



TERMS OF USE, NORTH AMERICA

Effective June 8, 2020

These BlueBee Terms of Use, North America (the “**Terms**”) govern access to and the use of the BlueBee web platform directed to users in North America for accelerated genomics analysis (the “**BlueBee Platform**”), and related services, as detailed in Section 3 (The BlueBee Services) below (collectively, the “**Services**”). These Terms are entered into by and between BlueBee Corp., a Delaware corporation, with a registered office at 951 Mariners Island Blvd, Suite 300, San Mateo, CA, 94404, USA (“**we**”, “**our**,” “**us**,” or “**BlueBee**”), and the customer (the “**Customer**”) identified in an order form that references these Terms (an “**Order Form**”), as well as each individual authorized under the applicable Order Form to access and use the Services on Customer’s behalf (“**you**,” “**your**,” or “**Authorized User**”). These Terms, our [Privacy Policy](#) (“**Privacy Policy**”), the Order Form(s), and any documents expressly referenced or attached therein are collectively referred to as the “**Agreement**.” All terms have the meanings given to them in this Agreement. In this Agreement, the words “include” and “including” will not be construed as terms of limitation.

You enter into this Agreement by (a) clicking a box indicating acceptance when it is presented to you; (b) accessing or using any part of the Services, as defined in Section 3 (The BlueBee Services) below; or (c) placing an order through an Order Form accepted by each of us. You may use the Services only if you can form a binding contract, and only in compliance with this Agreement and all applicable local, state, national, and international laws, rules and regulations (“**Applicable Law**”). Any use or access to the Services by anyone under eighteen (18) years of age is strictly prohibited and in violation of this Agreement. If you are entering into this Agreement on behalf of a business, organization or other legal entity, (i) you represent and warrant that you have the authority to legally bind that entity and to grant us all permissions and licenses provided in this Agreement; and (ii) “you” and “your” used in this Agreement mean the Customer, in addition to you, an individual.

1. CHANGES TO THESE TERMS

We may, in our sole discretion, modify or update these Terms from time to time, and you should review this page periodically for updates. When we change these Terms in a material manner, we will update the 'last modified' date at the top of this page and notify you that material changes have been made to these Terms. Your continued use of the Services after any such change constitutes your acceptance of the new Terms. If you do not agree to any of these Terms or any future Terms, do not use or access (or continue to access) the Services.

2. YOUR BLUEBEE ACCOUNT

You must register an Account if you wish to access and use the Services. You may only register for one Account. Your Account is personal to you. You agree to: (a) not share your Account or transfer any part of it to anyone else; (b) provide accurate, current and complete information during the registration process and keep your Account up-to-date; and (c) keep your password secure and confidential. You agree to notify us immediately of any unauthorized use of your Account and are responsible for anything that happens through your Account prior to closing it or reporting misuse to us.

You may control your Account profile and how you interact with the Services by changing the settings in your Account profile. You consent to our using the email address you provide in your Account to send you Services-related notices, including any notices required by law, in addition to or in lieu of communication by other means such as postal mail. We may also use your email address to send you other messages, such as changes to Services features, special offers, or Services-related newsletters. If you do not want to receive such email messages, you may unsubscribe as directed in the applicable communication. Opting out may prevent you from receiving email messages regarding updates, improvements, or offers.

Customer is responsible and liable to BlueBee for all activity that occurs with the authentication keys, access tokens or otherwise through or in connection with Customer's Authorized User Accounts. If you are registering an Account on behalf of the Customer (the "**Customer License Administrator**"), you are responsible for (i) ensuring that access to the Services comports with any limits stated in the applicable Order Form, including by protecting all authentication keys and access tokens for the Services in accordance with the usage limitations; (ii) prohibiting access to or use of the Services by anyone other than Authorized Users; and (iii) ensuring that the authentication keys or access tokens are used solely as necessary to exercise Customer's rights granted under the Agreement. We are not liable for any failure of you to keep the login credentials confidential. You shall block immediately any compromised login credentials and inform us immediately thereof.

3. THE BLUEBEE SERVICES

A. Services Definition. The "**Services**" consist of the following: (a) access to and use of the BlueBee Platform (by means of analysis pipelines that are preconfigured or that you may configure); (b) any software provided by BlueBee for use with the BlueBee Platform, including the BlueBee Service Connector and/or the BlueBee API's that interface between the BlueBee Platform and your environment (the "**Software**"); (c) any additional services agreed in the relevant Order Form; (d) any additional technical, supplemental, or professional services or support ("**Professional Services**"); and (e) any and all documentation related to the foregoing that we may make available from time to time in any format we may decide in our sole discretion (the "**Documentation**").

B. License. During the Services Term (as defined in Section 12.A. (Services Term) below), we grant you a revocable, nonexclusive, non-sublicensable, non-transferable, limited license to (a) access and use the Services described in the applicable Order Form solely in accordance with any usage or license limitations set forth in the Order Form; (b) if applicable, install any Software solely as permitted by the features of the Software; and (c) access the Documentation internally and solely in connection with your authorized use of the Services. Upon the written agreement of the parties, we may also perform Professional Services for you at terms and rates agreed to in writing between you and us.

