

## uBiome Website and Services Terms of Service

These Website and Services Terms of Service (these "Terms") govern your use of [www.ubiome.com](http://www.ubiome.com), [register.ubiome.com](http://register.ubiome.com), other websites operated by uBiome, mobile applications provided by uBiome, and services of uBiome. We are committed to providing you a secure, user-controlled environment for the use of our Services. At the same time, you share responsibility for maintaining privacy and security - for example, by keeping your password secure.

By accessing or using the Service, submitting a sample creating an account or clicking a button or checking a box marked "I Agree" or something similar, you signify that you have read, understood, and agree to be bound by these Terms, to the collection and use of your information as set forth in the uBiome Privacy Policy ([www.ubiome.com](http://www.ubiome.com)). These Terms apply to all visitors, users, and others who register for or otherwise access the Service.

Certain Services may be subject to additional terms and conditions specified by us from time to time, and your use of such services is subject to those additional terms and conditions, which are hereby incorporated into these Terms by reference

PLEASE READ THESE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THESE TERMS AFFECT YOUR LEGAL RIGHTS, INCLUDING LIMITING YOUR DAMAGES IF YOU SUE US, SO PLEASE READ IT CAREFULLY. THESE TERMS ALSO CONTAIN A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

### 1. Definitions

- a. "Aggregated Microbiome and Self-Reported Information" is Microbiome Information 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.
- b. "Microbiome Information" is information regarding your microbiome, generated through processing of your sample by uBiome or by its contractors, successors, and assignees; or otherwise processed by and/or contributed to uBiome.
- c. "Personal Information" is information that can be used to identify you, either alone or in combination with other information. uBiome collects and stores the following types of Personal Information Registration Information Self-Reported Information, Microbiome Information.

d. "R&D" means research and development activities performed by uBiome 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.

e. "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).

f. "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 uBiome account. Self-Reported Information is included in uBiome R&D only if it has been indicated for uBiome Research use on the website and if you have given consent as described in the applicable Consent Document.

g. "Service" or "Services" means uBiome's products, software, services, and website (including but not limited to uBiome's Microbiome analysis services, 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. The Services include access to the uBiome public website and personal services, including the collection and analysis of your sample.

h. "uBiome", "we", "our" or "us" means uBiome, Inc. whose principal place of business is at 180 Steuart Street, San Francisco, CA 94105.

i. "User Content" is all information, data, text, software, music, audio, photographs, graphics, video, messages, or other materials - other than Microbiome Information and Self-Reported Information-generated by users of uBiome Services and transmitted, whether publicly or privately, to or through uBiome.

## 2. Prerequisites

a. Whether you submit your own sample, submit a sample for another person, or otherwise provide your own Microbiome Information, you may not use the Services and may not accept these Terms if (1) you are not of legal age to form a binding contract with uBiome, (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, (3) have been previously denied use of the Services, or (4) you are using the Services on behalf of another person, but you do not have the legal authority to enter into an agreement on behalf of such other person.

b. In addition to the conditions above, if you contribute or otherwise provide your own Microbiome Information, you must be eighteen (18) years of age or older to agree to these Terms on behalf of yourself or those for whom you have legal authority to agree.

c. If your use of the Services includes creating a uBiome account, without submitting a sample or otherwise providing Microbiome Information, you must be thirteen (13) years of age or older to use the Services and accept these Terms.

### 3. Use of the Services

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 uBiome 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 uBiome at any time, at uBiome's discretion.

You may stop using the Services at any time. You do not need to specifically inform uBiome when you stop using the Services unless you are requesting closure of your account. uBiome assumes no responsibility for the use of Services outside of these Terms or other applicable terms.

