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15 KAREN DAVIS-HUDSON and SARAH
16 DIAZ, individually and on behalf of all
others similarly situated,

17 Claimant,

18 v.

19 23ANDME, INC.

20 Respondent.
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AAA Case No. 74-20-1400-0032

**FIRST AMENDED DEMAND FOR CLASS
ARBITRATION**

Alleging the following causes of action:

- 1) Cal. Bus. & Prof. Code § 17200, *et seq.* – Unlawful Business Acts and Practices;
- 2) Cal. Bus. & Prof. Code § 17200, *et seq.* – Unfair Business Acts and Practices;
- 3) Cal. Bus. & Prof. Code § 17200, *et seq.* – Fraudulent Business Act and Practices;
- 4) Cal. Bus. & Prof. Code § 17200, *et seq.* – Misleading or Deceptive Advertising
- 5) Cal. Bus. & Prof. Code § 17500, *et seq.* – Breach of the Implied Warranty of Merchantability – Cal. Comm. Code § 2314;
- 6) Breach of the Implied Warranty of Fitness for a Particular Purpose – Cal. Comm. Code § 2315;
- 7) Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*;
- 8) Negligent Misrepresentation; and
- 9) Unjust Enrichment

1 Claimants Karen Davis-Hudson and Sarah Diaz (“Claimant”), by and through their
2 undersigned counsel, file this First Amended Demand for Class Arbitration for violation of the
3 laws stated herein as applicable on behalf of themselves and all other consumers similarly
4 situated who fall within the definition of the Class as set forth below, against 23andMe, Inc.
5 (“23andMe”). Claimants hereby allege as follows on information and belief except for
6 information identified as being based on personal knowledge, which allegations are likely to
7 have evidentiary support after a reasonable opportunity for further investigation and discovery:

8 **SUMMARY OF DEMAND**

9 1. Claimants bring this demand for arbitration on their own behalf and on behalf of
10 all other purchasers of 23andMe’s Saliva Collection Kit and Personal Genome Service (the
11 “PGS”), excluding 23andMe, any entity in which 23andMe has a controlling interest, or is a
12 parent or subsidiary of, or any entity that is controlled by, 23andMe, and any of the officers,
13 directors, employees, affiliates, legal representatives, heirs, predecessors, successors and assigns
14 thereof. Specifically, 23andMe has marketed the PGS as an effective diagnostic medical device
15 when it was neither effective nor approved for sale as a medical device by the Federal Food and
16 Drug Administration (“FDA”).

17 2. Based on these allegations, Claimants assert claims for unlawful, unfair and
18 fraudulent business acts and practices in violation of California Business & Professions Code §§
19 17200, *et seq.*, misleading and deceptive advertising in violation of California Business &
20 Professions Code §§ 17500, *et seq.*, breach of the implied warranty of merchantability under
21 California Commercial Code § 2314, breach of the implied warranty of fitness for a particular
22 purpose under California Commercial Code § 2315, violation of the Consumers Legal
23 Remedies Act, Cal. Civ. Code §1750, *et seq.*, negligent misrepresentation and unjust
24 enrichment.

25 3. As a result of its unlawful, unfair and deceptive scheme, 23andMe has
26 improperly obtained millions of dollars from consumers who purchased the PGS.
27 Through this arbitration, Claimants seek to compel payment of the monies that 23andMe has
28 improperly obtained, damages and other relief as the Arbitrator may deem appropriate.

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JURISDICTION

4. 23andMe enters into "Terms of Service" with consumers who purchase its PGS. A copy of the Terms of Service entered into between Claimant Davis-Hudson and 23andMe and downloaded from 23andMe's website, www.23andMe.com, is attached hereto as Exhibit A. A copy of the Terms of Service entered into between Claimant Sarah Diaz and 23andMe and downloaded from 23andMe's website is attached hereto as Exhibit B.

5. The Terms of Service are a standard form contract, which provide as follows:

Applicable law and arbitration. Except for any disputes relating to intellectual property rights, obligations or infringement claims, any disputes with 23andMe arising out of or relating to the Agreement ("Disputes") shall be governed by California law regardless of your country of origin or where you access 23andMe, and notwithstanding of any conflicts of law principles and the United Nations Convention for the International Sale of Goods. Any Disputes shall be resolved by final and binding arbitration under the rules and auspices of the American Arbitration Association, to be held in San Francisco, California, in English, with a written decision stating legal reasoning issued by the arbitrator(s) at either party's request, and with arbitration costs and reasonable documented attorneys' costs of both parties to be borne by the party that ultimately loses. Either party may obtain injunctive relief (preliminary or permanent) and orders to compel arbitration or enforce arbitral awards in any court of competent jurisdiction.

Exs. A, B, at 9, paragraph 28.b.

THE PARTIES

6. On personal knowledge, Claimant Karen Davis-Hudson is an individual consumer who, at all times material hereto, was a resident of Birmingham, Alabama. She purchased a single PGS kit on October 1, 2013 for a purchase price of \$99.

7. On personal knowledge, Claimant Sarah Diaz is an individual consumer who, at all times material hereto, was a resident of Weston, Florida. She purchased two PGS kits on November 21, 2013 for a purchase price of \$193.15.

8. Respondent 23andMe, Inc. is organized and existing under the laws of the State of Delaware, with its principal place of business located at 1390 Shorebird Way, Mountain View, California 94043.

9. At all times herein mentioned, the employees of 23andMe, its subsidiaries, affiliates and other related entities or franchisees, were the agents, servants and employees of

1 23andMe, and at all times herein mentioned, each was acting within the purpose and scope of
2 said agency and employment, and pursuant to 23andMe’s training and directives. Whenever
3 reference in this Demand for Class Arbitration is made to any act or transaction of 23andMe,
4 such allegations shall be deemed to mean that the principals, officers, directors, employees,
5 agents, and/or representatives of 23andMe committed, knew of, performed, authorized, ratified
6 and/or directed such act or transaction on behalf of 23andMe while actively engaged in the scope
7 of their duties.

8 **FACTUAL ALLEGATIONS**

9 **23andMe’s Misleading and Deceptive Marketing of the PGS**

10 10. The PGS was marketed as providing consumers unique data about both their
11 ancestry and health risks. However, the focus of the 23andMe’s marketing of the PGS was the
12 data it provided to consumers about their health risks.

13 11. According to the 23andMe website’s statements during the relevant time period,
14 consumers could use the PGS to “[l]earn more about your health and ancestry.” With respect to
15 health, during the relevant time period, the 23andMe website stated that “[u]sing your DNA
16 information, 23andMe helps you know more about your health so you can take an active role in
17 managing it.” According to 23andMe, with its assistance, “you can make better lifestyle choices,
18 look out for common conditions and take steps toward mitigating serious diseases.” 23andMe
19 also represented that it could legally offer consumers “reports on over 240+ conditions and
20 traits.” According to 23andMe, these health reports provided “personalized” and “specific health
21 recommendations” to consumers. Either expressly or by implication, 23andMe’s representations
22 indicated to consumers that it was lawful for 23andMe to sell the PGS and provide access to such
23 reports.

24 12. As described on the “how it works” page of the 23andMe website, once a
25 consumer orders the PGS, 23andMe sends the consumer a “DNA kit”. Using the DNA kit, the
26 consumer takes a saliva sample, then sends the DNA kit with the saliva sample back to
27 23andMe for analysis. 23andMe then generates “health reports” and “ancestry reports”. When
28 the reports are ready, the consumer can sign in to the 23andMe website to view them.

1 13. During the relevant time period, 23andMe further stated on its website that, by
2 purchasing the PGS, you can:

- 3 • “Find out things like if your body metabolizes caffeine quickly, or if you’re at a
4 higher risk for diabetes.”
- 5 • “Find out if your children are at risk for inherited conditions, so you can plan for
6 the health of your family.”
- 7 • “Understand your genetic health risks. Change what you can, manage what you
8 can’t.”

9 14. During the relevant time period, in the Frequently Asked Questions of its
10 website, 23andMe further claimed, with regard to the Health and Traits section of its customers’
11 online accounts, that:

12 In the Health Risks section, you will find information about how your genetics
13 influences risk for complex diseases like type 2 diabetes and colorectal cancer....

14 In the Inherited Conditions section, you will learn whether you have genetic variants
15 linked to rare genetic diseases....

16 In the Drug Response section, you will find information about how your genetics may
17 influence your sensitivity to certain drugs, risk of side effects or general effectiveness....

18 The Traits section contains reports on genetic variants that influence physical traits like
19 eye color or height as well as less observable things like response to diet and cholesterol
20 levels.

21 15. In a section of its website entitled “Understanding Health Risk Reports,”
22 23andMe further stated as follows:

23 In the Health Risks section, you will find information about how your genetics
24 influences risk for complex diseases like type 2 diabetes and colorectal cancer.
25 For reports designated as Established Research, we provide an estimate of your
26 risk, using the 23andMe Odds Calculator, based on one or more SNPs associated
27 with the disease as well as measures of the disease incidence in specific ethnic
28 groups....

How does the 23andMe Odds Calculator work?

29 The 23andMe Odds Calculator provides an **estimate** of incidence for a disease or
30 condition based on specific genetic factors. We incorporate the latest available
31 data in the biomedical literature to make this estimate. Such data include the
32 contribution of SNPs to disease risk, differences in these contributions among
33 ethnic groups, and measurements of the incidence and prevalence of diseases in

1 different populations. This data may change over time as our understanding of
2 disease, genetics, and epidemiology improves.

3 In epidemiology, incidence is a measure of how often people in a population are
4 diagnosed with a particular condition in a given period of time. The 23andMe
5 Odds Calculator estimates incidence in two different contexts: average incidence,
6 and incidence for people with a particular genotype....

7 Incidence may also be thought of as an individual's chance of being diagnosed
8 with a condition during a given period of time (assuming that he or she did not
9 have the condition to begin with). Saying that "25 people out of 100" will be
10 diagnosed with a condition is another way to describe a 25% chance
11 of developing the condition.

12 The "genotype-specific" incidence is an estimate of how many individuals in a
13 population composed of people with your genotype are likely to be diagnosed
14 with a condition over a given age range.

15 16. 23andMe holds itself out as having skill and expertise in the field of DNA
16 analysis. In this regard, during the relevant time period, under the heading "Our Technology and
17 Standards," the 23andMe website stated as follows:

18 23andMe is a DNA analysis service providing information and tools for
19 individuals to learn about and explore their DNA. We use the Illumina
20 HumanOmniExpress-24 format chip Our chip consists of a fully custom panel
21 of probes for detecting single nucleotide polymorphisms (SNPs) selected by our
22 researchers. The selection was made to maximize the number of actionable health
23 and ancestry features available to customers as well as offer flexibility for future
24 research.

25 17. 23andMe's website also sought to give consumers the impression that the PGS
26 had been approved by the government for sale and purchase. Specifically, at the bottom of this
27 section of 23andMe's website, 23andMe stated in bold print that "**All of the laboratory testing
28 for 23andMe is done in a CLIA-certified laboratory.**" Below this statement, the logo for the
Federal Government's Centers for Medicare & Medicaid Services ("CMS") was displayed.
CMS regulates all laboratory testing (except research) performed on humans in the U.S. through
the Clinical Laboratory Improvement Amendments of 1988 ("CLIA").

18. 23andMe's marketing and advertising of the PGS, including the foregoing
excerpts from the 23andMe website, was misleading and deceptive in that it conveyed to
consumers the message that the PGS was an effective diagnostic medical device when, in fact, it
was not effective for its intended purpose. 23andMe's marketing also conveyed to consumers

1 the message that the PGS was a medical device that was legally sold in the United States when,
2 in fact, it was not approved for sale as a medical device by the FDA as required.

3 19. The marketing of 23andMe's PGS is big business. To date, 23andMe has
4 received over \$225 million in funding from technology and health science companies, strategic
5 angel investors and venture capital firms, including Google Ventures, Johnson & Johnson
6 Development Corporation, MPM Capital, The Roche Venture Fund, XFund, Yuri Milner, and
7 New Enterprise Associates, Casdin Capital and WuXi Healthcare Ventures, among others.

8 **The FDA Orders 23andMe to Cease Marketing the PGS**

9 20. On November 22, 2013, the Federal Food and Drug Administration sent 23andMe
10 a Warning Letter in which it ordered 23andMe to cease marketing the PGS. That letter provided,
11 in pertinent part, as follows:

12 The Food and Drug Administration (FDA) is sending you this letter because you
13 are marketing the 23andMe Saliva Collection Kit and Personal Genome Service
14 (PGS) without marketing clearance or approval in violation of the Federal Food,
Drug and Cosmetic Act (the FD&C Act).

15 This product is a device within the meaning of section 201(h) of the FD&C Act,
21 U.S.C. 321(h), because it is intended for use in the diagnosis of disease or
16 other conditions or in the cure, mitigation, treatment, or prevention of disease, or
is intended to affect the structure or function of the body. For example, your
17 company's website at www.23andme.com/health (most recently viewed on
November 6, 2013) markets the PGS for providing "health reports on 254
18 diseases and conditions," including categories such as "carrier status," "health
risks," and "drug response," and specifically as a "first step in prevention" that
19 enables users to "take steps toward mitigating serious diseases" such as diabetes,
coronary heart disease, and breast cancer. Most of the intended uses for PGS
20 listed on your website, a list that has grown over time, are medical device uses
under section 201(h) of the FD&C Act. Most of these uses have not been
21 classified and thus require premarket approval or de novo classification, as FDA
has explained to you on numerous occasions.

