including any Maps and the Training Materials) should not be relied upon and, subject to Clause 8.1, the Company disclaims all liability for any action taken by You as a result of using the GHM.

9.4 In no event shall the Company be liable to You for any loss of profits, loss of revenue, loss of earnings, loss of contracts, failure to realise anticipated savings or for any indirect or consequential loss, whether arising from negligence, breach of contract or otherwise.

9.5 The Company's total liability to You for any loss or damage arising out of or in connection with these Terms, whether in contract, tort (including negligence) or otherwise shall be limited to £100.

## **10. Termination**

10.1 These Terms and Your access to GHM shall continue until terminated in accordance with this Clause 9.

10.2 Either Party may terminate these Terms and Your access to GHM for any reason on five days' notice to the other Party.

10.3 The Company may immediately terminate these Terms and Your access to the GHM if:

10.3.1 You breach any of these Terms, although for non-serious breaches the Company will first give You an opportunity to put things right which You will need to do within seven days; or

10.3.2 the Company reasonably believes that You are in any way committing fraudulent activity in the use of the GHM.

10.4 The Company may also suspend or terminate Your access to the GHM at any time with immediate effect if the Company cannot provide access to the GHM to You due to technical or operational reasons outside of the Company's control.

10.5 In the event that Your Account is inactive for a continuous period of three years the Company will send to You two email reminders informing You that Your Account is at risk of being deactivated. If Your Account remains inactive following receipt of the two email reminders, Your Account will be deactivated, and these Terms will terminate immediately.

10.6 On termination of these Terms for any reason:

10.6.1 Your access to the GHM will be revoked; and

10.6.2 the licence granted in Clause 6.3 will cease.

## **11. No promotion or inducement**

11.1 You acknowledge and agree that the provision by the Company, and the use by You, of the GHM in accordance with these Terms is not in any way conditional upon, and is not in any way intended to promote, the prescription, supply, administration, recommendation, purchase or sale by You or any third party of any Company product or service.

## **12. Disclosure obligations**

12.1 You agree to inform any patients or their family members to whom You offer services using or in connection with the GHM that the GHM is provided by the Company. You further agree not to remove, obscure or otherwise amend any references to the Company which appear on the GHM or any Map produced using the GHM.

12.2 You acknowledge and agree that, subject to complying with Applicable Law, in accordance with the Company's obligations under the ABPI Code, the Company is obliged to record and, where permitted under Applicable Law, to disclose all transfers of value to healthcare professionals (which includes the provision of the GHM to You under these Terms) made by the Company, and to keep such records for a minimum of five years.

- 12.3 By agreeing to these Terms, You agree to the Company holding and, where applicable, disclosing Your use of the GHM under these Terms as set out in Clause 11.2.

### **13. Changes to these Terms**

The Company may make changes to these Terms from time to time but will not use this Clause 12 to make the services available through GHM substantially different from that which was reasonably expected of the Company or to render no services at all. The Company shall notify You via the e-mail address that You provided during the registration of Your account if the Company changes these Terms. If You are dissatisfied with any of the changes, You are free to terminate these Terms and Your access to the GHM.

### **14. Other important information**

- 14.1 The Company shall not be in breach of these Terms if performance of any of the Company's obligations under these Terms is prevented in full or in part or delayed by an Event of Force Majeure.
- 14.2 These Terms constitute the entire agreement between the Parties in relation to its subject matter. It replaces and extinguishes all prior agreements, draft agreements, arrangements, collateral warranties, collateral contracts, statements, assurances, representations and undertakings of any nature made by or on behalf of the Parties, whether oral or written, in relation to that subject matter. The Parties acknowledge that in entering into these Terms neither have relied upon any oral or written statements, collateral or other warranties, assurances, representations or undertakings which were made by or on behalf of the other Party in relation to the subject-matter of these Terms at any time before entering into these Terms (together "**Pre-Contractual Statements**"), other than those that are set out in these Terms. Each Party hereby waives all rights and remedies which might otherwise be available to that Party in relation to such Pre-Contractual Statements, provided that nothing in this Clause 13.2 shall exclude or restrict the liability of either Party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.
- 14.3 If any provision of these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of these Terms and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision. Further and in particular the Parties acknowledge and agree that any Clause that imposes a restriction on either Party shall constitute an entirely separate and independent restriction and that the duration, extent and application of each restriction are no greater than is reasonable and necessary for the protection of the interests of the Parties but that, if any such restriction is adjudged by any court or authority of competent jurisdiction to be void or unenforceable but such restriction would be valid if part of the wording thereof were to be deleted and/or the period thereof were to be reduced and/or the area dealt with thereby were to be reduced, the said restriction shall apply within the jurisdiction of that court or competent authority with such modifications as are necessary to make it valid and effective.
- 14.4 Each of the provisions and part-provisions of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining provision, or part-provision as applicable, will remain in full force and effect.
- 14.5 If the Company fails to insist that You perform any of Your obligations under these Terms, or if the Company does not enforce its rights against You, or if the Company delays in doing so, that will not mean that the Company has waived its rights against You and will not mean that You do not have to comply with those obligations. If the Company does waive a default by You, it will only do so in writing, and that will not mean that the Company will automatically waive any later default by You.

- 14.6 Notwithstanding any other provision of these Terms, none of the Clauses shall be relied upon or enforceable under the Contracts (Rights of Third parties) Act 1999 by any third party who is not a party to these Terms.
- 14.7 You may not assign, transfer or sub-licence any of Your rights or obligations under these Terms, without our prior written consent.
- 14.8 These Terms shall be governed by English law and each Party agrees that any dispute (contractual or non-contractual) arising out of or in connection with these Terms including any question regarding its existence, validity or termination shall be submitted to the exclusive jurisdiction of the courts of England.

**15. Contacting us**

Should You have any reasons for a complaint, the Company will endeavour to resolve the issue and avoid any re-occurrence in the future. You can always contact the Company by using the following details:

Address: Galabank Business Park, Galashiels, TD1 1QH

Email address: [enquiriesuk@kyowakirin.com](mailto:enquiriesuk@kyowakirin.com)

Telephone number: +44 (0) 1896 664000

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