### 4. Risks and Considerations Regarding uBiome Services

Once you obtain your Microbiome Information, the knowledge is irrevocable. You should not assume that any information we may be able to provide to you, whether now or as Microbiome 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 sample data in the context of such advances, you may need to obtain further services from uBiome 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. 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 sample does not contain a sufficient material, or the results from processing do not meet our standards for accuracy. If the initial processing fails for any of these reasons, uBiome will reprocess the same sample at no charge to you. 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 uBiome. Make sure to discuss your Microbiome Information with a physician or other health care provider before you act upon your Microbiome Information or other information that we provide. 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 Microbiome Information indicates that you are not at elevated microbiome risk for a particular disease or condition, you should not feel that you are protected. The opposite is also true; if your Microbiome Information indicates that you are at an elevated risk for a particular disease or condition, it does not mean you will definitely develop the disease or condition. In either case, if you have concerns or questions about what you learn through uBiome, you should contact your physician or other health care provider. Microbiome research is not comprehensive. While we measure many hundreds of thousands of data points from your microbiome, 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 the microbiome, and an important mission of uBiome is to conduct and contribute to this research. In addition, many ethnic groups are not included in microbiome 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 microbiome. In the future, the scientific community may show previous research to be incomplete or inaccurate. Microbiome Information you share with others could be used against your interests. You should be careful about sharing your Microbiome Information with others. Currently, very few businesses or insurance companies request microbiome information, but this could change in the future. You may want to consult a lawyer to understand the extent of legal protection of your Microbiome Information before you share it with anybody. Furthermore, Microbiome 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. Microbiome Information that you share with family, friends or employers may be used against your interests. Even if you share Microbiome 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 Microbiome Information about health conditions and you do not disclose this to them, this may be considered to be fraud. The Services are for research, informational, and educational use only. We do not provide medical advice. The Microbiome Information provided by uBiome is for research, informational, and educational use only. This means two things. First, many of the 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 microbiome knowledge in health care, we invite all genotyped users to participate in uBiome research. Participation in such research is voluntary and based upon a consent document approved by an institutional review board (a committee established the review and approve

biomedical research). As a result of the current state of microbiome knowledge and understanding, our Services are for research, informational, and educational purposes only. The Services are not intended to be used by you 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. uBiome 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, uBiome believes that:

- a. microbiomes are only part of the picture of any individual's state of being,
- b. the state of the understanding of microbiome information is rapidly evolving and at any given time we only comprehend part of the picture of the role of microbiomes, 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 microbiomes as well as your current symptoms, if any.

Reliance on any information provided by uBiome, uBiome employees, others appearing on our website at the invitation of uBiome, or other visitors to our website is solely at your own risk. The samples collected of your microbiome are may contain human material, but are not tested or processed to detect or analyze human material, and are treated accordingly.

## 5. Order Placement

a. **Placing an Order.** After you place an order we will review the information you provided for validity by verifying your method of payment, billing, and/or shipping address. Orders may not be accepted for delivery to certain addresses and territories based upon your location. We may contact you (via email or phone) if additional information is required to accept and process your order. In valid order information may result in delays processing your order. For purchases or any kits or other items purchased by you or which we ship to you in connection with the Services ("Products"), your receipt of an order confirmation does not constitute uBiome's acceptance of your order. Without prior notification, uBiome maintains the right to limit the Product order quantity and the right to refuse to sell Products to any customer for any reason or no reason at all. uBiome reserves the right not to sell to resellers, dealers, or distributors. If your order is canceled, we will attempt to notify you using the email address you have given us with the order.

b. **No Sales to Children.** uBiome does not sell Products through its Service for or to children, but only to adults, who can purchase with a credit card or other permitted

payment method. If you are under eighteen (18) years of age, you may use the Service only with involvement and consent of a parent or legal guardian.

c. Payment Methods. We accept various payment methods for Product purchases through our Service, including Mastercard, Visa, and American Express. We will bill your payment method when you place an order for a Product through the Service. uBiome will not fulfill any Product order without authorization validation of your purchase from your payment method.

d. Offers. You acknowledge and agree that any offers made available through the Service are subject to change at any time and from time to time.