22 Some of the uses for which PGS is intended are particularly concerning, such as
23 assessments for BRCA-related genetic risk and drug responses (e.g., warfarin
sensitivity, clopidogrel response, and 5-fluorouracil toxicity) because of the
24 potential health consequences that could result from false positive or false
negative assessments for high-risk indications such as these. For instance, if the
25 BRCA-related risk assessment for breast or ovarian cancer reports a false positive,
it could lead a patient to undergo prophylactic surgery, chemoprevention,
26 intensive screening, or other morbidity-inducing actions, while a false negative
could result in a failure to recognize an actual risk that may exist. Assessments for
27 drug responses carry the risks that patients relying on such tests may begin to self-
manage their treatments through dose changes or even abandon certain therapies
28 depending on the outcome of the assessment. For example, false genotype results
for your warfarin drug response test could have significant unreasonable risk of

1 illness, injury, or death to the patient due to thrombosis or bleeding events that
2 occur from treatment with a drug at a dose that does not provide the appropriately
3 calibrated anticoagulant effect. These risks are typically mitigated by International
4 Normalized Ratio (INR) management under a physician's care. The risk of
serious injury or death is known to be high when patients are either non-compliant
or not properly dosed; combined with the risk that a direct-to-consumer test result
may be used by a patient to self-manage, serious concerns are raised if test results
are not adequately understood by patients or if incorrect test results are reported.

5 Your company submitted 510(k)s for PGS on July 2, 2012 and September 4,
6 2012, for several of these indications for use. However, to date, your company has
7 failed to address the issues described during previous interactions with the
8 Agency or provide the additional information identified in our September 13,
9 2012 letter for (b)(4) and in our November 20, 2012 letter for (b)(4), as required
10 under 21 CFR 807.87(1). Consequently, the 510(k)s are considered withdrawn,
11 *see* 21 C.F.R. 807.87(1), as we explained in our letters to you on March 12, 2013
and May 21, 2013. To date, 23andMe has failed to provide adequate information
to support a determination that the PGS is substantially equivalent to a legally
marketed predicate for any of the uses for which you are marketing it; no other
submission for the PGS device that you are marketing has been provided under
section 510(k) of the Act, 21 U.S.C. § 360(k).

12 The Office of In Vitro Diagnostics and Radiological Health (OIR) has a long
13 history of working with companies to help them come into compliance with the
14 FD&C Act. Since July of 2009, we have been diligently working to help you
15 comply with regulatory requirements regarding safety and effectiveness and
16 obtain marketing authorization for your PGS device. FDA has spent significant
17 time evaluating the intended uses of the PGS to determine whether certain uses
18 might be appropriately classified into class II, thus requiring only 510(k)
19 clearance or de novo classification and not PMA approval, and we have proposed
20 modifications to the device's labeling that could mitigate risks and render certain
21 intended uses appropriate for de novo classification. Further, we provided ample
22 detailed feedback to 23andMe regarding the types of data it needs to submit for
the intended uses of the PGS. As part of our interactions with you, including
more than 14 face-to-face and teleconference meetings, hundreds of email
exchanges, and dozens of written communications, we provided you with specific
feedback on study protocols and clinical and analytical validation requirements,
discussed potential classifications and regulatory pathways (including reasonable
submission timelines), provided statistical advice, and discussed potential risk
mitigation strategies. As discussed above, FDA is concerned about the public
health consequences of inaccurate results from the PGS device; the main purpose
of compliance with FDA's regulatory requirements is to ensure that the tests
work.

23 However, even after these many interactions with 23andMe, we still do not have
24 any assurance that the firm has analytically or clinically validated the PGS for its
25 intended uses, which have expanded from the uses that the firm identified in its
26 submissions. In your letter dated January 9, 2013, you stated that the firm is
27 "completing the additional analytical and clinical validations for the tests that
28 have been submitted" and is "planning extensive labeling studies that will take
several months to complete." Thus, months after you submitted your 510(k)s and
more than 5 years after you began marketing, you still had not completed some of
the studies and had not even started other studies necessary to support a marketing
submission for the PGS. It is now eleven months later, and you have yet to
provide FDA with any new information about these tests. You have not worked
with us toward de novo classification, did not provide the additional information

1 we requested necessary to complete review of your 510(k)s, and FDA has not
2 received any communication from 23andMe since May. Instead, we have become
3 aware that you have initiated new marketing campaigns, including television
4 commercials that, together with an increasing list of indications, show that you
5 plan to expand the PGS's uses and consumer base without obtaining marketing
6 authorization from FDA.

7 Therefore, 23andMe must immediately discontinue marketing the PGS until such
8 time as it receives FDA marketing authorization for the device. The PGS is in
9 class III under section 513(f) of the FD&C Act, 21 U.S.C. 360c(f). Because there
10 is no approved application for premarket approval in effect pursuant to section
11 515(a) of the FD&C Act, 21 U.S.C. 360e(a), or an approved application for an
12 investigational device exemption (IDE) under section 520(g) of the FD&C Act,
13 21 U.S.C. 360j(g), the PGS is adulterated under section 501(f)(1)(B) of the FD&C
14 Act, 21 U.S.C. 351(f)(1)(B). Additionally, the PGS is misbranded under section
15 502(o) of the Act, 21 U.S.C. § 352(o), because notice or other information
16 respecting the device was not provided to FDA as required by section 510(k) of
17 the Act, 21 U.S.C. § 360(k).

18 21. In February of 2015, the FDA gave 23andMe authorization for a test for
19 Bloom syndrome and also determined that 23andMe no longer needed approval for tests
20 related to autosomal recessive disorders, which are genetic conditions in which two
21 abnormal genes must be present for the disease to manifest, one inherited from each
22 parent. As of this filing, 23andMe provides reports to consumers with respect to 36
23 health conditions.

24 CLASS ARBITRATION ALLEGATIONS

25 22. Claimants bring this arbitration on behalf of themselves and a Class of persons
26 comprised of all purchasers of 23andMe's Saliva Collection Kit and Personal Genome Service
27 (the "Class"). Excluded from the Class are 23andMe, any entity in which 23andMe has a
28 controlling interest, or is a parent or subsidiary of, or any entity that is controlled by, 23andMe,
and any of the officers, directors, employees, affiliates, legal representatives, heirs, predecessors,
successors and assigns thereof. This demand for class arbitration is brought for the following
reasons.

29 23. The number of Class members is at least 400,000, thereby making individual
joinder impracticable.

30 24. There are common questions of law and fact common to the Class that
predominate over questions affecting only individual members, including, *inter alia*:

1 (a) Whether 23andMe's acts and practices undertaken in connection with the
2 sale of the PGS were illegal acts of unfair competition or unfair or deceptive acts and
3 practices undertaken in a transaction intended to result in the sale of goods and services
4 to consumers, in violation of California's consumer protection statutes;

5 (b) Whether 23andMe's acts and practices undertaken in connection with the
6 sale of the PGS constituted systematic breaches of the implied warranties of
7 merchantability and fitness for a particular purpose under California law;

8 (c) Whether 23andMe's acts and practices undertaken in connection with the
9 promotion and sale of the PGS unjustly benefitted 23andMe at the expense of, and to the
10 detriment of, Claimant and other Class members;

11 (d) Whether 23andMe's representations about the legality, accuracy and
12 reliability of the PGS constituted acts of negligent misrepresentation; and

13 (e) Whether 23andMe's conduct as set forth above injured or damaged Class
14 members and, if so, the extent of such injury or damage.

15 25. The claims asserted by Claimants in this arbitration are typical of the claims of
16 other Class members as these claims arise from the same uniform course of conduct by 23andMe
17 as detailed above, and the relief sought is common.

18 26. Claimants will fairly and adequately represent and protect the interests of the
19 Class members. Claimants have retained counsel competent and experienced in both consumer
20 protection and class action litigation, including class arbitration before the American Arbitration
21 Association.

22 27. Certification of this arbitration is appropriate because the questions of law or fact
23 common to the Class members as detailed above predominate over questions of law or fact
24 affecting only individual members. This predominance makes class litigation superior to any
25 other methods available for the fair and efficient group-wide adjudication of these claims.
26 Absent a class-wide remedy, it would be highly unlikely that other Class members would be able
27 to protect their own interests because the cost of litigation through individual arbitrations would
28 exceed any expected recovery.

1 **FIRST CAUSE OF ACTION**

2 **Violation of Business & Professions Code § 17200, *et seq.* –**

3 **Unlawful Business Acts and Practices**

4 28. Claimants incorporate by reference each of the preceding paragraphs as though
5 fully set forth herein.

6 29. California Business & Professions Code § 17200, *et seq.* prohibits acts of “unfair
7 competition”, which is defined as including “any unlawful, unfair or fraudulent business act or
8 practice”

9 30. 23andMe’s conduct, as described above, constitutes “unlawful” business acts and
10 practices.

11 31. In this regard, 23andMe marketed, advertised and sold the PGS despite that it was
12 adulterated in violation of 21 U.S.C. § 351(f)(1)(B) and misbranded in violation of 21 U.S.C. §
13 352(o), as set forth above.

14 32. 23andMe’s marketing, advertising and sale of the PGS also violated California’s
15 Sherman Food, Drug and Cosmetics Law, California Health & Safety Code, § 109875, *et seq.*
16 (the “Sherman Law”). In pertinent part, the Sherman Law declares that a medical device “is
17 adulterated if the methods, facilities, or controls used for its manufacture, processing, packing, or
18 holding do not conform to, or are not operated or administered in conformity with current good
19 manufacturing practice to assure that the drug or device meets the requirements of this part as to
20 safety and has the identity and strength, and meets the quality and purity characteristics that it
21 purports or is represented to possess” and further provides that it is unlawful for any “person” to
22 “manufacture, sell, deliver, hold, or offer for sale any medical device that is adulterated” or
23 “adulterate” any medical device. Cal. Health & Saf. Code, §§111260, 111295, 111300.

24 33. The Sherman Law also declares that a medical device is misbranded if its labeling
25 is false or misleading in any particular and further provides that it is unlawful for any “person” to
26 “manufacture, sell, deliver, hold, or offer for sale any medical device that is misbranded” or
27 “misbrand” any medical device. Cal. Health & Saf. Code, §§ 111330, 111440, 111445.

28

1 34. The Sherman Law further states that “[a]ll good manufacturing practices
2 regulations for any food, drug, device, or cosmetic and any amendments to the regulations
3 adopted pursuant to the federal act in effect on November 23, 1970, or adopted on or after such
4 date, are the good manufacturing practices regulations of this state.” Cal. Health & Saf. Code,
5 §§110105, 110110. Similarly, the Sherman Law provides that “[a]ll regulations relating to (1)
6 new drug applications, except for abbreviated new drug applications, adopted pursuant to Section
7 505 of the federal act (21 U.S.C. Sec. 355), (2) applications for premarket approval of new
8 devices, adopted pursuant to Section 515 of the federal act (21 U.S.C. Sec. 360e), (3) post-
9 marketing reports, recordkeeping, and other post-approval requirements for approved new drug
10 applications or approved new device premarket approval applications, adopted pursuant to the
11 federal act, that are in effect on January 1, 1993, or that are adopted on or after that date, shall be
12 the new drug and new device application regulations of this state. Cal. Health & Saf. Code, §
13 110110. Therefore, 23andMe’s violations of 21 U.S.C. § 351(f)(1)(B) and 21 U.S.C. § 352(o)
14 and their supporting regulations also violated the Sherman Law.

15 35. The Sherman Law defines a “person” as “any individual, firm, partnership, trust,
16 corporation, limited liability company, company, estate, public or private institution, association,
17 organization, group, city, county, city and county, political subdivision of this state, other
18 governmental agency within the state, and any representative, agent, or agency of any of the
19 foregoing.” Cal. Health & Saf. Code, § 109995. 23andMe is a corporation and, therefore, a
20 “person” within the meaning of the Sherman Law.

21 36. The business practices alleged above were also unlawful by virtue of violating
22 §17500, *et seq.*, which forbids untrue advertising and misleading advertising.

23 37. The business practices alleged above were also unlawful by virtue of
24 systematically breaching the implied warranties of merchantability and fitness for a particular
25 purpose codified by California Commercial Code §§ 2314 and 2315.

26 38. The business practices set forth above were also unlawful for violating numerous
27 provisions of the Consumers Legal Remedies Act, Cal. Civ. Code Section 1750, *et seq.*, as set
28 forth in detail herein.

1 derived from 23andMe's unfair business acts and practices.

2 48. THEREFORE, Claimants pray for all appropriate relief as set forth below.

3 **THIRD CAUSE OF ACTION**

4 **Violation of Business and Professions Code § 17200, *et seq.* –**

5 **Fraudulent Business Acts and Practices**

6 49. Claimants incorporate by reference each of the preceding paragraphs as though
7 fully set forth herein.

8 50. Such acts of 23andMe as described above, and each of them, constituted
9 deceptive, misleading or "fraudulent" business practices under California Business &
10 Professions Code § 17200, *et seq.*

11 51. As more fully described above, 23andMe's uniform misrepresentations and
12 omissions of material fact were likely to deceive members of the Class. 23andMe's uniform
13 misrepresentations and omissions of material facts concerning the PGS were material and were a
14 substantial factor in Claimants' and other Class members' decisions to purchase the PGS from
15 23andMe. Claimants and Class members would not have purchased the PGS or paid the
16 amounts they did for the PGS but for 23andMe's uniform misrepresentations and omissions of
17 material fact.

18 52. As a result of 23andMe's violations of the "fraudulent prong" of the UCL,
19 Claimants and members of the Class are entitled to equitable relief in the form of full restitution
20 of all monies paid for the PGS and disgorgement of the profits derived from 23andMe's
21 fraudulent business acts and practices.

22 53. THEREFORE, Claimants pray for all appropriate relief as set forth below.

23 **FOURTH CAUSE OF ACTION**

24 **Misleading or Deceptive Advertising – Business and Professions Code § 17500, *et seq.***

25 54. Claimants incorporate by reference each of the preceding paragraphs as though
26 fully set forth herein.

