



BELLE TERMS OF SERVICE

Last Updated: December 6, 2022

These Terms of Service (these **"Terms of Service"** or **"Terms"**) are entered into between BelleTorus Corporation (**"Belle"**, **"Belle.ai"**, **"us"**, or **"we"**) and you, as a user of the Services, as defined herein (**"you"**, **"your"**, or **"User"**). These Terms govern your use of any of our Belle.ai mobile applications, including BellePRO™ (each, an **"App"** or **"Apps"**), (b) our website available at <https://www.belle.ai/> or any successor site (the **"Website"**), (c) all content, tools, features and functionalities offered on or through any our Apps or Website, and (d) all other services provided by us (items (a) through (d) collectively, the **"Services"**). Please read these Terms of Service carefully, as they include important information about your legal rights. If you do not understand or agree to these Terms, please do not use the Services.

THE APPS AND WEBSITE OFFER SKIN IMAGE SEARCH MATCHING AND IMAGE ANALYTICS SERVICES. IF YOU ARE A HEALTHCARE PROVIDER, YOU AGREE AND ACKNOWLEDGE THAT THE SERVICES ARE INTENDED ONLY FOR REFERENCE PURPOSES. THE SERVICES DO NOT DIAGNOSE SKIN DISEASES OR CONDITIONS AND SHOULD NOT BE RELIED UPON FOR MEDICAL DIAGNOSIS PURPOSES. THE U.S. FDA HAS NOT EVALUATED THE SERVICES. THE APP MATCHES UPLOADED SKIN IMAGES AGAINST A DATABASE AND RETURNS A BELLE IMAGE MATCH™ OR BIM™ INDICATING IF UPLOADED IMAGE MATCHES ONE OR MORE IMAGES IN THE BELLE DATABASE ON THE BASIS OF SIMILAR GEOMETRIC PATTERNS. THE APP THEN SHOWS THE MATCHES WITH THE MOST SIMILAR GEOMETRY AS THE UPLOADED SKIN IMAGES. THE RESULTS CAN BE DOWNLOADED AND SAVED IF YOU ELECT TO DO SO. THE TOOL IS NOT INTENDED TO PROVIDE A DIAGNOSIS OR BE A SUBSTITUTE FOR MEDICAL ADVICE, AS MANY CONDITIONS REQUIRE HEALTHCARE PROVIDER REVIEW, IN-PERSON EXAMINATION, OR ADDITIONAL TESTING, LIKE A BIOPSY. THE APP MUST NOT BE USED OUTSIDE THE SCOPE OF ITS INTENDED USE OR IN VIOLATION OF THESE TERMS.

FOR THE EUROPEAN UNION

YOU HAVE CHOSEN TO USE THE BELLE APPLICATION (OR APP) POWERED BY ARTIFICIAL INTELLIGENCE (AI) TO ASSIST YOU WITH SKIN HEALTH CARE EVALUATIONS. THE DIFFERENT BELLE MODULES THAT YOU WILL USE HAVE BEEN DEVELOPED BY A TEAM OF AI SCIENTISTS AND TESTED AND VALIDATED BY DOCTORS SPECIALIZING IN DERMATOLOGY. IN ACCORDANCE WITH ARTICLE L 4003-3-1 OF THE PUBLIC HEALTH CODE, THE HEALTHCARE PROFESSIONAL IS INFORMED AND INFORMS THEIR PATIENTS OF THE PROCESSING OF THEIR DATA BY BELLE'S AI POWERED APP FOR SKIN HEALTH CARE. (SEE APPENDIX 1). BELLE'S AI MODULES ARE HOSTED ON AN HDS CERTIFIED SERVER (HEALTH DATA HOST), WHICH PROVIDES FOR THE CONFIDENTIALITY, INTEGRITY AND AVAILABILITY OF THE HOSTED DATA. IN ADDITION, AN ACTION TO ANONYMIZE PATIENT DATA IS IMPLEMENTED AT THE STAGE OF SENDING THE DATA BY THE HEALTHCARE PROFESSIONAL AND RETURNING IT TO THE PROFESSIONAL. (SEE ANNEX 2).

FOR THE EUROPEAN UNION - LIST OF ANNEXES:

ANNEX 1: ART. L. 4001-3.-I.- A HEALTHCARE PROFESSIONAL WHO DECIDES TO USE, FOR AN ACT OF PREVENTION, DIAGNOSIS OR CARE, A MEDICAL DEVICE COMPRISING ALGORITHMIC DATA PROCESSING WHICH HAS BEEN LEARNED FROM MASSIVE DATA ENSURES THAT THE PERSON CONCERNED HAS BEEN INFORMED AND THAT HE IS, WHERE APPROPRIATE, WARNED OF THE RESULTING INTERPRETATION. ARTICLE L4001-3 - LEGIFRANCE (LEGIFRANCE.GOUV.FR)

APPENDIX 2: RECITAL 26 OF REGULATION (EU) OF THE PARLIAMENT AND OF THE COUNCIL OF 27 APRIL 2016 ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE PROCESSING OF PERSONAL DATA. REGULATION (EU) 2016/679

Please note that the Services, including the Apps, that are currently being offered are beta versions and are still undergoing final testing before official release. The Services are provided on an “as is” and “as available” basis. Belle does not provide any warranties, whether express or implied, as to the suitability, efficacy, or usability of the Services. By using the Services, you agree to our disclaimers regarding the Services and Beta Offerings (as defined in Section III(13)). If you encounter any bugs, glitches, lack of functionality or other problems on the Services, please let us know immediately so we can rectify these accordingly. Your help in this regard is greatly appreciated! You can contact us by emailing support@belle.ai.

Please do not accept these Terms of Service for another person in your family, including in your capacity as a parent, guardian, conservator, or custodian of such a person. If you are a healthcare provider and are using the Services in your professional capacity, in addition to these Terms of Service, you agree to be bound by the Business Associate Agreement set forth in Exhibit A (the “BAA”) attached to these Terms. If you do not agree to the BAA, please do not use the Services as a healthcare provider or share any health-related information of your patients via the Services.

