Terms of Service

TERMS OF SERVICE

BY CHECKING THE CHECKBOX LABELED "I HAVE READ AND AGREE TO NEXTBIO'S TERMS OF SERVICE AND BASESPACE INFORMATICS SUITE PRIVACY POLICY" AND CLICKING ON THE "SIGN IN" BUTTON DISPLAYED AS PART OF THE SIGN-IN PROCESS, OR BY USING THE NEXTBIO WEBSITE OR OTHER NEXTBIO SERVICES, INCLUDING BASESPACE CORRELATION ENGINE AND BASESPACE COHORT ANALYZER (COLLECTIVELY, "SERVICES"), YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE "TERMS OF SERVICE") GOVERNING YOUR USE OF THE SERVICES. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MAY NOT SIGN UP FOR THE SERVICES AND MAY NOT USE THE SERVICES.

UNLESS SEPARATE TERMS OF USE ARE EXPRESSLY AGREED TO IN WRITING BETWEEN YOU AND NEXTBIO, THESE TERMS OF SERVICE WILL EXCLUSIVELY GOVERN YOUR USE OF AND ACCESS TO THE SERVICES.

USER ACCOUNT, PASSWORD, AND SECURITY

If any of the Services requires you to open a NextBio account ("**Account**"), you must complete the Account registration process by providing us with current, complete and accurate information as prompted by the applicable registration form. You also will choose a password and a login name. You are entirely responsible for maintaining the confidentiality of your password and Account. Furthermore, you are entirely responsible for any and all activities that occur under your Account. You agree to notify NextBio immediately of any unauthorized use of your Account or of any other breach of security that you become aware of. NextBio will not be liable for any loss that you may incur as a result of someone else using your password or Account, either with or without your knowledge. However, you could be held liable for losses incurred by NextBio or another party due to someone else using your Account or password. You may not use anyone else's Account at any time without the permission of the Account holder and you may not permit any party to access and/or use the Services with your login name and password. NextBio reserves the right to change or update your login name and password in NextBio's sole discretion from time to time. NextBio also reserves the right to terminate any Account login name or password.

DISCLAIMER — NEXTBIO DOES NOT PROVIDE MEDICAL OR ANY OTHER HEALTH CARE ADVICE. DIAGNOSIS OR TREATMENT

All information, data, results, ideas, plans, sketches, texts, files, links, images, photos, video, sound, software, inventions (whether or not patentable), notes, works of authorship, articles, feedback, product catalogues or other information, or other materials ("Content") accessible through the Services (the "Services Content") are for informational purposes only. Neither the Services Content nor the Services are a substitute for professional advice on any matter, medical or otherwise. Always seek the advice of a qualified health professional on any matter that may affect your or someone else's health or well-being, or before taking any drug, changing your diet or commencing or discontinuing any course of treatment. Never disregard or delay seeking professional advice because of the Services Content or Services, in whole or in part. No part of the Services Content or Services is regulated or evaluated by the Food and Drug Administration ("FDA"). Neither the FDA nor any other agency or government has approved of the Services Content or Services.

NextBio does not recommend or endorse any treatment, institution, professional, physician, product, procedure or other information that may be mentioned in the Services Content or Services. You acknowledge and agree that (1) the Services Content and Services are provided "as is" and without any representations or warranties of any kind, and (2) any reliance on any Services Content or Services. in whole or in part, is solely at your own risk.

You acknowledge and agree that the Services are not intended by NextBio, and have not been designed by NextBio, to be used for patient care purposes, including without limitation, use in diagnosing or treating patients. You assume the sole risk and liability for using the Services for any purpose other than the conduct of research. To the maximum extent permitted by law, you agree to defend, indemnify and hold harmless NextBio, its affiliates, and their respective directors, officers, employees, and agents from and against any and all claims, actions, suits or proceedings brought by a third party, and pay all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of or related to your use of the Services for any purpose other than the conduct of research. You

acknowledge and agree that the Services are not intended by NextBio for use by consumers (i.e., personal household use) or persons under 18 years of age or the applicable age of majority if older. You represent and warrant that you are not a consumer.