27 55. Claimants assert this cause of action based on violations of California Business
28 and Professions Code §17500, *et seq.* resulting from 23andMe's misleading or deceptive

1 advertising of the PGS as detailed above.

2 56. 23andMe offered the PGS for sale to Claimants and other members of the Class
3 by way of commercial marketing and advertising, the Internet and other promotional materials.
4 These materials consistently and uniformly misrepresented or omitted material facts in regard to
5 the PGS in that it was not effective for its intended purpose. These materials were also likely to
6 deceive consumers into believing that the PGS was being sold in accordance with the law when
7 it was not.

8 57. Said advertisements and promotional materials come within the definition of
9 advertising as contained in California Business and Professions Code §17500, *et seq.* in that they
10 were intended as inducements to purchase the PGS and are statements disseminated to Claimants
11 and other members of the Class and were intended by 23andMe to reach and be considered by
12 members of the Class. 23andMe, in the exercise of reasonable care, should have known that
13 these statements were misleading and deceptive.

14 58. In furtherance of said plan and scheme, 23andMe prepared and distributed via
15 commercial marketing and advertising, the Internet and other promotional materials, statements
16 that misleadingly and deceptively represent the true nature and characteristics of the PGS.
17 Consumers, including Claimants and other members of the Class, were among the intended
18 targets of such representations.

19 59. The above acts of 23andMe, in disseminating the misleading and deceptive
20 statements detailed above to consumers, including Claimants and members of the Class, were
21 likely to deceive reasonable consumers targeted by such conduct, including Claimants and other
22 members of the Class, by misleading them as to material characteristics of the PGS, in violation
23 of California Business and Professions Code §17500, *et seq.*

24 60. As a result of the above violations of California Business and Professions Code
25 §17500, *et seq.*, Claimants and the Class, pursuant to California Business and Professions Code
26 §17535, are entitled to disgorgement of 23andMe's ill-gotten gains by restoring to any person in
27 interest any excess money paid for the as a result of the wrongful conduct of 23andMe.

28 61. THEREFORE, Claimants pray for all appropriate relief as set forth below.

1 **FIFTH CAUSE OF ACTION**

2 **Breach of the Implied Warranty of Merchantability – California Commercial Code § 2314**

3 62. Claimants incorporate by reference each of the preceding paragraphs as though
4 fully set forth herein.

5 63. Claimants and other Class members purchased 23andMe’s PGS. Pursuant to
6 these sales, 23andMe impliedly warranted under California Commercial Code § 2314 that the
7 PGS would be merchantable. As such, 23andMe impliedly warranted that, *inter alia*, the PGS
8 would pass without objection in the trade and be fit for the ordinary purposes for which it is
9 used. Claimants and other Class members reasonably relied upon these implied warranties in
10 purchasing the PGS.

11 64. 23andMe breached these implied warranties as the PGS was not merchantable in
12 that it did not pass without objection in the trade and was not fit for the ordinary purposes for
13 which it was used.

14 43. As a proximate result of these breaches of warranty by 23andMe, Claimants and
15 Class members have suffered damages in an amount to be determined at trial.

16 65. THEREFORE, Claimants pray for all relief as set forth below.

17 **SIXTH CAUSE OF ACTION**

18 **Breach of the Implied Warranty of Fitness for a Particular Purpose – California**

19 **Commercial Code § 2315**

20 66. Claimants incorporate by reference each of the preceding paragraphs as though
21 fully set forth herein.

22 67. Claimants and other Class members purchased 23andMe’s PGS. Pursuant to
23 these sales, 23andMe impliedly warranted per California Commercial Code § 2315 that the PGS
24 would be merchantable for the particular purposes for which it was used.

25 68. 23andMe breached this implied warranty in that the PGS was not fit for the
26 particular purposes for which it was used.

27 69. Claimants and Class members bought the PGS from 23andMe, reasonably relying
28 on 23andMe’s skill and judgment in furnishing suitable goods and its implied warranty that the

1 PGS was fit for the particular purposes for which it was used.

2 70. As a proximate result of these breaches of warranty by 23andMe, Claimants and
3 Class members have suffered damages in an amount to be determined at trial.

4 71. THEREFORE, Claimants pray for all appropriate relief as set forth below.

5 **SEVENTH CAUSE OF ACTION**

6 **Violation of California Civil Code § 1750, et seq.**

7 72. Claimants incorporate by reference each of the preceding paragraphs as though
8 fully set forth herein.

9 73. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5),
10 prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics,
11 ingredients, uses, benefits, or quantities which they do not have or that a person has a
12 sponsorship, approval, status, affiliation, or connection which he or she does not have."

13 74. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(7),
14 prohibits "[r]epresenting that goods or services are of a particular standard, quality, or grade, or
15 that goods are of a particular style or model, if they are of another."

16 75. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(14),
17 prohibits "[r]epresenting that a transaction confers or involves rights, remedies, or obligations
18 which it does not have or involve, or which are prohibited by law."

19 76. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(16),
20 prohibits "[r]epresenting that the subject of a transaction has been supplied in accordance with a
21 previous representation when it has not."

22 77. 23andMe violated these provisions by misrepresenting that the PGS could legally
23 provide accurate and reliable data concerning consumers' health risks and that it was lawful to
24 sell that data under both state and federal law or omitting material facts to the contrary, as set
25 forth in detail above. In fact, 23andMe had not obtained the requisite approval to sell the PGS as
26 a medical device. In addition, the data 23andMe provided concerning consumers' health risks
27 was not accurate and/or reliable. As the FDA stated, "[t]he risk of serious injury or death is
28 known to be high when patients are either non-compliant or not properly dosed; combined with

1 the risk that a direct-to-consumer test result may be used by a patient to self-manage, serious
2 concerns are raised if test results are not adequately understood by patients or if incorrect test
3 results are reported.”

4 78. As a result, Claimants and the Class suffered damage caused by 23andMe’s use or
5 employment of methods, acts or practices declared unlawful under Section 1770 because it can
6 be reasonably presumed based on the materiality of the misrepresentations and omitted facts at
7 issue herein and as advertised as set forth above that Claimants and Class Members would not
8 have purchased the PGS and/or paid the prices that they did if the true facts about the PGS had
9 been disclosed, and the product they received was worth substantially less than the product as
10 represented. In fact, as the PGS was illegal to sell, it was practically worthless.

11 79. More than 30 days prior to filing the First Amended Demand for Arbitration
12 including this Count, notice letters were served on 23andMe that complied in all respects with
13 California Civil Code § 1782(a). 23andMe failed to provide the relief required under California
14 Civil Code, § 1750, *et seq.*, as requested in Claimants’ letters.

15 80. Wherefore, Claimants seek actual, statutory and or exemplary damages to
16 compensate all Class members who suffered actual damage or loss (including but not limited to
17 up to \$1,000 per Class member or \$5,000 for any person who is a senior citizen or disabled
18 person, the difference between the actual value of that with which consumers parted and the
19 actual value of that which they received, together with any additional damage arising from the
20 particular transaction, including opportunity and transaction costs resulting from consumers
21 being misled by such deceptive practices and the value of the data they provided to 23andMe
22 illegally without compensation), restitution of property, injunctive relief, costs and attorneys’
23 fees and any other relief the Arbitrator deems proper for these violations of California Civil
24 Code, § 1750, *et seq.*

25 **EIGHTH CAUSE OF ACTION**

26 **Negligent Misrepresentation**

27 81. Claimants incorporate by reference each of the preceding paragraphs as though
28 fully set forth herein.

1 82. 23andMe owed Claimants and the Class a duty to exercise reasonable care in
2 representing the PGS as being accurate, reliable and legal to sell.

3 83. As set forth in detail above, 23andMe misrepresented material facts, including
4 that the PGS as a medical device provided accurate and reliable data consumers and was legal for
5 sale in connection therewith, and omitted to disclose material facts to the contrary that were
6 necessary to disclose in order to make such statements not misleading for want of disclosure of
7 such omitted facts.

8 84. 23andMe intended that consumers, including the Class members, would
9 reasonably rely on these representations.

10 85. In reality, the PGS did not provide accurate and reliable data to consumers, and
11 the PGS was not lawful to sell, establishing both the materiality and falsity of such
12 representations.

13 86. At the time 23andMe made the public representations at issue to consumers, it
14 reasonably should have known that these representations were false or made them without
15 knowledge of their truth or veracity. 23andMe had no reasonable grounds to believe these
16 representations were true when made.

17 87. 23andMe thus uniformly negligently misrepresented material facts about the PGS.

18 88. The negligent misrepresentations and information provided by 23andMe, upon
19 which Claimants and Class members presumably reasonably and justifiably relied based on the
20 materiality of such claims, induced Claimants and Class members to purchase the PGS.

21 89. Claimants and Class members would not rationally anticipate that in entering into
22 the subject transactions, they would be lied to by 23andMe and induced into purchasing a device
23 that was illegal to sell. 23andMe's misrepresentations of material facts as set forth above thus
24 are independent of any breach of any applicable warranties, even if related to the performance
25 thereof.

26 90. As a proximate cause of 23andMe's false representations of material facts,
27 Claimants and the Class members suffered damages as described above, in an amount to be
28 determined at trial.

1 **NINTH CAUSE OF ACTION**

2 **Unjust Enrichment**

3 91. Claimants incorporate by reference each of the preceding paragraphs as though
4 fully set forth herein.

5 92. 23andMe received money in sums certain from Claimants and Class members in
6 the form of revenues and profits obtained through the unlawful sale of the PGS. 23andMe
7 accepted or retained these economic benefits with awareness that Claimants and members of the
8 Class improperly had such charges imposed upon them, for the reasons set forth above.

9 93. Allowing 23andMe to retain the benefits conferred by Class members under these
10 circumstances would be unjust and inequitable. Under common law principles of unjust
11 enrichment, such excess monies must in equity and good conscience be returned to Claimants
12 and members of the Class.

13 94. As a result of 23andMe's illegal enrichment in violation of these common law
14 principles, Claimants and the Class have suffered harm and thus seek an order for disgorgement
15 and restitution of 23andMe's excess revenues, profits and other benefits retained in violation of
16 applicable law.

17 95. THEREFORE, Claimants pray for all appropriate relief as set forth below.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Claimants pray for an award as follows, as appropriate for the particular
20 causes of action:

21 1. Certification of the Class, certifying Claimants as representatives of the Class, and
22 designating their counsel as counsel for the Class;

23 2. For actual, compensatory, statutory and/or exemplary damages, the amount of
24 which is to be determined at trial;

25 5. For equitable monetary relief, including disgorgement and full restitution of all
26 monies illegally obtained by 23andMe;

27 6. For pre- and post-award interest at the legal rate on the foregoing sums;

28 7. For attorneys' fees and reimbursement of expenses pursuant to, *inter alia*, the

1 common fund and private Attorney General doctrines, Cal. Code of Civ. Proc. § 1021.5 and as
2 otherwise permitted by law; and

3 8. For such further relief as the Arbitrator may deem just and proper.

4 DATED: February 18, 2016

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EXHIBIT A

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About 23andMe:

[Our Mission](#)
[Our Core Values](#)
[Media Center](#)
[Policy Forum](#)
[Corporate Info](#)
[Careers](#)

Who We Are:

[Board of Directors](#)
[Leadership Team](#)
[Editorial Advisors](#)
[Scientific Advisory Board](#)
[Research Team](#)

Terms of Service

1. Definitions

- **"23andMe"** means 23andMe, Inc., whose principal place of business is at 1390 Shorebird Way, Mountain View, CA 94043.
- **"23andWe Research"** means scientific research that 23andMe performs with the intent to publish in a peer-reviewed scientific journal. 23andWe Research only uses Genetic and Self-Reported Information from users who have given consent according to the applicable Consent Document. 23andWe Research activities do not include R&D.
- **"R&D"** means research and development activities performed by 23andMe on user data. These activities may include, among other things, improving our Services and/or offering new products or services to you; performing quality control activities; conducting data analysis that may lead to and/or include commercialization with a third party.
- **"Service"** or **"Services"** means 23andMe's products, software, services, and website (including but not limited to text, graphics, images, and other material and information) as accessed from time to time by the user, regardless if the use is in connection with an account or not.
- **"Personal Information"** is information that can be used to identify you, either alone or in combination with other information. 23andMe collects and stores the following types of Personal Information:
 - **"Registration Information"** is the information you provide about yourself when registering for and/or purchasing our Services (e.g. name, email, address, user ID and password, and payment information).
 - **"Genetic Information"** is information regarding your genotype (e.g. the As, Ts, Cs, and Gs at particular locations in your genome), generated through processing of your saliva by 23andMe or by its contractors, successors, and assignees; or otherwise processed by and/or contributed to 23andMe.
 - **"Self-Reported Information"** is all information about yourself, including your disease conditions, other health-related information, personal traits, ethnicity, family history, and other information that you enter into surveys, forms, or features while signed in to your 23andMe account. Self-Reported Information is included in 23andWe Research only if it has been indicated for

23andMe Research use on the website and if you have given consent as described in the applicable Consent Document.

- **"User Content"** is all information, data, text, software, music, audio, photographs, graphics, video, messages, or other materials - *other than* Genetic Information and Self-Reported Information-generated by users of 23andMe Services and transmitted, whether publicly or privately, to or through 23andMe.
- **"Web Behavior Information"** is information on how you use the 23andMe website (e.g. browser type, domains, page views) collected through log files, cookies, and web beacon technology.
- **"Aggregated Genetic and Self-Reported Information"** is Genetic and Self-Reported Information that has been stripped of Registration Information and combined with data from a number of other users sufficient to minimize the possibility of exposing individual-level information while still providing scientific evidence.

