

## **Terms of Use**

Last updated: 10/31/2024

**PLEASE READ THESE TERMS CAREFULLY BEFORE ACCESSING OR USING THIS APPLICATION. BY ACCESSING OR USING THIS APPLICATION, YOU, ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT, AS APPLICABLE, ACKNOWLEDGE THAT:**

- 1. YOU HAVE READ AND UNDERSTAND ALL OF THE TERMS BELOW;**
- 2. YOU AGREE TO BE BOUND BY ALL OF THE TERMS BELOW;**
- 3. THE TERMS BELOW ARE THE LEGAL EQUIVALENT OF A SIGNED, WRITTEN CONTRACT BETWEEN YOU AND PROGENY;**
- 4. IF ACCESSING OR USING THIS APPLICATION ON BEHALF OF AN ENTITY, YOU HAVE FULL AUTHORITY TO BIND THE ENTITY TO ALL OF THE TERMS BELOW; AND**
- 5. WE MAY MODIFY THESE TERMS AT ANY TIME, AND SUCH MODIFICATIONS SHALL BE EFFECTIVE IMMEDIATELY UPON POSTING THE MODIFIED TERMS ON THIS APPLICATION. YOU AGREE TO REVIEW THE TERMS PERIODICALLY TO BE AWARE OF SUCH MODIFICATIONS, AND ACCESSING OR USING THE APPLICATION CONSTITUTES YOUR ACCEPTANCE OF THE TERMS AS IT APPEARS AT THE TIME OF YOUR ACCESS OR USE.**

**IF YOU DO NOT WISH TO BE OR CANNOT BE BOUND BY ALL OF THESE TERMS, THEN YOU MAY NOT ACCESS OR USE THIS APPLICATION.**

Thank you for visiting [progenygenetics.com](http://progenygenetics.com), a Progeny Genetics LLC website ("**Website**"). For purposes of these Terms and Conditions of Use ("**Terms**"), references to "**Progeny**," "**we**," "**our**," and "**us**" means Progeny Genetics LLC. These Terms govern your rights and responsibilities with regard to the access or use of this Application and any and all information, communications, software, photos, text, video, graphics, music, sounds, images, and other information made available on it ("**Content**"). "**Application**" is defined as the means by which your information is collected and processed.

### **OUR PRIVACY POLICY**

Progeny is committed to protecting the privacy of all visitors and users of this Application. Our [Privacy Policy](#) is part of these Terms and incorporated herein. By visiting and using this Application, you agree to both these Terms and our [Privacy Policy](#).

### **GEOGRAPHIC RESTRICTIONS**

Progeny is a limited liability company based in the state of California in the United States. Progeny makes no representation that the Application, or our Content, is appropriate or accessible outside of the United States or in all locations. Access to the Application may not be legal by certain persons or in certain countries. If you access the Application from outside the United States, you do so on your own initiative and are responsible for compliance with all applicable laws from your home nation, and the country, state and city in which you are present while using the Application. Regardless of where you access the Application, the information collected as part of that use will be transferred to and maintained on servers located in the United States. Any information we obtain about you will be stored in accordance with the applicable privacy laws, regulations, and standards, which may not be equivalent to the laws in your country of residence. By using this Application, you consent to this collection, transfer, storage, and processing of information to and in the United States.

### **PROHIBITED CONDUCT**

In using our Application, you agree not to:

- attempt to disable, “hack” or otherwise interfere with the proper functioning of this Application;
- access data not intended for users or log into a server or account which you are not authorized to access;
- attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization;
- attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Application, the server on which the Application is stored, or any server, computer, or database connected to the Application;
- use any device, software or routine that interferes with the proper working of the Application or with service to any user, host or network;
- introduce any viruses, Trojan horses, worms, software, logic bombs or other material which is malicious or technologically harmful;
- attack the Application via a denial-of-service attack or a distributed denial-of-service attack;
- forge any TCP/IP packet header or any part of the header information in any email or posting;
- use manual or automated software, devices, scripts, robots or other means or processes to access, “scrape,” “crawl,” or “spider” any Content contained on the Application;
- engage in “framing,” “mirroring,” or otherwise simulating the appearance or function of the Application;
- impersonate a person or otherwise manipulate identifiers in order to disguise your identity or the origin of any message or transmittal you send to us or any other party on or through our Application;
- use our Application to disclose or obtain another person’s personal information, or collect information about users on our Application;
- use our Application in an unlawful manner or in a manner that could damage, disparage, or otherwise negatively impact us;
- upload, post, email, or otherwise transmit any material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that might reasonably be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, religious or political beliefs, gender identity, or any other statutorily protected status;
- violate any applicable laws or regulations or these Terms; or
- otherwise attempt to interfere with the proper working of the Application.

Violations of system or network security may result in civil or criminal liability. We will investigate occurrences which may involve violations of system or network security and may involve and cooperate with law enforcement authorities in prosecuting users who are involved in these violations.