SECTION VI CONTAINS AN ARBITRATION CLAUSE AND CLASS ACTION WAIVER. BY AGREEING TO THESE TERMS, YOU AGREE (A) TO RESOLVE ALL DISPUTES (WITH LIMITED EXCEPTION) RELATED TO BELLE’S SERVICES AND/OR APPS THROUGH BINDING INDIVIDUAL ARBITRATION, WHICH MEANS THAT YOU WAIVE ANY RIGHT TO HAVE THOSE DISPUTES DECIDED BY A JUDGE OR JURY, AND (B) TO WAIVE YOUR RIGHT TO PARTICIPATE IN CLASS ACTIONS, CLASS ARBITRATIONS, OR REPRESENTATIVE ACTIONS, AS SET FORTH BELOW. YOU HAVE THE RIGHT TO OPT-OUT OF THE ARBITRATION CLAUSE AND THE CLASS ACTION WAIVER AS EXPLAINED IN SECTION VI.

I. ABOUT THE SERVICES

1. Services. The Services include an artificial intelligence (“AI”)-powered software solution that is designed to assist you with matching and tracking skin images. You may upload a digital image (“Photo”) of a skin image onto an App or at the Website, and the Services will provide a qualitative assessment by identifying reference images matching the Photo, as well as several additional matches based on similar geometry of the Photo. This assessment is done via pixel-by-pixel comparison. By using the Services and/or any other applications, programs, or technologies that use your camera and/or device, you consent to the use of your camera and/or device to permit the tool to take or use your Photo and perform a pixel-by-pixel comparison with an app or at the website.

2. THE SERVICES MAY PROVIDE YOU WITH CERTAIN INFORMATION AND DATA; HOWEVER, YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES DO NOT PROVIDE OR CLAIM TO PROVIDE ANY MEDICAL OR SIMILAR PROFESSIONAL SERVICES OR ADVICE, DIAGNOSES, AND THE INFORMATION PROVIDED VIA THE SERVICES IS NOT INTENDED TO REPLACE MEDICAL OR OTHER PROFESSIONAL ADVICE OR DIAGNOSES OFFERED BY A PHYSICIAN OR OTHER PROFESSIONAL HEALTHCARE PROVIDER. IF YOU ARE A HEALTHCARE PROVIDER, YOU ALSO UNDERSTAND THAT THE SERVICES SHOULD NOT REPLACE YOUR PROFESSIONAL JUDGMENT. IF YOU ARE A HEALTHCARE PROVIDER, YOU SHALL BE SOLELY RESPONSIBLE FOR YOUR USES, MEDICAL AND BUSINESS JUDGMENTS, AND DIAGNOSES MADE AND FOR CARE PROVIDED WHILE YOU USE THE SERVICES. BELLE IS SOLELY A SOFTWARE PROVIDER AND IS NOT RESPONSIBLE FOR, AND IS UNDER NO OBLIGATION TO BECOME INVOLVED IN, ANY DISPUTES BETWEEN THE USERS OF THE SERVICES AND ANY THIRD PARTY, INCLUDING HEALTHCARE PROVIDERS ADMINISTERING CLINICAL SERVICES IN CONNECTION WITH THEIR USE OF THE SERVICES OR INDIVIDUAL PATIENTS.

II. ENROLLMENT

1. User Account. You may use the Services solely in accordance with these Terms of Service, and only if you are at least 18 years of age. In order to use and access the Services you must create an account through the Website or an App by completing the registration process set forth on the App or the Website, as applicable (each, your “**User Account**”). You are responsible for providing and maintaining current and accurate contact information, which may include name, email address, address, telephone number and other account information. Please review our Privacy Policy at www.belle.ai/privacy to learn about how we collect, use, share and protect your personal information.
2. Confidentiality of User Account. You are the sole authorized user of your User Accounts. You are responsible for maintaining the confidentiality of any password and account name for accessing the Services. You are solely and fully responsible for all activities that occur under your password or User Account. Belle has no control over the use of your or any user’s account and expressly disclaims any liability derived therefrom. Should you suspect that any unauthorized party may be using your password or User Account, or you suspect any other breach of security, please contact Belle immediately by emailing support@belle.ai.

III. TERMS APPLICABLE TO THE SERVICES

1. License to the Services. Subject to your compliance with these Terms of Service, Belle hereby grants to you, a personal, nonexclusive, nontransferable, revocable, limited license (without the right to sublicense) to (a) access and use the Services, and (b) to download a single copy of the App onto your own mobile device to use the Services. This license includes a right to access or use any third-party software or services embedded or included in any portion of the App or Website in connection with your permitted use of the Services. These Terms of Service are limited to the intellectual property rights of Belle and its affiliates and licensors and do not include any rights to other patents or intellectual property. We reserve all rights not expressly granted to you pursuant to these Terms of Service. The limited rights granted to you to access and use the Services in accordance with these Terms of Service comprise a limited license and do not constitute the sale of any software program.

2. Restrictions.

- (a) You agree that: (i) you will only use the Services for lawful purposes; (ii) you will not use the Services for sending or storing any unlawful material or for fraudulent purposes or to engage in any illegal, offensive, indecent, pornographic, or objectionable conduct; (iii) you will not use the Services to advertise, solicit, or transmit commercial advertisements or any other form of solicitation or unauthorized communication, including “spam”; (iv) you will not use the Services to cause nuisance, annoyance, or inconvenience; (v) you will not impair the proper operation of the Services’ network; (vi) you will not try to harm the Services in any way whatsoever; and (vii) you will use the Services only in accordance with these Terms or Service.
- (b) You agree that if you are a healthcare provider, and acting as a “covered entity,” as such term is defined under the Health Insurance Portability and Accountability Act of 1996, as amended (collectively, “HIPAA”), you will not provide any protected health information (“PHI”) to Belle, via Photos or otherwise, unless and until you have read, acknowledged, and accepted the BAA.
- (c) You agree that you will not directly or indirectly: (i) distribute, sell, assign, encumber, transfer, rent, lease, loan, sublicense, modify, time-share, or exploit the Services in any unauthorized manner, including but not limited to by trespass or burdening network capacity; (ii) use the Services in any service bureau arrangement; (iii) copy, reproduce, adapt, create derivative works of, translate, localize, port, or modify the Services, any updates, or any part thereof in any form or manner or by any means; (iv) harvest or scrape any content or data from the Services, or (v) permit any third party to engage in any of the acts described in clauses (i) through (iv).
- (d) You further understand and agree that you are not permitted to: (i) remove or alter any copyright, trademark, certifications, or other proprietary rights’ notice or restrictive rights legend contained or included in the Services; (ii) decompile, disassemble, reverse compile, reverse assemble, reverse translate or otherwise reverse engineer any part of the Services, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the Services); (iii) use any means to discover the source code of any portion of the Services; or (iv) otherwise circumvent any functionality that controls access to or otherwise protects the Services.
- (e) Belle, and its licensors, reserve the right to change, suspend, remove, or disable access to the Services at any time without notice. In no event will Belle be liable for the removal of or disabling of access to any such Services. Belle may also impose limits on the use of or access to the Services, in any case and without notice or liability.