2. Acceptance of Terms

Your use of 23andMe's Services (excluding any services provided by 23andMe under a separate agreement) is subject to the terms of the legal agreement between you and 23andMe set forth in these Terms of Service ("**TOS**"). Except as specified herein, these TOS apply to any use of the Services, including but not limited to a) submitting a saliva sample for DNA extraction and processing, b) uploading a digital version of your Genetic Information and interacting with it on the 23andMe website, and/or c) creating and using a free 23andMe account without providing your saliva sample or Genetic Information. In order to use the Services, you must first agree to the TOS. You may not use the Services if you do not accept the TOS. You can accept the TOS by (1) clicking to accept or agree to the TOS, where this option is made available to you by 23andMe for any Service; or by (2) actually using the Services. In this case, you acknowledge and agree that 23andMe will treat your use of the Services as acceptance of the TOS from that point onwards. In addition, when using particular 23andMe Services, you shall be subject to any guidelines or rules applicable to such services that may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the TOS. 23andMe also may offer other services from time to time that are governed by different terms of service.

3. Prerequisites

- a. Whether you submit your own saliva sample, a saliva sample for anyone for whom you have legal authority to agree, or otherwise provide your own Genetic Information, you may not use the Services and may not accept the TOS if (1) you are not of legal age to form a binding contract with 23andMe, or (2) you are a person barred from receiving the Services under the laws of the jurisdiction in which you are resident or from which you use the Services.
- b. In addition to the conditions above, if you contribute or otherwise provide your own Genetic Information, you must be eighteen (18) years of age or older to agree to these TOS on behalf of yourself or those for whom you have legal authority to agree.

- c. If your use of the Services includes creating a 23andMe account, without submitting a saliva sample or otherwise providing Genetic Information, you must be thirteen (13) years of age or older to use the Services and accept the TOS.

4. Description of the Services

The Services include access to the 23andMe public website and personal genotyping services, including the collection and analysis of your saliva sample. Unless explicitly stated otherwise, each new feature that augments or enhances the current Service shall be subject to the TOS. You acknowledge and agree that the Services are provided "AS-IS" and are based on the current state of the art of genetic research and technology in use by 23andMe at the time of the purchase or viewing. As research progresses and scientific knowledge and technology evolve, 23andMe is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which 23andMe provides may change from time to time without prior notice to you. As part of this continuing innovation, you acknowledge and agree that 23andMe may stop (permanently or temporarily) providing some Services (or any features within the Services) to you or to users generally at 23andMe's sole discretion, without prior notice to you. You may stop using the Services at any time. You do not need to specifically inform 23andMe when you stop using the Services unless you are requesting closure of your account. 23andMe assumes no responsibility for the use of Services outside the terms of this TOS or other applicable terms.

In order to use the Services, you must obtain Internet access, either directly or through devices that access web-based content, and pay any service fees associated with such access. You are solely responsible for paying such fees. In addition, you must provide all equipment necessary to make such Internet connection, including a computer and modem or other access device. You are solely responsible for providing such equipment. You acknowledge and agree that while 23andMe may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by 23andMe at any time, at 23andMe's discretion.

5. Risks and Considerations Regarding 23andMe Services

Once you obtain your Genetic Information, the knowledge is irrevocable. You should not assume that any information we may be able to provide to you, whether now or as genetic research advances, will be welcome or positive. You should also understand that as research advances, in order for you to assess the meaning of your DNA in the context of such advances, you may need to obtain further services from 23andMe or from your physician or other health care provider.

You may learn information about yourself that you do not anticipate.

This information may evoke strong emotions and has the potential to alter your life and worldview. You may discover things about yourself that trouble you and that you may not have the ability to control or change (e.g., your father is not genetically your father, surprising facts related to your ancestry, or that someone with your genotype may have a higher than average chance of developing a specific condition or disease). These outcomes could have social, legal, or economic implications.

The laboratory may not be able to process your sample, and the laboratory process may result in errors. The laboratory may not be able to process your sample if your saliva does not contain a sufficient volume of DNA, you do not provide enough saliva, or the results from processing do not meet our standards for accuracy. If the initial processing fails for any of these reasons, 23andMe will reprocess the same sample at no charge to the user. If the second attempt to process the same sample fails, 23andMe will offer to send another kit to the user to collect a second sample at no charge. If the user declines this option, the user is entitled solely and exclusively to a complete refund of the amount paid to 23andMe, less shipping and handling, provided that the user shall not resubmit another sample through a future purchase of the service. If the user opts to receive another sample collection kit and 23andMe's attempts to process the second sample are unsuccessful, 23andMe will not send additional sample collection kits and the user will be entitled solely and exclusively to a complete refund of the amount paid to 23andMe, less shipping and handling, provided the user shall not resubmit another sample through a future purchase of the service. If the user breaches this policy agreement and resubmits another sample through a future purchase of the service and processing is not successful, 23andMe will not offer to reprocess the sample or provide the user a refund. Even for processing that meets our high standards, a small, unknown fraction of the data generated during the laboratory process may be un-interpretable or incorrect (referred to as "Errors"). As this possibility is known in advance, users are not entitled to refunds where these Errors occur.

You should not change your health behaviors solely on the basis of information from 23andMe. Make sure to discuss your Genetic Information with a physician or other health care provider before you act upon the Genetic Information resulting from 23andMe Services. For most common diseases, the genes we know about are only responsible for a small fraction of the risk. There may be unknown genes, environmental factors, or lifestyle choices that are far more important predictors. If your data indicate that you are not at elevated genetic risk for a particular disease or condition, you should not feel that you are protected. The opposite is also true; if your data indicate you are at an elevated genetic risk for a particular disease or condition, it does not mean you will definitively develop the disease or condition. In either case, if you have concerns or questions about what you learn through 23andMe, you should contact your physician or other health care provider.

Genetic research is not comprehensive. While we measure many hundreds of thousands of data points from your DNA, only a small percentage of them are known to be related to human traits or health conditions. The research community is rapidly learning more about genetics, and an important mission of 23andMe is to conduct and contribute to this research. In addition, many ethnic groups are not included in genetic studies. Because interpretations provided in our service rely on these published studies, some interpretations may not apply to you. Future scientific research may change the interpretation of your DNA. In the future, the scientific community may show previous research to be incomplete or inaccurate.

Genetic Information you share with others could be used against your interests. You should be careful about sharing your Genetic Information with others. Currently, very few businesses or insurance companies request genetic information, but this could change in the future. While the Genetic Information Nondiscrimination Act was signed into law in the United States in 2008, its protection against discrimination by employers and health insurance companies for employment and coverage issues has not been clearly established. In addition, GINA does not cover life or disability insurance providers. Some, but not all, states and other jurisdictions have laws that protect individuals with regard to their Genetic Information. You may want to consult a lawyer to understand the extent of legal protection of your Genetic Information before you share it with anybody.

Furthermore, Genetic Information that you choose to share with your physician or other health care provider may become part of your medical record and through that route be accessible to other health care providers and/or insurance companies in the future. Genetic Information that you share with family, friends or employers may be used against your interests. Even if you share Genetic Information that has no or limited meaning today, that information could have greater meaning in the future as new discoveries are made. If you are asked by an insurance company whether you have learned Genetic Information about health conditions and you do not disclose this to them, this may be considered to be fraud.

23andMe Services are for research, informational, and educational use only. We do not provide medical advice. The Genetic Information provided by 23andMe is for research, informational, and educational use only. This means two things. First, many of the genetic discoveries that we report have not been clinically validated, and the technology we use, which is the same technology used by the research community, to date has not been widely used for clinical testing. Second, in order to expand and accelerate the understanding and practical application of genetic knowledge in health care, we invite all genotyped users to participate in 23andMe Research. Participation in such research is voluntary and based upon an IRB-approved consent document. As a result of the current state of genetic knowledge and understanding, our Services are for research, informational, and educational purposes only. The Services are not intended to be used by the customer for any diagnostic purpose and are not a substitute for professional medical advice. You should always seek

the advice of your physician or other health care provider with any questions you may have regarding diagnosis, cure, treatment, mitigation, or prevention of any disease or other medical condition or impairment or the status of your health.

23andMe does not recommend or endorse any specific course of action, resources, tests, physician or other health care providers, drugs, biologics, medical devices or other products, procedures, opinions, or other information that may be mentioned on our website. As explained on our website, 23andMe believes that (a) genetics is only part of the picture of any individual's state of being, (b) the state of the understanding of Genetic Information is rapidly evolving and at any given time we only comprehend part of the picture of the role of genetics, and (c) only a trained physician or other health care provider can assess your current state of health or disease, taking into account many factors, including in some cases your genetics as well as your current symptoms, if any. Reliance on any information provided by 23andMe, 23andMe employees, others appearing on our website at the invitation of 23andMe, or other visitors to our website is solely at your own risk.

While we are licensed in California as a clinical laboratory, not all jurisdictions require our Services to be subject to license. Therefore, we are not universally licensed by all state, federal, or international authorities for genetic testing conducted for health and disease-related purposes. In addition, there are certain jurisdictions in which we do not offer our Services because we do not have required licenses.

6. User Representations

By accessing 23andMe Services, you agree to, acknowledge, and represent as follows:

- a. You understand that information you learn from 23andMe is not designed to diagnose, prevent, or treat any condition or disease or to ascertain the state of your health and that you understand that the 23andMe services are intended for research, informational, and educational purposes only. You acknowledge that 23andMe urges you to seek the advice of your physician or other health care provider if you have questions or concerns arising from your Genetic Information.
- b. You give permission to 23andMe, its contractors, successors and assignees to perform genotyping services on the DNA extracted from your saliva sample and you specifically request 23andMe to disclose the results of analyses performed on your DNA to you and to others you specifically authorize.
- c. You represent that you are eighteen (18) years of age or older if you are providing a saliva sample or accessing your Genetic Information.
- d. You are guaranteeing that any sample you provide is your saliva; if you are agreeing to these TOS on behalf of a person for whom you have legal authorization, you are confirming that the sample provided will be the sample of that person.

- e. If you are a customer outside the U.S. providing a saliva sample, you confirm that this act is not subject to any export ban or restriction in the country in which you reside.
- f. You agree that any saliva sample you provide and all resulting data may be transferred and/or processed outside the country in which you reside.
- g. You are warranting that you are not an insurance company or an employer attempting to obtain information about an insured person or an employee.
- h. You are aware that some of the information you receive may provoke strong emotion.
- i. You take responsibility for all possible consequences resulting from your sharing with others access to your Genetic Information and your Self-Reported Information.
- j. You understand that all your Personal Information will be stored in 23andMe databases and will be processed in accordance with the 23andMe Privacy Statement.
- k. **Waiver of Property Rights:** You understand that by providing any sample, having your Genetic Information processed, accessing your Genetic Information, or providing Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by 23andMe or its collaborating partners. You specifically understand that you will not receive compensation for any research or commercial products that include or result from your Genetic Information or Self-Reported Information.

You agree that you have the authority, under the laws of the state or jurisdiction in which you reside, to provide these representations. In case of breach of any one of these representations 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

7. Account Creation, Customer Account, Password, and Security Obligations

In consideration of your use of the Services, you agree to: (a) provide true, accurate, current, and complete Registration Information about yourself as prompted by the Service; and (b) maintain and promptly update the Registration Information to keep it true, accurate, current, and complete. If you provide any Registration Information that is untrue, inaccurate, not current, or incomplete, or if 23andMe has a reasonable ground to suspect that such information is untrue, inaccurate, not current, or incomplete, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

After you have purchased our Service, you will create a password and account designation. You are responsible for maintaining the confidentiality of the password and account, and are fully responsible for all activities that occur under your password or account. If you allow third

parties to access 23andMe's website through your username and password, you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages, including attorney fees, arising out of claims or suits by such third parties based upon or relating to such access and use. You agree to (a) immediately notify 23andMe of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session. 23andMe cannot and will not be liable for any loss or damage arising from your failure to comply with this Section.

8. 23andMe Privacy Statement and Disclosure of Information

In order to use the Services, you must first acknowledge and agree to the Privacy Statement. You may not use the Services if you do not accept the Privacy Statement. You can acknowledge and agree to the Privacy Statement by (1) clicking to accept or agree to the Privacy Statement, where this option is made available to you by 23andMe for any Service; or by (2) actually using the Services.

You acknowledge and agree that 23andMe has the right to monitor any use of its systems by its personnel at any time and maintain copies documenting such monitoring. Our Privacy Statement sets forth the only expectations of privacy any individual should have in terms of usage of the 23andMe Services, website, or other systems. If you have given consent for your Genetic Information and Self-Reported Information to be used in 23andMe Research as described in the applicable Consent Document, we may include your information in the Aggregated Genetic Information and Self-Reported Information we disclose to third parties for the purpose of publication in a peer-reviewed scientific journal. 23andMe may also include your information in Aggregated Genetic and Self-Reported Information disclosed to third-party non-profit and/or commercial research partners who will not publish that information in a peer-reviewed scientific journal. 23andMe will never release your individual-level Genetic Information and/or Self-Reported Information to any third party without asking for and receiving your explicit consent to do so, unless required by law. Further, you acknowledge and agree that 23andMe is free to preserve and disclose any and all Personal Information to law enforcement agencies or others if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process (such as a judicial proceeding, court order, or government inquiry) or obligations that 23andMe may owe pursuant to ethical and other professional rules, laws, and regulations; (b) enforce the 23andMe TOS; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of 23andMe, its employees, its users, its clients, and the public. In such event we will notify you through the contact information you have provided to us in advance, unless doing so would violate the law or a court order. You understand that the technical processing and transmission of the Services, including your Personal Information, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks, or devices. Finally, 23andMe may, in its sole discretion, restrict access to the website for any reason.

Please refer to our Privacy Statement to read about data protection related to your information. See our complete Privacy Statement here.

9. Limited License

You acknowledge that all User Content, whether publicly posted or privately transmitted, is the sole responsibility of the person from which such User Content originated. This means that you, and not 23andMe, are entirely responsible for all User Content that you upload, post, email, or otherwise transmit via the Service.