DESCRIPTION OF SERVICES AND SERVICES CONTENT

The Services comprise a variety of resources and features, including a search engine, a correlation engine for life sciences data, a content knowledgebase, electronic storage space, data and information sharing tools, public user information, download and import features, communication forums and tools, personalization features, and product information. Many of the NextBio resources and features are available to all NextBio users, while certain resources and features are available only to registered users and/or paying subscribers. The Services, including any updates and enhancements thereof, any new resources or features, and/or the addition of any new Services Content or websites, are subject to the Terms of Service. The Services include the Services Content, the Software, and the Communication Services, all of which are made available to you at the sole discretion of NextBio.

The Services Content is a knowledgebase of information that includes data, experimental study results, internally processed data and information, and other Content. The Services Content includes Content of various origins and types, including Content originally created by NextBio, Content derived from publicly available resources and websites, Content licensed from third parties, and Content contributed directly by NextBio users. The Services Content also includes the Documents, the Third Party Content and the Submissions, each as defined in the Terms of Service. The Services Content may include material that you find offensive, including health-related content that is sexually explicit.

USE LIMITATION

As a condition of your use of the Services, you agree that you will not use the Services for any purpose that is unlawful or otherwise prohibited by any applicable law or regulation, or the terms, conditions and notices of the Terms of Service. You may utilize the Services solely for your personal and non-commercial research unless you obtain additional rights through a paid subscription or other written agreement with NextBio. You must be at least 18 years old to use the Services. Any publication using or based on information derived from the Services must correctly cite and/or attribute NextBio. You agree that you will not:

- modify, copy, translate, alter, distribute, transmit, display, perform, reproduce, publish, license, rent, lease, loan, create derivative works of, transfer, or sell any Content, products, services or other material obtained from the Services unless otherwise provided for in the Terms of Service or in a separate written subscription, services or license agreement;
- interfere with, disrupt, damage, disable, overburden, or impair the Services or Software or any part thereof, or create an undue burden on the Services, Software, or the networks or services connected to the Services, including without limitation, the external websites that contain third party content and that are linked to on the Services, or interfere with any other party's use and enjoyment of the Services;
- attempt to gain unauthorized access to the Services, other Accounts, computer systems or networks connected to any NextBio server or to any of the Services, through hacking, password mining or any other means;
- obtain or attempt to obtain any materials or information through any means not intentionally made available through the Services;
- reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Software or the Services:
- without NextBio's express written permission, introduce software or automated agents or scripts to the Services for any purpose, including, without limitation, to produce multiple Accounts, generate automated searches, requests and queries, or to strip or mine data from the Services;
- perform or publish any performance or benchmark tests or analyses relating to the Services, the Software, or the use or availability thereof;
- provide any personally identifying information about a human subject;
- use the Services to publish, post, import, upload, transmit, use, distribute, disseminate or otherwise make available:
 - any inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, Content or Submission:
 - any Content or Submission that contains data, text, images, photographs, software or other material protected by intellectual property laws, including, by way of example, and not as

- limitation, copyright or trademark laws, or by rights of privacy or publicity, unless you own or control the rights thereto or have received all necessary consents to do the same;
- any Content or Submission that contains viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other software or programs that may damage, hinder or interrupt the operation of the Services or another's computer or property;
- any Content or Submission posted by another user of the Services that you know, or reasonably should know, cannot be legally reproduced, displayed, performed, used and/or distributed in such manner:
- use any Content or Submission, including images or photographs, made available through the Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party; or
- cover or obscure any page or part of the Services via HTML/CSS, scripting, or any other means.

NextBio has no obligation to monitor the Services or Communication Services. However, NextBio reserves the right to review Content and Submissions (defined below) posted to and transmitted through the Services and to remove any Content or Submission that NextBio, in its sole discretion, deems to be inappropriate or in violation of these Terms of Service. NextBio reserves the right to terminate or suspend your access to any or all of the Services, including the Communication Services, at any time, without notice, for any reason whatsoever.

