



## Software as a Service Agreement

This Software as a Service Agreement ("**Agreement**") is a legally binding agreement entered into by and between DentalBee Inc. ("DentalBee") and you, an individual or entity accessing or using DentalBee's Platform ("Customer"). By accessing the Platform, or by signing an Order Form, you agree to be bound by the terms of this Agreement. This Agreement is effective as of the earlier of (i) the date you first access or use the Platform, or (ii) the date of execution of an associated Order Form (the "**Effective Date**").

DentalBee provides software-as-a-service offerings to automate documentation, with hands-free notetaking, Perio Charting, and the ability to generate real-time detailed documentation to improve patient records, ensure compliance, and streamline insurance claims boosting efficiency and increasing production. Customer desires to access DentalBee's software-as-a-service offerings and DentalBee desires to provide Customer access to such offerings, subject to the terms and conditions set forth in this Agreement.

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

### 1. Definitions.

"**Access Credentials**" means any username, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, to verify a workstation's identity and authorization to access and use the Services.

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise/ownership of more than 50% of the voting securities of a Person.

"**AI Technology**" means any and all machine learning, deep learning, and other artificial intelligence ("**AI**") technologies, including statistical learning algorithms, models (including large language models), neural networks, and other AI tools or methodologies, all software implementations of any of the foregoing, and related hardware or equipment capable of generating various types of content (including text, images, video, audio, or computer code) based on user-supplied prompts.

"**Authorized Users**" means Customer's employees, consultants, contractors, and agents: (a) who are authorized by Customer to access and use the Services at a Workstation under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the Services has been purchased hereunder. Each account may be used only in a single location as listed.

"**Confidential Information**" means information that the disclosing Party treats as confidential or proprietary, including without limitation information trade secrets, technology, information pertaining to business operations, strategies, customers, pricing, marketing, finances, sourcing, personnel or operations. Confidential Information does not include information that either Party can demonstrate by written or other documentary records: (w) was already known by one Party without restriction on use or disclosure prior to receipt of such information from the other Party; (x) was or becomes generally known by the public other than by breach of this Agreement by, or other



wrongful act of, the receiving Party or any of its Representatives; (y) was received from a third-party who was not, at the time, under any obligation to the other Party or any other Person to maintain the confidentiality of such information; or (z) was or is independently developed by the receiving Party without reference to or use of any of the disclosing Party's Confidential Information.

**"Customer Data"** means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or an Authorized User by or through the Services, including patient data. For the avoidance of doubt, Customer Data does not include Resultant Data.

**"Customer Systems"** means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services.

**"Data Security Breach"** means any actual or reasonably suspected (i) unauthorized access to, acquisition of, or use of Customer's Confidential Information; (ii) unauthorized or accidental loss, alteration, disclosure, or destruction of Customer's Confidential Information; (iii) compromise, intrusion, interference with, or unauthorized access to networks, systems, databases, servers, or electronic or other media on which Customer Confidential Information is Processed or from which Customer Confidential Information may be accessed, including those of DentalBee Subcontractors; and/or (iv) other circumstance that actually or is reasonably suspected of compromising, or could compromise, the privacy, security, confidentiality, availability, or integrity of any Customer Confidential Information or the proper functioning of the network resources of Customer.

**"DentalBee Materials"** means the Services, Documentation, and DentalBee Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by DentalBee or any Subcontractor in connection with the Services or otherwise comprise or relate to the Services or DentalBee Systems. For the avoidance of doubt, DentalBee Materials include Resultant Data and any information, data, or other content derived from DentalBee's monitoring of Customer's access to or use of the Services, but do not include Customer Data.

**"DentalBee Personnel"** means all individuals involved in the performance of Services as employees, agents, or independent contractors of DentalBee or any Subcontractor.

**"DentalBee Systems"** means the information technology infrastructure used by or on behalf of DentalBee in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by DentalBee or through the use of third-party services.

**"Documentation"** means any manuals, instructions, or other documents or materials DentalBee provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services or DentalBee Materials, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.

**"Harmful Code"** means any: (a) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise deprive a Person of its lawful right to use such computer program.

**"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise



now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

**"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

**"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

**"Process"** means to take any action or perform any operation or set of operations that the SaaS Services are capable of taking or performing on any data, information, or other content, including to collect, receive, input, upload, download, record, reproduce, store, organize, compile, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate, or make other derivative works or improvements, process, retrieve, output, consult, use, perform, display, disseminate, transmit, submit, post, transfer, disclose, or otherwise provide or make available, or block, erase, or destroy. **"Processing"** and **"Processed"** have correlative meanings.