You acknowledge that the Services content presented to you as part of the Services, whether original 23andMe Services content or sponsored content within the Services, is protected by copyright and/or other intellectual property rights that are owned by 23andMe and/or the sponsors who provide that content to 23andMe (or by other persons or companies on their behalf). 23andMe grants you a Limited License to copy and distribute free of charge, for non-commercial purposes only, any of the Services content with the exception of content from "MD's Perspectives" in the "For the Experts" section of the website and any other content marked as not subject to this Limited License on the website, provided you: (i) provide the Services content as it appears on the 23andMe website with no changes including but not limited to presenting selections which might tend to misrepresent the substance of the Services content; (ii) include the following attribution on the first page of any materials you distribute: © 23andMe, Inc. 2007-2013. All rights reserved; distributed pursuant to a Limited License from 23andMe; (iii) agree you have no right to offer anyone else any further right with respect to this Services content. Aside from the Limited License provided in this paragraph, you may not modify, rent, lease, loan, sell, distribute, or create derivative works based on this Services content (either in whole or in part) unless you have been specifically told that you may do so by 23andMe or by the owners of that content, in a separate agreement.

10. Customer Conduct - Unlawful and Prohibited Use

As a condition of your use of the Services, you warrant to 23andMe that you will not use the Services for any purpose that is unlawful or prohibited by these terms, conditions, or notices. You may not use the Services in any manner that could damage, disable, overburden, or impair the Services or interfere with any other party's use and enjoyment of the Services. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Services. Furthermore you agree not to use the Services to: (1) upload, post, email, or otherwise transmit any material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that might reasonably be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, religious or political beliefs, or other statutorily protected status; (2) impersonate any person or entity, including, but not limited to, anyone affiliated with 23andMe, or falsely state or otherwise misrepresent your affiliation with a person or entity; (3) add your own

headers, forge headers, or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Service; (4) "stalk" or otherwise harass another; (5) upload, post, email, or otherwise transmit any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (6) use any information received through the Services to attempt to identify other customers, to contact other customers (other than through features for contacting other users such as DNA Relatives offered pursuant to the Services), or for any forensic use; (7) download any file posted by another user of the Service that you know, or reasonably should know, cannot legally be distributed in such manner; (8) upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights ("Rights") of 23andMe or any other party; (9) harm minors in any way; (10) advertise or offer to sell or buy any goods or services for any business purpose, unless such area specifically allows such messages; (11) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that are designated for such purpose and only to the extent such content is authorized by law; (12) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (13) use manual or automated software, devices, scripts robots, other means or processes to access, "scrape," "crawl" or "spider" any web pages or other services contained in the site, unless explicitly permitted by 23andMe; (14) engage in "framing," "mirroring," or otherwise simulating the appearance or function of 23andMe's website; (15) attempt to or actually override any security component of 23andMe web services; (16) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service; (17) violate these Terms of Service, any code of conduct or other guidelines which may be applicable for any particular area of the Service or have been communicated to you by anyone affiliated with 23andMe; or (18) intentionally or unintentionally violate any applicable local, state, national, or international law, or any regulations having the force of law.

You acknowledge and agree that you are solely responsible for (and that 23andMe has no responsibility to you or to any third party for) any breach of your obligations under the TOS and for the consequences (including any loss or damage which 23andMe may suffer) of any such breach. In case of breach of any one of these agreements 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

If you violate the terms of this Section and/or 23andMe has a reasonable ground to suspect that you have violated the terms of this Section, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

11. **Export Control and Applicable Laws and Regulations**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. Specifically, you agree 1) that providing your sample is not subject to any export ban or restriction in the country in which you reside, 2) that your sample and data may be transferred and/or processed outside the country in which you reside, and 3) that you will comply with all applicable laws regarding the transmission of technical data exported from the United States or the country from which you access 23andMe's Services online.

12. **Material Posted Through The Service**

23andMe will not, at all times, control any of the User Content posted via the Service and, as such, does not guarantee the accuracy, integrity, or quality of such non-23andMe content. You understand that by using the Services, you may be exposed to content that is offensive, indecent, or objectionable. Under no circumstances will 23andMe be liable in any way for any non-23andMe content, including, but not limited to, any errors or omissions in any such content, or for any loss or damage of any kind incurred as a result of the use of any such content posted, emailed, or otherwise transmitted via the Services.

You acknowledge that 23andMe and its designees shall have the right (but not the obligation) in their sole discretion to pre-screen, review, filter, modify, refuse, or move any content that is available via the Services. Without limiting the foregoing, 23andMe and its designees shall have the right to remove any content that violates the TOS or is deemed by 23andMe, in its sole discretion, to be otherwise objectionable. You acknowledge and agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

13. **Material Provided to 23andMe - Your Proprietary Rights**

User Content. 23andMe does not claim ownership of the User Content you provide to 23andMe (including feedback and suggestions) or post, upload, input, or submit to the Service. Unless otherwise specified, you retain copyright and any other rights you already hold over User Content that you create and submit, post, or display on or through the Services. However, by submitting, posting, or displaying User Content, you give 23andMe, its affiliated companies, sublicensees (including but not limited to sublicensees who avail themselves of the Limited License granted in Section 9 above) and successors and assigns a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, distribute, reproduce, edit, reformat, and create derivative works from any User

Content that you submit, post, or display on or through the Services. You acknowledge and agree that this license includes a right for 23andMe to make such User Content available to other companies, organizations, or individuals with whom 23andMe has relationships, and to use such User Content in connection with the provision of those services.

You understand that 23andMe, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your User Content over various public networks and in various media; and (b) make such changes to your content as are necessary to conform and adapt that content to the technical requirements of connecting networks, devices, services, or media. You acknowledge and agree that this license shall permit 23andMe to take these actions. You represent and warrant to 23andMe that you have all the rights, power, and authority necessary to grant the above license.

Genetic and/or Self-Reported Information. Disclosure of individual-level Genetic and/or Self-Reported Information to third parties will not occur without explicit consent, unless required by law. Note that 23andMe cannot control any further distribution of Genetic and/or Self-Reported Information that you share publicly on the 23andMe website. You acknowledge and agree that you are responsible for protecting and enforcing those rights and that 23andMe has no obligation to do so on your behalf.

Your saliva sample, once submitted to and analyzed by us, is processed in an irreversible manner and cannot be returned to you. See our website for more information on sample processing. Any Genetic Information derived from your saliva remains your information, subject to rights we retain as set forth in these TOS. You understand that you should not expect any financial benefit from 23andMe as a result of having your Genetic Information processed; made available to you; or, as provided in our Privacy Statement and Terms of Service, shared with or included in Aggregated Genetic and Self-Reported Information shared with research partners, including commercial partners.

Waiver of Property Rights. As stated above, you understand that by providing any sample, having your Genetic Information processed, accessing your Genetic Information, or providing Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by 23andMe or its collaborating partners. You specifically understand that you will not receive compensation for any research or commercial products that include or result from your Genetic Information or Self-Reported Information.

14. Indemnity

You agree to defend and hold 23andMe, and its subsidiaries, affiliates, officers, agents, contractors, partners, employees, successors, and assigns harmless from any claim, or demand, including reasonable attorneys' fees, made by any third party due to or arising out of User

Content you submit, post to, or transmit through the Service; your use of the Service; your connection to the Service; your violation of the TOS; or your violation of any rights of another.

If you have submitted a saliva sample or otherwise provided your own Genetic Information, you will defend and hold harmless 23andMe, its employees, contractors, successors, and assigns from any liability arising out of the use or disclosure of any information obtained from genotyping your saliva sample and/or analyzing your Genetic Information, which is disclosed to you consistent with our Privacy Statement or results from any third-party add-ons to tools we provide. In addition, if you choose to provide your Genetic and/or Self-Reported Information to third parties - whether individuals to whom you facilitate access, intentionally or inadvertently, or to third parties for diagnostic or other purposes - you agree to defend and hold harmless 23andMe, its employees, contractors, successors, and assigns from any and all liability arising from such disclosure or use of your Genetic and/or Self-Reported Information.

15. No Resale of Service

Other than pursuant to the terms of the Limited License in Section 9 of this TOS or unless otherwise agreed in a separate agreement between you and 23andMe, you agree not to display, distribute, license, perform, publish, reproduce, duplicate, copy, create derivative works from, modify, sell, resell, exploit, transfer, or transmit for any commercial purposes, all or any portion of the Service, use of the Service, or access to the Service.

16. General Practices Regarding Use and Storage

You acknowledge that 23andMe may establish general practices and limits concerning use of the Services, including without limitation the maximum number of days that Personal Information and Services content will be retained by the Service, the maximum disk space that will be allotted on 23andMe's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Services in a given period of time. You acknowledge and agree that 23andMe has no responsibility or liability for the deletion of or failure to store any messages, other communications, or other content maintained or transmitted by the Services; or for the loss of Genetic Information due to malfunction or destruction of data servers or other catastrophic events. You further acknowledge that 23andMe reserves the right to change these general practices and limits in its sole discretion.

17. Modifications to Service

23andMe reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You acknowledge and agree that (i) modifications may result in a delay in computations for some of the 23andMe features or Services, and (ii) 23andMe shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services.

The Software that you use may from time to time automatically download and install updates from 23andMe. These updates are designed to improve, enhance, and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules, and completely new versions. You agree to receive such updates (and permit 23andMe to deliver these to you) as part of your use of the Services.

You acknowledge that 23andMe may offer different or additional technologies or features to collect and/or interpret Genetic Information in the future and that your initial purchase of the Service does not entitle you to any different or additional technologies or features for collection or interpretation of your Genetic Information without fee, and that you will have to pay additional fees in order to have your Genetic Information collected, processed, and/or interpreted using any future or additional technologies or features.

18. Termination

The TOS will continue to apply until terminated by either you or 23andMe as set out in this Section.

If you want to terminate your legal agreement with 23andMe, you may do so by notifying 23andMe at any time in writing, which will entail closing your accounts for all of the Services that you use. Your notice should be sent, in writing, to 23andMe's address, which is set out at the beginning of the TOS, or online via Customer Care. If you provide notice online, 23andMe will send you an email asking you to confirm your request, and your notice will be effective following receipt of a second email confirmation from you.

23andMe may at any time, terminate its legal agreement with you (and in conjunction therewith, your password and account(s)) if: (1) you have breached any provision of the TOS (or have acted in manner which shows that you do not intend to, or are unable to comply with, the provisions of the TOS); (2) 23andMe is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); (3) the partner with whom 23andMe offered the Services to you has terminated its relationship with 23andMe or ceased to offer the Services to you; (4) 23andMe is transitioning to no longer providing the Services to users in the country or state in which you reside or from which you use the Services; or (5) the provision of the Services to you by 23andMe is, in 23andMe's opinion, no longer commercially viable.

Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Services may be referred to appropriate law enforcement authorities. You acknowledge and agree that 23andMe shall not be liable to you or any third party for any termination of your access to the Services.

19. Survival of Terms

When the TOS come to an end, all of the legal rights, obligations, and liabilities that you and 23andMe have benefited from, been subject to (or which have accrued over time while the TOS have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of sections 1.(Definitions); 2.(Acceptance of Terms); 3.(Prerequisites); 4.(Description of the Services); 5.(Risks and Considerations Regarding 23andMe Services); 6.(Representations); 7. (Account Creation, Customer Account, Password and Security Obligations); 8.(23andMe Privacy Statement); 10.(Customer Conduct - Unlawful and Prohibited Use); 11.(Export Control and Applicable Laws and Regulations); 12.(Material Posted through the Service); 13.(Material Provided to 23andMe - Your Proprietary Rights); 14.(Indemnity); 15.(No resale of Services);18.(Termination); 19.(Survival of Terms); 20.(Dealings with Information Providers and Listed Resources); 21.(Hyperlinks and 23andMe Website); 22.(23andMe Proprietary Rights); 23.(DISCLAIMER OF WARRANTIES); 24.(LIMITATION OF LIABILITY); 25.(Notice); 27. (Violation or Suspected Violation of TOS); and 28.(Miscellaneous) shall continue to apply to such rights, obligations, and liabilities indefinitely.

20. Dealings with Information Providers and Listed Resources

Your correspondence or business dealings with-or participation in promotions of-information providers, vendors, and/or resources found on or through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such information provider or resource. You acknowledge and agree that 23andMe shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such information provider or resources on the Service.

21. Hyperlinks and the 23andMe Website

The Service provides, and third parties may provide, links to other sites and resources on the Internet. Because 23andMe has no control over such sites and resources, you acknowledge and agree that 23andMe is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that 23andMe shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods, or services available on or through any such hyperlinked site or resource.

22. 23andMe's Proprietary Rights

You acknowledge and agree that 23andMe (or 23andMe's licensors, as applicable) own all legal right, title, and interest in and to the Services, including any intellectual property rights (including but not limited to patents) which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You

further acknowledge that the Services may contain information which is designated confidential by 23andMe and that you shall not disclose such information without 23andMe's prior written consent.

You further acknowledge and agree that the Services and any necessary software used in connection with the Services ("Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that information presented to you through the Services or sponsors is protected by copyrights, trademarks, service marks, patents, or other proprietary rights and laws. Except as expressly authorized by 23andMe, you agree not to-and not to permit anyone else to-modify, rent, lease, loan, sell, distribute, or create derivative works of, reverse engineer, decompile, or otherwise attempt to extract the source code of the Services or Software or any part thereof, in whole or in part. Software, if any, that is made available to download from the Services, excluding software that may be made available by end-users through the Services, is the copyrighted work of 23andMe and/or its suppliers. Your use of the Software is governed by the terms of the end user license agreement, if any, which accompanies or is included with the Software ("License Agreement"). You may not install or use any Software that is accompanied by or includes a License Agreement unless you first agree to the License Agreement terms.