USE OF COMMUNICATION SERVICES

The Services may contain e-mail services, bulletin board services, chat areas, news and groups, forums, communities, personal web pages, calendars, photo albums, file cabinets and/or other message or communication facilities designed to enable you to communicate with others (each a "Communication Service" and collectively "Communication Services"). You agree to use the Communication Services only to post, send and receive messages and material that are proper and, when applicable, related to the particular Communication Service. By way of example, and not as a limitation, you agree that when using the Communication Services, you will not:

- use the Communication Services in connection with surveys, contests, pyramid schemes, chain letters, iunk email, spamming or any duplicative or unsolicited messages (commercial or otherwise):
- defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;
- advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Service specifically allows such messages;
- falsify or delete any copyright management information, such as author attributions, legal or other proper notices, or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded;
- restrict or inhibit any other user from using and enjoying the Communication Services;
- violate any published code of conduct or other guidelines which may be applicable for any particular Communication Service;
- harvest or otherwise collect information about others, including e-mail addresses;
- violate any applicable laws or regulations;
- create a false identity for the purpose of misleading others;
- create, download, copy, use, or provide (whether or not for a fee) to a person or entity any directory of
 users of the Services, of other users, or of usage information or any portion thereof;
- create Internet "links" to the Services or "frame" or "mirror" any Services Content on any other server or wireless or Internet-based device.

NextBio reserves the right at all times to disclose any information that it deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any Content provided by users, in whole or in part, in NextBio's sole discretion.

Always use caution when giving out any personally identifiable information about yourself or others, including your children, in any Communication Services. NextBio does not control or endorse the content, messages or information

found in any Communication Services and, therefore, NextBio specifically disclaims any liability with regard to the Communication Services and any actions resulting from your participation in any Communication Services.

The Services are not intended and should not be used for communicating, discussing, uploading or storing information, records, research, or other materials or items regarding your personal health. NextBio is not a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"). As a result, HIPAA does not apply to the transmission of health information by NextBio to any third party.

Content uploaded to or generated by your use of the Services and Communication Services may be subject to posted limitations on usage, reproduction and/or dissemination. You are responsible for adhering to all such limitations.

NOTICE SPECIFIC TO THIRD PARTY CONTENT

"Third Party Content" means any Content or services that are either provided by third parties (including other NextBio users) on the NextBio website, or made available on third party websites and linked to on or otherwise used in connection with the Services. Third Party Content includes Submissions made by other NextBio users.

You acknowledge that all of the Intellectual Property Rights in the Third Party Content are owned by the third party who created and/or provided such Third Party Content. You are not authorized under the Terms of Service to use that Third Party Content except as expressly permitted. Any rights you have in the Third Party Content of others must be agreed upon by you and the owner of such Third Party Content.

You represent and warrant that, except for Third Party Content that is in the public domain, you will not (1) use, reproduce, make, have made, sell, offer for sale, import, modify, publish, transmit, distribute, publicly perform or display, sell, disclose to any third party, or create derivative works based on the Third Party Content, or (2) decompile or reverse engineer any Third Party Content, without the prior written consent of the owner of such Third Party Content and without correct and complete attribution to the owner and/or author of such Third Party Content or to any other sources of such Third Party Content as may be appropriate.

You acknowledge and agree that, although NextBio may periodically screen, modify, refuse or remove certain Third Party Content, (a) NextBio is not responsible for any such Third Party Content, (b) NextBio makes no guarantees about the accuracy, currency, suitability, or quality of the information in such Third Party Content, and (c) NextBio assumes no responsibility for any unintended, objectionable, inaccurate, misleading, or unlawful Third Party Content made available by other users and third parties.

Providers of Third Party Content made available through or in connection with the Services may require your agreement to additional or different license or other terms prior to your use of or access to such Third Party Content. The scope of any rights that you may have with respect to Third Party Content that you access through the Services, as well as the scope of any rights that you grant to any third party with respect to Submissions by you, must be defined and governed by an agreement between you and such third party and not between NextBio and you, or NextBio and such third party. You agree that NextBio will not be responsible for any loss or damage incurred as the result of your dealings with any Third Party Content provider or with respect to any other user's use or disclosure of any of your Submissions or personally identifiable information. If there is a dispute between you and any third party (including any other customer or user), NextBio is under no obligation to become involved; however, NextBio reserves the right to monitor disputes between you and any such party in its sole discretion.