3. Internet Charges. You are responsible for providing the mobile device, wireless service plan, Internet connections and/or other equipment or services that you need to download, install and/or use an APP and the Services. WE DO NOT GUARANTEE THAT THE APPS OR THE SERVICES CAN BE ACCESSED AND USED ON ANY PARTICULAR DEVICE OR WITH ANY PARTICULAR SERVICE

PLAN. WE DO NOT GUARANTEE THAT THE APPS OR THE SERVICES WILL BE AVAILABLE IN ANY PARTICULAR GEOGRAPHIC LOCATION. As part of the Services, you may receive push notifications, text messages, picture messages, alerts, emails, or other types of messages directly sent to you outside or inside the App or Website ("**Push Messages**"). You agree that Belle may contact you via telephone or text messages (including by an automatic telephone dialing system) at any of the telephone numbers provided by you or on your behalf in connection with your use of the Services, including for marketing purposes. You understand that you are not required to provide this consent as a condition of use of the Services. You also understand that you may opt out of receiving text messages from us at any time, either by replying to our text with the word "STOP," or by contacting us at support@belle.ai. If you do not choose to opt out, we may contact you as outlined in our Privacy Policy. You acknowledge that, when you use the App, the Website or the Services on a mobile device, your wireless service provider may charge you fees for data, text messaging and/or other wireless access. YOU ARE SOLELY RESPONSIBLE FOR ANY FEE, COST, OR EXPENSE THAT YOU INCUR TO DOWNLOAD, INSTALL AND/OR USE AN APP, THE WEBSITE, OR THE APP OR WEBSITE SERVICES ON YOUR MOBILE DEVICE, INCLUDING FOR YOUR RECEIPT OF PUSH MESSAGES FROM BELLE.

4. App Updates. Belle may make available for download certain updates or upgrades to the Apps to update, enhance, or further develop the App ("**App Updates**"). The license granted herein allows you to download and use the App Updates pursuant to the same terms and conditions applicable to your use of the App in accordance with these Terms.
5. Use of Health-Related and Other Personal Information. The Services will allow you to complete surveys, upload Photos, and share other information. By using the Services, you agree that Belle may collect, use, and disclose such information (collectively "**Information**") in accordance with these Terms of Service (including, to the extent applicable, the BAA) and the Privacy Policy.
6. Your Content License Grant. In connection with your use of the Services, you may be able to post, upload, or submit content to be made available through the Services ("**Your Content**"). For clarity, Your Content includes Photos you upload to the Services or your Information. In order to operate the Services, we must obtain from you certain license rights in Your Content so that actions we take in operating the Services are not considered legal violations. Accordingly, by using the Services and uploading Your Content, you grant us a license to access, use, host, cache, store, reproduce, transmit, display, publish, process, distribute, and modify Your Content as required to be able to operate and provide the Services, including completing APP Updates. You agree that these rights and licenses are royalty free, transferable, sub-licensable, worldwide and irrevocable and include a right for us to make Your Content available to, and pass these rights along to, others with whom we have contractual relationships related to the provision of the Services, solely for the purpose of providing such Services, and to otherwise permit access to or disclose Your Content to third parties if we determine such access is necessary to comply with our legal obligations. As part of the foregoing license grant you agree that the other users of the Services shall have the right to comment on and/or tag Your Content and/or to use, publish, display, modify or include a copy of Your Content as part of their own use of the Services; except that the foregoing shall not apply to any of Your Content that you upload or post privately for non-public display on the Services. By posting or submitting Your Content through the Services, you represent and warrant that you have, or have obtained, all rights, licenses, consents, permissions, power and/or authority necessary to grant the rights granted herein for Your Content. You agree that Your

Content will not contain material subject to copyright or other proprietary rights, unless you have the necessary permission or are otherwise legally entitled to post the material and to grant us the license described above.

7. Notice of Infringement – DMCA Policy

If you believe that any text, graphics, photos, audio, videos or other materials or works uploaded, downloaded or appearing on the Services have been copied in a way that constitutes copyright infringement, you may submit a notification to our copyright agent in accordance with 17 USC 512(c) of the Digital Millennium Copyright Act (the “DMCA”), by providing the following information in writing:

- (a) identification of the copyrighted work that is claimed to be infringed;
- (b) identification of the allegedly infringing material that is requested to be removed, including a description of where it is located on the Service;
- (c) information for our copyright agent to contact you, such as an address, telephone number and e-mail address;
- (d) a statement that you have a good faith belief that the identified, allegedly infringing use is not authorized by the copyright owners, its agent or the law;
- (e) a statement that the information above is accurate, and under penalty of perjury, that you are the copyright owner or the authorized person to act on behalf of the copyright owner; and
- (f) the physical or electronic signature of a person authorized to act on behalf of the owner of the copyright or of an exclusive right that is allegedly infringed.

Notices of copyright infringement claims should be sent by mail to: BelleTorus Corporation, Attn: Chief Operations Office, 245 First Street, Riverview II, 18th Floor, Cambridge, MA 02142; or by e-mail to support@belle.ai. It is our policy, in appropriate circumstances and at our discretion, to disable or terminate the accounts of users who repeatedly infringe copyrights or intellectual property rights of others.

A user of the Services who has uploaded or posted materials identified as infringing as described above may supply a counter-notification pursuant to sections 512(g)(2) and (3) of the DMCA. When we receive a counter-notification, we may reinstate the posts or material in question, in our sole discretion. To file a counter-notification with us, you must provide a written communication (by regular mail or by email) that sets forth all of the items required by sections 512(g)(2) and (3) of the DMCA. Please note that you will be liable for damages if you materially misrepresent that content, or an activity is not infringing the copyrights of others.