## **DISCLAIMERS**

### **1) No Warranty**

**THE INFORMATION AVAILABLE THROUGH THIS APPLICATION IS PROVIDED SOLELY ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT WARRANTY OF ANY KIND. PROGENY HEREBY DISCLAIMS ALL EXPRESSED AND IMPLIED WARRANTIES AND CONDITIONS WITH REGARD TO THE INFORMATION AVAILABLE THROUGH THIS APPLICATION, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY OTHER WARRANTY, WHETHER ORAL, WRITTEN, OR IN OTHER FORM.**

Progeny makes no warranty as to the accuracy, completeness, currency, or reliability of any Content available through this Application. Although Progeny makes reasonable efforts to include accurate and up-to-date materials on this Application, any information presented on this Application as of a particular date may only be accurate as of such date and Progeny disclaims any responsibility to update such information. However, Progeny reserves the right to make changes to the Content of the Application from time to time without notice. You are responsible for verifying any information before relying on information contained in this Application.

Further, Progeny makes no representations or warranties that use of this Application will be uninterrupted or error-free. Progeny reserves the right to change, suspend, or discontinue any and all aspects of the Application at any time without notice.

## **2) Third-Party Links**

The Application may contain links to other websites, applications, and resources provided by third parties. You acknowledge and agree that (a) Progeny is not responsible for the availability of such external websites, applications, or resources, (b) all links and identifications are provided solely for your convenience and for other informational purposes, and (c) Progeny does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such websites, applications, resources, or medical professionals or their affiliations. Further, Progeny does not maintain these external websites or applications and, therefore, is not responsible for the privacy practices of websites or applications that it does not operate. Please refer to the specific privacy practices posted on those websites or applications.

## **3) Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, PROGENY AND ITS AFFILIATES, SUBSIDIARIES, PARENT COMPANIES, LICENSORS, SERVICE PROVIDERS, SUPPLIERS, EMPLOYEES, AGENTS, MEMBERS, OFFICERS, DIRECTORS AND OTHER REPRESENTATIVES (COLLECTIVELY, "**PROGENY PARTIES**") DISCLAIM AND WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, GOODWILL, USE, DATA, ELECTRONICALLY TRANSMITTED ORDERS OR OTHER ECONOMIC ADVANTAGE) ("**DAMAGES**") ARISING OUT OF OR IN CONNECTION WITH THE APPLICATION EVEN IF PROGENY HAS PREVIOUSLY BEEN ADVISED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OF SUCH DAMAGES, HOWEVER THEY ARISE, WHETHER IN BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, DAMAGES DUE TO: (a) THE USE OF OR THE INABILITY TO USE THE APPLICATION, ANY WEBSITE OR APPLICATION LINKED TO THE WEBSITE OR APPLICATION, ANY CONTENT ON THE WEBSITE OR APPLICATION, OR SUCH OTHER WEBSITES OR APPLICATIONS LINKED TO SUCH CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH OUR WEBSITE, SERVICES, OR SUCH OTHER WEBSITES; (b) THE COST OF PROCUREMENT OR 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 OUR APPLICATION; (c) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE APPLICATION, INCLUDING, WITHOUT LIMITATION, UNAUTHORIZED ACCESS TO OR ALTERATION OF TRANSMISSIONS OR DATA, MALICIOUS OR CRIMINAL BEHAVIOR OR FALSE OR FRAUDULENT TRANSACTIONS; OR (d) CONTENT OR INFORMATION YOU MAY DOWNLOAD, USE, MODIFY OR DISTRIBUTE.

In the event you have any dispute with one or more third party as a result of your use of the Application, or are in any way damaged as a result of any third party in connection therewith, you hereby release Progeny Parties from and covenant not to sue or otherwise make a claim, demand or file any legal action or institute any legal or regulatory proceedings against the Progeny Parties for any Damages of whatever kind or nature, known or unknown, suspected or unsuspected, whether foreseeable or not, disclosed or undisclosed.

We cannot ensure or warrant the security of any information you transmit to the Application, and you do so at your own risk. Progeny therefore disclaims any warranties or representations relating to maintenance or nondisclosure of your private information.

## **4) Indemnification**

You agree to indemnify, defend, and hold Progeny Parties harmless from and against any and all Damages, claims, losses, costs (including, without limitation, reasonable attorneys' fees), or other expenses that arise directly or indirectly out of or from (a) your breach of any provision of these Terms; or (b) your activities with respect to the Application.

## **INTELLECTUAL PROPERTY**

All Content made available through the Application is our property, unless otherwise indicated, and is protected by copyright, trademark, and other intellectual property laws. We enforce our intellectual property rights to the fullest extent permitted by law. The Content may not be distributed, downloaded, modified, reused, reposted, or otherwise used, except that you may view, use, and download a single copy of our Website for your informational, non-commercial use. Except as provided herein, no Content may be copied, downloaded, or stored in a retrieval system for any other purpose, nor may you redistribute the Content, incorporate the Content into your own website, application, or written materials, or create derivative works for any purpose, without our prior written permission.