SUBMISSIONS PROVIDED TO NEXTBIO OR POSTED AT ANY NEXTBIO WEBSITE

NEXTBIO DOES NOT CLAIM OWNERSHIP OF THE EXPERIMENTAL DATA, INFORMATION, OR OTHER CONTENT YOU PROVIDE, POST, IMPORT, UPLOAD, INPUT OR SUBMIT TO NEXTBIO OR ITS SERVICES (EACH A "SUBMISSION" AND COLLECTIVELY "SUBMISSIONS"). YOU MAY CHOOSE WHO HAS THE RIGHT TO VIEW YOUR SUBMISSIONS IN NEXTBIO OR IN CONNECTION WITH THE SERVICES. ONLY THOSE USERS CHOSEN BY YOU WILL BE GRANTED ACCESS BY NEXTBIO TO YOUR SUBMISSIONS.

You agree that you are authorized to use and transmit the Submissions on or through the Services, including that your use and transmission of Submissions on or through the Services complies with all applicable laws and regulations, including without limitation, any data privacy laws and laws protecting intellectual property rights, and that you have obtained all necessary permissions (including, without limitation, all consents from human subjects) to use and transmit the Submissions on or through the Services. You acknowledge that NextBio has no responsibility to monitor or screen the Submissions for compliance with any law or regulation or for any other purpose.

No compensation will be paid with respect to the provision or use of your Submission. NextBio is under no obligation to post or use any Submission you may provide and NextBio may remove any Submission at any time in its sole discretion. NextBio is not obligated to backup any Submission or related content. You are solely responsible for creating and keeping backup copies of any Submission at your own cost and expense. You agree that any use of the Services contrary to or in violation of the representations and warranties that you make here constitutes improper and unauthorized use of the Services and a breach of these Terms of Service.

By posting, importing, uploading, inputting, providing or submitting ("Posting") your Submission, you permit NextBio to use your Submission in connection with the operation of its businesses including, without limitation, the Services, and you hereby grant NextBio and its affiliates a non-exclusive, irrevocable, perpetual, worldwide, sub-licensable, fully-paid and royalty-free license to store, distribute, transmit, display and perform, publish, reproduce, translate, annotate, reconfigure, modify, create derivative works from and reformat your Submission as appropriate for the Services, and to make your Submissions available to any user that you elect to give access to. You further acknowledge that the Content that is provided, posted, imported, uploaded, inputted or submitted to the NextBio public library may be accessed by all users of the Services. You are solely responsible for any Submissions that are posted through your Account.

By Posting a Submission you warrant and represent that you own or otherwise control all of the rights to such Submission as described in the Terms of Service including, without limitation, all the rights necessary for you to Post the Submission and to make it available to others, if applicable. You further represent and warrant that your Submissions do not and shall not (1) infringe any copyright, trademark, or patent; (2) misappropriate any trade secret; (3) be false, misleading, deceptive, defamatory, obscene, offensive, pornographic or promote, endorse or further illegal activities or conduct that is abusive, threatening, obscene, defamatory or libelous; (4) contain any viruses, worms or other malicious computer programming codes able to damage the Services; (5) violate the rights of or harass a third party; (6) promote, copy, perform or distribute an illegal or unauthorized copy of another party's work, whether it is protected by copyright or trade secret law or not, such as, without limitation, by presenting the work of a third party as your own (plagiarism), providing stolen or illegally obtained Third Party Content, providing pirated computer programs or links to them, providing information to circumvent manufacturer-installed copy-protection devices, or providing pirated music, videos, or movies; or (7) otherwise violate the Terms of Service or create liability for NextBio.

