UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: 23ANDME HOLDING CO., *et al.*,[1]	Case No. 25-40976-357 Chapter 11 (Jointly Administered) Objection Deadline: September 18, 2025 Hearing Date: September 25, 2025 Hearing Time: 10:00 a.m. (prevailing Central Time) Hearing Location: Courtroom 5 North

JOINT MOTION OF THE DEBTORS AND U.S. DATA BREACH SETTLEMENT CLASS REPRESENTATIVES PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 9019 AND 7023 FOR AN ORDER (I) PRELIMINARILY APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND U.S. DATA BREACH SETTLEMENT CLASS REPRESENTATIVES; (II) CERTIFYING A CLASS FOR SETTLEMENT PURPOSES ONLY; (III) APPROVING THE FORMS AND MANNER OF NOTICE TO CLASS MEMBERS OF THE CLASS CERTIFICATION AND SETTLEMENT; (IV) SCHEDULING A FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF THE SETTLEMENT AGREEMENT AND (V) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors") and Settlement Class Representatives (as defined herein) respectfully state as follows in support of this motion (the "Motion"):

[1] The Debtors in each of these cases, along with the last four digits of each Debtor's federal tax identification number, are: 23andMe Holding Co. (0344), 23andMe, Inc. (7371), 23andMe Pharmacy Holdings, Inc. (4690), Lemonaid Community Pharmacy, Inc. (7330), Lemonaid Health, Inc. (6739), Lemonaid Pharmacy Holdings Inc. (6500), LPharm CS LLC (1125), LPharm INS LLC (9800), LPharm RX LLC (7746), LPRXOne LLC (3447), LPRXThree LLC (3852), and LPRXTwo LLC (1595). The Debtors' service address for purposes of these chapter 11 cases is: 870 Market Street, Room 415, San Francisco, CA 94102.

Relief Requested[2]

1. The Debtors and representatives of U.S. persons whose personal information was impacted by the Cyber Security Incident (the "Settlement Class Representatives") file this Motion pursuant to sections 105 and 363 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 7023 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 23 of the Federal Rules of Civil Procedure (the "FRCP"), applicable hereto by Bankruptcy Rule 7023, for entry of an order (the "Proposed Order"): (a) preliminary approving the settlement (the "Settlement") contemplated in the settlement agreement attached hereto as **Exhibit A** (the "Settlement Agreement" or "SA"), between the Debtors and Settlement Class Representatives, on behalf of the U.S. Data Breach Settlement Class (together with the Debtors, the "Parties"); (b) certifying the U.S. Data Breach Settlement Class for settlement purposes only; (c) approving the forms and manner of notice to Settlement Class Members (the "Class Notice") attached hereto as **Exhibit B**; (d) approving certain claim forms (the "Claim Forms") attached hereto as **Exhibit C**; (e) approving the U.S. Data Breach Class Settlement Class Benefits Plan ("Settlement Benefits Plan") attached hereto as **Exhibit D**; (f) approving the form and manner by which Settlement Class Members may exclude themselves from the Settlement (the "Opt Out Form") attached hereto as **Exhibit E**; (g) scheduling a fairness hearing to consider final approval of the Settlement Agreement; and (h) granting related relief. Also attached to the Motion is the list of Settlement Class Representatives as **Exhibit F**.

2. In support of this Motion, the Parties submit the (a) *Declaration of Gerald Thompson in Support of the Joint Motion of the Debtors and U.S. Settlement Class Representatives Pursuant to Sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023*

[2] Capitalized terms used but not defined in this section have the meanings ascribed to such terms elsewhere in this motion.

for an Order (I) Preliminarily Approving the Settlement Agreement Between the Debtors and U.S. Settlement Class Representatives; (II) Certifying a Class for Settlement Purposes Only; (III) Approving the Forms and Manner of Notice to Class Members of the Class Certification and Settlement; (IV) Scheduling a Fairness Hearing to Consider Final Approval of the Settlement Agreement and (V) Granting Related Relief (the "CyEx Decl."); (b) *Declaration of Co-Lead Counsel in Support of the Joint Motion of the Debtors and U.S. Settlement Class Representatives Pursuant to Sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023 for an Order (I) Preliminarily Approving the Settlement Agreement Between the Debtors and U.S. Settlement Class Representatives; (II) Certifying a Class for Settlement Purposes Only; (III) Approving the Forms and Manner of Notice to Class Members of the Class Certification and Settlement; (IV) Scheduling a Fairness Hearing to Consider Final Approval of the Settlement Agreement and (V) Granting Related Relief* (the "Co-Lead Counsel Decl."); and (c) *Declaration of the Settlement Administrator in Support of the Joint Motion of the Debtors and U.S. Settlement Class Representatives Pursuant to Sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rules 9019 and 7023 for an Order (I) Preliminarily Approving the Settlement Agreement Between the Debtors and U.S. Settlement Class Representatives; (II) Certifying a Class for Settlement Purposes Only; (III) Approving the Forms and Manner of Notice to Class Members of the Class Certification and Settlement; (IV) Scheduling a Fairness Hearing to Consider Final Approval of the Settlement Agreement and (V) Granting Related Relief* ("Settlement Admin. Decl."), in each case either filed contemporaneously herewith or to be filed shortly after the filing of this Motion.

In further support of the Motion, the Debtors and Settlement Class Representatives, by and through their undersigned counsel, state as follows:

Preliminary Statement

3. The Settlement Class Representatives for the U.S. Data Breach Settlement Class and the Debtors have reached a proposed Settlement in which the U.S. Data Breach Settlement Class will receive at least $30 million and up to $50 million to resolve claims arising from a Cyber Security Incident announced by 23andMe in October 2023 that impacted approximately 6.4 million people in the United States.

4. The benefits provided by the Settlement, which are detailed in the U.S. Data Breach Class Settlement Benefits Plan, are carefully tailored to redress the alleged harms faced by 23andMe customers from the Cyber Security Incident which involved the unauthorized access to certain personal information, including genetic information as well as limited health information. *See* MDL No. 3098, Docket No. 78, Consolidated Class Action Complaint (the "Complaint"). If the Settlement is approved, the benefits available to Settlement Class Members will provide: (a) monetary reimbursement for Extraordinary Claims up to $10,000 for unreimbursed losses incurred as the direct result of the Cyber Security Incident, including expenses for identity fraud, the installation of physical security or monitoring systems, and professional mental health treatment; (b) cash payments for Settlement Class Members who were residents of states with genetic privacy laws that provide for statutory damages (*i.e.*, Alaska, California, Illinois, and Oregon); (c) cash payments for Settlement Class Members that had certain health information compromised in the Cyber Security Incident, and (d) five years of state-of-the-art Privacy & Medical Shield + Genetic Monitoring ("Privacy Shield") for all Settlement Class Members who enroll. Privacy Shield is a unique monitoring program with added components designed

specifically for this Settlement that provides extensive benefits for victims of the Cyber Security Incident.

5. The Settlement also confers a number of benefits to the Debtors' estate and their stakeholders. Among other things, the Settlement allows the Debtors to resolve a substantial majority of U.S. Data Breach Claims filed against the Debtors. As of the date hereof, over 250,000 claimants have filed Proofs of Claims (including late-filed claims) against the Debtors, the substantial majority of which comprise U.S. Data Breach Claims.[3] In the absence of the Settlement, the Debtors or the Plan Administrator, as applicable, would likely need to expend significant resources, money and time to resolve such claims as part of these chapter 11 cases, which would ultimately reduce the amount of distributable value available for stakeholder recoveries and delay distributions. Moreover, the Settlement Agreement provides that the costs and expenses associated with notice and distributions to Settlement Class Members will be paid from the funds approved for distribution on account of the U.S. Data Breach Class Proof of Claim, relieving the Debtors' estates from costs and expenses associated with administering Proofs of Claims filed by members of the U.S. Data Breach Settlement Class.

6. As set forth in detail in this Motion, the proposed Settlement should be approved. It is both "fair and equitable and in the best interests of the estate," as required by Bankruptcy Rule 9019(a), and is "fair, reasonable, and adequate" for the U.S. Data Breach Class as required by FRCP 23. The Settlement balances the constraints of the available funds in these chapter 11 cases

[3] Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the First Day Declaration (as defined below) or the Plan (as defined below).

while ensuring that the U.S. Data Breach Settlement Class receives fair compensation for their alleged injuries.

Jurisdiction

7. The United States Bankruptcy Court for the Eastern District of Missouri (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and rule 9.01(B) of the Local Rules of the United States District Court for the Eastern District of Missouri. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Debtors consent to a final order with respect to this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

8. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The bases for the relief requested herein are sections 105 of the Bankruptcy Code, Rules 7023 and 9019 of the Bankruptcy Rules and Rule 23 of the FRCP.

Background

I. The 2023 Cyber Security Incident

10. On October 1, 2023, a threat actor posted online a claim to have 23andMe users' profile information for sale on the dark web including ethnicity information relating to the data of one million 23andMe users with Ashkenazi Jewish DNA descent and another 300,000 users of Chinese heritage. MDL No. 3098, Docket No. 78, ¶¶ 420-21. Upon learning of the incident, the Company immediately commenced an investigation and engaged third-party incident response experts to assist in determining the extent of any unauthorized activity. Based on its investigation, the Company determined the threat actor was able to access a small percentage (0.1%) of user accounts in instances where usernames and passwords that were used on the Company website

were the same as those used on other websites that had been previously compromised or were otherwise available (the "Credential Stuffed Accounts"). The information accessed by the threat actor in the Credential Stuffed Accounts varied by user account, and generally included ancestry information, and, for a subset of those accounts, health-related information based upon the user's genetics. Using this access to the Credential Stuffed Accounts, the threat actor accessed files containing information that other users consented to share when opting in to either 23andMe's DNA Relatives, Family Tree or Connections features.[4] For most of the impacted customers, the information accessed by the threat actor included such information from a customer's DNA Relatives profile or Family Tree profile within 23andMe's DNA Relatives feature, which may have included their name, sex, birth year, information about the customer's ancestry based on their genetic information, self-reported location (city/zip code), ancestor birth locations, family names and Family Tree information. For a small number of customers, the threat actor also accessed personal information about the customer's present or future health based on the analysis of their genetic data, their self-reported health information, and their uninterpreted genotype data.

11. The Company determined that as a result of the Cyber Security Incident, the threat actor accessed, without authorization, personal information relating to approximately seven million 23andMe customers worldwide, including approximately 6.4 million natural persons in the United States.

[4] 23andMe's "DNA Relatives" feature allows customers to find and connect with their genetic relatives, while the "Family Tree" feature automatically predicts a family tree based on the DNA shared by a customer with its relatives in 23andMe. 23andMe's "Connections" feature allows users to share information with another 23andMe user. Connections are established based on mutual agreement of the users—one user sends a Connection invitation and the other user accepts it to initiate the sharing of data between the users.

II. The Multi-District Litigation

12. After announcement of the Cyber Security Incident, over 40 putative class action lawsuits were filed against 23andMe, Inc. ("23andMe") asserting claims for a number of common law torts and various statutory claims—including several that provide potential statutory damages for the disclosure of genetic information. On December 21, 2023, 23andMe filed a Motion to Transfer Actions to the Northern District of California Pursuant to 18 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings with the Judicial Panel on Multidistrict Litigation (JPML), MDL No. 3098. On April 11, 2024, the JPML centralized the litigation before the Honorable Edward M. Chen of the Northern District of California (the "District Court"), where dozens of putative class action lawsuits were pending, as *In Re: 23andMe, Inc. Customer Data Security Breach Litigation*, No. 3:24-md-03098-EMC (N.D. Cal.) ("MDL"). The District Court considered applications for the appointment of interim co-lead counsel under Fed. R. Civ. P. 23(g) and held a hearing on the motions on June 3, 2024. On June 5, 2024, the District Court appointed Norman E. Siegel of Stueve Siegel Hanson LLP, Gayle M. Blatt of Casey Gerry Francavilla Blatt LLP, and Cari Campen Laufenberg of Keller Rohrback L.L.P. as interim co-lead counsel (collectively, "Co-Lead Counsel"). *See* MDL No. 3098, Docket No. 62. Upon appointment, Co-Lead Counsel filed a 186-page consolidated complaint (the "Complaint") on June 26, 2024, alleging 40 causes of action. *See* MDL No. 3098, Docket No. 78.

13. Prior to their appointment, Co-Lead Counsel and other Plaintiffs' counsel engaged in mediation sessions with 23andMe on January 31, 2024 and March 20, 2024. From the perspective of Co-Lead Counsel, the discussions were driven, in large part, by 23andMe's weak financial condition, including limited cash and insurance to cover the claims asserted in the litigation. Co-Lead Counsel Decl. ¶ 24. In the context of these mediation sessions, parties in the MDL exchanged informal discovery, and Co-Lead Counsel and other Plaintiffs' counsel engaged

an independent forensic auditing firm to advise them with respect to 23andMe's financial condition. *Id*. Although productive, these mediation sessions did not result in a settlement.

14. Following their appointment, and as directed by the District Court, Co-Lead Counsel continued settlement discussions with 23andMe through June 26, 2024, when an additional mediation session was held. The arm's-length mediation sessions resulted in a mediator's proposal for resolution of Plaintiffs' claims against 23andMe. Co-Lead Counsel Decl. ¶ 26. On July 12, 2024, all Parties accepted the mediator's proposal, reaching an agreement in principle to resolve the underlying litigation. *Id*. On July 29, 2024, the Parties executed a term sheet containing the material terms of the prepetition settlement agreement. *Id*. On September 5, 2024, the prepetition settlement agreement was executed. *Id*.

15. On September 12, 2024, Co-Lead Counsel filed a motion for preliminary approval of the prepetition settlement agreement (MDL No. 3098, Docket No. 103), and 23andMe filed a memorandum in support of that motion (MDL No. 3098, Docket No. 105). Subsequently, pursuant to an order entered by the District Court, Co-Lead Counsel filed a supplemental brief in support of the prepetition settlement on October 2, 2024, which included additional information related to 23andMe's financial condition. MDL No. 3098, Docket No. 123. On October 29, 2024, the District Court held a hearing regarding the motion for preliminary approval of the prepetition settlement. MDL No. 3098, Docket No. 147. At the hearing, Judge Chen and counsel engaged in an extended discussion regarding the $30 million settlement amount, and the District Court commented, "we wouldn't be talking about a settlement like this if it weren't for the financial situation." MDL No. 3098, Docket No. 148, Oct. 29, 2024 Hearing Tr. 18:13-45, 83:7-23. The Parties then filed a joint supplemental brief in support of the prepetition settlement on November

12, 2024, in response to an order by the District Court requesting additional information and revisions to the forms of class notice. MDL No. 3098, Docket No. 155.

16. On December 4, 2024, the District Court entered an order conditionally granting the motion for preliminary approval of the prepetition settlement agreement, requiring the Parties to affirm several modifications to the agreement to effectuate the District Court's order granting preliminary approval. MDL No. 3098, Docket No. 160. Following 23andMe's requests for extensions to consider the District Court's conditionally modified terms of the prepetition settlement agreement (*see* MDL No. 3098, Docket Nos. 161, 163, 165, 167), on March 12, 2025, the Parties advised the District Court that they intended to proceed with the prepetition settlement agreement as modified by the District Court in its preliminary approval order. MDL No. 3098, Docket No. 171.