C. Usage Limitations. The Services may be subject to certain requirements, such as, for example, (a) limits on the number of Authorized Users; (b) limits to named (not concurrent) devices or persons; (c) limits on content storage capacity; or (d) minimum usage commitments. We will specify these limitations in the Order Form for the applicable Services. If we make modifications to these limits that would negatively impact you, these modifications will not apply to you until the start of your next Services Term, if any.

D. Service Updates. We may enhance and modify the Services and introduce new Services from time to time, but will provide you with notice unless such changes are of minor nature with no material effect on our contractual obligations. We will not make changes to the Services that materially reduce the functionality you purchased for the applicable Services Term. To the extent we make available any new or different features, functionality or enhancements to the Services, we will market these separately and may require the payment of additional fees. You agree that we shall not be liable to you or any third party for any modification of the Services in keeping with this section.

E. Service Availability. We will make commercially reasonable efforts to keep the Services up and running at all times. However, the Services might occasionally be unavailable for maintenance.

F. Third Party Services. You agree that the Services may make use of third party tools, or may link to third party sites, content, services or products (“**Third Party Services**”). Third Party Services that you choose to engage with are provided by third parties subject to the end user conditions, warranties and privacy policies provided by such third parties. By using any Third Party Services, you consent to the applicable third party end user conditions. Although we use reasonable care in the selection of third party tools and links associated with the BlueBee Platform, we do not endorse Third Party Services, and, to the extent permitted by law, we are not liable for any errors or issues resulting from your engagement with Third Party Services, including the accuracy, completeness, reliability, currency, or uninterrupted or error-free use of the Third Party Services. You acknowledge that you are liable for any use of or reliance upon Third Party Services and/or the results they generate. You agree that BlueBee’s Privacy Policy does not apply to your use of Third Party Services

G. Free Trial Services. BlueBee may make certain Services to which Customer has subscribed on a free trial basis (a “**Trial**”) available to Customer until the earlier of: (a) the end of the then-current Trial period offered by BlueBee; (b) the start date of any paid Services ordered by Customer; or (c) the date on which BlueBee elects in our sole discretion to terminate Customer’s access to the Trial (the “**Trial Term**”). Customer acknowledges and agrees that the features and functionality of the Services may be limited during the Trial Term. In addition, any changes made by or for Customer to Customer Data (as defined in Section 6.A. (Genomic Data) below) during the Trial Term may be permanently lost unless Customer purchases a subscription to the same or upgraded Services as those covered during the Trial Term. BlueBee reserves the right to delete Customer Data following the Trial Term to the extent Customer does not purchase a paid subscription within seven (7) days following the end of the Trial Term. NOTWITHSTANDING ANYTHING TO THE CONTRARY THIS AGREEMENT, BLUEBEE DOES NOT PROVIDE ANY WARRANTY, SUPPORT OR INDEMNIFICATION OF ANY KIND WITH RESPECT TO THE SERVICES DURING THE TRIAL TERM.

4. FEES AND PAYMENT

A. Fees. Fees for the Services are determined on the Order Form (the “**Fees**”), and payable in accordance with the payment schedule set forth in the Order Form. Fees may be one-time fees, usage based fees and/or recurring fees, with or without a minimum volume commitment. If Customer commits to a minimum volume commitment and fails to reach such minimum volume, Customer must still pay the Fees related to such minimum volume. In Customer commits to a maximum volume, and

surpasses the limitations set forth in the applicable Order Form, we reserve the right to charge or invoice Customer for the Services pricing tier pertaining to your usage, on a prorated basis and less fees you have already paid for the applicable Services Term, commencing on the first day of the month of the Services Term in which the usage exceeded the applicable limit. All Fees are non-refundable, including in the event of a suspension or termination pursuant to Section 12.B. (Services Termination and Suspension) below.

B. Payment Terms. Except as otherwise set forth in the applicable Order Form, you agree to pay any invoiced amounts within thirty (30) calendar days of the invoice date, in US dollars, by the payment method identified in the Order Form or other payment method permitted by us from time to time. You consent to receive electronic invoices. We reserve the right to charge interest on late payments at the rate of 1.5% per month or 18% per annum, calculated on a monthly basis on the outstanding balance, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. If any payment is thirty (30) or more days overdue, we may, without limiting our other rights and remedies, suspend your access to the Services until such amounts are paid in full. Customer shall also pay BlueBee all expenses with respect to the collection of a payment default, including, but not limited to, attorney's fees and court costs. All amounts payable under this Agreement will be made without setoff or counterclaim.

C. Taxes. You are responsible for all taxes, duties or other fees imposed, assessed or collected by or under the authority of any governmental body (“**Taxes**”) imposed on the transaction or the delivery of Services, except Taxes based on our net income.