DE-IDENTIFIED INFORMATION ONLY

Except as may be expressly agreed by you and NextBio in a separate, signed written agreement, when uploading, transmitting, or modifying Submissions that contains information of a person, including without limitation, Submissions consisting of genomic information (whether whole genome sequences or portions), you agree that you will not, in connection with or through the Services, provide any personally identifying information or personal information or personal data as defined by applicable law (e.g, HIPAA, EU Data Protection Directive (officially known as Directive 96/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data), Personal Data Protection Act 2012 (No. 26 of 2012)). For example, you will not provide the name, date of birth, address, social security, government issued identification number, or any other information that could directly or indirectly identify the individual from whom any genomic or other information was derived.

WHERE DATA PROCESSING OCCURS

You acknowledge that the Submissions may be transmitted and processed outside of your state or country, unless expressly stated otherwise in writing by NextBio, and that NextBio may use services of third parties in connection with the Services.

SECURITY OF THE SERVICES

While we use industry standard security, no system can perfectly guard against risks of intentional or inadvertent disclosure of information. When using the Services, information will be transmitted over a medium that is beyond the control of NextBio. You expressly assume the sole risk of any unauthorized disclosure or intentional intrusion, or of any delay, failure, loss, interruption or corruption of Content or Submissions or other information transmitted in connection with the use of the Services.

NOTICE SPECIFIC TO SOFTWARE

Any software that is made available to download from the Services ("**Software**") is the copyrighted work of NextBio, its affiliates, and/or its suppliers. Use of any Software is governed by the terms of the end user subscription or license agreement, if any, which accompanies or is included with such Software ("**License Agreement**"). An end user will not be allowed to install any Software that is accompanied by or includes a License Agreement, unless he or she first agrees to the License Agreement terms.

Software is made available for download solely for use by end users according to the applicable License Agreement.

WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCING ANY SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED UNLESS SUCH REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PERMITTED BY THE APPLICABLE LICENSE AGREEMENT ACCOMPANYING SUCH SOFTWARE.

THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE APPLICABLE LICENSE AGREEMENT. EXCEPT AS WARRANTED IN THE LICENSE AGREEMENT, NEXTBIO HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO ANY SOFTWARE, INCLUDING ALL WARRANTIES AND CONDITIONS OF MERCHANTABILITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

SOFTWARE RESTRICTED RIGHTS LEGEND

Any Software which is downloaded from the Services for or on behalf of the United States of America, its agencies and/or instrumentalities ("U.S. Government"), is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is NextBio, 200 Lincoln Center Dr. Foster City, CA 94404.

LIMITATION OF LIABILITY

IN NO EVENT SHALL NEXTBIO AND/OR ANY OF ITS AFFILIATES, SUPPLIERS OR VENDORS BE LIABLE FOR (A) ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING ANY DAMAGES OR COSTS WHATSOEVER RESULTING FROM LOSS OF USE, DATA, PROFITS, OR GOODWILL, COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, PERSONAL OR PROPERTY DAMAGE RESULTING FROM OR IN CONNECTION WITH NEXTBIO'S PERFORMANCE HEREUNDER, OR THE USE, MISUSE, OR INABILITY TO USE THE SERVICES OR OTHER PRODUCTS OR SERVICES HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SERVICES, PROVISION OF OR FAILURE TO PROVIDE THE SERVICES, OR INFORMATION AVAILABLE FROM THE SERVICES, EVEN IF SUCH PARTIES HAVE BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES; AND (B) DIRECT DAMAGES RESULTING FROM YOUR USE OF THE SERVICES IN EXCESS OF USD \$1000.

NEXTBIO AND ITS ADVERTISERS, SPONSORS, SUPPLIERS AND VENDORS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY OF THE SERVICES OR ANY INFORMATION CONTAINED IN THE SERVICES (INCLUDING THE SOFTWARE AND ANY SERVICES CONTENT) FOR ANY PURPOSE, OR THE ACCURACY, COMPLETENESS, OR CURRENCY OF ANY SERVICES CONTENT. ALL OF THE SERVICES (INCLUDING THE SOFTWARE AND ANY SERVICES CONTENT) ARE PROVIDED "AS IS" AND AS AVAILABLE AND NEXTBIO AND ITS ADVERTISERS, SPONSORS, SUPPLIERS AND VENDORS MAKE NO (AND HEREBY DISCLAIM ALL) WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES (IN WHOLE OR IN PART), ANY SERVICES CONTENT, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO YOU BY NEXTBIO. NEXTBIO DOES NOT WARRANT THAT ALL ERRORS IN THE SERVICES CAN BE CORRECTED, OR THAT OPERATION OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE.