e. Shipping. We will ship Products via the shipping method of our choice, on such other terms and conditions (such as applicable shipping and handling fees) that we may disclose to you at the time of your purchase. We do not guarantee the services of any shipping service, and delivery dates and times are estimates and are not guaranteed. We will, however, use commercially reasonable efforts to dispatch the Product to you as soon as reasonably possible after you place your order. During busy times, such as holiday periods and periods of inclement weather, there may be additional processing and shipping delays. You agree to not hold uBiome liable for any shipping issues. Most package carriers have a short time frame in which to initiate claims. We recommend that you inspect your package for damage immediately upon arrival. If there is a problem, contact the delivery service immediately to resolve any problems. Unless otherwise provided by notice from uBiome, all Products are shipped F.O.B. from any place we designate the Products to leave. At our discretion, we may choose to halt, or alter, the delivery of an order, even though it is in the hands of a delivery agent or shipping company. We may do this as a customer service or in cases where we suspect fraud. You agree to pay any additional charges that may arise to do circumstances in which we take such action.

f. Returns. uBiome will provide refunds for Products purchased through the Service solely in accordance with our Return Policy [[link](#)].

g. California Residents. The provider of services is set forth herein. If you are a California resident, in accordance with Cal. Civ. Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210 or (916) 445-1254.

## 6. User Representations and Agreement

By accessing uBiome Services, you agree, acknowledge, and represent the following:

a. You understand that information you learn from uBiome 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 uBiome services are intended for research,

informational, and educational purposes only. You acknowledge that uBiome urges you to seek the advice of your physician or other health care provider if you have questions or concerns arising from your Microbiome Information;

b. You give permission to uBiome, its contractors, successors and assignees to perform genotyping and other analytical services on the data extracted from your sample and you specifically request uBiome to disclose the results of analyses performed on your samples to you and to others you specifically authorize;

c. You are eighteen (18) years of age or older if you are providing a sample or accessing your Microbiome Information, or if you are submitting a sample or accessing Microbiome Information of another person, you represent that you have the right to do so;

d. Any sample you provide is of the site specified in your kit or otherwise by uBiome; if you are agreeing to these Terms on behalf of a person for whom you have legal authorization, you represent that the sample provided will be the sample of that person;

e. If you are a customer outside the U.S. providing a sample, you confirm that this act is not subject to any export ban or restriction in the country in which you reside;

f. Any sample you provide and all resulting data may be transferred and/or processed outside the country in which you reside;

g. 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 Microbiome Information and your Self-Reported Information;

j. You understand that all your Personal Information will be stored in uBiome databases and will be processed in accordance with the uBiome Privacy Policy;

k. You understand that by providing any sample, having your Microbiome Information processed, accessing your Microbiome Information, or providing Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by uBiome or its collaborating partners and you specifically understand that you will not receive compensation for any research or commercial products that include or result from your Microbiome Information or Self-Reported Information; and

l. You have the authority, under the laws of the state or jurisdiction in which you reside, to provide these representations, warranties and agreements.

## 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.

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 uBiome's website through your username and password, you will defend and indemnify uBiome 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:

- c. immediately notify uBiome of any unauthorized use of your password or account or any other breach of security, and
- d. ensure that you exit from your account at the end of each session. uBiome cannot and will not be liable for any loss or damage arising from your failure to comply with this Section.

8. You acknowledge and agree that uBiome has the right, but not the obligation, to monitor any use of its systems by its personnel at any time and maintain copies documenting such monitoring. uBiome cares about the integrity and security of your Personal Information. However, we cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your Personal Information for improper purposes.

9. If you have given consent for your Microbiome Information and Self-Reported Information to be used in uBiome Research as described in the applicable Consent Document, we may include your information in the Aggregated Microbiome Information and Self-Reported Information we disclose to third parties for the purpose of publication in a peer-reviewed scientific journal. uBiome may also include your information in Aggregated Microbiome 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.

10. Limited License

Subject to the provisions of these Terms, uBiome grants you a limited, freely revocable, non-exclusive, world-wide, non-transferrable, non-sublicensable license to copy and distribute free of charge, for non-commercial purposes only, any of the Services content with the exception of content marked as not subject to this limited license on the Service, provided you:

- a. provide the Services content as it appears on the uBiome website with no changes including but not limited to presenting selections which might tend to misrepresent the substance of the Services content;
- b. include the following attribution on the first page of any materials you distribute: © uBiome, Inc. 2012-2016. All rights reserved; distributed pursuant to a limited license from uBiome;
- c. 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 Section 9, 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 uBiome, in a separate written agreement.

uBiome reserves all rights not expressly granted herein in the Service and any content provided by uBiome. uBiome may terminate this license at any time for any reason or no reason.