23andMe, Inc., 23andMe, and other 23andMe logos and product and service names are trademarks of 23andMe and these marks together with any other 23andMe trade names, service marks, logos, domain names, and other distinctive brand features are the "**23andMe Marks**". Unless you have agreed otherwise in writing with 23andMe, other than through the Limited License in Section 9, nothing in the TOS gives you a right to use any 23andMe Marks and you agree not to display, or use in any manner, 23andMe Marks.

You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) that may be affixed to or contained within the Services.

Unless you have been expressly authorized to do so in writing by 23andMe, you agree that in using the Services, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names, or logos.

For any Software not accompanied by a License Agreement, 23andMe grants you a personal, non-transferable, and non-exclusive right and license to use the object code of its Software on a single computer. You may not (and may not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in, or otherwise transfer any right in the Software unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by 23andMe, in writing. This license is for the sole purpose of enabling you to use and enjoy the benefit of the

Services as provided by 23andMe, in the manner permitted by the TOS. Unless 23andMe has given you specific written permission to do so, you may not assign (or grant a sublicense of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by 23andMe for use in accessing the Service. Any rights not expressly granted herein are reserved.

23. Disclaimer of Warranties

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT: (1) YOUR USE OF THE SERVICES ARE AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. 23ANDME EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. (2) 23ANDME MAKES NO WARRANTY THAT (a) THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, UNFAILINGLY SECURE, OR ERROR-FREE; (c) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS AND (e) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. (3) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. (4) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM 23ANDME OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS. (5) YOU SHOULD ALWAYS USE CAUTION WHEN GIVING OUT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT YOURSELF OR THOSE FOR WHOM YOU HAVE LEGAL AUTHORITY. 23ANDME DOES NOT CONTROL OR ENDORSE ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES AND, THEREFORE, 23ANDME SPECIFICALLY DISCLAIMS ANY LIABILITY WITH REGARD TO ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES.

24. Limitation of Liability

WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT 23ANDME SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL,

CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF 23ANDME HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICES; (b) ANY ACTION YOU TAKE BASED ON THE INFORMATION YOU RECEIVE IN THROUGH OR FROM THE SERVICES, (v) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL, (d) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (e) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (f) THE IMPROPER AUTHORIZATION FOR THE SERVICES BY SOMEONE CLAIMING SUCH AUTHORITY; or (g) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES.

25. Notice

Notices to you may be made via either email or regular mail. 23andMe may also provide notices of changes to the TOS or other matters by displaying notices or links to notices to you generally on or through the Services.

Official notices related to this TOS must be sent to us at: 23andMe, Inc.
ATTN: General Counsel
1390 Shorebird Way
Mountain View, CA 94043

Additionally, 23andMe accepts service of process at this address. Any notices that you provide without compliance with this section on Notices shall have no legal effect.

26. Changes to the Terms of Service

23andMe may make changes to the TOS from time to time. When these changes are made, 23andMe will make a new copy of the TOS available on its website and any new additional terms will be made available to you from within, or through, the affected Services.

You acknowledge and agree that if you use the Services after the date on which the TOS have changed, 23andMe will treat your use as acceptance of the updated TOS.

27. Violation or Suspected Violation of Terms of Service

If you violate the terms of these TOS and/or 23andMe has a reasonable ground to suspect that you have violated the terms of these TOS, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

28. Miscellaneous

- a. **Entire Agreement.** The TOS constitute the entire agreement between you and 23andMe and govern your use of the Services, superseding any prior agreements between you and 23andMe on this subject. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software
- b. **Applicable law and arbitration.** Except for any disputes relating to intellectual property rights, obligations, or any infringement claims, any disputes with 23andMe arising out of or relating to the Agreement ("**Disputes**") shall be governed by California law regardless of your country of origin or where you access 23andMe, and notwithstanding of any conflicts of law principles and the United Nations Convention for the International Sale of Goods. Any Disputes shall be resolved by final and binding arbitration under the rules and auspices of the American Arbitration Association, to be held in San Francisco, California, in English, with a written decision stating legal reasoning issued by the arbitrator(s) at either party's request, and with arbitration costs and reasonable documented attorneys' costs of both parties to be borne by the party that ultimately loses. Either party may obtain injunctive relief (preliminary or permanent) and orders to compel arbitration or enforce arbitral awards in any court of competent jurisdiction.
- c. **Waiver.** The failure of 23andMe to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.
- d. **Term for cause of action.** You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- e. **Admissibility of printed version.** A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.
- f. **Section titles.** The section titles in the TOS are for convenience only and have no legal or contractual effect.
- g. **Severability Clause.** If any portion of these TOS is found to be unenforceable, the remaining portion will remain in full force and effect.
- h. **Amendments.** We reserve the right to modify, supplement or replace the terms of the Agreement, effective upon posting at www.23andMe.com or notifying you otherwise. If you do not want to agree to changes to the Agreement, you can terminate the Agreement at any time per Section 18 (Termination).

- i. **Assignment:** You may not assign or delegate any rights or obligations under the Agreement. Any purported assignment and delegation shall be ineffective. We may freely assign or delegate all rights and obligations under the Agreement, fully or partially without notice to you. We may also substitute, by way of unilateral novation, effective upon notice to you, 23andMe for any third party that assumes our rights and obligations under this Agreement.

**ABOUT**

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US
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 Affiliates

LEGAL

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**CONNECT
WITH US**

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CHANGE LOCATION

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EXHIBIT B

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Who We Are:

[Board of Directors](#)
[Leadership Team](#)
[Editorial Advisors](#)
[Scientific Advisory Board](#)
[Research Team](#)

Terms of Service

1. Definitions

- **"23andMe"** means 23andMe, Inc., whose principal place of business is at 1390 Shorebird Way, Mountain View, CA 94043.
- **"23andWe Research"** means scientific research that 23andMe performs with the intent to publish in a peer-reviewed scientific journal. 23andWe Research only uses Genetic and Self-Reported Information from users who have given consent according to the applicable Consent Document. 23andWe Research activities do not include R&D.
- **"R&D"** means research and development activities performed by 23andMe on user data. These activities may include, among other things, improving our Services and/or offering new products or services to you; performing quality control activities; conducting data analysis that may lead to and/or include commercialization with a third party.
- **"Service"** or **"Services"** means 23andMe's products, software, services, and website (including but not limited to text, graphics, images, and other material and information) as accessed from time to time by the user, regardless if the use is in connection with an account or not.
- **"Personal Information"** is information that can be used to identify you, either alone or in combination with other information. 23andMe collects and stores the following types of Personal Information:
 - **"Registration Information"** is the information you provide about yourself when registering for and/or purchasing our Services (e.g. name, email, address, user ID and password, and payment information).
 - **"Genetic Information"** is information regarding your genotype (e.g. the As, Ts, Cs, and Gs at particular locations in your genome), generated through processing of your saliva by 23andMe or by its contractors, successors, and assignees; or otherwise processed by and/or contributed to 23andMe.
 - **"Self-Reported Information"** is all information about yourself, including your disease conditions, other health-related information, personal traits, ethnicity, family history, and other information that you enter into surveys, forms, or features while signed in to your 23andMe account. Self-Reported Information is included in 23andWe Research only if it has been indicated for

23andMe Research use on the website and if you have given consent as described in the applicable Consent Document.

- **"User Content"** is all information, data, text, software, music, audio, photographs, graphics, video, messages, or other materials - *other than* Genetic Information and Self-Reported Information-generated by users of 23andMe Services and transmitted, whether publicly or privately, to or through 23andMe.
- **"Web Behavior Information"** is information on how you use the 23andMe website (e.g. browser type, domains, page views) collected through log files, cookies, and web beacon technology.
- **"Aggregated Genetic and Self-Reported Information"** is Genetic and Self-Reported Information that has been stripped of Registration Information and combined with data from a number of other users sufficient to minimize the possibility of exposing individual-level information while still providing scientific evidence.

2. Acceptance of Terms

Your use of 23andMe's Services (excluding any services provided by 23andMe under a separate agreement) is subject to the terms of the legal agreement between you and 23andMe set forth in these Terms of Service ("TOS"). Except as specified herein, these TOS apply to any use of the Services, including but not limited to a) submitting a saliva sample for DNA extraction and processing, b) uploading a digital version of your Genetic Information and interacting with it on the 23andMe website, and/or c) creating and using a free 23andMe account without providing your saliva sample or Genetic Information. In order to use the Services, you must first agree to the TOS. You may not use the Services if you do not accept the TOS. You can accept the TOS by (1) clicking to accept or agree to the TOS, where this option is made available to you by 23andMe for any Service; or by (2) actually using the Services. In this case, you acknowledge and agree that 23andMe will treat your use of the Services as acceptance of the TOS from that point onwards. In addition, when using particular 23andMe Services, you shall be subject to any guidelines or rules applicable to such services that may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the TOS. 23andMe also may offer other services from time to time that are governed by different terms of service.

3. Prerequisites

- a. Whether you submit your own saliva sample, a saliva sample for anyone for whom you have legal authority to agree, or otherwise provide your own Genetic Information, you may not use the Services and may not accept the TOS if (1) you are not of legal age to form a binding contract with 23andMe, or (2) you are a person barred from receiving the Services under the laws of the jurisdiction in which you are resident or from which you use the Services.
- b. In addition to the conditions above, if you contribute or otherwise provide your own Genetic Information, you must be eighteen (18) years of age or older to agree to these TOS on behalf of yourself or those for whom you have legal authority to agree.

- c. If your use of the Services includes creating a 23andMe account, without submitting a saliva sample or otherwise providing Genetic Information, you must be thirteen (13) years of age or older to use the Services and accept the TOS.

4. Description of the Services

The Services include access to the 23andMe public website and personal genotyping services, including the collection and analysis of your saliva sample. Unless explicitly stated otherwise, each new feature that augments or enhances the current Service shall be subject to the TOS. You acknowledge and agree that the Services are provided "AS-IS" and are based on the current state of the art of genetic research and technology in use by 23andMe at the time of the purchase or viewing. As research progresses and scientific knowledge and technology evolve, 23andMe is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which 23andMe provides may change from time to time without prior notice to you. As part of this continuing innovation, you acknowledge and agree that 23andMe may stop (permanently or temporarily) providing some Services (or any features within the Services) to you or to users generally at 23andMe's sole discretion, without prior notice to you. You may stop using the Services at any time. You do not need to specifically inform 23andMe when you stop using the Services unless you are requesting closure of your account. 23andMe assumes no responsibility for the use of Services outside the terms of this TOS or other applicable terms.

In order to use the Services, you must obtain Internet access, either directly or through devices that access web-based content, and pay any service fees associated with such access. You are solely responsible for paying such fees. In addition, you must provide all equipment necessary to make such Internet connection, including a computer and modem or other access device. You are solely responsible for providing such equipment. You acknowledge and agree that while 23andMe may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by 23andMe at any time, at 23andMe's discretion.

5. Risks and Considerations Regarding 23andMe Services

Once you obtain your Genetic Information, the knowledge is irrevocable. You should not assume that any information we may be able to provide to you, whether now or as genetic research advances, will be welcome or positive. You should also understand that as research advances, in order for you to assess the meaning of your DNA in the context of such advances, you may need to obtain further services from 23andMe or from your physician or other health care provider.

You may learn information about yourself that you do not anticipate.

This information may evoke strong emotions and has the potential to alter your life and worldview. You may discover things about yourself that trouble you and that you may not have the ability to control or change (e.g., your father is not genetically your father, surprising facts related to your ancestry, or that someone with your genotype may have a higher than average chance of developing a specific condition or disease). These outcomes could have social, legal, or economic implications.

The laboratory may not be able to process your sample, and the laboratory process may result in errors.

The laboratory may not be able to process your sample if your saliva does not contain a sufficient volume of DNA, you do not provide enough saliva, or the results from processing do not meet our standards for accuracy. If the initial processing fails for any of these reasons, 23andMe will reprocess the same sample at no charge to the user. If the second attempt to process the same sample fails, 23andMe will offer to send another kit to the user to collect a second sample at no charge. If the user declines this option, the user is entitled solely and exclusively to a complete refund of the amount paid to 23andMe, less shipping and handling, provided that the user shall not resubmit another sample through a future purchase of the service. If the user opts to receive another sample collection kit and 23andMe's attempts to process the second sample are unsuccessful, 23andMe will not send additional sample collection kits and the user will be entitled solely and exclusively to a complete refund of the amount paid to 23andMe, less shipping and handling, provided the user shall not resubmit another sample through a future purchase of the service. If the user breaches this policy agreement and resubmits another sample through a future purchase of the service and processing is not successful, 23andMe will not offer to reprocess the sample or provide the user a refund. Even for processing that meets our high standards, a small, unknown fraction of the data generated during the laboratory process may be un-interpretable or incorrect (referred to as "Errors"). As this possibility is known in advance, users are not entitled to refunds where these Errors occur.

You should not change your health behaviors solely on the basis of information from 23andMe.

Make sure to discuss your Genetic Information with a physician or other health care provider before you act upon the Genetic Information resulting from 23andMe Services. For most common diseases, the genes we know about are only responsible for a small fraction of the risk. There may be unknown genes, environmental factors, or lifestyle choices that are far more important predictors. If your data indicate that you are not at elevated genetic risk for a particular disease or condition, you should not feel that you are protected. The opposite is also true; if your data indicate you are at an elevated genetic risk for a particular disease or condition, it does not mean you will definitively develop the disease or condition. In either case, if you have concerns or questions about what you learn through 23andMe, you should contact your physician or other health care provider.