NEITHER NEXTBIO NOR ANY OF NEXTBIO'S ADVERTISERS, SPONSORS, SUPPLIERS OR VENDORS MAKE ANY WARRANTY THAT THE SERVICES OR THE SERVICES CONTENT SATISFY GOVERNMENT REGULATIONS REQUIRING DISCLOSURE OF INFORMATION ON PRESCRIPTION DRUG PRODUCTS.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY NEXTBIO, ANY NEXTBIO AUTHORIZED REPRESENTATIVE, OR ANY THIRD PARTY CONTENT PROVIDER SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY EXPRESS WARRANTY HEREIN.

THE SERVICES AND RELATED INFORMATION PUBLISHED ON THE SERVICES COULD INCLUDE TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY ADDED TO SUCH INFORMATION. NEXTBIO OR ITS RESPECTIVE SUPPLIERS MAY MAKE IMPROVEMENTS OR CHANGES IN THE SERVICES AND PRODUCTS DESCRIBED HEREIN AT ANY TIME.

FOR YOUR CONVENIENCE, NEXTBIO MAY MAKE AVAILABLE TOOLS AND UTILITIES FOR USE AND/OR DOWNLOAD AS PART OF THE SERVICES OR IN ITS SOFTWARE PRODUCTS. NEXTBIO DOES NOT MAKE ANY ASSURANCES WITH REGARD TO THE ACCURACY OF THE RESULTS OR OUTPUT THAT DERIVE FROM SUCH USE OF ANY SUCH TOOLS AND UTILITIES. YOU AGREE TO RESPECT THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS WHEN USING THE TOOLS AND UTILITIES MADE AVAILABLE ON THE SERVICES OR IN THE SOFTWARE.

INDEMNITY

You will indemnify and defend at your expense any suit brought against NextBio and you will pay any settlement or any costs and damages of such suit insofar as such suit is based on a claim by any third party based upon, resulting from or related to: (1) your use of the Services; or (2) any improper or unauthorized use of the Services by you.

NOTICE REGARDING INTELLECTUAL PROPERTY RIGHTS

"Intellectual Property Rights" means any and all now known or hereafter existing (1) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (2) trademark or service mark rights; (3) trade secret rights; (4) patents, patent rights, and industrial property rights; (5) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (6) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

The Services, Software and Services Content and all Intellectual Property Rights therein are the exclusive property of NextBio. Except as expressly set forth herein, no express or implied license or right of any kind is granted to you regarding the Services, or any part thereof, including any right to obtain possession of any source code, data or other technical material relating to the Software. All rights not expressly granted to you are reserved to NextBio.

REMEDIES FOR BREACH OF INTELLECTUAL PROPERTY RIGHTS

You acknowledge that any actual or threatened breach of NextBio's Intellectual Property Rights will constitute immediate, irreparable harm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce such Intellectual Property Rights, you acknowledge that the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

COPYRIGHT NOTICE

The content on the NextBio website, including all images, text, graphics, logos, icons, downloads, software and scripts, is the property of NextBio, or its affiliate or content providers, and is protected by the United States and international copyright laws. The compilation of all content on this website is the exclusive property of NextBio and is protected by the United States and international copyright laws. No part of this website may be reproduced, duplicated, copied, sold, distributed or transmitted in any form or by any means, mechanical, electronic, or otherwise, or by any information storage and retrieval system, or transmitted by e-mail, or used in any other fashion without the express prior written permission of NextBio.

DIGITAL MILLENNIUM COPYRIGHT ACT ("DMCA") NOTICE

The Digital Millennium Copyright Act of 1998, found at 17 U.S.C. § 512 ("DMCA"), provides recourse for copyright owners who believe their rights under United States copyright law have been infringed. Pursuant to the DMCA, anyone who believes their material has been used in a way that constitutes copyright infringement may submit a notification of copyright infringement to a designated agent for the website.