#### 11. Customer Conduct - Unlawful and Prohibited Use

As a condition of your use of the Services, you warrant to uBiome that you will not use the Services for any purpose that is unlawful or prohibited by these Terms. 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 in any of the following ways or to otherwise engage in any of the following prohibited activities:

- a. accessing any content on the Service through any technology or means other than those provided or authorized by the Service;
- b. copying, distributing, or disclosing any part of the Service in any medium, including without limitation by any automated or non-automated "scraping";
- c. using any automated system, including without limitation "robots," "spiders," "offline readers," etc., to access the Service in a manner that sends more request messages to the uBiome servers than a human can reasonably produce in the same period of time by using a conventional on-line web browser (except that uBiome grants the operators of public search engines revocable permission to use spiders to copy publically available materials from the uBiome websites for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials);
- d. uploading, posting, emailing, or otherwise transmitting 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;

e. impersonating any person or entity, including, but not limited to, anyone affiliated with uBiome, falsely stating or otherwise misrepresenting your affiliation with a person or entity, or otherwise using the Service to hide or conceal your identity;

f. adding your own headers, forge headers, or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Service;

g. "stalking" or otherwise harassing another;

h. uploading, posting, emailing, or otherwise transmitting 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);

i. downloading any file posted by another user of the Service that you know, or reasonably should know, cannot legally be distributed in such manner;

j. uploading, posting, emailing or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights of uBiome or any other party;

k. harming minors in any way;

l. using the Service for any commercial solicitation purpose;

m. uploading, posting, emailing, or otherwise transmitting 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;

n. uploading, posting, emailing, or otherwise transmitting 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;

o. interfering with or disrupting the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service;

p. taking any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure;

q. uploading invalid data, viruses, worms, or other software agents through the Service;

- r. collecting or harvesting any personally identifiable information, including account names, from the Service;
- s. bypassing the measures we may use to prevent or restrict access to the Service, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Service or the content therein;
- t. violating these Terms, 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 uBiome; or
- u. intentionally or unintentionally violating 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 uBiome has no responsibility to you or to any third party for) any breach of your obligations under these Terms and for the consequences (including any loss or damage which uBiome may suffer) of any such breach.

Accessing any audiovisual content that may be available on the Service for any purpose or in any manner other than Streaming (as defined below) is expressly prohibited unless explicitly permitted by the functionality of the Service. "Streaming" means a contemporaneous digital transmission of an audiovisual work via the Internet from the Service to a user's device in such a manner that the data is intended for real-time viewing and not intended to be copied, stored, permanently downloaded, or redistributed by you.

IN ADDITION TO THE FOREGOING RESTRICTIONS, YOU SPECIFICALLY AGREE THAT YOU SHALL NOT UPLOAD, TRANSMIT, OR OTHERWISE SHARE OR USE THE SERVICE OR ANY INFORMATION PROVIDED TO YOU BY UBIOME (INCLUDING WITHOUT LIMITATION THE MICROBIOME INFORMATION) WITH ANY THIRD-PARTIES OTHER THAN YOUR FAMILY, YOUR DOCTOR OR OTHER HEALTHCARE PROVIDERS OR FOR YOUR PERSONAL USE. YOU FURTHER AGREE THAT IN THE EVENT THAT YOU VIOLATE THE TERMS OF THIS PARAGRAPH, THAT YOU ARE OBLIGATED TO PAY UBIOME \$5,000 PER VIOLATION, AS LIQUIDATED DAMAGES AND NOT AS A PENALTY. THE PARTIES ACKNOWLEDGE THAT SUCH PAYMENT IS A REASONABLE ESTIMATE OF THE DAMAGES SUFFERED BY UBIOME IN THE EVENT OF NON-COMPLIANCE. THE FOREGOING DAMAGES SHALL BE IN ADDITION TO ANY OTHER REMEDIES UBIOME MAY HAVE IN LAW OR IN EQUITY.