**"Representatives"** means, with respect to a Party, that Party's employees, officers, directors, consultants, agents, independent contractors, service providers, sublicensees, subcontractors, and legal and financial advisors.

**"Resultant Data"** means data and information related to Customer's use of the Services that is used by DentalBee in an aggregate, de-identified and/or anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

**"Service Error"** means a failure of the Services to perform in accordance with this Agreement.

**"Platform"** means the software-as-a-service offering and related professional services described in the Order Form.

**"Territory"** means United States.

**"Third-Party Materials"** means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Platform that are not proprietary to DentalBee.

**"Workstation"** means is any station or computer which is used by an Authorized User to access DentalBee Systems.

## 2. Platform.

2.1 Access and Use. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, DentalBee hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 14.8) right to access and use the Platform and Documentation during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. DentalBee shall provide to Customer the Access Credentials within a reasonable time following the Effective Date.

2.2 Order Forms. DentalBee may, at its sole discretion, provide the Platform described in an applicable executed order form entered into or incorporated into this Agreement ("Order Form"). No Order Form is required to be issued unless DentalBee chooses to do so. Any Order Form(s) attached to this Agreement, or any subsequently executed Order Form(s), are incorporated into and made a part of this Agreement. If there is any inconsistencies between this Agreement and an Order Form, this Agreement will take precedent unless the Order Form specifically modifies a provision of this Agreement.



The Parties may agree in writing to add new or modify existing Order Form(s) from time to time.

2.3 Authorized Users. The total number of Workstations will not exceed the number set forth in an Order Form(s), if provided, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the Fees payable hereunder. Customer shall be responsible and liable for any actions of the Authorized Users with respect to the Platform and Documentation. Customer agrees to notify DentalBee of a suspected or known unauthorized use, breach or non-compliance by an Authorized User of this Agreement. Customer is not entitled to make or pass through any warranties to any third parties regarding the Platform, unless specifically authorized in writing by DentalBee on a case-by-case basis. Customer is responsible for all representations and warranties Customer makes to Authorized Users regarding the Platform. Customer agrees to indemnify, defend, and hold DentalBee harmless from and against any liabilities, losses, damages, costs, expenses, including attorneys' fees and costs, incurred by DentalBee resulting from any claims based on or related to any representation or warranty made by Customer regarding the Platform that was not specifically authorized in writing by DentalBee.

2.4 Service and System Control. Except as otherwise expressly provided in this Agreement, as between the Parties:

- (a) DentalBee has and will retain sole control over the operation, provision, maintenance, and management of the DentalBee Materials;
- (b) Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the DentalBee Materials by any Person by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any: (i) information, instructions, or materials provided by any of them to the Platform or DentalBee; (ii) results obtained from any use of the Platform or DentalBee Materials; and (iii) conclusions, decisions, or actions based on such use; and
- (c) Notwithstanding anything to the contrary in this Agreement, all Platform, including all Processing of Customer Data by or on behalf of DentalBee shall be provided solely from within, and on computers, systems, networks, and other infrastructure located in, the United States.

2.5 Integration with Non-DentalBee Applications or Systems. The Platform may contain features designed to interoperate with non-DentalBee applications or systems of the Customer Systems. DentalBee cannot guarantee the continued availability of such Service features and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a non-DentalBee application or system within Customer Systems ceases to make itself available for interoperation with the corresponding Service features in a manner acceptable to DentalBee.

2.6 Reservation of Rights. Nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Platform, DentalBee Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Platform, the DentalBee Materials, and the Third-Party Materials are and will remain with DentalBee and the respective rights holders in the Third-Party Materials.

2.7 Changes. DentalBee reserves the right, in its sole discretion, to make any changes to the Platform and DentalBee Materials that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of DentalBee's services to its customers; (ii) the competitive strength of or market for DentalBee's services; or (iii) the Platform's cost efficiency or performance; or (b) to comply with applicable Law. Without limiting the foregoing, either Party may, at any time during the Term, request in writing changes to the Platform, or the permitted uses of such Platform or DentalBee Materials. No requested changes will be effective unless and until memorialized in a written change order signed by both Parties.



2.8 Subcontractors. DentalBee may from time to time in its discretion engage third parties to perform Platform (each, a “Subcontractor”). DentalBee will be responsible for the performance of DentalBee Personnel and their compliance with DentalBee’s obligations under this Agreement, except as otherwise specified in this Agreement.