We respect the intellectual property rights of others and are committed to complying with United States copyright law, as well as international trade law and practices. Therefore, upon receipt of a proper notification of copyright infringement under the DMCA, we will remove and/or block access to the allegedly infringing material. To be valid, notifications must be sent to our DMCA designated agent, identified below:

Susan E. Farley, Esq.

Heslin Rothenberg Farley & Mesiti P.C. E-mail: susan.farley@hrfmlaw.com

5 Columbia Circle Albany, New York 12203 Tel: 518-452-5600 Fax: 518-452-5579

To be effective under the DMCA, a copyright notice must be a written communication that includes the following information:

- 1. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyrighted work;
- 2. Identification of and a brief description of the copyrighted work claimed to have been infringed upon;
- 3. Identification of the material that is claimed to be infringing, and a description of where to locate the material you claim is infringing. This will require, at a minimum, a precise URL for the material you allege should be removed or to which access should be disabled;
- 4. An address, telephone number, and, if available, an electronic mail address at which you, as the complaining party, may be contacted;
- 5. A statement that you, as the complaining party, have a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- 6. A statement that, under penalty of perjury, the information in the notification is accurate and the complaining party is the copyright owner, or is otherwise authorized to act on behalf of the copyright owner.

This procedure is exclusively for notifying NextBio that your copyrighted material has been infringed. All other concerns or notices should be directed to Legalnotices@illumina.com.

PRIVACY AND PROTECTION OF PERSONAL INFORMATION

These Terms of Service include our <u>BaseSpace Informatics Suite Privacy Policy</u> relating to the collection and use of your personal information.

In order to cooperate with legitimate governmental requests, subpoenas or court orders, to protect the Services and users, and to ensure the integrity and operation of NextBio's business and systems and the Services, NextBio may access and disclose any information and Content NextBio considers necessary or appropriate, including, without limitation, information about users (i.e., name, e-mail address, etc.), IP addressing and traffic information, usage history, and Submissions.

LINKS TO THIRD PARTY SITES

The links provided through the Service will let you leave the Services and the NextBio website. The linked sites are not under the control of NextBio and NextBio is not responsible for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites. NextBio is not responsible for webcasting or any other form of transmission received from any linked site. NextBio is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by NextBio of the linked site.

INFORMATION FROM THE U.S. NATIONAL LIBRARY OF MEDICINE (NLM)

The Services and Content include information from the United States National Library of Medicine ("**NLM**"). Under our license with the NLM ("**NLM License**"), we are required to make the following disclosures to you:

NLM represents that the data provided under the NLM License were formulated with a reasonable standard of care. Except for this representation, and as otherwise specifically provided in the NLM License, NLM makes no representation or warranties, expressed or implied. This includes, but is not limited to, any implied warranty of merchantability or fitness for a particular purpose, with respect to the NLM databases, and NLM specifically disclaims any such warranties and representations.

The duplication, resale, or redistribution of data obtained under the NLM License must conform to fair use guidelines and U.S. and international copyright law. Any duplication, resale, or redistribution by NextBio or its users who provide information services or products from NLM databases obtained directly or indirectly from NextBio must also conform to

NLM's quality assurance requirements, copyright constraints, and usage reports. Written approval from NLM is required before a non-U.S. licensee duplicates, resells, or redistributes NLM data (except cataloging records) to others.

Unless otherwise prohibited, organizations or institutions may download small amounts of NLM-produced citations for redistribution. For MEDLINE, this is about 1,000 per month or 12,000 records for each year of coverage. For other MEDLARS databases, it is approximately 25% of the records in the file except for AIDSLINE®, AIDSTRIALS, and AIDSDRUGS which may be downloaded in their entirety. Since NLM makes corrections and enhancements to and performs maintenance on these records at least annually, you should plan to replace or correct the records once a year to ensure that they are still correct and searchable as a group.