## 12. 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 the Services online.

### 13. Material Posted Through The Service

uBiome 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-uBiome content. You understand that by using the Services, you may be exposed to content that is offensive, indecent, or objectionable. Under no circumstances will uBiome be liable in any way for any non-uBiome 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 uBiome 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, uBiome and its designees shall have the right to remove any content that violates these Terms or is deemed by uBiome, 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.

### 14. Material Provided to uBiome - Your Proprietary Rights

uBiome does not claim ownership of the User Content you provide to uBiome 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 hereby grant to uBiome, its affiliated companies, sublicensees (including but not limited to sublicensees who avail themselves of the limited license to use the Service in Section 9 above) and successors and assigns a perpetual, irrevocable, worldwide, royalty free, transferrable, sublicensable through multiple layers, 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 uBiome to make such User Content available to other companies, organizations, or individuals with whom uBiome has relationships, and to use such User Content in connection with the provision of those services. You understand that uBiome, 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 uBiome to take these actions. You represent and warrant to uBiome that you have all the rights, power, and authority necessary to grant the above license. Microbiome Information and/or Self-Reported Information. Disclosure of individual-level Microbiome Information and/or Self-Reported Information to third parties will not occur without explicit consent,

unless required by law. Note that uBiome cannot control any further distribution of Microbiome and/or Self-Reported Information that you share publicly on the uBiome website. You acknowledge and agree that you are responsible for protecting and enforcing those rights and that uBiome has no obligation to do so on your behalf. Your 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 Microbiome Information derived from your sample remains your information, subject to rights we retain as set forth in these Terms. You understand that you should not expect any financial benefit from uBiome as a result of having your Microbiome Information processed; made available to you; or, as provided in our Privacy Policy and Terms, shared with or included in Aggregated Microbiome and Self-Reported Information shared with research partners, including commercial partners.

#### 15. Indemnity

You agree to defend and hold uBiome, 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 these Terms; or your violation of any rights of another. If you have submitted a sample or otherwise provided any information to uBiome, you will defend and hold harmless uBiome, its employees, contractors, successors, and assigns from any liability arising out of the use or disclosure of any information obtained from genotyping your sample, analyzing your Microbiome Information, or otherwise using any information provided by you, which is disclosed to you or by you (as applicable) consistent with our Privacy Policy or results from any third-party add-ons to tools we provide. In addition, if you choose to provide your Microbiome Information 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 uBiome, its employees, contractors, successors, and assigns from any and all liability arising from such disclosure or use of your Microbiome Information and/or Self-Reported Information.

#### 16. Modifications to Service

You acknowledge and agree that the form and nature of the Services which uBiome provides may change from time to time without prior notice to you. uBiome 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 uBiome 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 uBiome. 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 uBiome to deliver these to you) as part of your use of the Services. You acknowledge that uBiome may offer different or additional technologies or features to collect and/or interpret Microbiome 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 Microbiome Information without fee, and that you will have to pay additional fees in order to have your Microbiome Information collected, processed, and/or interpreted using any future or additional technologies or features.

#### 17. Termination

These Terms will continue to apply until terminated by either you or uBiome as set out in this Section. If you want to terminate your legal agreement with uBiome, you may do so by notifying uBiome 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 uBiome's address, which is set out at the beginning of these Terms, or online via Client Services. If you provide notice online, uBiome 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.

uBiome 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 these Terms (or have acted in manner which shows that you do not intend to, or are unable to comply with, the provisions of these Terms); (2) uBiome 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 uBiome offered the Services to you has terminated its relationship with uBiome or ceased to offer the Services to you; (4) uBiome 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 uBiome is, in uBiome'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 uBiome shall not be liable to you or any third party for any termination of your access to the Services.