D. Billing Information. Customer agrees to provide us with complete and accurate billing and contact information. This information includes Customer’s legal company name, street address, e-mail address and name and telephone number of an authorized billing contact and Customer License Administrator, if applicable. Customer agrees to update this information within thirty (30) days of any changes to it. If the contact information Customer has provided is false or fraudulent, we reserve the right to terminate Customer’s access to the Services in addition to any other legal remedies.

E. Changes to the Fees. We may at any time decide to increase the Fees unilaterally, and will notify you of any price increase in writing. For any Services contracted for on a month-to-month basis, such increase shall apply as of the month following the month in which the notice was given, provided however that if the notice period is shorter than fourteen (14) days, the Fee increase shall apply as of the second month following the month in which the notice was given. For Services with a Services Term of a finite duration longer than a month, such increase shall apply at the commencement of the next renewal term. You shall be entitled to terminate the Agreement within the aforementioned period, with effect upon expiration of that period, by written notice.

F. Payment Dispute. Customer will be deemed to have accepted as conclusively accurate any Fees that you have not disputed in a writing delivered to us within thirty (30) days of the invoice date. Customer may withhold the disputed portions of payments that are properly and timely disputed hereunder as long as you timely pay all undisputed charges that are outstanding. The parties shall work together in good faith to resolve any disputed charge(s).

G. Audit. Upon thirty (30) days written notice, we may audit your use of the Services. You agree to cooperate with any BlueBee audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Customer’s normal business operations. You furthermore agree that we are not responsible for any of your costs incurred in cooperation with the audit.

5. ACCEPTABLE USE OF THE SERVICES

Your permission to use the Services is contingent on your compliance with all Applicable Law, including but not limited to privacy regulations such as HIPAA and COPPA, in addition to the following rules:

A. Prohibited Activities

You shall not use, or encourage, promote, facilitate or instruct others to use the Services for any illegal, harmful or offensive use, including:

- accessing any content available through the Services through any technology or means other than those authorized by us on the BlueBee Platform, such as by robot, spider, scraper or other automated means or manual process, for any purpose not authorized in the Agreement;
- interfering with or compromising the system integrity or security or deciphering any transmissions to or from the servers running the BlueBee Platform, or otherwise causing harm to the BlueBee Platform, such as attempting to mine information about users of the Services;
- attempting to gain unauthorized access to Accounts;
- removing, circumventing, disabling, damaging or otherwise interfering with security or other preventive features of the BlueBee Platform;
- using the Services to transmit any computer viruses, worms, defects, Trojan horses, malicious code, spyware, malware or other items of a destructive or harmful nature;
- taking any action that imposes, or may impose at our sole discretion, an unreasonable or disproportionately large load on our infrastructure;
- attempting to decipher, decompile, disassemble or reverse engineer any of the Software used to provide the Services;
- exporting, re-exporting, importing, or transferring any part of the Services except as authorized by United States law, the export control laws of your jurisdiction, and any other Applicable Laws;
- commercially exploiting the Services or making the Services available to any third party, other than to Authorized Users or as otherwise contemplated by this Agreement, or accessing the Services for the purpose of building a similar or competitive product;
- copying, translating, creating a derivative work of, reverse engineering, reverse assembling, disassembling, or decompiling the Services or any part thereof; or
- partaking in any activity that, in our sole judgment, restricts or inhibits any other person from using or enjoying any aspect of the Services or exposes or may expose any users of the Services to harm or liability of any sort.

B. Prohibited Content

You shall not transmit, store, display, distribute or otherwise make available any Customer Data (as defined in Section 6 (Customer Data) below) or other content through the Services that:

- is fraudulent, false, misleading (directly or by omission or failure to update information) or deceptive;
- is defamatory, libelous, harassing, abusive, obscene, sexually explicit, pornographic, vulgar or offensive;
- promotes discrimination, bigotry, racism, hatred, harassment or harm against, or is inappropriate towards, any individual or group;
- is violent or threatening or promotes violence or actions that are threatening to any other person or animal;
- promotes illegal or harmful activities or substances;

- you do not have the permission from the content owner or individuals appearing in the content to post, free of charge;
- seeks to harm or exploit children by exposing them to inappropriate content, asking for personally identifiable details or otherwise;
- may constitute or contribute to a crime or tort;
- contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets);
- creates a risk of any other loss or damage to any person or property; or
- violates any other BlueBee policy.