17. The Settlement now before this Court closely tracks the prepetition settlement agreed to by the Parties and preliminarily approved by Judge Chen in the MDL, but provides for up to a $20 million increase in the settlement amount to account for the increased value of the Debtors' assets as a result of the Chrome Sale Transaction.

III. The Chapter 11 Cases

18. On March 23, 2025 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

19. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These cases are being jointly administered pursuant to Bankruptcy Rule 1015(b). On April 3, 2025, the Office of the United States Trustee for the Eastern District of Missouri (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Creditors' Committee"). On July 15, 2025, the U.S.

Trustee appointed an official committee of equity security holders (the "Official Equity Committee" and together with the Creditors' Committee, the "Committees").

20. A detailed description of the Debtors and their business, including the facts and circumstances giving rise to the Debtors' chapter 11 cases, is set forth in the *Declaration of Matthew Kvarda in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 32] (the "First Day Declaration").

21. On April 30, 2025, the Court entered the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof, and (II) Granting Related Relief* [Docket No. 349] (the "Bar Date Order"), establishing certain dates and deadlines for filing Proofs of Claim in these chapter 11 cases, including July 14, 2025 as the deadline for submitting claims arising from or related to the Cyber Security Incident (the "Cyber Security Incident Bar Date"). The Bar Date Order contemplated U.S. Data Breach Class Counsel's ability to file a class proof of claim (the "U.S. Data Breach Class Proof of Claim") on behalf of the U.S. Data Breach Settlement Class, *provided* that the allowance and validity of such class proof of claim remain subject to certification of the U.S. Data Breach Settlement Class pursuant to rule 7023 of the Bankruptcy Rules. Moreover, the Bar Date Order required that issues related to class certification pursuant to rule 7023 of the Bankruptcy Rules and/or the authority to file a class proof of claim (collectively, the "Rule 7023 Issues") be fully briefed before the Cyber Security Incident Bar Date pursuant to a briefing schedule (the "Rule 7023 Briefing Schedule") as mutually agreed amongst the Debtors, the Creditors' Committee and U.S. Data Breach Class Counsel.

22. On May 30, 2025, in accordance with the Rule 7023 Briefing Schedule, U.S. Data Breach Class Counsel timely filed its *Motion for an Order Allowing Data Breach Victim Class to File a Class Proof of Claim* [Docket No. 539] (the "Rule 7023 Class Proof of Claim Motion")

seeking authority under rules 7023 and 9014 of the Bankruptcy Rules to file a class proof of claim on behalf of the U.S. Data Breach Settlement Class. On June 17, 2025, the Debtors filed a *Revised Notice Regarding Briefing Schedule on Issues Relating to Class Certification and Authorization to File Class Proofs of Claim* [Docket No. 795] informing the Court that the Debtors and U.S. Data Breach Class Counsel reached an agreement in principle with respect to the Rule 7023 Issues, which remained subject to definitive documentation and applicable approvals from the Court, and requesting the remaining deadlines in the Rule 7023 Briefing Schedule to be adjourned to a later date, as appropriate.

23. On August 4, 2025, the Debtors executed the Settlement Agreement, the terms of which are incorporated into (a) the Debtors' *Joint Chapter 11 Plan of Chrome Holding Co. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1113] (as modified, amended, or supplemented from time to time, the "Plan") and (b) *Disclosure Statement for the Joint Chapter 11 Plan of Chrome Holding Co. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1114] (as modified, amended, or supplemented from time to time, the "Disclosure Statement").

IV. Proposed Settlement of Claims

24. The material terms of the Settlement Agreement are set forth below:[5]

A. Settlement Terms. Subject to the conditions set forth in the Settlement Agreement, the Debtors, Settlement Class Representatives and U.S. Data Breach Class Counsel agree as follows:

1. U.S. Data Breach Class Proof of Claim: U.S. Data Breach Class Counsel may file one consolidated class proof of claim on behalf of the U.S. Data Breach Settlement Class, subject to, among other things, the following:

[5] The summary set forth herein is qualified in its entirety by the terms of the Settlement Agreement, and the terms of the Settlement Agreement shall control in the event of a conflict.

(a) The U.S. Data Breach Class Proof of Claim may be filed in an amount determined by U.S. Data Breach Class Counsel in accordance with the Bar Date Order and applicable law.

(b) The amount of the claim asserted on the U.S. Data Breach Class Proof of Claim must include all amounts contemplated in the U.S. Data Breach Class Action, including, among other things, amounts reserved for (a) attorneys' fees, (b) litigation expenses, (c) service awards for named plaintiffs, (d) settlement administration costs, (e) data monitoring programs (*i.e.*, Privacy Shield), and (f) cash distributions for members of the U.S. Data Breach Settlement Class (the "Settlement Class Members").

(c) Notwithstanding the filed amount of the U.S. Data Breach Class Proof of Claim, or the amount of such U.S. Data Breach Class Proof of Claim that is Allowed following the adjudication or administration of the claim in these chapter 11 cases, the aggregate cash distributions to be made on account of the U.S. Data Breach Class Proof of Claim shall not exceed $50 million in the aggregate (the "U.S. Data Breach Class Settlement Cap").

(d) The Debtors' right to contest the Allowed amount of the U.S. Data Breach Class Proof of Claim is fully preserved but solely with respect to amounts in excess of $30 million (the "U.S. Data Breach Class Minimum Allowed Claim").

2. Chapter 11 Plan: U.S. Data Breach Class Counsel shall engage in good-faith negotiations with the Debtors and the Creditors' Committee regarding the terms of a mutually acceptable chapter 11 plan, which is in all material respects consistent with the Settlement Agreement (an "Acceptable Plan").

(a) If an Acceptable Plan contemplates separate classification of U.S. Data Breach Class Members as a distinct voting class under such chapter 11 plan, U.S. Data Breach Class Counsel and U.S. Data Breach Class Members shall support such separate classification; *provided* that such class of U.S. Data Breach Class Members receives pro rata treatment with all other general unsecured classes on account of any Allowed U.S. Data Breach Class Proof of Claim, unless otherwise agreed by U.S. Data Breach Class Counsel or such treatment is otherwise, in all material respects, consistent with the Settlement Agreement.

(b) U.S. Data Breach Class Counsel shall use commercially reasonable efforts to encourage U.S. Data Breach Class Members to support and vote in favor of an Acceptable Plan, including but not limited to

submitting a letter of support for such Acceptable Plan to be included as part of the solicitation package.

3. Settlement Class Certification: if an Acceptable Plan contemplates certification of the U.S. Data Breach Settlement Class as a settlement class pursuant to Rule 23 of the FRCP, U.S. Data Breach Class Counsel shall seek approval of a process (without objection from the Debtors) whereby:

(a) The funds approved for the U.S. Data Breach Class Proof of Claim will be placed in a Qualified Settlement Fund pursuant to § 468B of the Internal Revenue Code and related Treasury Regulations or similar trust under such plan (the "U.S. Data Breach Class Settlement Fund") for the benefit of Settlement Class Members and U.S. Data Breach Class counsel; *provided* that in the event the placement of funds into such Qualified Settlement Fund impacts tax efficiencies and/ or raises any issues related to regulatory compliance for the U.S. Data Breach Class Settlement Fund or any other trust contemplated under an Acceptable Plan, U.S. Data Breach Class Counsel agree to discuss with the Debtors, a plan administrator appointed pursuant to the Plan, and the Committee and/or a general unsecured claims trustee, as applicable, to consider other trust options.

(b) U.S. Data Breach Class Counsel will oversee distribution of the U.S. Data Breach Class Settlement Fund pursuant to a proposed benefits plan approved by the Court (the "U.S. Data Breach Settlement Class Benefits Plan," or the "SBP" attached hereto as **Exhibit D**).

(c) Settlement Class Opt Outs.

(i) Any Settlement Class Member that timely filed a Proof of Claim (a "U.S. Eligible Class Member") shall have the opportunity to opt out of the U.S. Data Breach Class Benefits Plan by timely and validly electing to opt out of the U.S. Data Breach Class Benefits Plan. Any Settlement Class Member that fails to timely opt out of the U.S. Data Breach Class Benefits Plan, regardless of whether such Settlement Class Member timely filed a Proof of Claim, shall receive benefits as set forth in the U.S. Data Breach Class Benefits Plan and may not maintain a separate Proof of Claim in the Chapter 11 Cases. Any Settlement Class Member that opts out may be placed in a separate class under an Acceptable Plan.

(ii) If more than 2% of the Settlement Class Members opt out of the U.S. Data Breach Class Benefits Plan (the "Opt-Out Percentage"), the Debtors shall have the option to either

(a) provide U.S. Data Breach Class Counsel with notice either (i) terminating the U.S. Data Breach Class Settlement Cap and U.S. Data Breach Class Minimum Allowed Claim and preserving the Debtors' ability to object to the full amount of the U.S. Data Breach Class Proof of Claim or (ii) objecting to certification of the Settlement Class Members under Rule 7023 of the Bankruptcy Rules; or (b) impose reductions to the U.S. Data Breach Class Settlement Cap and U.S. Data Breach Class Minimum Allowed Claim, which reductions shall be calculated at a rate of $50 for each opt out member in excess of 2% of the total Settlement Class Members (the "Opt-Out Claims Reduction").

4. U.S. Data Breach Class Action: upon the effective date of an Acceptable Plan (the "Plan Effective Date"), U.S. Data Breach Class Counsel shall promptly move to dismiss the U.S. Data Breach Class Action with prejudice and without costs to any Party.

B. Mutual Releases

1. Upon the Plan Effective Date, U.S. Data Breach Class Counsel, the Settlement Class Representatives and the Settlement Class Members (collectively, the "U.S. Data Breach Class Action Parties") shall be deemed to, and hereby agree to, release, acquit, satisfy, and forever discharge the Debtors and any of their respective members, shareholders, affiliates, related entities, current and former officers, directors, employees, principals, agents, successors, predecessors, and representatives (the "Debtor Released Parties") for any claims arising out of the Cyber Security Incident that the U.S. Data Breach Class Action Parties can, shall, or may have against the Debtor Released Parties, whether known or unknown, accrued or unaccrued, fixed or contingent, prepetition or postpetition, secured, unsecured or priority, which may presently exist or arise in the future.[6]

2. Upon the Plan Effective Date, the Debtors and any of their respective members, shareholders, affiliates, related entities, current and former officers, directors, employees, principals, agents, successors, predecessors, and representatives shall be deemed to, and hereby agree to, release, acquit, satisfy, and forever discharge U.S. Data Breach Class Action Parties for any claims arising out of the Cyber Security Incident, including

[6] U.S. Eligible Class Members will have the opportunity to opt out of the U.S. Data Breach Settlement Class as part of the solicitation procedures approved by the Bankruptcy Court. All other Settlement Class Members (*i.e.*, members who did not timely file a Proof of Claim in these chapter 11 cases) will also be provided an opportunity to opt out of the U.S. Data Breach Settlement Class as further discussed herein. Notwithstanding the foregoing, all Settlement Class Members remain subject to the Bar Date Order, including with respect to the Cyber Security Incident Bar Date.

any claims arising out of or relate in any way to the institution, prosecution or settlement of the U.S. Data Breach Class Action against 23andMe Inc., that the Debtors can, shall, or may have against the U.S. Data Breach Class Action Parties, whether known or unknown, accrued or unaccrued, fixed or contingent, prepetition or postpetition, secured, unsecured or priority, which may presently exist or arise in the future.

3. The Parties agree that the releases set forth herein shall be construed as broadly as possible, except that the obligations of the Parties as set forth in the Settlement Agreement shall not be released.

C. Benefits to Settlement Class Members

25. The Settlement Agreement contemplates a U.S. Data Breach Class Minimum Allowed Claim of $30 million and a U.S. Data Breach Class Settlement Cap of $50 million on account of the U.S. Data Breach Class Proof of Claim. If Chrome General Unsecured Claims receive a 100% recovery on account of the Allowed amount of such Claims in accordance with the Plan, the Settlement Agreement will provide monetary benefits in the form of a non-reversionary U.S. Data Breach Class Settlement Fund of at least $30,000,000 and up to $50,000,000, which shall be used to pay for: (a) benefits to the Settlement Class as outlined below; (b) notice and claims administrative costs; (c) attorneys' fees and expenses awarded by the Court; and (d) service awards awarded by the Court. SA ¶¶ II (A)(3)-(4); Settlement Benefits Plan ("SBP") ¶ 3. The net proceeds remaining in the U.S. Data Breach Class Settlement Fund after payment of attorneys' fees, notice and claims administration costs and service awards shall be used to provide the following benefits.

26. *First*, Settlement Class Members may make an "Extraordinary Claim" for verifiable unreimbursed costs or expenditures up to $10,000 related to the Cyber Security Incident. Extraordinary Claims provide reimbursement for: (a) unreimbursed costs incurred as a direct result of identity fraud or falsified tax returns that the Settlement Class Member establishes were the result of the Cyber Security Incident; (b) unreimbursed costs associated with the purchase of a

physical security or monitoring system that a Settlement Class Member establishes was purchased in response to the Cyber Security Incident; and (c) unreimbursed costs associated with seeking professional mental health counseling or treatment that a Settlement Class Member establishes were the result of the Cyber Security Incident. SBP ¶ 5.

27. *Second*, Settlement Class Members who were residents of Alaska, California, Illinois or Oregon—states that have genetic privacy laws with statutory damages provisions—may make a "Statutory Cash Claim." *Id.* ¶ 8.

28. *Third,* the small number of Settlement Class Members that had health information compromised in the Cyber Security Incident will be sent "Health Information Claim" payments of $165 by check at their last known mailing addresses even if they do not submit a Claim Form, for whom 23andMe has their mailing address information. SBP ¶ 6. Such Settlement Class Members may also submit a Claim Form to claim other settlement benefits in addition to their Health Information Claim, select their preferred form of payment, and/or update their mailing addresses. *Id*.[7]

29. *Fourth*, all Settlement Class Members will be entitled to enroll in Privacy Shield, which will be available for five years. This monitoring program was developed by experts in the field specifically for this case, and provides substantial web and dark web monitoring for Settlement Class Members. *See* CyEx Decl. ¶¶ 8-9. Privacy Shield will also aid in reducing Settlement Class Members' digital footprint.

30. To take advantage of the cash payments and to enroll in Privacy Shield, Settlement Class Members will submit Claim Forms to the Settlement Administrator electronically or

[7] All Extraordinary Claims, Statutory Cash Claims, and Health Information Claims shall be paid pursuant to the payment schedule detailed in the U.S. Data Breach Class Benefits Plan submitted by Co-Lead Counsel in conjunction with this motion for Preliminary Approval. SBP ¶ 9.

download a form for mailing from a dedicated website for the Settlement (the "Settlement Website"). SBP ¶ 15. Settlement Class Members will be able to receive their payments by an electronic payment option or can opt for a mailed check. SBP ¶16. Pre-enrollment codes for Privacy Shield will be automatically sent to Settlement Cass Members via the Class Notice, which they can then use to enroll in the service via the Claim Form. SBP ¶ 15(d)(i). When the Settlement becomes final, Settlement Class Members will be notified that the service is ready for use. However, even if they do not make a claim for Privacy Shield prior to the deadline established for submitting Claim Forms (the "Claims Deadline"), Settlement Class Members will be entitled to enroll *at any point* during the five-year period that Privacy Shield is active and will be able to take advantage of the remaining time available on the five-year term of the program. *Id.* After the distribution of Settlement funds pursuant to the U.S. Data Breach Class Benefits Plan, any remaining funds will be used to extend the active period for Privacy Shield. SBP ¶ 11.