2.9 Suspension or Termination of Platform Access. DentalBee may, directly or indirectly, by lawful means suspend, terminate, or otherwise deny Customer’s, Workstations, any Authorized User’s, or any other Person’s access to or use of all or any part of the Platform or DentalBee Materials, without incurring any resulting obligation or liability, if: (a) DentalBee receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires DentalBee to do so; or (b) DentalBee believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with any material term of this Agreement, or accessed or used the Platform beyond the scope of the rights granted or for a purpose not authorized under this Agreement; (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Platform; or (iii) this Agreement expires or is terminated. This Section 2.9 does not limit any of DentalBee’s other rights or remedies, whether at law, in equity, or under this Agreement.

### 3. Use Restrictions; Service Usage and Data Storage.

3.1 Use Restrictions. Customer shall not, and shall not permit any other Person to, access or use the Platform or DentalBee Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- (a) copy, modify, or create derivative works or improvements of the Platform or DentalBee Materials, which shall include incorporating any DentalBee Materials into any AI Technology accessible by any third-party;
- (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Platform or DentalBee Materials to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Platform or DentalBee Materials, in whole or in part;
- (d) bypass or breach any security device or protection used by the Platform or DentalBee Materials or access or use the Platform or DentalBee Materials other than by an Authorized User through the use of valid Access Credentials at a Workstation. Customer has the ability to change the Access Credentials for each Workstation);
- (e) input, upload, transmit, or otherwise provide to or through the Platform or DentalBee Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- (f) input, upload, transmit, or otherwise provide to or through the Platform or DentalBee Systems, any information or materials that Customer does not have the requisite authority to provide DentalBee with such information;
- (g) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Platform, DentalBee Systems, or DentalBee’s provision of the Platform to any third party, in whole or in part;
- (h) remove, delete, alter, or obscure any trademarks, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Platform or DentalBee Materials, including any copy thereof;



- (i) access or use the Platform or DentalBee Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other DentalBee customer), or that violates any applicable Law;
- (j) access or use the Platform or DentalBee Materials for purposes of competitive analysis of the Platform or DentalBee Materials, the development, provision, or use of a competing software service or product or any other purpose that is to the DentalBee's detriment or commercial disadvantage; or
- (k) show, display, demo, give access to, or allow any other providers or personal that are not employees or Authorized Users to see or interact with the Platform.
- (l) otherwise access or use the Platform or DentalBee Materials beyond the scope of the authorization granted under this Section 3.1.

#### **4. Customer Obligations.**

4.1 Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair and in accordance with this Agreement all Customer Systems on or through which the Platform are accessed or used; (b) provide DentalBee Personnel with such access to Customer Systems as is necessary for DentalBee to perform the Platform; and (c) provide all cooperation and assistance as DentalBee may reasonably request to enable DentalBee to exercise its rights and perform its obligations under and in connection with this Agreement.

- (a) Customer acknowledges and agrees that DentalBee may use third-party data processors engaged who may receive Resultant Data from DentalBee for processing in compliance with the terms of the Agreement and the Authorized User Policies, which may be used to provide, secure, and improve the Platform. DentalBee will be responsible for the acts and omissions of such sub-processors to the same extent that DentalBee would be responsible if DentalBee were performing the sub-processing services directly under the terms of this Agreement and the Authorized User Policies.
- (b) Customer acknowledges and agrees that while the Platform may be used to assist clinicians through the processing of data, it is not a substitute for human intervention and discretionary thinking by trained medical staff. Service output is designed for data analyses and information purposes only and is not a substitute for medical advice and oversight. Therefore, Customer agrees to defend or settle, and indemnify and hold harmless, our Indemnitees from any Action by a patient or patient representative that relates to or arises out of patient care, treatment, or outcomes and which is based in whole or in part on the use of (or inability to use) the Platform.
- (c) Customer acknowledges and agrees that entering into this Agreement may create a Business Associate Relationship as defined under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). To address these requirements under the HIPAA, the Parties agree to enter into the business associate agreement either attached to this Agreement or executed separately. Customer agrees it will not share health information governed by HIPAA with DentalBee prior to the execution of this Agreement, including the associated BAA.

4.2 General Obligations. Customer will: (a) be responsible for Authorized Users' compliance with this Agreement, Documentation and order forms; (b) obtaining patient consent to: (i) send and receive personal health information through the Platform, and (ii) to record interactions between Authorized Users and patients; (c) be responsible for the accuracy,



quality and legality of Customer Data being input into DentalBee's Platform, the means by which Customer acquired Customer Data, and Customer's use of Customer Data with the Platform; and (d) use commercially reasonable efforts to prevent unauthorized access to or use of Platform and Content.

4.3 Effect of Customer Failure or Delay. DentalBee is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").

4.4 Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 3.1, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Platform and DentalBee Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify DentalBee of any such actual or threatened activity.