6. CUSTOMER DATA

A. Genomic Data. You are solely responsible for the content and accuracy of the genomic data you provide to us (“**Genomic Data**”), and for any and all text, images, profile information, personally identifiable information, data, video, audiovisual content, works of authorship or other types of materials, information or communications, or hyperlinks to any of the foregoing that you provide, post, upload, publish, transmit or distribute on or through the Services (collectively, “**Customer Data**”). You must provide all Genomic Data for use in the Services by means of the upload services supported by BlueBee (e.g., the BlueBee Service Connector and the BlueBee API). You warrant that the Genomic Data is provided, and will be used, in accordance with all provisions of Applicable Law, including any laws and regulations in relation to the processing of personal data. Furthermore, you warrant that you will not require BlueBee to engage in the provision of Services in relation to the Genomic Data that violates any provision of Applicable Law. You warrant and agree that all disclosures and uses of Genomic Data you provide to us are provided in compliance with all Applicable Law including, without limitation, the Genetic Information Nondiscrimination Act of 2008 and related and similar laws, rules and regulations, and that none of the Genomic Data shall be used for underwriting, insurance, employment, benefits or other purposes except in compliance with all Applicable Law.

B. License to Customer Data. You own all right, title and interest in and to any and all Customer Data that you provide to us through the Services. By using the Services, you grant BlueBee and our third party service providers a limited, non-exclusive, royalty-free, worldwide, sublicenseable license to use and access Customer Data as necessary to provide the Services to you, solely for your benefit and subject to the terms of this Agreement, including our confidentiality obligations, and to enforce our rights under this Agreement. We shall have no right to sublicense or resell Customer Data, except, however, that you agree that we may collect, analyze and use De-Identified Data (as defined in this paragraph below) derived from Customer Data for the following purposes: (a) generating analyses and metrics whether alone or in combination with De-Identified Data from other sources in aggregated and de-identified format (the “**Analytical Results**”); (b) providing Analytical Results, reports and monitoring assessments to you and our investors and stakeholders from time to time (at BlueBee's discretion); (c) developing and training our predictive models; (d) conducting internal research; and (e) development and marketing. “**De-Identified Data**” means data in de-identified form, in which all personally identifiable information, including direct and indirect identifiers, have been permanently removed or obscured so the remaining information does not reasonably identify an individual and there is no reasonable basis to believe that the information can be used to identify an individual. You agree that we will have the right, both during and after the Services Term, to use, store, transmit, distribute, modify, copy, display, sublicense and create derivative works of De-Identified Data derived from Customer Data.

C. Responsibility for Customer Data. We do not own any Customer Data, and Customer, not BlueBee, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use Customer Data. You represent and warrant that you,

or, if you are representing Customer as the Customer License Administrator, Customer's Authorized Users and Customer, own or have provided or obtained the necessary disclosures, permissions and consents to use, and authorize the use of, the Customer Data as described herein under Applicable Law. BlueBee expressly disclaims any liability for data and content transmitted through or stored, temporarily or permanently, on BlueBee networks or any server and for the actions of omission of Customers or Authorized Users with respect to such data and content.

D. Our Right to Remove Customer Data. We have the absolute right to remove or disable access to any Customer Data on the Services as needed to (a) operate, secure and improve the Services (including without limitation for fraud prevention, risk assessment, investigation and customer support purposes); (b) ensure Authorized Users' compliance with the Agreement (or any BlueBee policy), Applicable Law, or an order or requirement of a court, law enforcement or other administrative agency or governmental body; or (c) as otherwise set forth in this Agreement. If we become aware of any Customer Data that allegedly violates this Agreement, we may investigate the allegation and determine in our sole discretion whether to act, but have no liability or responsibility to you to do so. You agree to cooperate with us in good faith, as we may reasonably request, in any investigation we choose to undertake.

E. Data Security. We will use commercially reasonable administrative, physical, and technical safeguards to secure Customer Data from accidental loss and from unauthorized access, use, alteration or disclosure. However, given the risks inherent with the internet, we are not responsible or liable for failure to store Customer Data or other materials you may transmit through the Services, except to the extent required by Applicable Law and as noted in our [Privacy Policy](#). We recommend that you take measures to preserve copies of Customer Data. NOTWITHSTANDING THE FOREGOING, BLUEBEE DOES NOT GUARANTEE THAT UNAUTHORIZED THIRD PARTIES WILL NEVER BE ABLE TO DEFEAT OUR SECURITY MEASURES OR USE THE CUSTOMER DATA FOR IMPROPER PURPOSES. CUSTOMER ACKNOWLEDGES THAT IT PROVIDES CUSTOMER DATA AT ITS OWN RISK AND THAT BLUEBEE TAKES NO RESPONSIBILITY AND ASSUMES NO LIABILITY FOR CUSTOMER DATA.

7. PRIVACY

A. Personal Information. Your privacy is important to us, and we know that you care about how your information is stored, used, and shared. You understand that by using the Services, you consent to the collection, use and disclosure of your personal information and aggregate and/or anonymized data as set forth in our [Privacy Policy](#). Insofar as you submit Customer Content that includes personal information ("**Personal Information**"), we will only use such Personal Information to provide the Services if such use complies with applicable data protection laws in accordance with our [Privacy Policy](#). Customer and BlueBee each agree to (a) comply with each of our own privacy policies and all Applicable Law with respect to Personal Information included in the Customer Data, including with respect to communications to persons or entities identified in the Customer Data; and (b) reasonably cooperate with the other, at each of our own expense, to ensure compliance, such as by providing each other information relating to our collection, use, and disclosure of personal information for or on behalf of the other party, and deleting consumer Personal Information within ten (10) days of receipt of a deletion request from the other party.