8. Data. You hereby grant Belle.ai a non-exclusive, royalty-free, perpetual, irrevocable, worldwide right and license, with right of sublicense, to access and use Your Content in accordance with the terms of our Privacy Policy and these Terms.

9. Third Party Services and Materials. The Services may display, include or make available content, data, information, applications or materials from third parties, including your health care provider(s) ("**Third Party Materials**") or provide links to certain third-party web sites. By using the Services, you acknowledge and agree that Belle is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect of such Third-Party Materials or websites. Belle does not warrant or endorse and does not assume and will not have any liability or responsibility to you or any other person for any third-party services, Third Party Materials or web sites, or for any other materials, products, or services of third parties. Third Party Materials and links to other web sites are provided solely as a convenience to you.
10. No Endorsements. Belle does not recommend or endorse any specific drugs, tests, physicians, products, procedures, and opinions. By using the Services, you acknowledge and agree that You do not construe Belle's publication of any content, data or information on the Services as an endorsement by Belle of the views expressed therein, or any warranty or guarantee of any strategy, recommendation, treatment, action or application of medication or preparation made by the author of the content.
11. Ownership. The Services and their content, including their "look and feel" (e.g., text, graphics, images, logos), proprietary content, information and other materials, are protected under intellectual property, copyright, patent, trademark, and other laws. Belle's name, trademarks, logo and all related names, logos, product and service names, designs and slogans are trademarks of Belle or its affiliates or licensors. Other names, logos, product and service names, designs and slogans that appear on the Services are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by us. You acknowledge and agree that Belle and/or its licensors own all right, title and interest in and to the Services (including without limitation any and all patent, copyright, trade secret, trademark, show-how, know-how and any and all other intellectual property rights therein or related thereto) and you agree not to take any action(s) inconsistent with such ownership interests. You do not acquire any rights or licenses under any of Belle's (or its licensors') patents, patent applications, copyrights, trade secrets, trademarks, or other intellectual property rights on account of these Terms of Service. You acknowledge and agree that the features and functionality of the Services, and all software, content, data, information, and materials contained therein are the confidential and proprietary information of Belle (or its licensors), and accordingly you agree to (a) maintain the confidentiality of such information using reasonable efforts and care (but in no event less than the same efforts and care you use to protect your own confidential and proprietary information) and not disclose such information to any third party without the prior written consent of Belle, and (b) only use such information for the purposes of using the Services pursuant to these Terms.
12. Feedback. Any and all suggestions for correction, change and modification to the Services and other feedback (including but not limited to Your quotations of written or oral feedback, Your de-identified/anonymized Photos, Your comments, Your "likes" or Your responses at our Site) (collectively, "**Feedback**") are and will remain the property of Belle and Belle may use and disclose such Feedback in any manner and for any purpose whatsoever without further notice or compensation to you and without retention by you of any proprietary or other right or claim. You hereby assign to Belle any and all right, title and interest (including, but not limited to, any patent,

copyright, trade secret, trademark, show-how, know-how, moral rights and any and all other intellectual property right) that you may have in and to any and all Feedback.

13. Beta Offerings. From time to time, we may, in our sole discretion, provide beta versions of the Services or include certain test or beta features or products in the Services ("**Beta Offerings**") as we may designate from time to time. Your use of any Beta Offering is completely voluntary. The Beta Offerings are provided on an "as is" and "as available" basis and may contain errors, defects, bugs, or inaccuracies that could cause failures, corruption or loss of data and information from any connected device. You acknowledge and agree that all use of any Beta Offering is at your sole risk. You agree that once you use a Beta Offering, your content or data may be affected such that you may be unable to revert back to a prior non-beta version of the same or similar feature. Additionally, if such reversion is possible, you may not be able to return or restore data created within the Beta Offering back to the prior non-beta version. If we provide you any Beta Offerings on a closed beta or confidential basis, we will notify you of such as part of your use of the Beta Offerings. For any such confidential Beta Offerings, you agree to not disclose, divulge, display, or otherwise make available any of the Beta Offerings without our prior written consent.

IV. **DISCLAIMER OF WARRANTIES & LIMITATION OF LIABILITY**

1. You acknowledge and agree that the Services and any Beta Offerings may have limited features and functionalities and may contain errors, defects, bugs, or inaccuracies that could cause failures, corruption or loss of data and information from any connected device. Additionally, Beta Offerings may have different standards of security, privacy, availability or reliability that can affect your use of the Services.
2. YOU ARE SOLELY AND FULLY RESPONSIBLE FOR YOUR USE OF THE SERVICES AND BETA OFFERINGS. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SERVICES AND ANY BETA OFFERING ARE AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES (INCLUDING, WITHOUT LIMITATION, ANY THIRD PARTY MATERIALS, THIRD PARTY SOFTWARE OR SERVICES, AND ANY BETA OFFERINGS) ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND BELLE, ITS AFFILIATES AND THEIR RESPECTIVE OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS (COLLECTIVELY, THE "**RELEASED PARTIES**") HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICES (INCLUDING, WITHOUT LIMITATION, ANY THIRD PARTY MATERIALS, THIRD PARTY SOFTWARE OR SERVICES, AND ANY BETA OFFERINGS) INCLUDING THE USE, PERFORMANCE AND SUPPORT THEREOF AND ANY DATA, PHOTOS, OR INFORMATION PROVIDED THROUGH THE SERVICES (INCLUDING, WITHOUT LIMITATION, ANY THIRD PARTY MATERIALS, THIRD PARTY SOFTWARE OR SERVICES, AND ANY BETA OFFERINGS), INCLUDING ANY ASSESSMENT OR SCORING THAT MAY BE PROVIDED, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, TITLE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, INTERFERENCE WITH ENJOYMENT, COMPLETENESS, INTEGRATION, FREEDOM FROM DEFECTS OR DISABLING DEVICES, UNINTERRUPTED USE AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE. BELLE DOES NOT WARRANT THAT (A) THE SERVICES WILL MEET YOUR REQUIREMENTS,