## **GENERAL**

### **1) Termination of Use**

If you violate these Terms, Progeny may terminate your use of the Application at any time without notice. Progeny reserves the right to seek all remedies available at law and equity for violation of these Terms. You agree that any material breach of these Terms will result in irreparable harm to us for which damages would be an inadequate remedy and, therefore, in addition to our rights and remedies otherwise available at law, we will be entitled to equitable relief, including both a preliminary and permanent injunction, if such a breach occurs. You waive any requirement for the posting of a bond or other security if we seek such an injunction.

### **2) Governing Law and Venue**

You agree that any dispute relating to the Application will be resolved according to the laws of the State of California, without regard to conflict of law rules. Except as otherwise set forth in the Arbitration and Class Action Waiver Section below, you agree that the federal and state courts of Los Angeles County in the State of California have exclusive jurisdiction over any legal proceedings arising out of or related to your use of the Application.

### **3) Arbitration and Class Action Waiver**

**REVIEW THIS SECTION CAREFULLY. IT LIMITS YOUR ABILITY TO LITIGATE CERTAIN CLAIMS IN COURT, YOUR RIGHT TO HAVE A JURY DECIDE CERTAIN CLAIMS, AND YOUR ABILITY TO COMBINE CLAIMS AND TO BRING CLAIMS THROUGH CLASS ACTIONS. YOU UNDERSTAND THAT BY USING AND/OR BECOMING A USER OF THE APPLICATION, YOU CONSENT AND CHOOSE TO HAVE SUCH CLAIMS SUBMITTED TO BINDING ARBITRATION. YOU UNDERSTAND THAT NO ARBITRATION OR PROCEEDING WILL BE COMBINED WITH ANOTHER WITHOUT THE PRIOR WRITTEN CONSENT OF ALL PARTIES TO ALL AFFECTED ARBITRATIONS OR PROCEEDINGS.**

#### **A. Mandatory Arbitration of Certain Claims**

You agree that, except as otherwise set forth in this Section, all “**Claims**” (defined as any dispute or controversy arising out of or relating to these Terms, your use of or inability to use the Application or Content, except the following types of disputes and controversies: (i) any claim seeking to enforce or protect, or concerning the validity of, any of our intellectual property rights; (ii) any claim related to, or arising from, allegations of theft, piracy, or unauthorized use; (iii) any claim for injunctive relief; and (iv) any claim within the jurisdictional limits of the small claims courts) shall be resolved through binding arbitration administered by the American Arbitration Association (“**AAA**”), under the AAA Rules in effect at the time the Claim is filed (“**AAA Rules**”). Each Claim shall be submitted to a single arbitrator selected through mutual agreement of the parties. The arbitrator’s decision shall be final, binding, and non-appealable. Judgment upon the award may be entered and enforced in any court having jurisdiction or application may be made for judicial acceptance of the award and an order of enforcement. Except as otherwise indicated in these Terms, the arbitrator, and not any federal, state, or local court, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, and/or enforceability of these Terms and any other terms and conditions or documents incorporated herein, including any claim that all or any part of these Terms are void or voidable. The arbitration

proceedings shall be held in Orange County, California and shall be subject to these Terms and the laws of the State of California, United States, without regard to conflicts of law provisions thereof. The arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action (as defined below) nor make an award to any person or entity not a party to the arbitration. No arbitration or proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

Before you take a dispute to arbitration or to small claims court, you must first contact us in writing and describe the nature and basis of the Claim or dispute, as well as the specific relief sought and give us an opportunity to resolve the dispute. Similarly, before Progeny takes a dispute to arbitration, Progeny must first attempt to resolve it by contacting you. If you and Progeny do not reach an agreement to resolve the claim within 60 days from the date such notification is provided, you or Progeny may commence arbitration proceedings.

If Progeny prevails before the arbitrator, and if Progeny shows that you acted in bad faith in bringing your claim, then Progeny may seek to recover the AAA's fees and expenses of the arbitrator from you.

#### **B. Class Action Waiver**

You and Progeny expressly agree that any Claim(s) must be brought in the respective party's individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple plaintiffs, or similar proceeding ("**Class Action**"). You and Progeny expressly agree to waive any ability to maintain any Class Action in any forum raising a Claim covered by this Section. Notwithstanding any other provision of these Terms to the contrary, any Claim, dispute, or controversy alleging that all or part of the Class Action waiver contained in this Section is invalid, illegal, unenforceable, void, or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator.

#### **4) Severability**

If any part of these Terms is determined by a court of competent jurisdiction not to be enforceable for any reason, this will not affect the validity of the other parts of the Terms, which will continue to be in full force and effect.

### **CONTACT INFORMATION**

If you have any questions about the Application, please contact us at [marketing@ambrygen.com](mailto:marketing@ambrygen.com).