B. Health Insurance Portability and Accountability Act (HIPAA). If you are a "covered entity" or "business associate" under the Health Insurance Portability and Accountability Act Administrative Simplification Provisions and related regulations at 45 CFR parts 160, 162 and 164 ("HIPAA") or similar state law, the Services are designed so that we will not access, collect, receive, use, disclose or maintain Protected Health Information (as defined in HIPAA) ("**PHI**") on your behalf. If you wish to include identifying information tied to the Genomic Data (as hereinafter defined) or otherwise upload, store or

transfer to us PHI, you should first contact us to enter into a Business Associate Agreement (“**BAA**”). Absent such agreement, you agree and acknowledge that you will not provide us any such PHI and that uploading, storing, or transferring any PHI using the Service without executing a separate BAA and any other necessary agreements is strictly prohibited under this Agreement. Notwithstanding the foregoing, you further agree to indemnify and hold BlueBee harmless from and against any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys’ fees and costs, arising out of or relating to your uploading, storing, or transferring of PHI using the Services.

8. CONFIDENTIALITY

A. Confidential Information. Each party agrees to maintain the confidentiality of all Confidential Information disclosed to one another under this Agreement, and to only use such Confidential Information for the purposes of its contractual relationship with each other except as expressly permitted under this Agreement or as expressly authorized in writing by the disclosing party. “**Confidential Information**” is information, in whatever form, not generally known or readily available to the public, and proprietary and confidential to the disclosing party, including, with respect to BlueBee, all non-public features of the BlueBee Platform, and the Analytical Results; with respect to Customer, Customer Data; and with respect to both parties, the terms and conditions of each Order Form. Each party will use the same degree of care to protect the other party’s Confidential Information as it uses to protect its own information of like nature, but in no circumstances less than reasonable care.

B. Exceptions to Confidentiality. With the exception of Personal Information, Confidential information does not include information that:

- is or later becomes generally known to the public (other than by breach of any agreement or undertaking of confidentiality);
- was obtained by the disclosing party without the breach of this confidentiality clause;
- is lawfully obtained free from confidentiality constraints from any third party who has lawfully obtained such information free from confidentiality constraints; or
- was developed by employees or agents of the recipient independently of and without any reference to any Confidential Information received from the disclosing party or other information that disclosing party has disclosed in confidence to any third party.

Confidential information may be disclosed by a party as permitted by the [Privacy Policy](#) or as required by Applicable Law, legal process, or governmental request. In the event that a party or any person to whom such party or its representatives transmit or have transmitted Confidential Information becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoenas, civil investigative demands or otherwise) to disclose any such Confidential Information, such party shall (a) provide the other party with prompt written notice so that the other party may seek a protective order or other appropriate remedy, or both, or waive compliance with the provisions of this Agreement; and (b) cooperate in good faith with the other party, at the other party’s reasonable request and expense, in the other party’s efforts to resist, protect or restrict the production of Confidential Information. In the event that the disclosing party is unable to obtain a protective order or other appropriate remedy, or if it so directs the receiving party, the receiving party shall furnish only that portion of the Confidential Information that the receiving party is advised by written opinion of its counsel is legally required to be furnished by it and shall exercise its reasonable best efforts to obtain reliable assurance that confidential treatment shall be accorded such Confidential Information.

9. INTELLECTUAL PROPERTY RIGHTS

A. Ownership. All right, title and interest in and to the Services, including all modifications, enhancements and derivatives of the foregoing and all intellectual property contained therein, and any Analytical Results (excluding any Customer Data) shall be owned by us except as expressly stated otherwise. As between you and us, you own and will continue to own all right, title and interest in and to your data, including, without limitation, the Customer Data.

B. Feedback. We welcome and encourage suggestions for improvements and other feedback related to the BlueBee Platform. You may submit feedback by emailing us, through the “Contact” section of the BlueBee Platform, to info@bluebee.com or by other means of communication. Any feedback you submit to us will be considered non-confidential and non-proprietary to you. By submitting feedback to us, you grant us an irrevocable, non-exclusive, royalty-free, perpetual, worldwide, assignable, sublicensable, transferable license to use, modify, prepare derivative works of, publish, distribute and sublicense the feedback, and you irrevocably waive, and cause to be waived, against us or our users any claims and assertions of any moral rights contained in such feedback.

C. Reservation of Rights. Each party reserves all rights not expressly granted in the Agreement, and no licenses are granted by either party to the other under the Agreement, whether by implication, estoppel or otherwise, except as expressly set forth herein.