(B) OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR VIRUS- OR ERROR-FREE, (C) THAT THE SERVICES WILL OPERATE OR BE COMPATIBLE WITH ANY OTHER APPLICATION OR ANY PARTICULAR SYSTEM OR DEVICE, OR (IV) DEFECTS IN THE SERVICES WILL BE CORRECTED. ANY ORAL OR WRITTEN ADVICE PROVIDED BY BELLE OR ITS AUTHORIZED AGENTS WILL NOT BE DEEMED TO CREATE ANY WARRANTY. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY BELLE OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO SOME OR ALL OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

3. TO THE EXTENT NOT PROHIBITED BY LAW, YOU AGREE THAT IN NO EVENT WILL BELLE OR THE RELEASED PARTIES BE LIABLE FOR (A) ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE, DATA OR PROFITS, BUSINESS INTERRUPTION OR ANY OTHER DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE SERVICES), HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER UNDER THESE TERMS OF SERVICE OR OTHERWISE ARISING IN ANY WAY IN CONNECTION WITH THE SERVICES (AND ANY BETA OFFERING) OR THESE TERMS OF SERVICE AND WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) EVEN IF BELLE OR ANY RELEASED PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR (B) FOR ANY OTHER CLAIM, DEMAND OR DAMAGES WHATSOEVER RESULTING FROM OR ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF SERVICE OR THE DELIVERY, USE OR PERFORMANCE OF THE SERVICES AND ANY BETA OFFERING, INCLUDING WITH RESPECT TO THE PERFORMANCE OF HEALTHCARE SERVICES BY A HEALTH CARE PROFESSIONAL. SOME JURISDICTIONS (SUCH AS THE STATE OF NEW JERSEY) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THESE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. BELLE AND THE RELEASED PARTIES' TOTAL LIABILITY TO YOU FOR ANY DAMAGES FINALLY AWARDED SHALL NOT EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE AGGREGATE. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL BELLE OR THE RELEASED PARTIES BE LIABLE TO YOU OR ANYONE ELSE FOR LOSS OR INJURY, INCLUDING, WITHOUT LIMITATION, ANY HARM TO YOUR COMPUTER SYSTEM, LOSS OF DATA, LOSS OF PHOTOS, OR OTHER HARM THAT RESULTS FROM YOUR ACCESS TO OR USE OF THE SERVICES (AND ANY BETA OFFERING), AND DEATH OR PERSONAL INJURY RESULTING FROM YOUR USE OF OR INABILITY TO USE THE SERVICES AND ANY BETA OFFERING. You agree that the above limitations of liability together with the other provisions in these Terms of Service that limit liability are essential terms of these Terms of Service and that Belle would not be willing to grant you the rights set forth in these Terms of Service but for your agreement to the above limitations of liability; you are agreeing to these limitations of liability to induce Belle to grant you the rights set forth in these Terms of Service. To the extent that Belle may not, as a matter of applicable law, disclaim any implied warranty or limit their liabilities, the scope and duration of such warranty and the extent of liability of Belle will be the minimum permitted under such applicable law.
4. You agree that the above limitations of liability together with the other provisions in these Terms of Service that limit liability are essential terms of these Terms of Service and that Belle would not be willing to grant you the rights set forth in these Terms of Service but for your agreement to the above limitations of liability; you are agreeing to these limitations of liability to induce Belle to

grant you the rights set forth in these Terms of Service. To the extent that Belle may not, as a matter of applicable law, disclaim any implied warranty or limit their liabilities, the scope and duration of such warranty and the extent of liability of Belle will be the minimum permitted under such applicable law.

5. By entering into these Terms of Service and using the Services and any Beta Offering, you agree that you shall defend, indemnify and hold Belle and the Released Parties harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (a) your violation or breach of any term of these Terms of Service or any applicable law, rule or regulation, (b) Your Content, (c) your violation of any rights of any third party, (d) any unauthorized use of the Services, or (e) your negligence or willful misconduct.

V. TERMINATION

Effect of Termination. If you breach any of the terms of these Terms of Service, all licenses granted by Belle, including permission to use the Services, will terminate automatically. Additionally, Belle may suspend, disable, or delete your User Account and/or the Services (or any part of the foregoing) with or without notice, for any or no reason. If Belle deletes your User Account for any suspected breach of these Terms of Service by you, you are prohibited from re-registering for the Services under a different name. Termination will not limit any of Belle's other rights or remedies at law or in equity. Upon termination or expiration of these Terms of Service, we shall maintain Your Content, including any health-related information, for the requisite period of time in accordance with applicable laws and regulations; provided, however, we may elect not to maintain Your Content after the termination or expiration of these Terms of Service. Thereafter, we may, without notice to you, delete all such data or content in our systems or otherwise in our possession or under our control, except for any such data or content which we are obligated to maintain in accordance with applicable laws and regulations. Sections IV, V, VI, and VIII will survive any termination of these Terms of Service. Termination of these Terms of Service will not limit any of Belle's other rights or remedies at law or in equity.

VI. ARBITRATION AND CLASS ACTION WAIVER

PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS. IT CONTAINS PROCEDURES FOR MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

1. Informal Process First. You and Belle agree that in the event of any dispute between you and Belle, either party will first contact the other party and make a good faith and sustained effort (at least ninety days) to resolve the dispute before resorting to more formal means of resolution, including without limitation, any court action, after first allowing the receiving party ninety (90) days in which to respond and attempt to reach a resolution of the underlying dispute. Both you and Belle agree that this dispute resolution procedure is a condition precedent which must be satisfied before initiating any arbitration against the other party.