D. Class Definition and the Estimated Class Size

31. The U.S. Data Breach Settlement Class includes all natural persons who were residents of the United States at any time between May 1, 2023 and October 1, 2023 and whose Personal Information was compromised in the Cyber Security Incident." SBP ¶ 2. A subclass for claimants with Statutory Cash Claims is defined to include Settlement Class Members who were residents of Alaska, Oregon, California or Illinois at any time during the Cyber Security Incident Period (the "Statutory Subclass"). *Id.* The Settlement Class and Statutory Subclass specifically exclude: (a) 23andMe and its officers and directors; (b) all U.S. Eligible Class Members who timely and validly request to opt-out from the Settlement Class; (c) the Judge assigned to evaluate the fairness of this settlement; (d) potential class members who have provided 23andMe with an express release of claims arising out of or related to the Cyber Security Incident prior to August 4, 2025 and (e) any holder of a U.S. Data Breach Arbitration Claim. *Id.* 23andMe's investigation

determined the threat actor accessed personal information without authorization relating to approximately 6.4 million natural persons in the United States. Class Counsel Decl. ¶¶ 28, 38. The Statutory Subclass includes approximately 1.4 million natural persons. Class Counsel Decl. ¶ 38.

E. Co-Lead Counsel's Fees, Class Representatives' Service Awards and Other Costs

32. Co-Lead Counsel anticipate they will petition the Court for attorneys' fees of up to 25% of the U.S. Data Breach Class Settlement Fund and reimbursement of reasonable expenses incurred in the MDL as well as the chapter 11 cases. SBP ¶ 3(b). The Settlement Class and the Court will have a full opportunity to consider the appropriate fees as part of the final approval process. There is no "clear sailing" agreement, and final approval is not contingent upon approval of the requested attorneys' fees, costs and expenses. *See generally* SA. Co-Lead Counsel also intends to request reimbursement for expenses associated with the retention of cybersecurity and financial experts, mediation costs, and other costs incurred during the MDL and the chapter 11 cases.

33. Under the Settlement, Co-Lead Counsel will seek approval of service awards (the "Service Awards") of $1,000 for each Settlement Class Representative, which the Debtor will not oppose. SA ¶ II (A)(3); SBP ¶ 3(c). The Settlement is not contingent upon approval of the Service Awards to the Settlement Class Representatives, and the U.S. Data Breach Settlement Class and the Court will have a full opportunity to evaluate the request for such awards as part of the final approval process. *See generally* SA.

ARGUMENT

I. The Court Should Approve the Settlement Agreement Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure

34. Bankruptcy Rule 9019 grants the Court authority to approve the settlement of claims and controversies after notice and a hearing. Specifically, Bankruptcy Rule 9019(a) provides the following:

> On the [debtor in possession's] motion and after notice and a hearing, the court may approve a compromise or settlement. Notice must be given to: all creditors; the United States trustee; . . . and any other entity the court designates.

Fed. R. Bankr. P. 9019(a).

35. Pursuant to Bankruptcy Rule 9019(a), a bankruptcy court may, after appropriate notice and a hearing, approve a compromise or settlement so long as the proposed settlement is "fair and equitable and in the best interests of the estate." *TooBaRoo, LLC* v. *W. Robidoux, Inc.*, 135 F.4th 1133, 1138 (8th Cir. 2025); *see also In re Apex Oil Co.*, 92 B.R. 847, 866-67 (Bankr. E.D. Mo. 1988) (quoting *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc.* v. *Anderson*, 390 U.S. 414, 424 (1968) ("*TMT Trailer Ferry*") and *In re Cockhren*, 468 B.R. 838, 845-46 (8th Cir. 2012)). The proposed settlement need not result in the best possible outcome for the debtor, but must not "fall below the lowest point in the range of reasonableness." *Tri-State Financial, LLC* v. *Lovald*, 525 F.3d 649, 654 (8th Cir. 2008) (citing *TMT Trailer Ferry*, 390 U.S. at 424).

36. Relying on the guiding language of *TMT Trailer Ferry*, courts in this circuit have set forth the following factors regarding the reasonableness of settlements (the "*TMT* Factors"):

a. the probability of success in the litigation;

b. the difficulties, if any, to be encountered in the matter of collection;

c. the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and

d. the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Tri-State Financial, 525 F.3d at 654; *see also TooBaRoo, LLC* v. *W. Robidoux, Inc.*, 135 F.4th at 1138-1139. Ultimately, approval of a compromise is within the sound discretion of the bankruptcy court. *See Tri-State Financial*, 525 F.3d at 654 (citing *In re New Concept Housing, Inc.*, 951 F.2d 932, 939 (8th Cir. 1991) ("A bankruptcy court's approval of a settlement will not be set aside unless there is plain error or abuse of discretion")). It is the responsibility of the bankruptcy court to examine a settlement and determine whether it "fall[s] below the lowest point in the range of reasonableness." *Tri-State Financial*, 525 F.3d at 654.

37. Based on the relevant factors,[8] the Settlement Agreement is fair and equitable, falls well within the range of reasonableness, and is in the best interests of the Debtors' estate and therefore should be approved. The Parties engaged in extensive, good-faith negotiations to reach a consensual agreement that allows the Debtors to avoid draining estate resources in discovery and legal fees and expenses litigating complex Rule 7023 Issues. And while the Parties are confident in their respective legal and factual positions with respect to the Rule 7023 Issues, litigation is inherently uncertain. Litigating the Rule 7023 Issues to final judgment would impose significant costs on the Debtors' estates and further consume the Debtors' limited resources to their stakeholders' detriment. For example, absent the Settlement, the Debtors would have been required to file an objection to the Rule 7023 Class Proof of Claim Motion. If the Court were to find it appropriate to extend Rule 7023 to the claims resolution process and grant the relief requested in the Rule 7023 Class Proof of Claim Motion, the Parties would then have to engage in full FRCP 23 class certification proceedings as to the merits of certifying the U.S. Data Breach Settlement Class.

[8] The second *TMT* Factor—the likely difficulties in collection—does not apply here. *See In re Nutraquest, Inc.*, 434 F.3d 639, 646 (3d Cir. 2006) (finding that the second *Martin* factor, which is identical to the second *TMT* Factor, did not apply when considering the settlement of a claim against a debtor).

38. The Debtors or the Plan Administrator would also likely incur significant fees and expenses to administer and resolve the U.S. Data Breach Class Proof of Claim as part of the claims administration process in the absence of the Settlement. And given the quantum of the amount asserted on the U.S. Data Breach Class Proof of Claim (approximately $48 billion), other key stakeholders in these cases, including the Creditors' Committee and the Official Equity Committee, would likely actively participate in that process, requiring even further expenditures by the estate.

39. The Parties further submit that the terms of the Settlement Agreement provide other significant benefits for the Debtors' estates. *First*, the Debtors believe that the range of recovery for Settlement Class Members contemplated as part of the Settlement, specifically the U.S. Data Breach Class Minimum Allowed Claim and U.S. Data Breach Class Settlement Cap, is an equitable result, particularly in light of the quantum of the claim asserted as part of the U.S. Data Breach Class Proof of Claim. *Second*, as of the date hereof, over 250,000 claimants have filed Proofs of Claim (including late-filed claims), the substantial majority of which comprise U.S. Data Breach Claims.[9] In the absence of the Settlement, the Debtors or the Plan Administrator, as applicable, would likely need to expend significant resources, money and time to administer and resolve potentially hundreds of thousands of U.S. Data Breach Claims, which would threaten the efficient and effective administration of these cases, reduce the amount of distributable value available for stakeholder recoveries, and delay distributions. Thus, subject to the number of U.S. Eligible Class Members who opt out of the U.S. Data Breach Settlement Class, the Settlement will resolve a substantial majority of U.S. Data Breach Claims filed against the Debtors, which would be in the best interest of all creditors. *Third*, the full, customary releases—especially when coupled

[9] As of the date of this Motion, the Debtors estimate that approximately 206,000 Proofs of Claim (including late-filed claims) were filed by U.S. Eligible Class Members.

with the request in this Motion that the Court determine the Cyber Security Incident Bar Date remains in effect and has not, and will not, be tolled with respect to creditors who did not file individual proofs of claim on account of their Cyber Security Incident Claims—provide finality for all parties in interest. *Fourth*, the Settlement Agreement also provides that the costs and expenses associated with notice and distributions to Settlement Class Members will be paid from the funds approved for distribution on account of the U.S. Data Breach Class Proof of Claim, thereby relieving the Debtors' estates from costs and expenses associated with administering Proofs of Claims filed by members of the U.S. Data Breach Settlement Class. And lastly, U.S. Data Breach Class Counsel have agreed to support a chapter 11 plan that is in all material respects consistent with the Settlement Agreement. Accordingly, the Settlement Agreement provides a fair, practical and efficient resolution of disputes and potentially hundreds of thousands of Proofs of Claims, that will enable the Debtors to advance confirmation and consummation of a chapter 11 plan and facilitate distributions in a timely and efficient manner.

40. For the reasons discussed herein, the Parties submit that the Settlement Agreement is in the best interest of the Debtors' estate and accordingly, the Parties respectfully request that the Court approve the Settlement Agreement.

II. The Court Should Preliminarily Approve the Settlement Agreement Pursuant to FRCP 23

41. While Bankruptcy Rule 9019 asks whether the proposed settlement is "fair and equitable and in the best interests of the estate," *In re SportStuff, Inc.*, 430 B.R. 170, 172 (B.A.P. 8th Cir. 2010), Rule 23 of the FRCP asks similar questions but from the perspective of the class. Under Rule 23, when a proposed class settlement is reached, it must be submitted to the court for preliminary approval. *See* Fed. R. Civ. P. 23(e); 4 William B. Rubenstein, NEWBERG AND RUBENSTEIN ON CLASS ACTIONS §13:12 (6th ed. 2025). At the preliminary approval stage, the

court makes a preliminary determination as to whether the proposed settlement is likely to approve the proposal under Rule 23(e)(2), warranting sending notice to the class. *Id.* Following the notice period, the court holds a fairness hearing to determine if the proposed settlement is "fair, reasonable, and adequate," at which class members may appear and support or object to the settlement, and the court decides whether to give final approval to the settlement. *Id*. §13:39; Fed. R. Civ. P. 23(e)(2).

42. At the preliminary approval stage, Plaintiffs need show only that final approval is likely, not that it is certain. *See* Fed. R. Civ. P. 23(e)(1)(B). In making this determination, Rule 23(e)(2) requires the Court to consider whether (a) the class representatives and class counsel have adequately represented the class, (b) the proposal was negotiated at arm's length, (c) the relief provided by the settlement is adequate, and (d) the proposal treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2).

43. "Because settlement of a class action, like settlement of any litigation, is basically a bargained exchange between the litigants, the judiciary's role is properly limited to the minimum necessary to protect the interests of the class and the public." *Little Rock Sch. Dist.* v. *Pulaski Cty. Special Sch. Dist. No. 1*, 921 F.2d 1371, 1388 (8th Cir. 1990) (citation omitted). "Although a trial court must consider the terms of a class action settlement to the extent necessary to protect the interests of the class, judges should not substitute their own judgment as to optimal settlement terms for the judgment of the litigants and their counsel." *Petrovic* v. *Amoco Oil Co.*, 200 F.3d 1140, 1148-49 (8th Cir. 1999) (citation and internal marks omitted).

44. The proposed Settlement meets (and exceeds) the requirements for preliminary approval, certification of the settlement classes, and issuance of notice.

A. The Proposed Settlement Is Fair, Reasonable, and Adequate

45. Pursuant to Rule 23(e)(1)(B)(i), the Court may preliminarily approve a class action settlement if it "will likely be able to approve the proposal under Rule 23(e)(2)" which entails reviewing four enumerated factors. The Parties address each factor in turn.

1. Co-Lead Counsel and Settlement Class Representatives Have Adequately Represented the Class.

46. This factor focuses "on the actual performance of counsel acting on behalf of the class." Fed. R. Civ. P. 23, Advisory Comm. Notes (Dec. 1, 2018) (hereafter "Advisory Comm. Notes"). In this case, the adequacy factor is easily satisfied. *First*, Judge Chen appointed Co-Lead Counsel to lead the MDL litigation and reaffirmed their appointment in granting preliminary approval to the prepetition settlement. *Second*, Co-Lead Counsel are highly qualified lawyers who have successfully prosecuted high-stakes complex cases and consumer class actions, including in the field of data breach litigation. *See* Co-Lead Counsel Decl. ¶¶ 8-18.

47. Co-Lead Counsel's work on this case began nearly two years ago, prior to the bankruptcy proceedings and has included preparing a consolidated Complaint in the MDL, retaining and consulting with experts, evaluating extensive informal discovery, engaging in mediation efforts, including analyzing documents produced in mediation, evaluating options for settlement benefits that would meet the needs of this U.S. Data Breach Settlement Class, zealously advocating for the interests of Settlement Class Members in the District Court and in these bankruptcy proceedings, filing a class proof of claim on behalf of Settlement Class Members, and negotiating the Settlement currently before the Court. Co-Lead Counsel Decl. ¶¶ 5, 20-32. They have been guided by the Settlement Class Members' interests throughout the MDL as well as the chapter 11 cases, and they present this Settlement without reservation as being in the best interests of Settlement Class Members. *Id*. ¶ 5.

48. Likewise, the proposed Settlement Class Representatives will continue to vigorously advocate for and protect the interests of Settlement Class Members, as they have done throughout the bankruptcy proceedings as well as in the MDL proceedings. The Settlement Class Representatives were previously designated by Judge Chen to have met the requirements of Rule 23 of the FRCP. They do not have any interests antagonistic to and are aligned with the other Settlement Class Members, including with respect to their shared interest in seeking remuneration from 23andMe. In addition, each proposed Settlement Class Representative understands their duties as class representatives, has agreed to consider and protect the interests of absent Settlement Class Members, and has participated in this litigation and the Settlement. Co-Lead Counsel Decl. ¶ 6. The proposed Settlement Class Representatives have provided their counsel with necessary factual information, reviewed pleadings, have had ongoing communications with their counsel regarding various issues pertaining to this case, including settlement negotiations, have participated in the bankruptcy proceedings, and will continue to do so until the case closes. *Id*. As such, this factor weighs in favor of approval of the Settlement.

2. The Settlement Was Negotiated at Arm's Length

49. This factor focuses on whether the settlement negotiations "were conducted in a manner that would protect and further the class interests." *See* Fed. R. Civ. P. 23(e)(2), Advisory Comm. Notes. Here, this factor is satisfied because the prepetition settlement was achieved only after two failed mediation efforts with experienced mediator Randy Wulff, followed by numerous e-mail exchanges and telephone conferences, and culminating in both Parties' acceptance of a double-blind mediator's proposal. Co-Lead Counsel Decl. at ¶¶ 24-26; *see In re Viropharma Inc. Sec. Litig.*, 2016 WL 312108, at *8 (E.D. Pa. Jan. 25, 2016) ("The participation of an independent mediator . . . virtually [e]nsures that the negotiations were conducted at arm's length and without collusion between the parties.") (internal quotations omitted)). Likewise, the Settlement presented

to the Court reflects an amount and benefits that are at least as substantial, if not significantly greater, than those the Parties previously negotiated, and which were preliminarily approved by the District Court in the MDL proceedings. This factor therefore weighs in favor of Settlement approval.