10. WARRANTIES AND LIABILITY

A. BlueBee Warranty. We warrant that: (a) the Services will function substantially as described in the Documentation; and (b) we have the right to provide the Services to you. If the Services do not function substantially in accordance with the Documentation, we shall, at our option, either make commercially reasonable efforts to (i) modify the Services to conform to the Documentation; or (ii) provide a workaround solution that will reasonably meet your requirements. If neither of these options is commercially feasible, either party may terminate the Agreement, in which case, and unless agreed otherwise, no pre-paid fees shall be refunded. We have no warranty obligations with respect to Software that has been modified by you or any third party and problems in the Services caused by any third party software or hardware, by accidental damage or by other matters beyond our reasonable control. The remedies set out in this Section constitute your sole remedies for non-conformity.

B. Your Warranty. You represent and warrant that (a) your use of the Service at all times (i) complies with all Applicable Law; (ii) will not violate the terms of this Agreement; (iii) will not circumvent or render ineffective our technological and other measures to protect and control the Services and, in particular, the BlueBee Platform; and (b) you will not directly or indirectly provide us with any Protected Health Information, and shall indemnify us to the fullest extent for any liability that results from your intentional or inadvertent disclosure of such information.

C. DISCLAIMER OF WARRANTIES. You acknowledge and agree that the Services merely assist you in your own activities. You accept sole responsibility for the access to and use of the Services, any related material/services and any of the effects/results thereof in relation to the Genomic Data. The processing of Genomic Data by means of the Services occurs in accordance with generally accepted practices and we do not guarantee, in the current state of research and technology, that such processing shall be entirely free of errors or issues. EXCEPT AS SET FORTH IN SECTION 10.A. (BLUEBEE WARRANTY) ABOVE, THE SERVICES ARE MADE AVAILABLE TO YOU ON AN “AS IS”, “WITH ALL FAULTS” AND “AS AVAILABLE” BASIS. AS SUCH, YOUR USE OF THE SERVICES ARE AT YOUR OWN DISCRETION AND RISK; AND WE

HEREBY DISCLAIM ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS, TITLE AND NON-INFRINGEMENT. WE MAKE NO CLAIMS OR PROMISES ABOUT THE QUALITY, COMPLETENESS, ACCURACY, OR RELIABILITY OF THE SERVICES OR ANY THIRD PARTY SERVICES. BLUEBEE DOES NOT WARRANT THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, AND ASSUMES NO RESPONSIBILITY OR LIABILITY OF ANY KIND FOR ERRORS IN THE SERVICES OR FOR THE CONSEQUENCES OF ANY SUCH ERRORS.

D. LIMITATION OF LIABILITY. TO THE EXTENT PERMITTED UNDER LAW, WE AND OUR AFFILIATES AND OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS SHALL NOT HAVE ANY LIABILITY UNDER THIS AGREEMENT FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS OR LOSS OF REVENUE RESULTING FROM THE USE OF THE SERVICES BY CUSTOMER OR ANY THIRD PARTIES OR ANY FAILURE OF THE SERVICES; OR (B) ANY LOSS OF DATA OR CORRUPTION OF DATA, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA RESULTING FROM DELAYS, NON-DELIVERIES, MIS-DELIVERIES, SERVICE INTERRUPTIONS, FAILURE OF OUR NETWORK, RECLAMATION OF SERVERS, FAILURE OF SERVERS, THE RELOADING OF AN OPERATING SYSTEM OR OTHER SOFTWARE ON A SERVER. OUR TOTAL LIABILITY PURSUANT TO THIS AGREEMENT IS LIMITED IN THE AGGREGATE TO THE FEES ACTUALLY PAID BY YOU DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT OR PER AFFILIATE. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN BLUEBEE AND YOU. NO CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE ASSERTED BY YOU AGAINST BLUEBEE MORE THAN TWO (2) YEARS FOLLOWING THE DATE OF THE EVENT THAT UNDERLIES ANY SUCH CLAIM.

11. INDEMNIFICATION

A. By You. You agree to indemnify and hold harmless BlueBee, our affiliates, and respective directors, officers, employees, shareholders and agents against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs (including settlement costs), and expenses (including reasonable outside attorneys' fees and costs) (collectively, "**Losses**") arising from or in connection with any third party claim, suit or proceeding arising out of (a) your breach of the Agreement; (b) your use of the Services; (c) the Customer Data; (d) your use of Third Party Services; or (e) any other party's access and use of the Services with your unique username, password or other appropriate security code.