NLM databases are produced by a U.S. government agency and as such the contents are not covered by copyright domestically. They may be copyrighted outside the U.S. Some NLM produced data is from copyrighted publications of the respective copyright claimants. Users of the NLM databases are solely responsible for compliance with any copyright restrictions and are referred to the publication data appearing in the bibliographic citations, as well as to the copyright notices appearing in the original publications, all of which are incorporated by reference. Users should consult legal counsel before using NLM-produced records to be certain that their plans are in compliance with appropriate laws.

All records must be identified as being derived from NLM databases.

Some material in the NLM databases is from copyrighted publications of the respective copyright claimants. Users of the NLM databases are solely responsible for compliance with any copyright restrictions and are referred to the publication data appearing in the bibliographic citations, as well as to the copyright notices appearing in the original publications, all of which are hereby incorporated by reference.

NEXTBIO USE OF INFORMATION

You agree that Illumina may use the Content and Submissions in connection with the Services, including without limitation, providing services through the Services, as well as in the ways described in the BaseSpace Informatics Suite Privacy Policy.

RELEASE

YOU HEREBY RELEASE NEXTBIO AND ITS OFFICERS, EMPLOYEES, AGENTS AND SUCCESSORS FROM CLAIMS, DEMANDS, ANY AND ALL LOSSES, DAMAGES, RIGHTS, CLAIMS, AND ACTIONS OF ANY KIND INCLUDING, WITHOUT LIMITATION, PERSONAL INJURIES, DEATH, AND PROPERTY DAMAGE, THAT IS EITHER DIRECTLY OR INDIRECTLY RELATED TO OR ARISES FROM: (1) ANY INTERACTIONS WITH OTHER NEXTBIO USERS, (2) ANY CONTENT OR SUBMISSIONS POSTED ON THE SERVICES, OR (3) THE CONDUCT OF ANY USER OF THE SERVICES.

IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

U.S. EXPORT CONTROLS

No Software may be downloaded from the Services or otherwise exported or re-exported in violation of U.S. export laws. By downloading or using any Software, you represent and warrant that such download or use is not in violation of any such law.

GOVERNING LAW

You acknowledge that any action that you bring against NextBio will be governed, controlled, interpreted, and defined by and under the laws of the State of California, without giving effect to any conflicts of laws principles that require the application of the law of a different state. You also expressly consent to the personal jurisdiction and venue in the state and federal courts located in Santa Clara County, California, for any lawsuit filed there against you by NextBio arising from or related to your use of the Services. The United Nations Convention on Contracts for the International Sale of Goods does not apply to your use of the Services.

MODIFICATION OF TERMS OF SERVICE

You acknowledge and agree that (1) NextBio may modify these Terms of Service from time to time without notice to you (and such modification shall be effective: (a) upon posting by NextBio on the Services for all users who first use the Services after the posting, or (b) fourteen (14) days after posting by NextBio on the Services for all existing users), (2) NextBio may modify or discontinue the Services, in whole or in part, at any time and without notice to you, and (3) in the event of any of the foregoing, any modification or termination will be without any obligation of compensation or liability to you or any other party. The most current version of the Terms of Service can be reviewed by clicking on the "Terms of Service" hypertext link located on our "Sign In" page.

GENERAL

These Terms of Service (which includes the <u>BaseSpace Informatics Suite Privacy Policy</u> and any other rules posted on the Services and NextBio's website constitute the entire agreement between you and us regarding the use of the Services, unless you have entered into a separate agreement with NextBio which expressly supersedes or supplements these Terms of Service in accordance with its terms with respect to the subject matter of such agreement. NextBio's failure to exercise or enforce any right or provision of these Terms of Service shall not operate as a waiver of such right or provision. The section titles in these Terms of Service are for convenience only and have no legal or contractual effect. Any delay in the performance of any duties or obligations of NextBio will not be considered a breach of these Terms of Service if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, war, terrorism, or any other event beyond the control of NextBio. If any provision of these Terms of Service is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms of Service will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Please contact us with any questions regarding these Terms of Service by e-mailing us at: legalnotices@illumina.com.

This Terms of Service was last revised on February 2, 2018.