3. The Relief Provided to the Class Is Adequate

50. Rule 23(e)(2) charges the Court to consider whether "the relief provided for the class is adequate, taking into account: (a) the costs, risks, and delay of trial and appeal; (b) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (c) the terms of any proposed award of attorney's fees, including timing of payment; and (d) any agreement required to be identified under Rule 23(e)(3)." *See* Fed. R. Civ. P. 23(e)(2)(C)(i)–(iv)

51. In this case, there is no doubt that the Settlement benefits provide fair, reasonable and adequate relief for all Settlement Class Members, particularly when viewed in light of the meaningful monetary benefit this Settlement confers on Settlement Class Members, and the Debtors' financial condition. The cash value of the Settlement Fund is anticipated to fall within the range of $30 million to $50 million.

52. Also, as set forth in the proposed U.S. Data Breach Class Settlement Benefits Plan, attached hereto as **Exhibit D**, the benefits offered to Settlement Class Members directly account for the different categories of information accessed and damages allegedly caused by the exposure of Settlement Class Members' personal information due to the Cyber Security Incident. Like most data breach settlements, this Settlement compensates those that suffered financial loss as a result of alleged fraud. But given the unique allegations of harm here, this Settlement also compensates Settlement Class Members who spent money on counseling for anxiety or emotional unrest due to the sensitive nature of the information exposed in this incident. Moreover, to the extent any

Settlement Class Member spent money to increase their physical security, those expenses are reimbursable under the Settlement. This unique reimbursement plan is directed toward the harms suffered by the Settlement Class Members.

53. Further, Settlement Class Members residing in states that provide for potential statutory damages for exposure of genetic information (*i.e.*, Alaska, California, Illinois, and Oregon), at any time during the Cyber Security Incident Period are entitled to a Statutory Cash Claim. And the small number of those Settlement Class Members that had health information compromised will be sent $165 and may also submit Claim Forms to claim other settlement benefits for which they are eligible.

54. Importantly, the Settlement Fund will provide all Settlement Class Members with access to a unique and robust monitoring program to assist in mitigating any damage caused by the Cyber Security Incident. The monitoring program, designed uniquely for this U.S. Data Breach Settlement Class, includes access to the following features:

- **Dark Web Monitoring** – Monitoring for 17 unique data categories of Settlement Class Members' sensitive data that may be exposed, listed for sale or traded on the Dark Web.

- **Stolen Data Sites Monitoring** – Monitoring of the myriad of sites on the World Wide Web (www) that traffic in the sale, or more often trade, of stolen consumer data. The URLs of these sites are constantly fluctuating and often exist for only short periods of time requiring vigilant monitoring.

- **Genetic Monitoring** - Specially-designed monitoring capacity to scan the Dark Web for any genetic-related data specific to Settlement Class Members that may be for sale or trade. If genetic-related data is located, CyEx will alert the Settlement Class Member who may contact Customer Support to speak with a remediation specialist about identifying potential mitigation efforts.

- **Virtual Private Network (VPN)** - Facilitates Settlement Class Members' ability to shop, bank and work online anonymously and to minimize their digital footprint.

- **Digital Vault** – Provides Settlement Class Members a secure environment in which to store their personal digital files. Through this service, Settlement Class Members

are able to share access to their vital documents with family members in a protected environment.

- **Data Broker Opt-Out** - Removes Settlement Class Members' personal data from all known data broker sites for the duration of the term of service.

- **Password Manager** – Protects Settlement Class Members' login information used to access online accounts from threat actors.

- **Private Browsing** - Provides a private search engine (powered by Duck Duck Go) which allows Settlement Class Members to browse the internet without being targeted with ads and prevents data collection. Over time, this will minimize Settlement Class Members' digital footprint.

- **Breach Scan Tool** - Provides Settlement Class Members the ability to verify if any email address has been implicated in a known data breach. Further mitigation services may be available from CyEx upon request.

- **Anti Phishing** - Realtime scanning of webpages during Settlement Class Members' web sessions for threats of phishing and malware content.

- **Real-time Authentication Alerts** – Monitors Class Settlement Members' new accounts and other "credit initiation" activities to prevent identity fraud.

- **High- Risk Transaction Monitoring** - Monitors for certain non-traditional, noncredit transactions such as money lending activities, payday loans and other financial transactions, for Settlement Class Members' personally identifiable information.

- **Health Insurance Plan ID Monitoring** - Alerts Settlement Class Members that their medical information is exposed and prompts them to notify their medical insurance provider to request a new medical ID number and to deactivate the old medical ID number in order to combat fraudulent usage.

- **Medical Beneficiary Identifier Monitoring** - Monitors for the fraudulent use of a medical beneficiary's medical identity and alerts if this identity is exposed and for sale or trade on certain stolen data sites (the "Stolen Data Sites"). Assists with outreach to insurance providers and facilitates updating medical identifiers associated with Settlement Class Members and other family members on their medical insurance plan.

- **Medical Record Monitoring** - Monitors the Dark Web and other Stolen Data Sites for Settlement Class Members' personal healthcare/medical records. Assists with outreach to medical providers and facilitating updating reference numbers and other records associated with the individual.

- **International Classification of Disease Monitoring** - Monitors the Dark Web and other Stolen Data Sites for the exposure of Settlement Class Members' personal medical diagnoses and assists to remediate the leaked data and alter their International Classification of Disease number in the national healthcare system.

- **National Provider Identifier Monitoring** - Alerts Settlement Class Members when a National Provider Identifier number associated with their identity or other medical classification identifiers (*e.g.*, Medical Beneficiary ID, Medical Record Number, International Classification of Disease Number, and Health Insurance Plan ID) have been located on the dark web and other Stolen Data Sites.

- **Security Freeze with All Credit Bureaus** – Allows Settlement Class Members to log onto CyEx's website and freeze their credit at all three credit bureaus.

- **$1 Million Identity Theft & Fraud Insurance (with no deductible)** Comprehensive reimbursement product which includes reimbursement for losses due to medical, identity and/or financial fraud.

- **Customer Support & Victim Assistance** – Providing assistance to Settlement Class Members with information, resources, and remediation when identity theft related instances and/or fraudulent healthcare related incidents occur. Provides access to expert specialists who are trained to provide restorative services.

CyEx Decl. ¶ 9.

55. The Privacy Shield product described above is not currently available for public purchase, but the closest approximation of these services which are available would retail at $375.00 per person per year. CyEx Decl. ¶ 10. However, this does not include the genetic monitoring, which is a unique component offered only at this time to Settlement Class Members. *Id.* The complete list of the services and consumer benefits discussed herein will be available to Settlement Class Members on CyEx's Settlement Website once the Settlement is preliminarily approved. *Id.*

56. Thus, the Settlement provides fair and adequate relief to all Settlement Class Members because the relief is tailored to the types of information accessed and injuries allegedly suffered. For instance, the Privacy Shield monitoring program provides monitoring for genetic information on the dark web and will assist Settlement Class Members in remediation efforts if

such information is located. Further, the types of out-of-pocket costs reimbursable for Extraordinary Claims were also designed to address the injuries and damages incurred by Settlement Class Members (according to Settlement Class Representatives). *First*, a benefit is provided for Settlement Class Members who become victims of identity theft or falsified tax returns, as some Plaintiffs and members of the U.S. Data Breach Settlement Class reported increased phishing attempts, receipt of spam and fraudulent attempts at credit card or account openings. MDL No. 3098, Docket No. 123 at 18-19. *Second,* Plaintiffs reported purchasing physical security or monitoring systems in response to the Cyber Security Incident because they were concerned about being ethnically-targeted; therefore, unreimbursed costs for these purchases are compensated. *Id.* *Finally,* some Plaintiffs reported seeking professional mental health counseling and treatment in the wake of the Cyber Security Incident, largely tied to the alleged ethnic-targeting at issue here; therefore, unreimbursed costs for pursuing counseling and treatment are compensated. *Id.* Therefore, the Settlement complies with the requirement that "the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2)(D); *see also* 7B Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1797.1 (3d ed. 2024) (citing cases and noting that courts "must consider whether the proposal treats class members equitably relative to each other").

(a) The relief provided to the class is adequate considering the costs and risks of further litigation.

57. Considering the costs and risks of further litigation, the proposed Settlement satisfies Rule 23(e)(2)(c)(i). Settlement Class Representatives believe their class proof of claim is meritorious, and Settlement Class Representatives further maintain that the strength of their claims is a significant factor that drove settlement negotiations and ultimately the proposed Settlement Agreement. At the same time, Settlement Class Representatives face substantial risks that could

decrease the amount of recovery—or even defeat recovery on a class-wide basis altogether. *First* and foremost, Settlement Class Representatives face the risk that the Court could deny their motion to file a class proof of claim (*see* Docket No. 539), which is within the Court's exclusive discretion. *See, e.g.*, *In re Erie Islands Resort & Marina*, 580 B.R. 731, 735 (Bankr. N.D. Ohio 2017) ("Whether to allow a claim as a class claim falls within the sound discretion of the bankruptcy court"). Although Settlement Class Representatives believe that they would prevail on their motion, they nevertheless face a risk of an adverse decision, which would have the practical effect of denying class-wide relief. Further, even if the Settlement Class Representatives were to prevail on their motion and be entitled to receive the full measure of damages sought, their recovery would be effectively capped by the limited funds available in these chapter 11 cases.

58. Resolving the action through the Settlement saves the Parties the expense of litigating the Rule 7023 Issues and substantially benefits Settlement Class Members by securing a meaningful recovery in these chapter 11 cases. Nearly all class action settlements reflect tradeoffs and difficult choices. Here, the Parties' ability to reach a settlement eliminates these risks by ensuring that Settlement Class Members receive a recovery that is certain, and the total value of the benefits under the proposed Settlement appropriately accounts for the risks of further litigation. As such, this factor weighs in favor of settlement approval.

(b) The relief provided to the class is adequate considering the effectiveness of distributing relief to the class.

59. The Court must also consider "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." Fed. R. Civ. P. 23(e)(2)(C)(ii). "Often it will be important for the court to scrutinize the method of claims processing to ensure that it facilitates filing legitimate claims. . . but the court should be alert to whether the claims process is unduly demanding." Fed. R. Civ. P. 23 Advisory Comm. Notes.

60. Here, the method of distribution is straightforward. Settlement Class Members will be able to easily complete and submit, either online or by mail, a simple Claim Form covering all available types of relief. Claim Forms must be submitted individually by the Settlement Class Members claiming Settlement benefits and may not be submitted by third parties. Any required documentation can be uploaded to the Settlement Website or sent to the Settlement Administrator by mail. In addition, enrollment codes for Privacy Shield will be provided to Settlement Class Members with the Class Notice as set forth in the SBP ¶ 15(d). Settlement Class Members are encouraged to use a Claim Form to pre-enroll in Privacy Shield to receive the maximum length of that benefit, though valid enrollments will be accepted at any time during the five years the services are available. *Id.* Cash payments on account of Statutory Cash Claims and Extraordinary Claims will be made by digital payment or check, at the Settlement Class Member's election. *Id.* ¶ 16. Health Information Claim cash payments will be sent to eligible Settlement Class Members, and any such eligible Settlement Class Members may also claim other Settlement benefits, elect a different payment method, and update their address by submitting a Claim Form. *Id.* ¶ 15(b)(1). The notice plan includes follow-up reminder notices to Settlement Class Members, and a further reminder to enroll in the monitoring program before the service period begins. Thus, the procedures for submitting a claim or enrolling in Privacy Shield and other Settlement benefits are not unduly demanding, and the proposed method of distributing relief is adequate. This factor weighs in favor of settlement approval.

(c) The relief provided to the class is adequate considering the terms of the proposed award of attorneys' fees.

61. This factor recognizes that "[e]xamination of the attorney-fee provisions may also be valuable in assessing the fairness of the proposed settlement." Fed. R. Civ. P. 23, Advisory Comm. Notes. In this case, Co-Lead Counsel will petition the Court for an award of up to 25% of

the Settlement Fund as attorneys' fees plus reimbursement of reasonable expenses. Co-Lead Counsel Decl. ¶ 39. Although courts within the Eighth Circuit typically award 1/3 of a common fund as attorneys' fees, Plaintiffs have elected to seek 25% here—the "benchmark" percentage of the fund used in the Ninth Circuit where the litigation originated.

62. Attorneys' fees will be payable solely from the Settlement Fund in a percentage determined by the Court. SBP ¶ 3. The U.S. Data Breach Class Settlement Fund, less notice and administration, taxes, attorneys' fees and costs, will be utilized to provide cash and other benefits to Settlement Class Members. *Id.* Any residual funds available due to uncashed or unclaimed benefits will be used to fund additional months of Privacy Shield for the benefit of the Settlement Class Members. SBP ¶ 11.

63. At the final approval stage, Co-Lead Counsel will fully brief the fairness and reasonableness of the requested attorneys' fees under factors applied in this Circuit. This factor is likely to be satisfied and weighs in favor of settlement approval.

(d) There are no agreements required to be identified under FRCP 23(e).

64. There are no agreements impacting the proposed Settlement that are required to be identified under Rule 23(e). Co-Lead Counsel Decl. ¶ 31. This factor weighs in favor of settlement approval.

B. The Settlement Treats Class Members Equitably to One Another.

65. This factor seeks to prevent the "inequitable treatment of some class members *vis-a-vis* others." Advisory Comm. Notes. In this case, Co-Lead Counsel worked diligently to create a benefits plan that provides meaningful benefits to all Settlement Class Members in a way that addresses the injuries and damages incurred by class members. Co-Lead Counsel Decl. ¶ 34. As the District Court determined in evaluating the settlement benefits plan proposed with the

prepetition settlement agreement—which follows the form of the U.S. Data Breach Class Benefits Plan—the U.S. Data Breach Class Benefits Plan is "fair, reasonable, and adequate." *See* MDL No. 3098, Docket No. 160 at 32. In particular, it was "reasonable for Plaintiffs to focus on addressing specific injuries such as common expenses incurred as a result of the data breach (Extraordinary Claims), to provide for damages based on the disclosure of particularly sensitive personal information (Health Information Claims), and to account for the "concrete" damages that could be obtained through claims providing for statutory damages (Statutory Cash Claims)." *Id.* at 33. As such, this factor is likely to be satisfied and weighs in favor of settlement approval.

66. Further, differing settlement benefits do not reflect preferential treatment. For instance, Statutory Cash Claims are available to Settlement Class Members who are potentially entitled to statutory damages in this case under their respective state laws that are not available to other Settlement Class Members. Making cash payments to victims of data breaches residing in states where statutory damages are available, while not providing the same benefit to other Settlement Class Members who do not reside in states with similar statutory damages, is appropriate and has been approved in numerous other data breach settlements, and the Court should do the same here. *See, e.g., Aguallo* v. *Kemper Corp.*, No. 1:21-cv-01883 (N.D. Ill), Docket Nos. 45, 46, 51, 53 (data breach involving compromise of personally identifying information, medical leave information, and workers' compensation claim information, where state subclass members received an additional cash payment); *Heath* v. *Insurance Technologies Corp.*, 3:21-cv-01444-N (N.D. Tex.), Docket Nos. 35, 39, 45, 52 (data breach involving compromise of personally-identifiable information wherein state subclass members received cash payments of $100-300 not available to other class members). As such, this factor is likely to be satisfied and weighs in favor of settlement approval.