B. By BlueBee. We agree to indemnify and hold harmless Company, your affiliates, and respective directors, officers, employees, shareholders and agents against any Losses arising from or in connection with any third party claim, suit or proceeding alleging that your use of the Services in accordance with this Agreement infringes a third party's copyright or patent issued as of commencement of your Services Term. The foregoing obligations shall not apply with respect to a claim of infringement if such claim arises out of (a) Customer Data; (b) use of the Services in combination with any software, hardware, network or system not supplied by us where the alleged infringement relates to such combination; (c) any modification or alteration of the Services other than by us; (d) your continued use of the Services after we notify you to discontinue use because of an infringement claim; or (e) your violation of Applicable Law. If we defend or may defend you, in any country, against any such claim or where we determine a claim is likely to occur, we may, at our sole option and expense, (i) obtain the right for you to use the allegedly infringing item; (ii) substitute a functionally equivalent, non-infringing replacement for such item; (iii) modify such item to make it non-infringing and functionally equivalent; or (iv) terminate this Agreement and refund you any prepaid amounts attributable the period of time between the date you were unable to use the Services due to such claim and the remaining days in the then-current Services Term. THIS SECTION 11.B. SETS FORTH OUR ENTIRE

LIABILITY AND YOUR SOLE REMEDY FOR INFRINGEMENT OF INTELLECTUAL PROPERTY IN CONNECTION WITH THE SERVICES.

C. Indemnification Procedures. The indemnified party will use reasonable efforts to notify the indemnifying party of any indemnified claim upon becoming aware of it. The indemnifying party reserves the right, at its expense, to assume the exclusive defense and control of any such claim, and the indemnified party agrees to cooperate with the defense of these claims. The indemnifying party agrees not to settle any matter without the indemnified party's prior written consent.

12. TERMINATION

A. Services Term. The duration of our contractual relationship shall be determined in the applicable Order Form (the "**Services Term**"). Except as otherwise provided for in this Agreement, you may not cancel your Services Term before the expiration stated on the Order Form. A Services Term may be renewed upon mutual agreement of the parties and payment of the applicable renewal Fees. If an Order Form includes a Services Term of indefinite duration, each party may terminate the Order Form for any reason by registered letter with three (3) months' notice. If an Order Form includes a Services Term with a limited duration, you may not cancel the Order Form. In "pay as you use" arrangements, we shall be entitled to terminate this Agreement with immediate effect if you have not used the Services for more than three (3) months.

B. Services Termination and Suspension. We may temporarily or permanently suspend access to the Services with respect to Customer or an Authorized User, and without liability to you (a "**BlueBee Termination**"), immediately in the event of: (a) Customer's failure to pay any Fees or other amounts payable to BlueBee when due; (b) your material breach or violation of any provision of the Agreement that is not cured within ten (10) days of Customer's receipt of written notice from BlueBee referencing such breach or violation, with the exception of a material breach or violation of Section 5 (Acceptable Use), for which we may terminate immediately; or (c) Customer ceasing to do business in the normal course, becoming or being declared insolvent or bankrupt, being the subject of any proceeding relating to liquidation or insolvency which is not dismissed within ninety (90) calendar days, or making an assignment for the benefit of its creditors. Additionally, we may terminate this Agreement upon thirty (30) days' written notice in the event that (i) Applicable Law so requires (for example, due to a change to the law governing the provision of the Services); (ii) the Services rely on data or services provided by a third party partner and the relationship with such partner (1) has expired or been terminated, or (2) requires us to change the way we provide the data or services through the Services; or (iii) providing the Services could create a substantial economic burden, security risk, or material technical burden, as determined by us in our reasonable good faith judgment. In the event that we permanently suspend your Account during a Services Term pursuant to this subsections (a) through (c) above, you are not entitled to a restoration of your Account or any of your Customer Data. If we have suspended your individual Authorized User Account, you may not register a new Account or access and use the Services through an Account of another user.

C. Customer Termination. Customer may terminate the Agreement with respect to all, and not less than all, of the Services without liability (except as set forth in Section 12.E. (Outstanding Payments; No Refunds) below) upon the occurrence of a material breach by us to provide the Services according to the terms of the Agreement, which breach is not cured within thirty (30) business days after our receipt of written notice from Customer describing such breach in detail (a "**Customer Termination**").

D Effect of Services Termination. Unless otherwise stated in the Agreement, upon the expiration or termination of the Agreement: (a) all rights and licenses granted by a party to the other party will immediately terminate, unless otherwise specified; (b) BlueBee will terminate Customer access to its

Customer Data through the Services (subject to Section 12.F. (Availability of Customer Data) below); and (c) each of the parties will be relieved of their further duties and obligations arising under the Agreement. The expiration, cancellation or termination of the Agreement will not otherwise release either party from its obligation to pay any sum that may be then or thereafter owing to the other party nor operate to discharge any liability that had been incurred by either party prior to any such termination. All sections of this Agreement which by their nature should survive termination will survive termination, including Sections 4.G. (Audit), 6.B. (License to Customer Data) (with respect to De-Identified Data only), and 7 (Privacy) through 13 (General Terms) (inclusive).

E. Outstanding Payments; No Refunds. In the event that the Agreement is terminated by us for any reason constituting BlueBee Termination or by Customer for any reason other than Customer Termination, all Fees and any other amounts owing to BlueBee under the Agreement shall accelerate and be immediately due and payable, including, without limitation: (a) in the case of any Services subscribed to on a month-to-month basis, Fees through the end of the month in which the Services are terminated; and (b) in the case of any Services subscribed to for other than on a month-to-month basis, Fees through the remainder of the Services Term. Set-up fees, monthly Services fees and usage fees are non-refundable.