#### 18. Survival of Terms

When these Terms come to an end, all of the legal rights, obligations, and liabilities that you and uBiome have benefited from, been subject to (or which have accrued over time while these Terms 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.(Prerequisites); 3.(Description of the Services); 4.(Risks and Considerations Regarding uBiome Services); 6.(User Representations and Agreement); 7.(Account Creation, Customer Account, Password and Security Obligations); 8.(uBiome Privacy Policy); 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 uBiome - Your Proprietary Rights); 14.(Indemnity); 16.(Termination); 17.(Survival of Terms); 19.(Third-Party Links and Services on uBiome Website); 19.(uBiome Proprietary Rights); 20.(Disclaimer); 21.(Limitation of Liability); 22.(Notice); 23.(Changes to These Terms); 24.(Violation or Suspected Violation of these Terms); 25.(Governing Law, Arbitration, and Class Action/Jury Trial Waiver); 26.(Additional App Store Terms); and 27.(Miscellaneous) shall continue to apply to such rights, obligations, and liabilities indefinitely.

#### 19. Third-Party Links and Services on the uBiome Website

The Service provides, and third parties may provide, links to other websites, services and resources. Because uBiome has no control over such sites and resources, you acknowledge and agree that uBiome is not responsible for the availability of such external sites, services 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. These links are provided solely for user's information and convenience. You further acknowledge and agree that uBiome 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.

When users select a link to an external, or third party website, they are leaving uBiome's website and are subject to the privacy and security policies of the owners/sponsors of the external, or third party website. It is important for users to take necessary precautions, especially to ensure appropriate safety from viruses, worms, Trojan horses and other potentially destructive items. uBiome does not endorse, recommend or make representations with respect to the content or the use of such external, or third party websites. Reference links to external, or third party websites do not constitute or imply an endorsement by uBiome.

#### 20. uBiome's Proprietary Rights

You acknowledge and agree that except for your User Content and your Microbiome Information, uBiome (or uBiome's licensors, as applicable) own all legal right, title, and interest in and to the Service and all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music and User Content belonging to other users (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 uBiome and that you shall not disclose such information without uBiome'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 uBiome, 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 uBiome 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. uBiome, Inc., uBiome, and other uBiome logos and product and service names are trademarks of uBiome and these marks together with any other uBiome trade names, service marks, logos, domain names, and other distinctive brand features are the "uBiome Marks". Unless you have agreed otherwise in writing with uBiome, other than through the limited license in Section 9, nothing in these Terms gives you a right to use any uBiome Marks and you agree not to display, or use in any manner, uBiome 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 uBiome, 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, uBiome 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 uBiome, in writing. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by uBiome, in the manner permitted by these Terms. Unless uBiome 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 uBiome for use in accessing the Service. Any rights not expressly granted herein are reserved.

You may choose to or we may invite you to submit comments or ideas about the Service, including without limitation about how to improve the Service or our products

("Ideas"). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place uBiome under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, uBiome does not waive any rights to use similar or related ideas previously known to uBiome, or developed by its employees, or obtained from sources other than you.

#### 21. Disclaimer of Warranties

STATEMENTS MADE THE SERVICE HAVE NOT BEEN EVALUATED BY THE FOOD AND DRUG ADMINISTRATION, AND ARE NOT INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE. THE INFORMATION ON THE UBIOME WEBSITE IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND WITH THE UNDERSTANDING THAT UBIOME IS NOT ENGAGED IN RENDERING MEDICAL ADVICE OR RECOMMENDATIONS. YOU SHOULD NOT RELY ON ANY INFORMATION ON THE WEBSITE TO DIAGNOSE OR TREAT A HEALTH PROBLEM OR CONDITION, OR REPLACE CONSULTATIONS WITH QUALIFIED HEALTH CARE PROFESSIONALS TO MEET YOUR INDIVIDUAL NEEDS. ALWAYS CHECK WITH YOUR DOCTOR BEFORE CHANGING YOUR DIET, ALTERING YOUR SLEEP HABITS, TAKING SUPPLEMENTS, STARTING A NEW FITNESS ROUTINE, OR FOR ANSWERS TO YOUR PERSONAL MEDICAL QUESTIONS.