C. Other Factors Also Support Preliminary Approval

67. The Court must also consider these four factors when determining whether the settlement is fair, reasonable, and adequate: (a) the merits of the plaintiffs' case weighed against the terms of the settlement; (b) the defendants' financial condition; (c) the complexity and expense of further litigation; and (d) the amount of opposition to the settlement. *See Marshall*, 787 F.3d at 508 (8th Cir. 2015) (citing Fed. R. Civ. P. 23(e)(2) & *In re Uponor, Inc., F1807 Plumbing Fittings Prods. Liab. Litig.*, 716 F.3d 1057, 1063 (8th Cir. 2013)).

68. "The single most important factor in determining whether a settlement is fair, reasonable, and adequate is a balancing of the strength of the plaintiff's case against the terms of the settlement." *Id*. (citation omitted). Settlement Class Representatives believe their class proof of claim is meritorious, and they maintain that the strength of their claims is a factor that drove settlement negotiations and the proposed Settlement Agreement—which in turn is reflected by the meaningful monetary benefit this Settlement confers on Settlement Class Members. The cash value of the Settlement Fund is expected to be between $30 million and $50 million—at least as much if not significantly more than the amount preliminary approved by the District Court in the MDL proceedings.

69. Further, the likely complexity and expense of continued litigation weighs in favor of the fairness, reasonableness, and adequacy of the Settlement. Resolving the action through the Settlement saves the Parties the expenses of litigating Rule 7023 Issues and substantially benefits Settlement Class Members by securing a meaningful recovery in these chapter 11 cases, and the total value of the benefits under the proposed Settlement appropriately accounts for the risks of further litigation.

70. The financial condition of the Debtor also weighs heavily in favor of settlement approval. When the prepetition settlement agreement was negotiated, 23andMe had dwindling

resources and faced substantial financial challenges. Co-Lead Counsel Decl. ¶ 27. Prior to entering into that settlement, Plaintiffs' counsel engaged an independent forensic accounting firm that confirmed that 23andMe had limited funds, no reliable access to new capital, and mounting litigation exposure in other proceedings and investigations, meaning that any litigated judgment significantly more than the Settlement was likely to be uncollectable. *Id.* ¶ 24. Now that 23andMe has filed for bankruptcy, this factor weighs just as heavily in favor of settlement approval. Although the Chrome Sale Transaction has generated more funds than were available at the time of the prepetition settlement—which is reflected in the up to $20 million increase in the size of the potential settlement amount—the proceeds remain the only source of monetary recovery for Settlement Class Members. *See, e.g.*, *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir. 2005) (noting that courts must consider "the defendant's financial condition" in determining whether a settlement is fair, reasonable, and adequate); *Bredthauer* v. *Lundstrom*, No. 4:10CV3132, 2012 WL 4904422, at *6 (D. Neb. Oct. 12, 2012) (granting preliminary approval of a proposed class action settlement based on, among other things, "the risk of a substantially lower recovery, and the fact that [defendant] is in bankruptcy").

71. Notice has not yet issued to class members, so any opposition to this Settlement is unknown at this time. Co-Lead Counsel will respond to any objections to the Settlement in advance of the Final Fairness Hearing.

D. Co-Lead Counsel Believe the Settlement Is an Excellent Result

72. Because Co-Lead Counsel are "intimately familiar with the facts and legal issues involved in this case," their opinion regarding the adequacy of a proposed class action settlement is "entitled to great weight." *In re BankAmerica Corp. Sec. Litig.*, 210 F.R.D. 694, 702 (citing *EEOC* v. *McDonnell Douglas Corp.*, 894 F. Supp. 1329, 1335 (E.D. Mo. 1995)). Here, Co-Lead Counsel, who have decades of experience litigating class actions, believe that the Settlement

reflects a significant success. In light of the unique nature of this Cyber Security Incident, the risks inherent in litigating the motion for class proof of claim, the limited funds available, and other factors implicated by the bankruptcy proceedings. Co-Lead Counsel individually and collectively believe this is an excellent result for the Class. Co-Lead Counsel Decl. ¶ 19.

III. The Court Should Certify the Class for Settlement Purposes Pursuant to FRCP 23

73. Having determined that the Court "will likely be able to . . . approve the proposal under Rule 23(e)(2)," the Court can turn to the second half of the preliminary approval inquiry: whether the Court "will likely be able to . . . certify the class[es] for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(1)(B)(ii). Class certification is appropriate where the plaintiff shows that the four Rule 23(a) factors—numerosity, typicality, commonality, and adequacy—and the two Rule 23(b) factors—predominance and superiority—are satisfied. In this case, the proposed settlement class satisfies Rule 23 and should be certified for settlement purposes.

A. The Class Is Sufficiently Numerous

74. Rule 23(a)(1) requires that the class be sufficiently numerous such that joinder of all members would be impracticable. "In considering this requirement, courts examine the number of persons in the proposed class and factors such as the nature of the action, the size of the individual claims, and the inconvenience of trying the individual claims." *Cromeans* v. *Morgan Keegan & Co., Inc.*, 303 F.R.D. 543, 551 (W.D. Mo. 2014). Classes with as few as 20 members have satisfied numerosity. *See, e.g.*, *Ark. Educ. Ass'n* v. *Bd. of Educ.*, 446 F.2d 763, 765-66 (8th Cir. 1971) (a proposed class of 20 members satisfied numerosity); *Paxton* v. *Union Nat. Bank*, 688 F.2d 552, 561 (8th Cir. 1982) (finding a class of 74 employees satisfied numerosity). Here, the class is made up of approximately 6.4 million individuals, and therefore the class is sufficiently numerous. *See* Co-Lead Counsel Decl. ¶ 38.

B. There Are Common Questions of Law and Fact

75. Rule 23(a)(2) requires that "there are questions of law or fact common to the class." A plaintiff must show that the claims "'depend upon a common contention' that 'is capable of class wide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.'" *Cromeans*, 303 F.R.D. at 552 (quoting *Wal-Mart Stores, Inc.* v. *Dukes*, 564 U.S. 338, 350 (2011)). "[A] single common contention . . . is sufficient." *Flynn* v. *FCA US LLC*, 327 F.R.D. 206, 222-23 (S.D. Ill. 2018). Commonality "does not require that every question of law or fact be common to every member of the class . . . and may be satisfied, for example, where the question of law linking the class members is substantially related to the resolution of the litigation even though the individuals are not identically situated." *M.B. by Eggemeyer* v. *Corsi*, 327 F.R.D. 271, 278-79 (W.D. Mo. 2018) (citations omitted). For this reason, "[c]ommonality is easily satisfied in most cases." *Id.* at 278.

76. Here, the Settlement Class Representatives maintain that the claims arising from the Cyber Security Incident derive from 23andMe's failure to implement basic data security policies and measures where it knew or should have known its existing policies and measures were inadequate. This uniform conduct raises common questions, the resolution of which will generate common answers "apt to drive the resolution of the litigation" for the Settlement Class as a whole. *Wal-Mart Stores*, 564 U.S. at 350. It is the Settlement Class Representatives' view that common legal and factual questions arising from the Cyber Security Incident claims include (a) whether 23andMe owed a duty to the Settlement Class Members to exercise due care in safeguarding and preventing unauthorized access to their personal and genetic information; (b) whether 23andMe breached that duty; (c) whether 23andMe implemented and maintained reasonable data security procedures and practices commensurate with the sensitivity of the information being stored; (d) whether 23andMe acted negligently in connection with the monitoring and/or protecting of

Settlement Class Members' personal and genetic information; (e) whether 23andMe breached its contractual obligations to Settlement Class Members, (f) whether such breach caused harm; (g) whether 23andMe adequately addressed and fixed the vulnerabilities which permitted the Cyber Security Incident to occur; and (h) whether Defendant caused Plaintiffs' and Settlement Class Members' damages. These more than suffice to meet the commonality requirement.

C. The Settlement Class Representatives' Claims are Typical of the Settlement Class Members' Claims

77. Rule 23(a)(3) requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." The typicality requirement "is fairly easily met, so long as other class members have claims similar to the named plaintiff." *Cope* v. *Let's Eat Out, Inc.*, 319 F.R.D. 544, 555 (W.D. Mo. 2017) (citing *DeBoer* v. *Mellon Mortg. Co.*, 64 F.3d 1171, 1174 (8th Cir. 1995)). In assessing typicality, courts consider whether the proposed class representative's claim "arises from the same event or course of conduct as the class claims, and gives rise to the same legal or remedial theory." *Alpern* v. *UtiliCorp United, Inc.*, 84 F.3d 1525, 1540 (8th Cir. 1996).

78. The typicality requirement is satisfied here because the experiences of the Settlement Class Representatives match the experiences of the millions of other Settlement Class Members that make up the Settlement Class.

D. The Proposed Class Representatives and Class Counsel Will—and Have—Fairly and Adequately Protected the Interests of the Settlement Class

79. Rule 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." This requirement "serves to uncover conflicts of interest between named parties and the class they seek to represent." *Amchem Prods., Inc.* v. *Windsor*, 521 U.S. 591, 625 (1997) (internal citation omitted). The focus is on whether (a) the class representatives have common interests with class members, and (b) the class representatives will vigorously

prosecute the interests of the other class members through qualified counsel. *Paxton*, 688 F.2d at 562-63. Both criteria are readily met here.

80. The proposed Settlement Class Representatives do not have any interests antagonistic to the other Settlement Class Members, whose interests they will continue to vigorously protect. The Settlement Class Representatives are aligned with Settlement Class Members, including with respect to their shared interest is in seeking remuneration from 23andMe for the resulting harm. In addition, each proposed Settlement Class Representative understands their duties as class representatives, has agreed to consider and protect the interests of absent Settlement Class Members, and has participated in this litigation and Settlement. The proposed Settlement Class Representatives have provided their counsel with necessary factual information, reviewed pleadings, have had ongoing communications with their counsel regarding various issues pertaining to this case, have participated in the bankruptcy proceedings, and will continue to do so until the case closes. Their participation easily meets the adequacy requirement.

81. Further, the Settlement Class Representatives are represented by Co-Lead Counsel, who are highly qualified lawyers who have successfully prosecuted high-stakes complex cases and consumer class actions. *See* Co-Lead Counsel Decl. ¶¶ 8-19. They have devoted the resources necessary to see this case through despite risk. *Id.* ¶ 5. Co-Lead Counsel's work on this case began prior to the bankruptcy proceedings and has included, since their appointment by the district court in the MDL proceedings, preparing a consolidated Complaint, addressing issues of appropriate representative plaintiffs, communicating with class members, retaining and consulting with experts, evaluating extensive informal discovery, preparing to and attending mediation, including analyzing documents produced in mediation, evaluating options for settlement benefits that would meet the needs of this Settlement Class, reaching the proposed prepetition settlement agreement,

zealously advocating for the interests of Settlement Class Members in the bankruptcy proceedings, filing a class proof of claim on behalf of Settlement Class Members, and negotiating the Settlement currently before the Court. *Id.* ¶¶ 5, 20-32. They have been guided by the Settlement Class Members' interests throughout the MDL as well as the bankruptcy proceedings, and they present this Settlement without reservation as being in the best interests of Settlement Class Members. *Id.* ¶ 5.

E. The Settlement Class Satisfies Rule 23(b)(3)

82. Rule 23(b)(3) requires that (a) "questions of law or fact common to class members predominate over any questions affecting only individual members" and (b) that a class action is "superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Both of these requirements are satisfied here.

1. Common issues of law and fact predominate

83. "The Rule 23(b)(3) predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Amchem*, 521 U.S. at 623. When determining whether common questions predominate, the court asks whether, if the plaintiff's general allegations are true, common evidence could suffice to make out a prima facie case for the class. *See Tyson Foods, Inc.* v. *Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) ("A common question is one where 'the same evidence will suffice for each member to make a prima facie showing [or] the issue is susceptible to generalized, class-wide proof."). Even if just one common question predominates, "the action may be considered proper under Rule 23(b)(3)." *Id.*

84. The common questions in this case, described above, can be resolved for all members of the Settlement Class in a single adjudication. 23andMe's data security policies were common to all Settlement Class Members, and whether 23andMe failed to properly secure their personal and genetic information can be answered on a class-wide basis. Whether 23andMe was

negligent, by virtue of its security practices, is a question that focuses on 23andMe's conduct and thus can be answered for the class as a whole. Whether 23andMe failed to meet contractual obligations to keep Settlement Class Members' personal information private, and whether or not 23andMe could have readily prevented this loss to the Settlement Class Members by taking action can be resolved class-wide. And whether or not the type of information released in this Cyber Security Incident is covered by the applicable statutes protecting genetic information can be determined by common evidence. Thus, common questions predominate among Settlement Class Members.

2. Class treatment is superior

85. Rule 23(b)(3) also requires a class action to be "superior to other available methods for the fair and efficient adjudication of the controversy" and lists four non-exclusive factors relevant to a predominance finding: (A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action. The applicable factors weigh in favor of a predominance finding.

86. Here, because the Settlement Class Members' claims depend on the same common questions susceptible to generalized, class-wide proof, a representative action is superior to other methods for fairly and efficiently adjudicating the controversy. Therefore, given the large number of Settlement Class Members and the commonality of their claims, certifying the Settlement Class would allow a more efficient adjudication of the controversy than individual adjudications.

87. In this matter, any U.S. Eligible Class Member can easily opt out of the Settlement to pursue that option, and some will exercise that right. However, the actions of these individuals

do not affect the predominance analysis here, as there are more than 6 million class members who have not filed an individual proof of claim, for whom the class proof of claim represents the only means through which they can obtain compensation from 23andMe for their claims. And with respect to the U.S. Eligible Class Members, every one of those individuals who chooses to participate in the Settlement represents one fewer individual proof of claim to be adjudicated and resolved in the chapter 11 cases. As such the efficiencies of collectively adjudicating the many common legal and factual questions, as well as the risks and expense of litigating the class proof of claim motion weigh in favor of predominance.

88. Further, where the court is deciding certification in the settlement context, as it is here, the Court need not consider manageability issues. *Amchem Prods.,* 521 U.S. at 620. Thus, the superiority of class treatment is easily shown.

F. Co-Lead Counsel Should Be Appointed as Class Counsel

89. Norman E. Siegel of Stueve Siegel Hanson LLP, Gayle M. Blatt of Casey Gerry Francavilla Blatt LLP, and Cari Campen Laufenberg of Keller Rohrback L.L.P. should be appointed as class counsel for purposes of this class action Settlement.

90. Rule 23(g), which governs the standards and framework for appointing class counsel for a certified class, sets forth four criteria the district court must consider in evaluating the adequacy of proposed counsel: (a) "the work counsel has done in identifying or investigating potential claims in the action; (b) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (c) counsel's knowledge of the applicable law; and (d) the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A). The Court may also consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class. Fed. R. Civ. P. 23(g)(1)(B). U.S. Data Breach Class Counsel meet all of these criteria having been previously appointed as Interim Co-Lead

Counsel as well as class counsel in the underlying MDL proceedings, based in part on their collective experience with complex, class action, and multidistrict litigation, including data breach and data privacy litigation. MDL No. 3098, Docket No. 62.