F. Availability of Customer Data. As long as Customer has paid all Fees owed to us, and subject to Section 12.B. (Services Termination and Suspension), we will make the Customer Data available to you for download in an agreed-to format upon written request to us within thirty (30) days after expiration of the applicable Services Term. After such 30-day period, we shall have no obligation to maintain or provide any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data in the BlueBee Platform or otherwise in our possession or under our control.

13. GENERAL TERMS

A. Miscellaneous. This Agreement (including each Order Form) contains the entire understanding between BlueBee and you relating to the subject matter herein and supersedes all prior oral or written agreements between us. We reject any additional or different terms proposed by you, including those contained in your purchase order, acceptance or website. In the event of a conflict between these Terms and an Order Form, the terms of the Order Form shall control, but only as to that Order Form. You may not assign or transfer your rights and benefits under this Agreement without our prior written consent, but we may assign or transfer this Agreement without restriction. Except as set forth in this Agreement, nothing in this Agreement shall be deemed to confer any rights or benefits on any third party. No waiver, amendment, modification or addition to this Agreement shall be valid unless in writing and signed by both you and us. In the event any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, such determination shall in no way affect the validity or enforceability of any other provision herein. BlueBee and Customer are independent contractors, and this Agreement does not create a partnership, joint venture, employment or agency relationship between BlueBee and Customer or any Authorized User. This is a non-exclusive arrangement.

B. Governing Law and Jurisdiction. Any dispute arising under this Agreement shall be governed by the substantive laws of the State of California, without respect to its conflict of laws principles. Any claim or dispute between you and us that arises in whole or in part from the Services shall be decided exclusively by a court of competent jurisdiction located in the City or County of San Francisco, California and you hereby consent to such venue and to the jurisdiction of such courts for the purposes of any suit, action or other proceeding arising out of the Agreement or the subject matter hereof or any of the transactions contemplated hereby brought by Customer or BlueBee or their respective successors or assigns. Customer hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding any claim that it is not personally subject to the

jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that the Agreement or the subject matter hereof may not be enforced in or by such court. A final judgment obtained in respect of any action, suit or proceeding referred to in this Section shall be conclusive and may be enforced in other jurisdictions by suit or judgment or in any manner as provided by Applicable Law.

C. Publicity. Customer agrees that we may publicly disclose that we are providing Services to Customer and may include Customer's name, logo, trade names, trademarks, service marks, trade dress, logos and other rights in indicia in any promotional materials, including without limitation any press releases issued by us and on our website and printed materials. Except as set forth in this Agreement, neither party may publicly use the other party's name, logo or other trade or service mark.

D. Force Majeure. Neither party shall lose any rights hereunder or be liable to the other party for damages or losses on account of failure of performance by the defaulting party if the failure is due by any occurrence or contingency beyond its reasonable control, including, but not limited to, war, strike, fire, Act of God, earthquake, flood, lockout, embargo, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the nonperforming party; provided that such party shall use commercially reasonable efforts to promptly mitigate any damages or losses.

E. Legal Investigations. BlueBee will comply with any legal process or requirement including, but not limited to, any investigations, court orders, discovery orders, subpoenas, freeze orders, search warrants, information requests, wire taps, electronic intercepts and surveillance, preservation requests, and any other order from a court, government entity or regulatory agency (each an "**Investigation**" and collectively, "**Investigations**"). BlueBee may charge Customer or any person seeking compliance with any Investigations for the reasonable costs and expenses associated with our compliance with any Investigations. BLUEBEE RESERVES THE RIGHT TO COMPLY WITH ANY INVESTIGATIONS WITHOUT NOTICE TO CUSTOMER. BlueBee shall not be deemed in breach of the Agreement for our compliance with any Investigations that require the sequestering or disclosure of all or a portion of the Customer Data.

F. U.S. Government Restricted Rights. If the Services are being licensed by the U.S. Government, the Services are commercial computer software and documentation developed exclusively at private expense, and (a) if acquired by or on behalf of a civilian agency, shall be subject to the terms of this computer software license as specified in 48 C.F.R. 12.212 of the Federal Acquisition Regulations and its successors; and (b) if acquired by or on behalf of units of the Department of Defense ("**DOD**") shall be subject to the terms of this commercial computer software license as specified in 48 C.F.R. 227.7202-2, DOD FAR Supplement and its successors.

G. Compliance with Laws. BlueBee and you recognize that this Agreement is subject to, and intended to comply with, Applicable Law, and agree that the Services addressed in this Agreement do not exceed those which are reasonably necessary to accomplish the commercially reasonable business purposes of this Agreement.

14. INFORMATION OR COMPLAINTS

If you have a question or complaint regarding the Services, please send an e-mail to info@bluebee.com. Please note that e-mail communications will not necessarily be secure; accordingly you should not include credit card information or other sensitive information in your e-mail correspondence with us. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of



the California Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.