2. Arbitration Agreement and Class Action Waiver. After the informal dispute resolution process, any remaining dispute, controversy, or claim (collectively, “**Claim**”) relating in any way to Belle’s Services, an App, a Beta Offering, Your Data, and/or products, including any Third-Party Materials, and any use or access or lack of access thereto, will be resolved by arbitration, including threshold questions of arbitrability of the Claim. You and Belle agree that any Claim will be settled by final and binding arbitration, using the English language, administered by JAMS under its Comprehensive Arbitration Rules and Procedures (the “**JAMS Rules**”) then in effect (those rules are deemed to be incorporated by reference into this section, and as of the date of these Terms). Because your contract with Belle, these Terms, and this Arbitration Agreement concern interstate commerce, the Federal Arbitration Act (“**FAA**”) governs the arbitrability of all disputes. However, the arbitrator will apply applicable substantive law consistent with the FAA and the applicable statute of limitations or condition precedent to suit. **Arbitration will be handled by a sole arbitrator in accordance with the JAMS Rules. Judgment on the arbitration award may be entered in any court that has jurisdiction and will be non-appealable by either party. Any arbitration under these Terms will take place on an individual basis – class arbitrations and class actions are not permitted. You understand that by agreeing to these Terms, you and Belle are each waiving the right to trial by jury or to participate in a class action or class arbitration.**
3. Exceptions. Notwithstanding the foregoing, you and Belle agree that the following types of disputes will be resolved in a court of proper jurisdiction:
- (a) disputes or claims within the jurisdiction of a small claims court consistent with the jurisdictional and dollar limits that may apply, as long as it is brought and maintained as an individual dispute and not as a class, representative, or consolidated action or proceeding;
 - (b) disputes or claims where the sole form of relief sought is injunctive relief (including public injunctive relief); or
 - (c) intellectual property disputes.
4. Costs of Arbitration. Payment of all filing, administration, and arbitrator costs and expenses will be governed by the JAMS Rules, except that if you demonstrate that any such costs and expenses owed by you under those rules would be prohibitively more expensive than a court proceeding, Belle will pay the amount of any such costs and expenses that the arbitrator determines are necessary to prevent the arbitration from being prohibitively more expensive than a court proceeding (subject to possible reimbursement as set forth below).

Fees and costs may be awarded as provided pursuant to applicable law. If the arbitrator finds that either the substance of your claim or the relief sought in the demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the JAMS rules. In that case, you agree to reimburse Belle for all monies previously disbursed by it that are otherwise your obligation to pay under the applicable rules. If you prevail in the arbitration and are awarded an amount that is less than the last written settlement amount offered by Belle before the arbitrator was appointed, Belle will pay you the amount it offered in settlement. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the

proceeding and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits

5. **Opt-Out.** You have the right to opt-out and not be bound by the arbitration provisions set forth in these Terms by sending written notice of your decision to opt-out to support@belle.ai or to the U.S. mailing address listed in the "Contact Us" section of these Terms of Service. The notice must be sent to Belle within thirty (30) days of your first registering to use the Services or agreeing to these Terms of Service; otherwise, you shall be bound to arbitrate disputes on a non-class basis in accordance with these Terms of Service. If you opt out of only the arbitration provisions, and not also the class action waiver, the class action waiver still applies. You may not opt out of only the class action waiver and not also the arbitration provisions. If you opt-out of these arbitration provisions, Belle also will not be bound by them.
6. **WAIVER OF RIGHT TO BRING CLASS ACTION AND REPRESENTATIVE CLAIMS.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AND BELLE EACH AGREE THAT ANY PROCEEDING TO RESOLVE ANY DISPUTE, CLAIM, OR CONTROVERSY WILL BE BROUGHT AND CONDUCTED ONLY IN THE RESPECTIVE PARTY'S INDIVIDUAL CAPACITY AND NOT AS PART OF ANY CLASS (OR PURPORTED CLASS), CONSOLIDATED, MULTIPLE-PLAINTIFF, OR REPRESENTATIVE ACTION OR PROCEEDING ("**CLASS ACTION**"). YOU AND BELLE AGREE TO WAIVE THE RIGHT TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS ACTION. YOU AND BELLE EXPRESSLY WAIVE ANY ABILITY TO MAINTAIN A CLASS ACTION IN ANY FORUM. IF THE DISPUTE IS SUBJECT TO ARBITRATION, THE ARBITRATOR WILL NOT HAVE THE AUTHORITY TO COMBINE OR AGGREGATE CLAIMS, CONDUCT A CLASS ACTION, OR MAKE AN AWARD TO ANY PERSON OR ENTITY NOT A PARTY TO THE ARBITRATION. FURTHER, YOU AND BELLE AGREE THAT THE ARBITRATOR MAY NOT CONSOLIDATE PROCEEDINGS FOR MORE THAN ONE PERSON'S CLAIMS, AND IT MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CLASS ACTION. FOR THE AVOIDANCE OF DOUBT, HOWEVER, YOU CAN SEEK PUBLIC INJUNCTIVE RELIEF TO THE EXTENT AUTHORIZED BY LAW AND CONSISTENT WITH THE EXCEPTIONS CLAUSE ABOVE.

IF THIS CLASS ACTION WAIVER IS LIMITED, VOIDED, OR FOUND UNENFORCEABLE, THEN, UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE, THE PARTIES' AGREEMENT TO ARBITRATE SHALL BE NULL AND VOID WITH RESPECT TO SUCH PROCEEDING SO LONG AS THE PROCEEDING IS PERMITTED TO PROCEED AS A CLASS ACTION. If a court decides that the limitations of this paragraph are deemed invalid or unenforceable, any putative class, private attorney general, or consolidated or representative action must be brought in a court of proper jurisdiction and not in arbitration.

VII. HIPAA AUTHORIZATION

AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION TO BELLE AND AFFILIATES

Your following authorization for Belle to use and disclose your Protected Health Information (the "**Authorization**") is in compliance with federal privacy laws, including the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act ("**HIPAA**").

Authorization for the Use or Disclosure of Your and Your Dependent's PHI

By using the Service, you authorize any physician, health care professional, laboratory, pharmacy, or other health care provider that has provided health care treatment or services to you or your dependent by use of the Service ("HCP") to disclose certain Protected Health Information that you or your dependent provides or receives through the Service about you or your dependent ("PHI") to Belle and its affiliates for the purposes of providing the Services pursuant to these Terms.

The information that any HCP is authorized to disclose to Belle includes the following PHI:

1. **Contact Information** (for example, email address);
2. **Demographic Information** (for example, date of birth);
3. **Account and Payment Information** (for example, insurance information); and
4. **My complete patient file.**

This Authorization is voluntary. I may revoke this Authorization at any time by sending a written revocation notice to support@belle.ai. The revocation will not have any effect on any disclosure that any HCP took in reliance on this Authorization before Belle receives my revocation notice. Information disclosed pursuant to this Authorization may be re-disclosed by Belle, and this redisclosure will no longer be protected by HIPAA. You have a have a right to a copy of this Authorization. This Authorization expires five years after you or your dependent ceases to use the Services.