IV. The Court Should Approve the Form and Manner of the Proposed Notice, the Proposed Settlement Administrator, and the Process for Objections

A. The Proposed Notice Plan

1. Class Notice

91. When a class action lawsuit is settled, "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1)(B). To that end, Rule 23 requires "the best notice that is practicable under the circumstances, including individual notice to all class members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). Such notice can be effectuated through "United States mail, electronic means, or other appropriate means." *Id.*

92. The proposed notice plan (the "Notice Plan") meets those standards. *See generally* Settlement Admin. Decl. Notice will be effectuated (a) via email using the same email list 23andMe used to notify its affected customers of the Cyber Security Incident; and (b) where an email address is unavailable, via direct mail notice to the mailing address 23andMe used to notify its affected customers of the Cyber Security Incident; and (c) via the media plan as implemented by the Settlement Administrator. *See id.*

93. Moreover, the notice forms are written in clear language and accurately describe the nature of the action, the Settlement, the scope of the release, and the process class members must follow to exclude themselves from or object to the Settlement. *See* Ex. B. Likewise, Settlement Class Members can find more information about the claims in the case and the Settlement (including reviewing the Settlement Agreement) on the Settlement Website and will

also be able to contact the Settlement Administrator by mail, email, or through the toll-free help telephone line. *See* Settlement Admin Decl.

94. The Settlement Administrator will establish the Settlement Website, which will contain an online claims submission portal, FAQs, and downloadable copies of important case documents, including: (a) Class Notice and Claim Form; (b) the U.S. Data Breach Class Settlement Agreement; (c) Plaintiffs' Consolidated Complaint in the underlying MDL proceedings; (d) Settlement Class Representatives' Motion for Preliminary Approval of Class Action Settlement; (e) Order Granting Preliminary Approval; and, when filed, (f) Settlement Class Representatives' Motion for Attorneys' Fees, Litigation Expenses and Service Awards; and (g) Settlement Class Representatives' Motion for Final Approval of Class Action Settlement and any Orders thereon. *Id.*

95. The Settlement Administrator will also establish a toll-free help telephone line with information responsive to frequently asked questions about the Settlement and will provide Settlement Class Members the answers to frequently asked questions and the opportunity to speak with a live operator. *Id.* The number shall be included in the Class Notice and posted on the Settlement Website. *Id.* The Settlement Administrator will establish and maintain a P.O. Box and email inbox, as well as provide mailed paper copies of the Class Notice and Claim Form upon request. *Id.*

96. Further, U.S. Eligible Class Members will also receive a copy of the U.S. Data Breach Class Benefits Plan as part of the solicitation materials (the "Solicitation Materials") to be distributed in accordance with solicitation procedures approved by the Court pursuant to the Debtors' *Motion for Entry of an Order (I) Approving the Adequacy of the Disclosure Statement, (II) Approving the Solicitation Procedures and Solicitation Package, (III) Scheduling a*

Confirmation Hearing, (IV) Establishing Procedures for Objecting to the Plan, (V) Establishing the California Claims Determination Procedures, (VI) Approving the Form, Manner, and Sufficiency of Notice of the Confirmation Hearing, (VII) Scheduling Certain Dates Related Thereto, and (VIII) Granting Related Relief [Docket No. 1116] (the "Disclosure Statement Motion"). Through those materials, U.S. Eligible Class Members will have the opportunity to evaluate the benefits provided by the Settlement and choose whether or not to opt out of the Settlement in the context of the plan confirmation process.

97. This detailed notice weighs in favor of settlement approval.

2. CAFA Notice

98. The Debtors will provide notice pursuant to the Class Action Fairness Act ("CAFA") within ten (10) days after the U.S. Data Breach Class Settlement Agreement is filed with the Court. *See* Settlement Admin Decl.

B. The Settlement Administrator

1. The Settlement Administrator Selection Process

99. Co-Lead Counsel propose Kroll as the settlement administrator for the U.S. Data Breach Settlement Class (the "Settlement Administrator"). Co-Lead Counsel Decl. ¶¶ 42-43. Kroll has considerable experience as the appointed settlement administrator in large data breach class action settlements. Moreover, Kroll is already serving as the claims and noticing agent in the Debtors' chapter 11 cases, which will increase efficiency and reduce the cost to Settlement Class Members of its administration services.

100. Kroll has agreed to cap the costs of notice and administration at $918,000, subject to qualifications based on the claims rate, the percentage of online claims, and the percentage of claimants who choose digital payments, among other assumptions. The costs will be paid out of the U.S. Data Breach Class Settlement Fund. SBP ¶ 3. The estimated costs are reasonable when

compared to the value of the Settlement and the size of the Settlement Class, including the anticipated engagement by Settlement Class Members as set forth below.

C. Manner and Form of Opt Outs and Objections

101. As set forth herein, U.S. Eligible Class Members will be free to choose whether or not to opt out of the Settlement through the Solicitation Materials. Co-Lead Counsel Decl. ¶ 44. U.S. Eligible Class Members will receive a copy of the U.S. Data Breach Class Benefits Plan, as well as a summary notice of the Settlement as part of the Solicitation Materials, subject to the approval thereof by the Court. *Id*. These materials will give the U.S. Eligible Class Members the opportunity to evaluate the benefits provided by the Settlement and choose whether or not to opt out of the Settlement in the context of the plan confirmation process. *Id.*

102. Moreover, all other Settlement Class Members (*i.e.*, members who did not timely file a Proof of Claim) will be given the opportunity to opt out of the Settlement by submitting Opt-Out Forms to the Settlement Administrator. Settlement Class Members may print an Opt-Out Form for mailing from the Settlement Website. Opt-Out Forms must be submitted individually by the Cyber Class Action Members opting out of the Settlement benefits and may not be submitted by third parties, except as authorized by the Settlement Administrator at its sole discretion. The Settlement Administrator shall verify that each individual who submits an Opt-Out Form is a Cyber Class Action Member.

103. The proposed Class Notice advises all Settlement Class Members of their right (a) to opt out of the Settlement or (b) to object to the Settlement or to Co-Lead Counsel's motion for attorneys' fees, expenses, and service awards to the Class Representatives, as well as (c) the procedures and deadline for filing such objections. *See generally* **Exhibit B.** The proposed schedule ensures that Settlement Class Members have at least 30 days from the Notice Deadline

(as defined below) to object to the Settlement, with at least 15 days to object after the motion for attorneys' fees, expenses, and service awards to the Class Representatives is filed.

104. The opt out and objection instructions are in plain language and clearly prompt those who wish to opt out or object to provide the specific information each action requires. *See generally* Exhibit B. In particular, the Class Notice clearly informs Settlement Class Members of the Opt Out Deadline, how to opt out, the consequences of opting out, and requires that they supply only the information needed to opt out of the Settlement. Similarly, the Class Notice informs Settlement Class Members about how to send their written objections to the Court or file in person with the Court (or if represented by counsel to have counsel e-file their written objections to the Court), tells them that the Court can only approve or deny the Settlement and cannot change its terms, and clearly identifies the Objection Deadline. *Id.*

V. Scheduling the Final Approval Hearing Is Appropriate

105. The last step in the settlement approval process is a final fairness hearing at which the Court may hear all evidence and argument necessary to determine whether the proposed settlement is "fair, reasonable, and adequate." *Id.*; Fed. R. Civ. P. 23(e)(2). During this hearing, class members or their counsel may be heard in support of or in opposition to the settlement. The Court will determine after the final approval hearing whether the settlement should be approved, and whether to enter a final approval order and judgment under Rule 23(e). The Parties request this Court set a final fairness hearing after the Debtors' Plan goes effective (the "Plan Effective Date"), to avoid any disruption to the Debtors' solicitation procedures as contemplated pursuant to the Disclosure Statement Motion.

106. The Parties propose the following proposed schedule for the approval process:

EVENT	PROPOSED DEADLINE

23andMe shall serve or cause to be served the notice required by the CAFA	10 days following the filing of the Motion for Preliminary Approval
23andMe shall, for the purpose of facilitating Notice, provide or cause to be provided to the Settlement Administrator information about the Settlement Class Members to effectuate the Notice Plan	No later than 30 days following entry of the Preliminary Approval Order
Plan Confirmation Hearing	November 13, 2025 or as soon as reasonably practicable
Notice Program substantial completion deadline ("Notice Deadline")	10 days following the Plan Confirmation Hearing
U.S. Data Breach Class Counsel shall file a motion for fees, expenses, costs, and Service Awards	25 days following the Plan Confirmation Hearing
Deadline for objections and opt outs ("Objection and Opt-Out Deadline")	40 days following the Plan Confirmation Hearing
U.S. Data Breach Class Counsel shall file all papers in support of the application for the Final Approval Order and Final Judgment	55 days following the Plan Confirmation Hearing
Deadline for submitting a claim ("Claims Deadline")	90 days following the Plan Confirmation Hearing
Hearing on Final Approval of the Settlement	At least 60 days following the Plan Confirmation Hearing

VI. After the Fairness Hearing, the Court Should Approve the Settlement Agreement and Grant Related Relief on a Final Basis

107. Fed. R. Civ. P. 23(e)(1)(C) provides that "[t]he court may approve a settlement, voluntary dismissal, or compromise that would bind class members only after a hearing and on finding that the settlement, voluntary dismissal, or compromise is fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(1)(C).

108. In *In Re: Wireless Telephone Federal Cost Recovery Fees Litigation,* 396 F.3d 922 (8th Cir. 2005), the Eighth Circuit sets out the following four factors that are to be weighed in determining whether a settlement should be approved as fair, reasonable and adequate to a class

under Civil Procedure Rule 23(e): (a) the merits of the plaintiff's case, weighed against the terms of the settlement; (b) the defendant's financial condition; (c) the complexity and expense of further litigation; and (d) the amount of opposition to the settlement. *Id.* at 932-33.

109. For all the foregoing reasons, the Parties submit that, after the Final Fairness Hearing, the Settlement should be approved as fair, reasonable and adequate to the Class under the four factors enumerated by the Eighth Circuit.

Reservation of Rights

110. In the event the Settlement Agreement is not approved on a final basis, (a) nothing herein shall be construed as a waiver by any Party of any or all of such Party's rights, remedies, claims, or defenses related to the Cyber Security Incident, (b) the Parties expressly and fully reserve any and all of their respective rights, remedies, claims, and defenses, including pursuant to Federal Rule of Evidence 408 and any other applicable rules of evidence, whether under federal or state law, (c) statements in this Motion shall not be admissible into evidence in any proceeding other than a proceeding to enforce the relief granted in the Proposed Order; and (d) any and all rights of the Parties are reserved and preserved and not impacted in any way by this Motion.

Bankruptcy Notice

111. The Debtors will provide notice of this Motion to the following parties: (a) the U.S. Trustee; (b) counsel to the Creditors' Committee; (c) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (d) the law firms representing claimants who have filed or asserted claims arising out of the Cyber Security Incident as of the Petition Date; (e) counsel to the Official Equity Committee; (f) the United States Attorney's Office for the Eastern District of Missouri; (g) the Internal Revenue Service; (h) the Securities and Exchange Commission; (i) the Federal Trade Commission; (j) the state attorneys general in all 50 states; and

(k) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). Notice of this motion and any order entered hereon will be served in accordance with Local Rule 9013-3(E)(1). The Parties submit that, in light of the nature of the relief requested, no other or further notice need be given.

[*Remainder of page intentionally left blank*]

WHEREFORE, the Parties respectfully request that the Court enter the Proposed Order and grant the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: September 4, 2025

Respectfully Submitted,

By: */s/ Thomas H. Riske*

Carmody MacDonald P.C.
Thomas H Riske #61838MO
Nathan R. Wallace #74890MO
Jackson J. Gilkey #73716MO
Becky R. Eggmann #37302MO
120 S. Central Avenue, Suite 1800
St. Louis, Missouri 63105
Telephone: (314) 854-8600
Facsimile: (314) 854-8660
Email: thr@carmodymacdonald.com
nrw@carmodymacdonald.com
jjg@carmodymacdonald.com
bre@carmodymacdonald.com

- and -

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
Paul M. Basta (admitted *pro hac vice*)
Christopher Hopkins (admitted *pro hac vice*)
Jessica I. Choi (admitted *pro hac vice*)
Grace C. Hotz (admitted *pro hac vice*)
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
Email: pbasta@paulweiss.com
chopkins@paulweiss.com
jchoi@paulweiss.com
ghotz@paulweiss.com

Counsel to the Debtors and Debtors in Possession

By: */s/ Norman E. Siegel*
Norman E. Siegel
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, MO 64112
Tel: (816) 714-7100
siegel@stuevesiegel.com

Cari Campen Laufenberg
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101
Tel: (206) 623-1900
claufenberg@kellerrohrback.com

Gayle M. Blatt
CASEY GERRY FRANCAVILLA BLATT LLP
110 Laurel Street
San Diego, CA 92101
Tel: (619) 238-1811
gmb@cglaw.com

Tobias S. Keller
KELLER BENVENUTTI KIM LLP
101 Montgomery Street, Suite 1950
San Francisco, CA 94104
Tel: (415) 496-6723
tkeller@klkllp.com

On behalf of the Settlement Class Representatives and U.S. Data Breach Settlement Class

Exhibit A

Settlement Agreement

THIS SETTLEMENT AGREEMENT DOES NOT CONSTITUTE, AND SHALL NOT BE DEEMED, AN OFFER OR A SOLICITATION WITH RESPECT TO ANY SECURITIES OF THE DEBTORS OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY CHAPTER 11 PLAN, IT BEING UNDERSTOOD THAT SUCH A SOLICITATION, IF ANY, SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY, AND/OR OTHER APPLICABLE LAWS.

SETTLEMENT AGREEMENT

This *Settlement Agreement* ("Agreement") is made and entered into on August 4, 2025 (the "Effective Date") by and among: the debtors and debtors in possession in the jointly administered chapter 11 cases of *In re 23andMe Holding Co., et al.* Case No. 25-40976-357 (BCW) (collectively, the "Debtors" and, the Debtors with their non-Debtor affiliates, "23andMe" or the "Company") and the Settlement Class Representatives (as defined herein) in the consolidated action *In re 23andMe, Inc., Customer Data Security Breach Litigation*, MDL 3098, Case No. 24-md-03098-EMC currently pending before the Honorable Edward M. Chen in the United States District Court for the Northern District of California. The Debtors and the Settlement Class Representatives may be referred to individually as a "Party" and together as "Parties."[1]

RECITALS:

WHEREAS, in October 2023, the Company identified and disclosed a data breach (the "Cyber Security Incident") which resulted in numerous actions being filed or otherwise threatened against the Company as well as the initiation of various governmental investigations.

WHEREAS, after the Company's announcement of the Cyber Security Incident, over 40 putative class action lawsuits were filed against 23andMe asserting claims for various common law torts and various statutory claims.

WHEREAS, on December 21, 2023, 23andMe filed a Motion to Transfer Actions to the Northern District of California pursuant to 18 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings with the Judicial Panel on Multidistrict Litigation ("JPML"), MDL No. 3098 (the "Cyber Class Action").

WHEREAS, on April 11, 2024, the JPML centralized the multidistrict litigation before the Honorable Edward M. Chen of the Northern District of California (the "MDL Court").

WHEREAS, on June 5, 2024, the MDL Court appointed interim co-lead class counsel ("Cyber Class Action Counsel").

WHEREAS, on June 26, 2024, plaintiffs in the Cyber Class Action filed their consolidated class action complaint against 23andMe.

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[1] All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof and (II) Granting Related Relief* [Docket No. 349] (the "Bar Date Order").