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 AND ARE BASED ON THE CURRENT STATE OF THE ART OF MICROBIOME RESEARCH AND TECHNOLOGY IN USE BY UBIOME AT THE TIME OF THE PURCHASE OR VIEWING. UBIOME 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) UBIOME 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 UBIOME OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT

EXPRESSLY STATED IN THESE TERMS. (5) YOU SHOULD ALWAYS USE CAUTION WHEN GIVING OUT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT YOURSELF OR THOSE FOR WHOM YOU HAVE LEGAL AUTHORITY. UBIOME DOES NOT CONTROL OR ENDORSE ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES AND, THEREFORE, UBIOME SPECIFICALLY DISCLAIMS ANY LIABILITY WITH REGARD TO ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES.

## 22. Limitation of Liability

WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT UBIOME 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 UBIOME 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, (C) 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; (G) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES; (H) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF THE SERVICE; (I) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (J) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (K) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICE BY ANY THIRD PARTY; (L) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICE; AND/OR (M) USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY.

IN NO EVENT SHALL UBIOME, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO UBIOME HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF UBIOME HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THESE TERMS GIVE YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THESE TERMS WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

The Service is controlled and operated from facilities in the United States. uBiome makes no representations that the Service is appropriate or available for use in other locations. Those who access or use the Service from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Service if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Service are solely directed to individuals, companies, or other entities located in the United States.

### 23. Notice

Notices to you may be made via either email or regular mail. uBiome may also provide notices of changes to these Terms or other matters by displaying notices or links to notices to you generally on or through the Services. Official notices related to these Terms must be sent to us at:

uBiome, Inc.  
ATTN: Privacy and Security Officer,  
180 Steuart Street  
San Francisco, CA 94105

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

### 24. Changes to these Terms

uBiome may make changes to these Terms from time to time. When these changes are made, uBiome will make a new copy of these Terms 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 these Terms have changed, uBiome will treat your use as acceptance of the updated Terms.

## 25. Violation or Suspected Violation of these Terms

If you violate the terms of these Terms and/or uBiome has a reasonable ground to suspect that you have violated the terms of these Terms, uBiome 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).

## 26. Governing Law, Arbitration, and Class Action/Jury Trial Waiver

a. **Governing Law.** You agree that: (i) the Service shall be deemed solely based in California; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. These Terms shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The parties acknowledge that these Terms evidence a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of these Terms shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the personal jurisdiction of the federal and state courts located in San Francisco County, California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that San Francisco County, California is the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.

b. **Arbitration.** READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM UBIOME. For any dispute with uBiome, you agree to first contact us at [clientservices@ubiome.com](mailto:clientservices@ubiome.com) and attempt to resolve the dispute with us informally. In the unlikely event that uBiome has not been able to resolve a dispute it has with you after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to these Terms, or the breach or alleged breach thereof (collectively, "Claims"), by binding arbitration by JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may be contacted at [www.jamsadr.com](http://www.jamsadr.com). The arbitration will be conducted in San Francisco County, California, unless you and uBiome agree otherwise. If you are using the Service for commercial purposes, each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator shall

include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. If you are an individual using the Service for non-commercial purposes: (i) JAMS may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from JAMS; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney's fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section shall be deemed as preventing uBiome from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights.

c. **Class Action/Jury Trial Waiver.** WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE SERVICE FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND uBIOME ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

## 27. Miscellaneous

a. **Entire Agreement.** These Terms constitute the entire agreement between you and uBiome and govern your use of the Services, superseding any prior agreements between you and uBiome 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. **Waiver.** The failure of uBiome to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms 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 these Terms remain in full force and effect.

c. **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 these Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred.

d. Admissibility of printed version. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

e. Section titles. The section titles in these Terms are for convenience only and have no legal or contractual effect.

f. Severability Clause. If any portion of these Terms is found to be unenforceable, the remaining portion will remain in full force and effect.

g. Assignment. You may not assign or delegate any rights or obligations under these Terms. Any purported assignment and delegation shall be ineffective. We may freely assign or delegate all rights and obligations under these Terms, fully or partially without notice to you. We may also substitute, by way of unilateral novation, effective upon notice to you, uBiome for any third party that assumes our rights and obligations under these Terms.