Genetic research is not comprehensive. While we measure many hundreds of thousands of data points from your DNA, only a small percentage of them are known to be related to human traits or health conditions. The research community is rapidly learning more about genetics, and an important mission of 23andMe is to conduct and contribute to this research. In addition, many ethnic groups are not included in genetic studies. Because interpretations provided in our service rely on these published studies, some interpretations may not apply to you. Future scientific research may change the interpretation of your DNA. In the future, the scientific community may show previous research to be incomplete or inaccurate.

Genetic Information you share with others could be used against your interests. You should be careful about sharing your Genetic Information with others. Currently, very few businesses or insurance companies request genetic information, but this could change in the future. While the Genetic Information Nondiscrimination Act was signed into law in the United States in 2008, its protection against discrimination by employers and health insurance companies for employment and coverage issues has not been clearly established. In addition, GINA does not cover life or disability insurance providers. Some, but not all, states and other jurisdictions have laws that protect individuals with regard to their Genetic Information. You may want to consult a lawyer to understand the extent of legal protection of your Genetic Information before you share it with anybody.

Furthermore, Genetic Information that you choose to share with your physician or other health care provider may become part of your medical record and through that route be accessible to other health care providers and/or insurance companies in the future. Genetic Information that you share with family, friends or employers may be used against your interests. Even if you share Genetic Information that has no or limited meaning today, that information could have greater meaning in the future as new discoveries are made. If you are asked by an insurance company whether you have learned Genetic Information about health conditions and you do not disclose this to them, this may be considered to be fraud.

23andMe Services are for research, informational, and educational use only. We do not provide medical advice. The Genetic Information provided by 23andMe is for research, informational, and educational use only. This means two things. First, many of the genetic discoveries that we report have not been clinically validated, and the technology we use, which is the same technology used by the research community, to date has not been widely used for clinical testing. Second, in order to expand and accelerate the understanding and practical application of genetic knowledge in health care, we invite all genotyped users to participate in 23andMe Research. Participation in such research is voluntary and based upon an IRB-approved consent document. As a result of the current state of genetic knowledge and understanding, our Services are for research, informational, and educational purposes only. The Services are not intended to be used by the customer for any diagnostic purpose and are not a substitute for professional medical advice. You should always seek

the advice of your physician or other health care provider with any questions you may have regarding diagnosis, cure, treatment, mitigation, or prevention of any disease or other medical condition or impairment or the status of your health.

23andMe does not endorse, warranty or guarantee the effectiveness of any specific course of action, resources, tests, physician or other health care providers, drugs, biologics, medical devices or other products, procedures, opinions, or other information that may be mentioned on our website. If we provide to you on our website any recommendations that identify for you, based on your Genetic and Self-Reported Information and scientific literature or research, potentially actionable information, this information is intended for informational purposes only and for discussion with your physician or other healthcare provider. As explained on our website, 23andMe believes that (a) genetics is only part of the picture of any individual's state of being, (b) the state of the understanding of Genetic Information is rapidly evolving and at any given time we only comprehend part of the picture of the role of genetics, and (c) only a trained physician or other health care provider can assess your current state of health or disease, taking into account many factors, including in some cases your genetics as well as your current symptoms, if any. Reliance on any information provided by 23andMe, 23andMe employees, others appearing on our website at the invitation of 23andMe, or other visitors to our website is solely at your own risk.

While we are licensed in California as a clinical laboratory, not all jurisdictions require our Services to be subject to license. Therefore, we are not universally licensed by all state, federal, or international authorities for genetic testing conducted for health and disease-related purposes. In addition, there are certain jurisdictions in which we do not offer our Services because we do not have required licenses.

6. User Representations

By accessing 23andMe Services, you agree to, acknowledge, and represent as follows:

- a. You understand that information you learn from 23andMe is not designed to independently diagnose, prevent, or treat any condition or disease or to ascertain the state of your health in the absence of medical and clinical information. You understand that the 23andMe services are intended for research, informational, and educational purposes only, and that while 23andMe information might point to a diagnosis or to a possible treatment, it should always be confirmed and supplemented by additional medical and clinical testing and information. You acknowledge that 23andMe urges you to seek the advice of your physician or other health care provider if you have questions or concerns arising from your Genetic Information.
- b. You give permission to 23andMe, its contractors, successors and assignees to perform genotyping services on the DNA extracted from your saliva sample and you specifically request 23andMe to disclose

- the results of analyses performed on your DNA to you and to others you specifically authorize.
- c. You represent that you are eighteen (18) years of age or older if you are providing a saliva sample or accessing your Genetic Information.
 - d. You are guaranteeing that any sample you provide is your saliva; if you are agreeing to these TOS on behalf of a person for whom you have legal authorization, you are confirming that the sample provided will be the sample of that person.
 - e. If you are a customer outside the U.S. providing a saliva sample, you confirm that this act is not subject to any export ban or restriction in the country in which you reside.
 - f. You agree that any saliva sample you provide and all resulting data may be transferred and/or processed outside the country in which you reside.
 - g. You are warranting that you are not an insurance company or an employer attempting to obtain information about an insured person or an employee.
 - h. You are aware that some of the information you receive may provoke strong emotion.
 - i. You take responsibility for all possible consequences resulting from your sharing with others access to your Genetic Information and your Self-Reported Information.
 - j. You understand that all your Personal Information will be stored in 23andMe databases and will be processed in accordance with the 23andMe Privacy Statement.
 - k. Waiver of Property Rights: You understand that by providing any sample, having your Genetic Information processed, accessing your Genetic Information, or providing Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by 23andMe or its collaborating partners. You specifically understand that you will not receive compensation for any research or commercial products that include or result from your Genetic Information or Self-Reported Information.

You agree that you have the authority, under the laws of the state or jurisdiction in which you reside, to provide these representations. In case of breach of any one of these representations 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

7. Account Creation, Customer Account, Password, and Security Obligations

In consideration of your use of the Services, you agree to: (a) provide true, accurate, current, and complete Registration Information about yourself as prompted by the Service; and (b) maintain and promptly update the Registration Information to keep it true, accurate, current, and complete. If you provide any Registration Information that is untrue, inaccurate, not current, or incomplete, or if 23andMe has a reasonable ground to suspect

that such information is untrue, inaccurate, not current, or incomplete, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

After you have purchased our Service, you will create a password and account designation. You are responsible for maintaining the confidentiality of the password and account, and are fully responsible for all activities that occur under your password or account. If you allow third parties to access 23andMe's website through your username and password, you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages, including attorney fees, arising out of claims or suits by such third parties based upon or relating to such access and use. You agree to (a) immediately notify 23andMe of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session. 23andMe cannot and will not be liable for any loss or damage arising from your failure to comply with this Section.

8. 23andMe Privacy Statement and Disclosure of Information

In order to use the Services, you must first acknowledge and agree to the Privacy Statement. You may not use the Services if you do not accept the Privacy Statement. You can acknowledge and agree to the Privacy Statement by (1) clicking to accept or agree to the Privacy Statement, where this option is made available to you by 23andMe for any Service; or by (2) actually using the Services.

You acknowledge and agree that 23andMe has the right to monitor any use of its systems by its personnel at any time and maintain copies documenting such monitoring. Our Privacy Statement sets forth the only expectations of privacy any individual should have in terms of usage of the 23andMe Services, website, or other systems. If you have given consent for your Genetic Information and Self-Reported Information to be used in 23andMe Research as described in the applicable Consent Document, we may include your information in the Aggregated Genetic Information and Self-Reported Information we disclose to third parties for the purpose of publication in a peer-reviewed scientific journal. 23andMe may also include your information in Aggregated Genetic and Self-Reported Information disclosed to third-party non-profit and/or commercial research partners who will not publish that information in a peer-reviewed scientific journal. 23andMe will never release your individual-level Genetic Information and/or Self-Reported Information to any third party without asking for and receiving your explicit consent to do so, unless required by law. Further, you acknowledge and agree that 23andMe is free to preserve and disclose any and all Personal Information to law enforcement agencies or others if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process (such as a judicial proceeding, court order, or government inquiry) or obligations that 23andMe may owe pursuant to ethical and other professional rules, laws, and regulations; (b) enforce the 23andMe TOS; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of 23andMe, its employees, its users, its

clients, and the public. In such event we will notify you through the contact information you have provided to us in advance, unless doing so would violate the law or a court order. You understand that the technical processing and transmission of the Services, including your Personal Information, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks, or devices. Finally, 23andMe may, in its sole discretion, restrict access to the website for any reason.

Please refer to our Privacy Statement to read about data protection related to your information. See our complete Privacy Statement [here](#).

9. Limited License

You acknowledge that all User Content, whether publicly posted or privately transmitted, is the sole responsibility of the person from which such User Content originated. This means that you, and not 23andMe, are entirely responsible for all User Content that you upload, post, email, or otherwise transmit via the Service.

You acknowledge that the Services content presented to you as part of the Services, whether original 23andMe Services content or sponsored content within the Services, is protected by copyright and/or other intellectual property rights that are owned by 23andMe and/or the sponsors who provide that content to 23andMe (or by other persons or companies on their behalf). 23andMe grants you a Limited License to copy and distribute free of charge, for non-commercial purposes only, any of the Services content with the exception of content from "MD's Perspectives" in the "For the Experts" section of the website and any other content marked as not subject to this Limited License on the website, provided you: (i) provide the Services content as it appears on the 23andMe website with no changes including but not limited to presenting selections which might tend to misrepresent the substance of the Services content; (ii) include the following attribution on the first page of any materials you distribute: © 23andMe, Inc. 2007-2013. All rights reserved; distributed pursuant to a Limited License from 23andMe; (iii) agree you have no right to offer anyone else any further right with respect to this Services content. Aside from the Limited License provided in this paragraph, you may not modify, rent, lease, loan, sell, distribute, or create derivative works based on this Services content (either in whole or in part) unless you have been specifically told that you may do so by 23andMe or by the owners of that content, in a separate agreement.

10. Customer Conduct - Unlawful and Prohibited Use

As a condition of your use of the Services, you warrant to 23andMe that you will not use the Services for any purpose that is unlawful or prohibited by these terms, conditions, or notices. You may not use the Services in any manner that could damage, disable, overburden, or impair the Services or interfere with any other party's use and enjoyment of the Services. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or

provided for through the Services. Furthermore you agree not to use the Services to: (1) upload, post, email, or otherwise transmit any material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that might reasonably be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, religious or political beliefs, or other statutorily protected status; (2) impersonate any person or entity, including, but not limited to, anyone affiliated with 23andMe, or falsely state or otherwise misrepresent your affiliation with a person or entity; (3) add your own headers, forge headers, or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Service; (4) "stalk" or otherwise harass another; (5) upload, post, email, or otherwise transmit any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (6) use any information received through the Services to attempt to identify other customers, to contact other customers (other than through features for contacting other users such as DNA Relatives offered pursuant to the Services), or for any forensic use; (7) download any file posted by another user of the Service that you know, or reasonably should know, cannot legally be distributed in such manner; (8) upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights ("Rights") of 23andMe or any other party; (9) harm minors in any way; (10) advertise or offer to sell or buy any goods or services for any business purpose, unless such area specifically allows such messages; (11) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that are designated for such purpose and only to the extent such content is authorized by law; (12) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (13) use manual or automated software, devices, scripts robots, other means or processes to access, "scrape," "crawl" or "spider" any web pages or other services contained in the site, unless explicitly permitted by 23andMe; (14) engage in "framing," "mirroring," or otherwise simulating the appearance or function of 23andMe's website; (15) attempt to or actually override any security component of 23andMe web services; (16) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service; (17) violate these Terms of Service, any code of conduct or other guidelines which may be applicable for any particular area of the Service or have been communicated to you by anyone affiliated with 23andMe; or (18) intentionally or unintentionally violate any applicable local, state, national, or international law, or any regulations having the force of law.

You acknowledge and agree that you are solely responsible for (and that 23andMe has no responsibility to you or to any third party for) any breach of your obligations under the TOS and for the consequences (including any loss or damage which 23andMe may suffer) of any such breach. In case of breach of any one of these agreements 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify 23andMe and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

If you violate the terms of this Section and/or 23andMe has a reasonable ground to suspect that you have violated the terms of this Section, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

11. Export Control and Applicable Laws and Regulations

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. Specifically, you agree 1) that providing your sample is not subject to any export ban or restriction in the country in which you reside, 2) that your sample and data may be transferred and/or processed outside the country in which you reside, and 3) that you will comply with all applicable laws regarding the transmission of technical data exported from the United States or the country from which you access 23andMe's Services online.

12. Material Posted Through The Service

23andMe will not, at all times, control any of the User Content posted via the Service and, as such, does not guarantee the accuracy, integrity, or quality of such non-23andMe content. You understand that by using the Services, you may be exposed to content that is offensive, indecent, or objectionable. Under no circumstances will 23andMe be liable in any way for any non-23andMe content, including, but not limited to, any errors or omissions in any such content, or for any loss or damage of any kind incurred as a result of the use of any such content posted, emailed, or otherwise transmitted via the Services.

You acknowledge that 23andMe and its designees shall have the right (but not the obligation) in their sole discretion to pre-screen, review, filter, modify, refuse, or move any content that is available via the Services. Without limiting the foregoing, 23andMe and its designees shall have the right to remove any content that violates the TOS or is deemed by 23andMe, in its sole discretion, to be otherwise objectionable. You acknowledge and agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

13. Material Provided to 23andMe - Your Proprietary Rights

User Content. 23andMe does not claim ownership of the User Content you provide to 23andMe (including feedback and suggestions) or post, upload, input, or submit to the Service. Unless otherwise specified, you retain copyright and any other rights you already hold over User Content that you create and submit, post, or display on or through the Services. However, by submitting, posting, or displaying User Content, you give 23andMe, its affiliated companies, sublicensees (including but not limited to sublicensees who avail themselves of the Limited License granted in Section 9 above) and successors and assigns a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, distribute, reproduce, edit, reformat, and create derivative works from any User Content that you submit, post, or display on or through the Services. You acknowledge and agree that this license includes a right for 23andMe to make such User Content available to other companies, organizations, or individuals with whom 23andMe has relationships, and to use such User Content in connection with the provision of those services.