WHEREAS, on September 5, 2024, representatives (the "Settlement Class Representatives") of U.S. persons whose personal information was impacted by the Cyber Security Incident (the "Cyber Class Action Members"), by and through Cyber Class Action Counsel, and 23andMe, Inc., entered into that certain Class Action Settlement Agreement and Release (the "Class Action Settlement Agreement" or, as modified by the Conditional Settlement Order (as hereafter defined) and modifications in response thereto, the "Prepetition Settlement Agreement").

WHEREAS, on December 4, 2024, the MDL Court conditionally granted preliminary approval of the Class Action Settlement Agreement on the terms set forth in the *Order Conditionally Granting Motion for Preliminary Approval* (the "Conditional Settlement Order").

WHEREAS, on March 12, 2025, 23andMe and Cyber Class Action Counsel filed a status report in the MDL Court confirming that 23andMe intended to go forward with the Settlement as informed by the Court on December 4, 2024.

WHEREAS, on March 23, 2025, each Debtor filed a voluntary petition for relief with the United States Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court") under chapter 11 of title 11 of the United States Code.

WHEREAS, on May 30, 2025, Cyber Class Action Counsel, on behalf of the Cyber Class Action Members, filed the *Motion for an Order Allowing Data Breach Victim Class to File a Class Proof of Claim* [Docket No. 539].

NOW, THEREFORE, in consideration of the promises and the mutual covenants of the Parties stated in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties represent, warrant, consent, and agree as follows:

I. **Adoption of Recitals**. The above recitals are true and correct, are incorporated herein by this reference, and constitute a part of this Agreement.

II. **Settlement Terms**. Subject to the conditions set forth in this Agreement, the Parties agree as follows:

A. Cyber Class Action Counsel may file one, consolidated class proof of claim (the "Cyber Class POC") on behalf of the Cyber Class Action Members, subject to the following:

1. The Cyber Class POC must be submitted on or before the Cyber Security Incident Bar Date.

2. The Cyber Class POC may be filed in an amount determined by Cyber Class Action Counsel in accordance with the Bar Date Order and applicable law.

3. The amount of the claim asserted on the Cyber Class POC must include all amounts contemplated in the Cyber Class Action, including, among other things, amounts reserved for (a) attorneys' fees, (b) litigation expenses, (c) service awards for named plaintiffs, (d) settlement administration costs, (e) data monitoring programs (*i.e.*, Privacy Shield), and (f) cash distributions for Cyber Class Action Members.

4. Notwithstanding the filed amount of the Cyber Class POC, or the amount of such Cyber Class POC that is "allowed" following adjudication or administration of the claim in these chapter 11 cases, the aggregate cash distributions to be made on account of the Cyber Class POC shall not exceed $50 million in the aggregate (the "Cyber Security Incident Settlement Cap"); *provided* that if the Cyber Class POC receives distributions on account of such claim in the form of consideration other than cash or cash equivalents, the value of consideration shall be calculated based on the fair market value ("FMV") of such consideration, which FMV shall be determined by mutual agreement between Cyber Class Action Counsel and the Debtors, in consultation with the Official Committee of Unsecured Creditors (the "Committee"), or, if the parties are unable to reach agreement, the Bankruptcy Court.

5. The Debtors' right to contest the allowed amount of the Cyber Class POC is fully preserved but solely with respect to amounts in excess of $30 million (the "Cyber Security Incident Minimum Claim").

6. Cyber Class Action Counsel shall engage in good faith negotiations with the Debtors and the Committee regarding the terms of a mutually acceptable chapter 11 plan which is in all material respects consistent with this Agreement (an "Acceptable Plan"), and Cyber Class Action Counsel agree that any plan that is in material respects consistent with this Agreement constitutes an Acceptable Plan.

7. If an Acceptable Plan contemplates separate classification of Cyber Class Action Members as a distinct voting class under such chapter 11 plan, Cyber Class Action Counsel and Cyber Class Action Members shall support such separate classification; *provided* that such class of Cyber Class Action Members receives pro rata treatment with all other general unsecured classes on account of any allowed Cyber Class POC, unless otherwise agreed by Cyber Class Action Counsel or is otherwise in all material respects consistent with this Agreement.

8. Cyber Class Action Counsel shall use commercially reasonable efforts to encourage Cyber Class Action Members to support and vote in favor of an Acceptable Plan, including but not limited to submitting a letter of support for such Acceptable Plan to be included as part of the solicitation package.

9. If an Acceptable Plan contemplates certification of the Cyber Class Action Members as a settlement class pursuant to Rule 23 of the Federal Rules of Civil Procedures (made applicable by Rule 7023 of the Federal Rules of Bankruptcy Procedure), Cyber Class Action Counsel shall seek approval of a process (without objection from the Debtors) whereby:

(a) The funds approved for the Cyber Class POC will be placed in a Qualified Settlement Fund pursuant to § 468B of the Internal Revenue Code and related Treasury Regulations or similar trust under such plan (the "Cyber Class Action Trust") for the benefit of Cyber Class Action Members and Cyber Class Action Counsel; *provided* that in the event the placement of funds into such Qualified Settlement Fund impacts tax efficiencies and/ or raises any issues related to regulatory compliance for the Cyber Class Action Trust or any other trust contemplated under an Acceptable Plan, Cyber Class Action Counsel agree to discuss with the Debtors, a plan administrator appointed pursuant to the Plan, and the Committee and/or a general unsecured claims trustee, as applicable, to consider other trust options;

(b) Cyber Class Action Counsel will oversee distribution of the Cyber Class Action Trust pursuant to a proposed benefits plan approved by the Court (the "Cyber Class Benefits Plan");

(c) Any Cyber Class Action Member that timely filed a proof of claim ("POC") shall have the opportunity to "opt out" of the Cyber Class Benefits Plan by timely and validly electing to opt out of the Cyber Class Benefits Plan. Any Cyber Class Action Member that fails to timely opt out of the Cyber Class Benefits Plan, regardless of whether such Cyber Class Action Member timely filed a proof of claim, shall receive benefits as set forth in the Cyber Class Benefits Plan and may not maintain a separate POC in the Chapter 11 Cases. Any Cyber Class Action Member that opts-out may be placed in a separate class under an Acceptable Plan.

(d) If more than 2% of the Cyber Class Action Members opt out of the Cyber Class Benefits Plan, the Debtors shall have the option to either (i) provide Cyber Class Action Counsel with notice either (a) terminating the Cyber Security Incident Settlement Cap and Cyber Security Incident Minimum Claim and preserving the Debtors' ability to object to the full amount of the Cyber Class POC or (b) objecting to certification of the Cyber Class Action Members under Rule 7023 of the Federal Rules of Bankruptcy Procedure; or (ii) impose reductions to the Cyber Security Incident Settlement Cap and Cyber Security Incident Minimum Claim, which reductions shall be calculated at a rate of $50 per opt out for each opt out in excess of 2% of the total Cyber Class Action Members.

B. Cyber Class Action Counsel shall support a continued stay of the Cyber Class Action through the effective date of an Acceptable Plan.

C. Upon the effective date of an Acceptable Plan (the "Plan Effective Date"), Cyber Class Action Counsel shall promptly move to dismiss the Cyber Class Action with prejudice and without costs to any Party.

III. Mutual Releases.

A. Upon the Plan Effective Date, Cyber Class Action Counsel, Settlement Class Representatives and the Cyber Settlement Class Members (the "Cyber Class Action Parties") shall be deemed to, and hereby agree to, release, acquit, satisfy, and forever discharge the Debtors and any of their respective members, shareholders, affiliates, related entities, current and former officers, directors, employees, principals, agents, successors, predecessors, and representatives (the "Debtor Released Parties") for any claims arising out of the Cyber Security Incident that the Cyber Class Action Parties can, shall, or may have against the Debtor Released Parties, whether known or unknown, accrued or unaccrued, fixed or contingent, prepetition or postpetition, secured, unsecured or priority, which may presently exist or arise in the future.

B. Upon the Plan Effective Date, the Debtors and any of their respective members, shareholders, affiliates, related entities, current and former officers, directors, employees, principals, agents, successors, predecessors, and representatives shall be deemed to, and hereby agree to, release, acquit, satisfy, and forever discharge Cyber Class Action Parties for any claims arising out of the Cyber Security Incident, including any claims arising out of or relate in any way to the institution, prosecution or settlement of the Cyber Class Action against 23andMe Inc., that the Debtors can, shall, or may have against the Cyber Class Action Parties, whether known or unknown, accrued or unaccrued, fixed or contingent, prepetition or postpetition, secured, unsecured or priority, which may presently exist or arise in the future.

C. The Parties agree that the releases set forth herein shall be construed as broadly as possible, except that the obligations of the Parties as set forth in this Agreement shall not be released.

IV. **Further Assurances**. Each of the Parties shall execute and deliver to the other all such other documents as may reasonably be requested to accomplish whatever may be contemplated pursuant to this Agreement, and hereby agree to do and perform all acts, and to make, execute, and deliver all instruments and documents necessary to perform the obligations or consummate the transactions contemplated by this Agreement.

V. **Non-Waiver**. The failure of any Party to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions as to any future violations thereof, nor prevent that Party thereafter from enforcing each and every provision of this Agreement. The rights granted to the Parties

herein are cumulative and the waiver of any single remedy shall not constitute a waiver of such Party's right to assert all other legal remedies available to it under the circumstances.

VI. **Prevailing Party**. Except as otherwise provided in this Agreement, the Parties acknowledge and agree that each of them, as between them, will bear their own costs, expenses, and attorneys' fees arising out of the negotiation, preparation, and execution of this Agreement, and all matters arising out of or connected therewith.

VII. **Entire Agreement**. This Agreement constitutes the entire Agreement and supersedes any and all other understandings and agreements between the Parties with respect to the subject matter hereof and no representation, statement, or promise not contained herein shall be binding on either Party. This Agreement may be modified, changed, amended, or otherwise altered only by a written amendment signed by each Party.

VIII. **Execution in Counterparts**. This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. Delivery of an executed counterpart of a signature page of this Agreement by photocopy, facsimile, electronic, email, or other copies of signatures shall have the same effect as an ink-signed original.

IX. **Binding Nature of the Agreement on the Debtors' Estates.** This Agreement shall be binding upon the Debtors and any subsequently appointed chapter 11 or chapter 7 trustee and shall be enforceable by the Settlement Class Representatives against the Debtors and their estates both during these chapter 11 cases and, if applicable, after conversion to chapter 7 or the dismissal of the chapter 11 cases.

X. **Review by Counsel; Voluntary Agreement.** The Parties confirm they have had the terms of this Agreement explained to them by their attorneys, and by executing this Agreement they represent that they are relying upon their own judgment and the advice of the counsel of their choice and are not relying upon any recommendations or representations of any opposing party, opposing counsel, or other representative, other than those representations expressly in this Agreement.

XI. **Jointly Drafted.** The Parties to this Agreement have cooperated in the drafting and preparation of this Agreement. Therefore, this Agreement shall not be construed against either Party on the basis that the Party was the drafter.

XII. **Cooperation and Best Efforts**. The Parties hereto agree to cooperate fully in the execution of any documents or performance in any way which may be reasonably necessary to carry out the purposes of this Agreement and to effectuate the intent of the Parties thereto, and the Parties shall use their reasonable best efforts to obtain Bankruptcy Court approval.

XIII. **Authority**. Subject to approval of the Bankruptcy Court, the individuals executing this Agreement on behalf of the Parties have the full power and lawful authority to execute and deliver this Agreement, as well as all of the other documents executed or delivered, or to be executed or delivered, by the Parties in connection herewith, to perform the obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Parties, the performance of the obligations hereunder,

and the consummation by the Parties of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Parties and no other corporate proceedings are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. Subject to approval of the Bankruptcy Court, each of the documents in connection herewith to which the Parties are, or will be, a party, has been, or will be, duly and validly executed and delivered by the Parties, and, assuming the due authorization, execution, and delivery of the documents by the other Parties, are (or when executed and delivered will be) legal, valid, and binding obligations of the Parties.

XIV. **Governing Law.** The exclusive jurisdiction for any dispute related to this Agreement, including interpretation and enforcement thereof, shall be the Bankruptcy Court. To the extent the Bankruptcy Court declines jurisdiction for any reason, the Parties shall request that the MDL Court undertake jurisdiction for the sole purpose of implementing this Agreement.

XV. **Severability**. The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, all other parts shall remain fully valid and enforceable.

XVI. **Approval by the Bankruptcy Court.** The execution and delivery of this Agreement by the Parties, the performance of the obligations hereunder, and the consummation by the Parties of the transactions contemplated hereby are all dependent on and subject to the entry of any order by the Bankruptcy Court approving of the Agreement in full, which may include the order confirming a chapter 11 plan. Absent such an order, this Agreement and all the provisions hereunder will be of no effect.

[*Remainder of the page intentionally left blank.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ACCEPTED AND AGREED by each of the signing parties below, who each warrant and represent that they have read and understand the foregoing Agreement and are entering into the foregoing Agreement voluntarily and without any duress or undue influence, and that each had the opportunity to consult with legal counsel of their own choosing before signing:

Norman E. Siegel
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, MO 64112
Tel: (816) 714-7100
siegel@stuevesiegel.com

Cari Campen Laufenberg
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101
Tel: (206) 623-1900
claufenberg@kellerrohrback.com

Gayle M. Blatt
CASEY GERRY FRANCAVILLA BLATT LLP
110 Laurel Street
San Diego, CA 92101
Tel: (619) 238-1811
gmb@cglaw.com

Tobias S. Keller
KELLER BENVENUTTI KIM LLP
101 Montgomery Street, Suite 1950
San Francisco, CA 94104
Tel: (415) 496-6723
tkeller@klkllp.com

On behalf of the Settlement Class Representatives and Cyber Class Action Members

/s/ *Christopher Hopkins*

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
Paul M. Basta (admitted *pro hac vice*)
Christopher Hopkins (admitted *pro hac vice*)
Jessica I. Choi (admitted *pro hac vice*)
Grace C. Hotz (admitted *pro hac vice*)
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
Email: pbasta@paulweiss.com
chopkins@paulweiss.com
jchoi@paulweiss.com
ghotz@paulweiss.com

On behalf of the Debtors and Debtors in Possession in the above-captioned cases

Exhibit B

[To Come]

Exhibit C

[To Come]

Exhibit D

Settlement Benefits Plan

U.S. Data Breach Class Benefits Plan

1. Capitalized Terms: Unless defined in this U.S. Data Breach Class Benefits Plan ("Benefits Plan"), capitalized terms shall be defined as set forth in the U.S. Data Breach Class Settlement Agreement ("Settlement Agreement) between the Debtors and the Settlement Class Representatives in *In re 23andMe Holding Co., et al. Case No. 25-40976-357* (BCW) dated August 4, 2025.

2. Settlement Class: The U.S. Data Breach Settlement Class is defined as "all natural persons who were residents of the United States at any time between May 1, 2023 and October 1, 2023 and who received a notice from 23andMe that their Personal Information was compromised in the Cyber Security Incident. The Statutory Subclass is defined as Settlement Class Members who were residents of Alaska, Oregon, California or Illinois at any time between May 1, 2023 and October 1, 2023. The U.S. Data Breach Settlement Class and Statutory Subclass specifically exclude: (i) 23andMe and its officers and directors; (ii) all U.S. Eligible Class Members who timely and validly request to opt-out from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; (iv) potential class members who have provided 23andMe with an express release of claims arising out of or related to the Cyber Security Incident prior to August 4, 2025; and (v) any holder of a U.S. Data Breach Arbitration Claim.