VIII. GENERAL PROVISIONS

1. Modifications. We may modify these Terms of Service at any time. Modifications become effective immediately upon your first access to or use of the Services after the "**Last Updated**" date at the top of these Terms of Service. It is your sole responsibility to review the Terms of Service from time to time to view any such changes. Your continued access to or use of the Services after the modifications have become effective will be deemed your conclusive acceptance of the modified Terms of Service. If you do not agree with the modifications to the Terms of Service, then please do not access or use the Services. No amendment shall apply to a dispute for which an arbitration has been initiated prior to the change in these Terms of Service.
2. California Residents. If you are a California resident, in accordance with Cal. Civil Code § 1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210.
3. Injunctive Relief. You agree that a breach of these Terms of Service will cause irreparable injury to Belle for which monetary damages would not be an adequate remedy and Belle shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law without a bond, other security or proof of damages.

4. Electronic Communications Notice. When you use the Services or send emails to us, you are communicating with us electronically. You consent to receiving communications from us electronically. We may communicate with you by email or posting notices on the Website or App. You agree that all agreements and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. In order to access any such communications, you must have a computer or other Internet-enabled device. In order to retain copies of any such communications, you must have a printer or data storage device. If you have a printer, you may print paper copies of any such communications for your own use. If you wish to withdraw your consent for us to communicate with you electronically, you may not use our Services.
5. iOS App users. The following terms and conditions apply to you only if you are using the App from the Apple App Store. You, as an end-user of the App, acknowledge that these Terms of Service are entered into by and between Belle and you and not with Apple, Inc., and Apple, Inc. is not responsible for the App and/or its content. Notwithstanding the foregoing, you acknowledge that Apple, Inc. and its subsidiaries are third-party beneficiaries of these Terms of Service and that Apple, Inc. has the right (and is deemed to have accepted the right) to enforce these Terms of Service. You acknowledge that Apple, Inc. has no obligation whatsoever to maintain or support the App. You acknowledge that you have reviewed the App Store Terms and Conditions (located online at <http://www.apple.com/legal/itunes/us/terms.html#APPS>). These Terms of Service incorporate by reference the Licensed Application End User License Agreement (the “LAEULA”) published by Apple, Inc. (located online at <https://www.apple.com/legal/internet-services/itunes/dev/stdeula/>). For purposes of these Terms of Service, the App is considered the “**Licensed Application**” as defined in the LAEULA and Belle is considered the “**Application Provider**” as defined in the LAEULA. If any terms of these Terms of Service conflict with the terms of the LAEULA, these Terms of Service shall control. You further acknowledge and agree that in no event will Apple, Inc. be responsible for any claims relating to the App (including, without limitation, a third party claim that the App infringes that third party’s intellectual property rights) or your use or possession of the App, including but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. You acknowledge and agree that, to the maximum extent permitted by applicable law, Apple, Inc. will have no warranty obligation whatsoever with respect to the App.
6. Miscellaneous. These Terms of Service will inure to the benefit of and will be binding upon each party’s successors and assigns. These Terms of Service and the licenses granted hereunder may be assigned by Belle but may not be assigned by You without the prior express written consent of Belle. If any provision hereof is or becomes, at any time or for any reason, unenforceable or invalid, no other provision hereof will be affected thereby, and the remaining provisions will continue with the same effect as if such unenforceable or invalid provisions will not have been inserted herein; provided that the ability of either party to obtain substantially the bargained-for performance of the other will not have thereby been impaired. It is expressly understood that in the event either party on any occasion fails to perform any term hereof and the other party does not enforce that term, the failure to enforce on any occasion will not constitute a waiver of any of these Terms of Service and will not prevent enforcement on any other occasion. Nothing contained in these Terms of Service will be deemed to constitute either party as the agent or representative of the other party or both parties as joint venturers or partners for any purpose.

The headings and captions contained herein will not be considered to be part of the Terms of Service but are for convenience only. You and Belle agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to the interpretation or construction of these Terms of Service. The JAMS Rules and the laws of the State of California, excluding its conflicts of law rules, govern these Terms of Service and your use of the Services.

7. Contact Us. You may contact us regarding the Services or these Terms of Service by mail at BelleTorus Corporation, at 245 First Street, Riverview II, 18th Floor, Cambridge, MA 02142 or by email at support@belle.ai, or by telephone at +1-617-520-4730. These Terms of Service together with the Privacy Policy at www.belle.ai/privacy set forth the entire understanding of the parties with respect to the matters contained herein and there are no promises, covenants, or undertakings other than those expressly set forth herein.



EXHIBIT A BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“**BAA**”) is entered into by and between BelleTorus Corporation (“**Business Associate**”) and you, a physician or entity (the “**Covered Entity**”) and is effective as of the date you accept the Terms of Service and this BAA (“**Effective Date**”). Business Associate and Covered Entity may be individually referred to as a “**Party**” and, collectively, the “**Parties**” in this BAA.

RECITALS

- (A) Business Associate is providing services to Covered Entity under the Terms of Service, and Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of such Terms of Service, some of which may constitute **PHI** under HIPAA, and the Privacy Rule, Security Rule, Enforcement Rule and Breach Notification Rule set forth at 45 C.F.R. Parts 160 and 164 (jointly, the “**HIPAA Rules**”) promulgated thereunder.
- (B) Business Associate may create, maintain, access, use, disclose, transmit or receive PHI on behalf of Covered Entity only as set forth in this Agreement and to the extent allowed under the HIPAA Rules.
- (C) Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI in compliance with HIPAA.
- (D) The purpose of this BAA is to satisfy certain standards and requirements of HIPAA and the HIPAA Rules, including, but not limited to, Title 45, §§ 164.314(a)(2)(i), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“**C.F.R.**”).

In consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

SECTION 1. DEFINITIONS

“**Capitalized Terms**”. Capitalized terms used in this BAA and not otherwise defined herein shall have the meanings set forth in the HIPAA Rules, which definitions are incorporated in this BAA by reference.

“**Protected Health Information**” or “**PHI**” shall have the same meaning given to such term in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.

“**Unsuccessful Security Incident**” shall mean pings and other broadcast attacks on a firewall, port scans, unsuccessful log-on attempts, denials of service, or other similar attempted but unsuccessful

Security Incident, or a combination thereof, so long as no such incident results in unauthorized access, use or disclosure of PHI.