You understand that 23andMe, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your User Content over various public networks and in various media; and (b) make such changes to your content as are necessary to conform and adapt that content to the technical requirements of connecting networks, devices, services, or media. You acknowledge and agree that this license shall permit 23andMe to take these actions. You represent and warrant to 23andMe that you have all the rights, power, and authority necessary to grant the above license.

Genetic and/or Self-Reported Information. Disclosure of individual-level Genetic and/or Self-Reported Information to third parties will not occur without explicit consent, unless required by law. Note that 23andMe cannot control any further distribution of Genetic and/or Self-Reported Information that you share publicly on the 23andMe website. You acknowledge and agree that you are responsible for protecting and enforcing those rights and that 23andMe has no obligation to do so on your behalf.

Your saliva sample, once submitted to and analyzed by us, is processed in an irreversible manner and cannot be returned to you. See our website for more information on sample processing. Any Genetic Information derived from your saliva remains your information, subject to rights we retain as set forth in these TOS. You understand that you should not expect any financial benefit from 23andMe as a result of having your Genetic Information processed; made available to you; or, as provided in our Privacy Statement and Terms of Service, shared with or included in Aggregated Genetic and Self-Reported Information shared with research partners, including commercial partners.

Waiver of Property Rights. As stated above, you understand that by providing any sample, having your Genetic Information processed, accessing your Genetic Information, or providing Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by 23andMe or its collaborating partners. You

specifically understand that you will not receive compensation for any research or commercial products that include or result from your Genetic Information or Self-Reported Information.

14. Indemnity

You agree to defend and hold 23andMe, and its subsidiaries, affiliates, officers, agents, contractors, partners, employees, successors, and assigns harmless from any claim, or demand, including reasonable attorneys' fees, made by any third party due to or arising out of User Content you submit, post to, or transmit through the Service; your use of the Service; your connection to the Service; your violation of the TOS; or your violation of any rights of another.

If you have submitted a saliva sample or otherwise provided your own Genetic Information, you will defend and hold harmless 23andMe, its employees, contractors, successors, and assigns from any liability arising out of the use or disclosure of any information obtained from genotyping your saliva sample and/or analyzing your Genetic Information, which is disclosed to you consistent with our Privacy Statement or results from any third-party add-ons to tools we provide. In addition, if you choose to provide your Genetic and/or Self-Reported Information to third parties - whether individuals to whom you facilitate access, intentionally or inadvertently, or to third parties for diagnostic or other purposes - you agree to defend and hold harmless 23andMe, its employees, contractors, successors, and assigns from any and all liability arising from such disclosure or use of your Genetic and/or Self-Reported Information.

15. No Resale of Service

Other than pursuant to the terms of the Limited License in Section 9 of this TOS or unless otherwise agreed in a separate agreement between you and 23andMe, you agree not to display, distribute, license, perform, publish, reproduce, duplicate, copy, create derivative works from, modify, sell, resell, exploit, transfer, or transmit for any commercial purposes, all or any portion of the Service, use of the Service, or access to the Service.

16. General Practices Regarding Use and Storage

You acknowledge that 23andMe may establish general practices and limits concerning use of the Services, including without limitation the maximum number of days that Personal Information and Services content will be retained by the Service, the maximum disk space that will be allotted on 23andMe's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Services in a given period of time. You acknowledge and agree that 23andMe has no responsibility or liability for the deletion of or failure to store any messages, other communications, or other content maintained or transmitted by the Services; or for the loss of Genetic Information due to malfunction or destruction of data servers or other catastrophic events. You further acknowledge that 23andMe reserves the right to change these general practices and limits in its sole discretion.

17. Modifications to Service

23andMe reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You acknowledge and agree that (i) modifications may result in a delay in computations for some of the 23andMe features or Services, and (ii) 23andMe shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services.

The Software that you use may from time to time automatically download and install updates from 23andMe. These updates are designed to improve, enhance, and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules, and completely new versions. You agree to receive such updates (and permit 23andMe to deliver these to you) as part of your use of the Services.

You acknowledge that 23andMe may offer different or additional technologies or features to collect and/or interpret Genetic Information in the future and that your initial purchase of the Service does not entitle you to any different or additional technologies or features for collection or interpretation of your Genetic Information without fee, and that you will have to pay additional fees in order to have your Genetic Information collected, processed, and/or interpreted using any future or additional technologies or features.

18. Termination

The TOS will continue to apply until terminated by either you or 23andMe as set out in this Section.

If you want to terminate your legal agreement with 23andMe, you may do so by notifying 23andMe at any time in writing, which will entail closing your accounts for all of the Services that you use. Your notice should be sent, in writing, to 23andMe's address, which is set out at the beginning of the TOS, or online via Customer Care. If you provide notice online, 23andMe will send you an email asking you to confirm your request, and your notice will be effective following receipt of a second email confirmation from you.

23andMe may at any time, terminate its legal agreement with you (and in conjunction therewith, your password and account(s)) if: (1) you have breached any provision of the TOS (or have acted in manner which shows that you do not intend to, or are unable to comply with, the provisions of the TOS); (2) 23andMe is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); (3) the partner with whom 23andMe offered the Services to you has terminated its relationship with 23andMe or ceased to offer the Services to you; (4) 23andMe is transitioning to no longer providing the Services to users in the country or state in which you reside or from which you use the Services; or (5) the provision of the Services to you by 23andMe is, in 23andMe's opinion, no longer commercially viable.

Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Services may be referred to appropriate law enforcement authorities. You acknowledge and agree that 23andMe shall not be liable to you or any third party for any termination of your access to the Services.

19. Survival of Terms

When the TOS come to an end, all of the legal rights, obligations, and liabilities that you and 23andMe have benefited from, been subject to (or which have accrued over time while the TOS have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of sections 1.(Definitions); 2.(Acceptance of Terms); 3.(Prerequisites); 4.(Description of the Services); 5.(Risks and Considerations Regarding 23andMe Services); 6.(Representations); 7.(Account Creation, Customer Account, Password and Security Obligations); 8.(23andMe Privacy Statement); 10.(Customer Conduct - Unlawful and Prohibited Use); 11.(Export Control and Applicable Laws and Regulations); 12.(Material Posted through the Service); 13.(Material Provided to 23andMe - Your Proprietary Rights); 14.(Indemnity); 15.(No resale of Services);18.(Termination); 19.(Survival of Terms); 20.(Dealings with Information Providers and Listed Resources); 21.(Hyperlinks and 23andMe Website); 22.(23andMe Proprietary Rights); 23.(DISCLAIMER OF WARRANTIES); 24.(LIMITATION OF LIABILITY); 25.(Notice); 27.(Violation or Suspected Violation of TOS); and 28.(Miscellaneous) shall continue to apply to such rights, obligations, and liabilities indefinitely.

20. Dealings with Information Providers and Listed Resources

Your correspondence or business dealings with-or participation in promotions of-information providers, vendors, and/or resources found on or through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such information provider or resource. You acknowledge and agree that 23andMe shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such information provider or resources on the Service.

21. Hyperlinks and the 23andMe Website

The Service provides, and third parties may provide, links to other sites and resources on the Internet. Because 23andMe has no control over such sites and resources, you acknowledge and agree that 23andMe is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that 23andMe shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods, or services available on or through any such hyperlinked site or resource.

22. 23andMe's Proprietary Rights

You acknowledge and agree that 23andMe (or 23andMe's licensors, as applicable) own all legal right, title, and interest in and to the Services, including any intellectual property rights (including but not limited to patents) which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by 23andMe and that you shall not disclose such information without 23andMe's prior written consent.

You further acknowledge and agree that the Services and any necessary software used in connection with the Services ("Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that information presented to you through the Services or sponsors is protected by copyrights, trademarks, service marks, patents, or other proprietary rights and laws. Except as expressly authorized by 23andMe, you agree not to and not to permit anyone else to modify, rent, lease, loan, sell, distribute, or create derivative works of, reverse engineer, decompile, or otherwise attempt to extract the source code of the Services or Software or any part thereof, in whole or in part. Software, if any, that is made available to download from the Services, excluding software that may be made available by end-users through the Services, is the copyrighted work of 23andMe and/or its suppliers. Your use of the Software is governed by the terms of the end user license agreement, if any, which accompanies or is included with the Software ("License Agreement"). You may not install or use any Software that is accompanied by or includes a License Agreement unless you first agree to the License Agreement terms.

23andMe, Inc., 23andMe, and other 23andMe logos and product and service names are trademarks of 23andMe and these marks together with any other 23andMe trade names, service marks, logos, domain names, and other distinctive brand features are the "**23andMe Marks**". Unless you have agreed otherwise in writing with 23andMe, other than through the Limited License in Section 9, nothing in the TOS gives you a right to use any 23andMe Marks and you agree not to display, or use in any manner, 23andMe Marks.

You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) that may be affixed to or contained within the Services.

Unless you have been expressly authorized to do so in writing by 23andMe, you agree that in using the Services, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names, or logos.

For any Software not accompanied by a License Agreement, 23andMe grants you a personal, non-transferable, and non-exclusive right and license to use the object code of its Software on a single computer. You

may not (and may not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in, or otherwise transfer any right in the Software unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by 23andMe, in writing. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by 23andMe, in the manner permitted by the TOS. Unless 23andMe has given you specific written permission to do so, you may not assign (or grant a sublicense of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by 23andMe for use in accessing the Service. Any rights not expressly granted herein are reserved.

23. Disclaimer of Warranties

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT: (1) YOUR USE OF THE SERVICES ARE AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. 23ANDME EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. (2) 23ANDME MAKES NO WARRANTY THAT (a) THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, UNFAILINGLY SECURE, OR ERROR-FREE; (c) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS AND (e) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. (3) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. (4) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM 23ANDME OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS. (5) YOU SHOULD ALWAYS USE CAUTION WHEN GIVING OUT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT YOURSELF OR THOSE FOR WHOM YOU HAVE LEGAL AUTHORITY. 23ANDME DOES NOT CONTROL OR ENDORSE ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES AND, THEREFORE, 23ANDME

SPECIFICALLY DISCLAIMS ANY LIABILITY WITH REGARD TO ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES.

24. Limitation of Liability

WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT 23ANDME SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF 23ANDME HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICES; (b) ANY ACTION YOU TAKE BASED ON THE INFORMATION YOU RECEIVE IN THROUGH OR FROM THE SERVICES, (v) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL, (d) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (e) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (f) THE IMPROPER AUTHORIZATION FOR THE SERVICES BY SOMEONE CLAIMING SUCH AUTHORITY; or (g) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES.

25. Notice

Notices to you may be made via either email or regular mail. 23andMe may also provide notices of changes to the TOS or other matters by displaying notices or links to notices to you generally on or through the Services.

Official notices related to this TOS must be sent to us at: 23andMe, Inc.
ATTN: General Counsel
1390 Shorebird Way
Mountain View, CA 94043

Additionally, 23andMe accepts service of process at this address. Any notices that you provide without compliance with this section on Notices shall have no legal effect.

26. Changes to the Terms of Service

23andMe may make changes to the TOS from time to time. When these changes are made, 23andMe will make a new copy of the TOS available on its website and any new additional terms will be made available to you from within, or through, the affected Services.

You acknowledge and agree that if you use the Services after the date on which the TOS have changed, 23andMe will treat your use as acceptance of the updated TOS.

27. Violation or Suspected Violation of Terms of Service

If you violate the terms of these TOS and/or 23andMe has a reasonable ground to suspect that you have violated the terms of these TOS, 23andMe has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

28. Miscellaneous

- a. **Entire Agreement.** The TOS constitute the entire agreement between you and 23andMe and govern your use of the Services, superseding any prior agreements between you and 23andMe on this subject. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software
- b. **Applicable law and arbitration.** Except for any disputes relating to intellectual property rights, obligations, or any infringement claims, any disputes with 23andMe arising out of or relating to the Agreement ("**Disputes**") shall be governed by California law regardless of your country of origin or where you access 23andMe, and notwithstanding of any conflicts of law principles and the United Nations Convention for the International Sale of Goods. Any Disputes shall be resolved by final and binding arbitration under the rules and auspices of the American Arbitration Association, to be held in San Francisco, California, in English, with a written decision stating legal reasoning issued by the arbitrator(s) at either party's request, and with arbitration costs and reasonable documented attorneys' costs of both parties to be borne by the party that ultimately loses. Either party may obtain injunctive relief (preliminary or permanent) and orders to compel arbitration or enforce arbitral awards in any court of competent jurisdiction.
- c. **Waiver.** The failure of 23andMe to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.
- d. **Term for cause of action.** You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- e. **Admissibility of printed version.** A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

- f. **Section titles.** The section titles in the TOS are for convenience only and have no legal or contractual effect.
- g. **Severability Clause.** If any portion of these TOS is found to be unenforceable, the remaining portion will remain in full force and effect.
- h. **Amendments.** We reserve the right to modify, supplement or replace the terms of the Agreement, effective upon posting at www.23andMe.com or notifying you otherwise. If you do not want to agree to changes to the Agreement, you can terminate the Agreement at any time per Section 18 (Termination).
- i. **Assignment:** You may not assign or delegate any rights or obligations under the Agreement. Any purported assignment and delegation shall be ineffective. We may freely assign or delegate all rights and obligations under the Agreement, fully or partially without notice to you. We may also substitute, by way of unilateral novation, effective upon notice to you, 23andMe for any third party that assumes our rights and obligations under this Agreement.



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- Privacy Center (new)
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- Cookie Policy
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CONNECT WITH US

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- Google Plus
- YouTube

CHANGE LOCATION

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