3. Net Settlement Fund: The "Net Settlement Fund" is the approved amount of the Cyber Class Proof of Claim ("Cyber Class POC") paid into the Cyber Class Action Trust (which shall not be less than $30,000,000 and not greater than $50,000,000) less (1) Notice and Administrative Costs; (2) Attorneys' Fees and Expenses awarded by the Court; (3) Service Awards to Settlement Class Representatives awarded by the Court; and (4) costs associated with procurement of Privacy & Medical Shield + Genetic Monitoring ("Privacy Shield Monitoring"). The Settlement Administrator shall use the Net Settlement Fund to pay valid claims for Extraordinary Claims, Health Information Claims, and Statutory Cash Claims as set forth below. The Settlement Administrator, subject to such supervision and direction of the Court and Cyber Class Action Counsel ("Class Counsel") as may be necessary or as circumstances may require, shall administer and oversee distribution of the Net Settlement Fund pursuant to the process set forth in this Benefits Plan. Subject to Court approval, the deductions from the Net Settlement Fund are anticipated as follows:

   a. Notice and Administrative Costs are anticipated to be approximately $918,000;

b. Attorneys' Fees and Expenses are anticipated to be approximately 25% of the approved Cyber Class POC plus actual out-of-pocket costs and expenses anticipated to be approximately $500,000;

c. Service Awards are anticipated to be approximately $33,000;

d. Privacy Shield Monitoring is anticipated to be approximately $3,110,000.

4. Administration of Claims: The Notice and Claims Administrator ("Settlement Administrator") shall administer and calculate the claims submitted by Cyber Class Action Members in accordance with the Benefits Plan. Any determination by the Settlement Administrator regarding the validity or invalidity of any such claims shall be binding, though the Settlement Administrator may confer with Class Counsel as issues may arise.

5. Extraordinary Claims: An "Extraordinary Claim" may be submitted by any Cyber Class Action Member and such claims are limited to verifiable unreimbursed costs or expenditures up to $10,000 that a Cyber Class Action Member actually incurred on or after May 1, 2023, through the date on which the Court enters the Preliminary Approval Order, and that the Cyber Class Action Member establishes are related to the Cyber Security Incident. Extraordinary Claims shall be paid pursuant to the schedule as set forth in Paragraph 9. Extraordinary Claims shall be limited to:

a. Unreimbursed costs, expenses, losses or charges incurred as a direct result of identity fraud or falsified tax returns that the Cyber Class Action Member establishes were the result of the Security Incident.

b. Unreimbursed costs or expenses associated with the purchase of a physical security or monitoring system that a Cyber Class Action Member establishes was purchased in response to the Security Incident.

c. Unreimbursed costs or expenses associated with seeking professional mental health counseling or treatment that a Cyber Class Action Member establishes was incurred as a result of the Security Incident.

6. Health Information Claims: A "Health Information Claim" will be paid to Cyber Class Action Members who received notice from 23andMe that their health

information including (i) uninterpreted raw genotype data, (ii) certain health reports derived from the processing of their genetic information, including health-predisposition reports, wellness reports and carrier status reports, or (iii) self-reported health condition information was involved in the Cyber Security Incident. Health Information Claims will each be paid in the amount of $165 from the Health Information Fund. If Cyber Class Action Members who are eligible for this benefit do not submit Claim Forms or otherwise provide preferred electronic payment or address information, they will be sent cash payments by check at their last known mailing addresses or to any updated address located with commercially reasonable effort. These Cyber Class Action Members are also eligible to claim other Settlement benefits, select their preferred form of payment, and update their mailing addresses by submitting Claim Forms.

7. Health Information Claims shall be paid pursuant to the schedule set forth in Paragraph 9.

8. Statutory Cash Claims: In addition to Extraordinary Claims, and/or Health Information Claims, a "Statutory Cash Claim" may be claimed by any Cyber Class Action Member who was a resident of Alaska, California, Illinois, or Oregon at any time between May 1, 2023 and October 1, 2023. Statutory Cash Claims shall be paid pursuant to the schedule set forth in Paragraph 9.

9. Payment Schedule: All Extraordinary Claims, Health Information Claims, and Statutory Cash Claims shall be paid pursuant to the following schedule:

a. Valid Extraordinary Claims shall be paid from the Net Settlement Fund up to a total cap of $8,300,000 (the "Extraordinary Claims Fund"). If the total amount of valid Extraordinary Claims exceeds the Extraordinary Claims Fund, payment of the Extraordinary Claims will be reduced on a pro-rata basis. If the total amount of valid Extraordinary Claims is less than the Extraordinary Claims Fund, the balance of the Extraordinary Claims Fund will be added to the Statutory Cash Claim Fund.

b. Valid Health Information Claims shall be paid from the Net Settlement Fund up to a total cap which shall have sufficient funds available to pay each valid Health Information Claim but no greater than $1,250,000 (the "Health Information Claims Fund"). If the amount of valid Health Information Claims is less than the Health Information Claims Fund, the balance of the Health Information Claims Fund will be added to the Statutory Cash Claim Fund.

c. Valid Statutory Cash Claims shall be paid on a pro-rata basis from the "Statutory Cash Claim Fund," which shall be the Net Settlement Fund less valid claims paid from the Extraordinary Claims Fund and the Health Information Claims Fund.

10. Cyber Class POC Reduction Contingency: The dollar figures set forth in Paragraphs 6, 9(a), and 9(b) reflect an approved Cyber Class POC of $50,000,000. To the extent the Cyber Class POC is approved in an amount less than $50,000,000, the dollar figures in these paragraphs shall be reduced by the percentage reduction to the Cyber Class POC.

11. Remaining Funds: Any remaining funds resulting from the failure of Cyber Class Action Members to timely negotiate a settlement check or to timely provide required tax information such that a settlement check could issue, shall be used to extend the active period for Privacy Shield Monitoring. No funds may revert to 23andMe.

12. "Claims Deadline" is the last day for Claim Forms to be uploaded online, or postmarked and mailed to the Claims Administrator.

13. "Claim Form" means the document(s) made available pursuant to the provisions of the Benefits Plan in order to obtain certain benefits under this Settlement Agreement.

14. Claims Period: The "Claims Period" is the period starting from the date of the Plan Confirmation Hearing and ending 90 days following the Plan Confirmation Hearing. Cyber Class Action Members must submit Claims for Extraordinary Claims and Statutory Cash Claims during the Claims Period.

15. Claims Process: Cyber Class Action Members may submit Claim Forms to the Settlement Administrator electronically on the Settlement Website or may print a Claim Form for mailing from the Settlement Website. Claim Forms must be submitted individually by the Cyber Class Action Members claiming Settlement benefits and may not be submitted by third parties, except as authorized by the Settlement Administrator at its sole discretion. Additionally, Settlement benefits, including payments of Cash claims, may only be conferred on a Cyber Class Action Member, except as authorized by the Settlement Administrator at its sole discretion. The Settlement Administrator shall verify that each individual who submits a Claim Form is a Cyber Class Action Member and shall be responsible for validating all claims.

a. Extraordinary Claims:

i. Cyber Class Action Members with Extraordinary Claims must attest to the accuracy of their Claim Forms and submit Reasonable Documentation supporting their Extraordinary Claims. "Reasonable Documentation" means documentation supporting a claim, including, but not limited to: credit card statements, bank statements, invoices, receipts, or other documents substantiating unreimbursed costs, expenses, losses or charges as a direct result of the Security Incident subject to the limitations set forth in (4)(a)-(c). Personal certifications, declarations, or affidavits from the claimant do not constitute Reasonable Documentation for Extraordinary Claims under 4(a)-(c), but may be included to provide clarification, context or support for other submitted Reasonable Documentation.

ii. In determining whether a claim under (4)(a)-(c) is valid, the Settlement Administrator shall consider: (1) the timing of the loss, including whether the loss occurred on or after May 1, 2023, through the date on which the Court enters the Preliminary Approval Order; (2) whether the loss involved the misuse of the type of Personal Information compromised in the Security Incident; (3) whether the Personal Information compromised in the Security Incident is related to the Cyber Class Action Member and is of the type that was misused; (4) the Cyber Class Action Member's explanation as to how the loss is related to the Security Incident; and (5) any other factor that the Settlement Administrator considers to be relevant.

iii. The Settlement Administrator shall have the sole discretion and authority to determine the validity of Extraordinary Claims but may confer with Class Counsel.

b. Health Information Claims:

i. Cyber Class Action Members with Health Information Claims who do not submit their preferred method of electronic payment will be sent Health Information Claim payments by check at their last known mailing addresses or any updated address reasonably located even if they do not submit a Claim Form. These Cyber Class Action Members may also submit a Claim Form to claim other Settlement

benefits, select their preferred form of payment, and update their mailing addresses.

ii. The Settlement Administrator shall have the sole discretion and authority to determine the validity of Health Information Claims but may confer with Class Counsel.

c. Statutory Cash Claims:

i. Cyber Class Action Members with Statutory Cash Claims must submit a Claim Form attesting they were a resident of Alaska, California, Illinois, or Oregon at any time between May 1, 2023 and October 1, 2023, and include a residential address where they resided on the applicable date(s) (if other than the address provided on their Claim Form as their current residential address).

ii. The Settlement Administrator shall have the sole discretion and authority to determine the validity of Statutory Cash Claims but may confer with Class Counsel.

d. Privacy & Medical Shield + Genetic Monitoring:

i. Cyber Class Action Members will be provided with an enrollment code with their settlement notice to pre-enroll in Privacy Shield Monitoring. To pre-enroll in the service, Cyber Class Action Members are encouraged to submit a Claim Form. Once the Settlement is approved and becomes final, they will be notified that the enrollment code and the service is ready for use. However, even if a Cyber Class Action Member does not submit a Claim Form by the Claims Deadline, they can still take advantage of the monitoring services at any time during the five years the monitoring is effective by visiting the Settlement Website and using the contact information provided to enroll in the Privacy Shield Monitoring service. Cyber Class Action Members who enroll after the five-year monitoring period begins will only receive monitoring for the remainder of the five-year period.

16. Cash Payment Method and Timing: Cyber Class Action Members who make an Extraordinary Claim, a Statutory Cash Claim and/or are eligible for Health

Information Claim payments will be able to select a method of payment, including options for digital payment. The distribution of checks and digital payments for approved claims by mail or electronic transmission to Cyber Class Action Members shall be substantially completed within sixty (60) days after all conditions precedent to distributing payments have occurred. If the Settlement Administrator determines that the selected payment method is unavailable or otherwise administratively infeasible, a check will be issued at the Cyber Class Action Member's last known mailing addresses or to any updated address located with commercially reasonable effort.

17. Disputes:

a. To the extent the Settlement Administrator determines a claim is deficient in whole or part, within twenty-one (21) days after the Settlement Administrator processes all claims, the Settlement Administrator shall notify the Cyber Class Action Member in writing (including by e-mail where the Cyber Class Action Member selects e-mail as their preferred method of communication) of the deficiencies and provide the Cyber Class Action Member thirty (30) days to cure the deficiencies. The notice shall inform the Cyber Class Action Member that they can either attempt to cure the deficiencies outlined in the notice, or dispute the determination in writing. If the Cyber Class Action Member attempts to cure the deficiencies or disputes the determination but, in the sole discretion and authority of the Settlement Administrator fails to do so, the Settlement Administrator shall notify the Cyber Class Action Member of that determination within fourteen (14) days of the determination.

b. The Settlement Administrator shall have the sole discretion and authority to determine whether a claim is deficient in whole or part but may consult with Class Counsel in making individual determinations subject to this dispute process.

18. Opt Out Process:

a. Any Cyber Class Action Member who timely filed a Proof of Claim who wishes to opt out of the Settlement Class must do so through the opt-out procedures set forth in the solicitation materials that will be distributed to such members as part of 23andMe's bankruptcy case.

b. All other Cyber Class Action Members (*i.e.*, members who did not timely file a Proof of Claim) may print an Opt-Out Form from the Settlement Website and mail it to the Settlement Administrator. To be valid, each Cyber Class Action Member wishing to opt out of the Settlement Class shall: (i) include the case name and number of the Litigation; (ii) identify the name and current address of the Person seeking pexclusion from the Settlement; (iii) be individually signed by the Person seeking exclusion using wet-ink signature; (iv) include an attestation clearly indicating the Person's intent (to be determined by the Settlement Administrator) to be excluded from the Settlement; and (v) attest that the Person seeking exclusion had a 23andMe user account and was a U.S. resident at any time between May 1, 2023 and October 1, 2023. To be effective, written Opt-Out requests must be postmarked by the Opt-Out Deadline. Opt-Out Forms must be submitted individually by the Cyber Class Action Members opting out of the Settlement benefits and may not be submitted by third parties, except as authorized by the Settlement Administrator at its sole discretion. The Settlement Administrator shall verify that each individual who submits an Opt-Out Form is a Cyber Class Action Member.

19. Objection Process: Cyber Class Action Members who wish to object to the Settlement Agreement must do so by filing a timely written objection with the Court in accordance with the procedures outlined in the Class Notice, filed or postmarked no later than the Objection Deadline. The objection must include:

a. The case name and number of the Litigation;

b. The full name, address, telephone number, and email address of the objecting Settlement Class Member;

c. Information which verifies the objector is a Settlement Class Member, (e.g., a copy of the Class Notice or of the original notice of the Security Incident addressed to the objecting Settlement Class Member);

d. A written statement of all grounds for the objection, accompanied by any legal support for the objection;

e. A statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;

f. A statement confirming whether the objector intends to personally appear or testify at the Final Approval Hearing;

g. The identity of all counsel representing the objector and whether they will appear at the Final Approval Hearing;

h. A statement of whether the objector has sold or otherwise transferred the right of their recovery to this Litigation to another person or entity, and, if so, the identity of the person or entity; and

i. The objector's signature or other duly authorized representative.

20. Miscellaneous:

a. No Person shall have any claim against the Settlement Administrator, 23andMe, Class Counsel, 23andMe's Counsel, any of the Released Parties and/or the Settlement Class Representatives based on distributions of benefits to Cyber Class Action Members.

b. Information submitted by Cyber Class Action Members pursuant to the terms of this Settlement Agreement shall be deemed confidential and protected as such by Class Counsel, 23andMe, CyEx, and the Settlement Administrator.

21. Modification of Benefits Plan: Should the Parties agree, after Final Approval of the Settlement Agreement and Plan, that the provisions of this Benefits Plan should be modified in the interests of justice, they shall seek the Court's approval for such modification.

Exhibit E

[To Come]

Exhibit F

Settlement Class Representatives

Adriane Farmer
A.B.
Anna DaVeiga
Benjamin Woessner
Bonnie Eden
Britany DeLoach
Camie Picha
Claire Paddy
Cody Vogel
Daniel Anderson
Daniel Pinho
David Tso
Eileen Mullen
Emily Beale
Harold Velez
Jaime Kelly
J.S.
Kathleen Loftus
Kristina Chew
Lenora Claire
L.G.
M.L.
Melissa Ryan
Michele Bacus
Neil Haven
Pamela Zager-Maya
R.T.
Rachel DeCarlo
Samantha Van Vleet
Susan Kennedy
Thomas Vickery
Tracie Payne Mitchell
Tracy Scott