SECTION 2. PERMITTED USES AND DISCLOSURES OF PHI

2.1. Uses and Disclosures of PHI Pursuant to the Terms of Service. Business Associate shall not use or disclose PHI other than as permitted or required to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Terms of Service or as Required by Law, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity, except as set forth in Sections 2.2, 2.3 and 2.4. To the extent Business Associate is carrying out any of Covered Entity's obligations under the Privacy Rule pursuant to the terms of the Terms of Service or this BAA, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation(s).

2.2. Permitted Uses of PHI by Business Associate. Except as otherwise limited in this BAA, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2.3. Permitted Disclosures of PHI by Business Associate. Except as otherwise limited in this BAA, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Business Associate pursuant to this BAA), and that the person agrees to notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4. Data Aggregation. Except as otherwise limited in this BAA, Business Associate may use PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5. De-identified Data. Business Associate may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data for any purpose.

SECTION 3. OBLIGATIONS OF BUSINESS ASSOCIATE

3.1. Appropriate Safeguards. Business Associate shall use appropriate safeguards and shall comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the Terms of Service and this BAA.

3.2. Reporting of Improper Use or Disclosure, Security Incident or Breach. Business Associate shall report to Covered Entity any use or disclosure of PHI not permitted under this BAA, Breach of Unsecured PHI or Security Incident, without unreasonable delay, and in any event no more than ten (10) business days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of Unsuccessful Security Incidents.

3.3. Business Associate's Agents. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, Business Associate shall enter into a written agreement with any agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate for services provided to Covered Entity, providing that the subcontractor or agent agrees to substantially the same restrictions and conditions that apply to Business Associate through this BAA with respect to such PHI.

3.4. Access to PHI. To the extent Business Associate has PHI contained in a Designated Record Set, Business Associate agrees to make information available to Covered Entity to enable Covered Entity to comply with 45 C.F.R. § 164.524.

3.5. Amendment of PHI. To the extent Business Associate has PHI contained in a Designated Record Set, Business Associate agrees to make such information available to Covered Entity for amendment pursuant to 45 C.F.R. § 164.526.

3.6. Documentation of Disclosures. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.7. Accounting of Disclosures. Business Associate agrees to provide to Covered Entity, upon receipt of a written request from Covered Entity, information collected in accordance with Section 3.6 of this BAA to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.8. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of, Covered Entity available to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

3.9. Mitigation. To the extent practicable, Business Associate will reasonably cooperate with Covered Entity's efforts to mitigate a harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate that is not permitted by this BAA.

3.10. Minimum Necessary. Business Associate shall request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

SECTION 4. OBLIGATIONS OF COVERED ENTITY

4.1. Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its, or an applicable, Notice of Privacy Practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

4.2. Notification of Changes Regarding Individual Permission. Covered Entity shall obtain any consent or authorization that may be required by the Privacy Rule, or applicable state law, prior to furnishing Business Associate with PHI. Covered Entity shall notify Business Associate of any changes in, or

revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

4.3. Notification of Restrictions to Use or Disclosure of PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4.4. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity, except as permitted pursuant to the provisions of Sections 2.2, 2.3 and 2.4 of this BAA.

SECTION 5. TERM AND TERMINATION

5.1. Term. The term of this BAA shall commence as of the BAA Effective Date and shall terminate when all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity. If it is infeasible to return or destroy PHI, Business Associate shall extend protections to such information in accordance with Section 5.3.

5.2. Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this BAA, such Party may terminate this BAA immediately if cure is not possible. Otherwise, the non-breaching Party shall provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this BAA if the breaching Party does not cure the breach or if cure is not possible.

5.3. Effect of Termination.

5.3.1. Except as provided in Section 5.3.2, upon termination of the Terms of Service or this BAA for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity and shall retain no copies of the PHI.

5.3.2. If it is infeasible for Business Associate to return or destroy the PHI upon termination of the Terms of Service or this BAA, Business Associate shall: (a) extend the protections of this BAA to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

SECTION 6. COOPERATION IN INVESTIGATIONS

The Parties acknowledge that certain breaches or violations of this BAA may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party shall cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

SECTION 7. SURVIVAL

The respective rights and obligations of Business Associate under Section 5.3 of this BAA shall survive the termination of this BAA and the Terms of Service.

SECTION 8. AMENDMENT

This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. In addition, if any relevant provision of the HIPAA Rules is amended in a manner that changes the obligations of Business Associate or Covered Entity that are embodied in terms of this BAA, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this BAA to give effect to such revised obligations.

SECTION 9. EFFECT OF BAA

In the event of any inconsistency between the provisions of this BAA and the Terms of Service, the provisions of this BAA shall control. In the event that a court or regulatory agency with authority over Business Associate or Covered Entity interprets the mandatory provisions of the HIPAA Rules, in a way that is inconsistent with the provisions of this BAA, such interpretation shall control. Where provisions of this BAA are different from those mandated in the HIPAA Rules but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this BAA shall control.

SECTION 10. GENERAL

This BAA is governed by, and shall be construed in accordance with, the laws of the State that govern the Terms of Service. Covered Entity shall not assign this BAA without the prior written consent of Business Associate, which shall not be unreasonably withheld. If any part of a provision of this BAA is found illegal or unenforceable, it shall be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this BAA shall not be affected. All notices relating to the Parties' legal rights and remedies under this BAA shall be provided in writing to a Party, shall be sent to its address set forth in the Terms of Service, or to such other address as may be designated by that Party by notice to the sending Party, and shall reference this BAA. Nothing in this BAA shall confer any right, remedy, or obligation upon anyone other than Covered Entity and Business Associate. This BAA is the complete and exclusive agreement between the Parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, and understandings (written and oral) regarding its subject matter.

SECTION 11. INDEPENDENT CONTRACTOR

Business Associate will be considered, for all purposes, an independent contractor, and Business Associate will not, directly or indirectly, act as agent, servant or employee of Covered Entity or make any commitments or incur any liabilities on behalf of Covered Entity without its express written consent. Nothing in this BAA shall be deemed to create an employment, principal-agent or partner relationship between the Parties. Business Associate shall retain sole and absolute discretion in the manner and means of carrying out its activities and responsibilities under this BAA.