## 5. DentalBee Obligations.

5.1 Service Maintenance. DentalBee shall continuously maintain the DentalBee Materials to optimize performance of the Platform and ensure they meet or exceed the descriptions in the Documentation. Such maintenance services shall include:

- (a) implementing all necessary updates, bug fixes, enhancements, new releases, new versions, and other improvements or repairs to the DentalBee Materials, so that the Platform operate properly in accordance with this Agreement; and
- (b) remaining aware of advances in technologies related to or used in website hosting and platforms, including those related to security, and, implementing such changes to the DentalBee Materials as are reasonably necessary to ensure the Platform': (i) continued interoperability and compatibility with new standard technologies; and (ii) security and integrity, including with respect to the confidentiality, privacy, and integrity according to the requirements and standards set forth in this Agreement and applicable Law.

5.2 Back-Ups, and Disaster Recovery. DentalBee shall routinely back-up the Customer Data and DentalBee shall maintain a disaster recovery plan that enables re-implementation of the Customer Data and Platform upon the occurrence of a disaster.

## 6. Security.

6.1 Information Security. DentalBee will employ security measures in accordance with DentalBee's data privacy agreement and various security policies, as they are amended from time to time. DentalBee maintains a data breach plan in the event of a Data Security Breach and shall implement the procedures required under such data breach plan on the occurrence of said event. During the term of this Agreement, DentalBee will maintain a SOC-2, Type 2 certification.

6.2 Customer Control and Responsibility. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Platform; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party Platform ("**Customer Systems**"); (d) the security and use of Customer's and its Authorized Users' Access Credentials; and (e) all access to and use of the Platform and DentalBee Materials directly or indirectly by or through the Customer Systems or its or its Authorized Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions



based on, such access or use.

6.3 Access and Security. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Platform; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the Platform. Customer understands that it has the ability to change a Workstation's Access Credentials.

## 7. Fees and Payments.

7.1 Fees and Invoices. In consideration of the Platform provided and rights granted by DentalBee under this Agreement, Customer shall pay DentalBee properly invoiced fees ("**Fees**") as set forth in an applicable Order Form. Unless listed otherwise in an applicable Order Form, DentalBee shall invoice Customer monthly for the Fees. Customer shall pay all invoiced Fees within 30 days of receipt of the invoice. Customer hereby grants to DentalBee the right to conduct an initial credit check. Customer acknowledges DentalBee may perform audits on Customer's use of the Platform. Customer shall reimburse DentalBee, for any pre-approved, documented out-of-pocket travel and lodging expenses incurred by DentalBee in performing its obligations or Platform hereunder.

7.2 Failure to Pay. If the Customer fails to make any timely payment, then, without limiting the DentalBee's remedies hereunder, the account is in default and the outstanding Fees due shall be subject to an interest charge of the lesser of 1.5% per month, or the maximum rate permitted by law. Any account in default shall be subject to service interruption without notice; such service interruption does not relieve Customer of the obligation to pay any monthly recurring Fees due. The Customer agrees to pay DentalBee its reasonable expenses, including reasonable attorney and collection agency fees, incurred in enforcing its rights under this Agreement.

7.3 Disputes. Customer may withhold from payment any amount disputed by Customer in good faith, pending resolution of the dispute, provided that Customer: (i) timely pays all amounts not subject to dispute; (ii) works with DentalBee in good faith to resolve the dispute promptly; and promptly pays any amount determined to be due by resolution of the dispute. DentalBee shall continue performing the Platform in accordance with this Agreement notwithstanding any such dispute.

7.4 Taxes. The Fees do not include any taxes.

7.5 Fee Changes. DentalBee may adjust any hourly Fees and recurring monthly or annual Fees, with 90 days' prior written notice to Customer before the beginning of any Renewal Term. Such Fee adjustment will take effect at the beginning of such Renewal Term.

## 8. Confidentiality.

8.1 Obligation of Confidentiality. Each Party ("**Receiving Party**") acknowledges that in connection with this Agreement each Party will gain access to Confidential Information of the other Party ("**Disclosing Party**"). As a condition to being furnished with access to Confidential Information, Receiving Party shall:

- (a) not access or use Confidential Information other than as strictly necessary to perform its obligations under and in accordance with this Agreement;
- (b) not to use any Confidential Information, directly or indirectly, in any manner to the detriment of Disclosing Party or to obtain any competitive benefit with respect to Disclosing Party;
- (c) not use or disclose any Confidential Information, directly or indirectly, with a competitor of the Disclosing Party



that is operating in a similar field as the Disclosing Party

- (d) maintain all Confidential Information in strict confidence and, except as may be permitted by and subject to its compliance with Section 8.2 below, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of Receiving Party's performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and Receiving Party's obligations under this Section 8.1; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 8.1;
- (e) safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and
- (f) ensure its Representatives' compliance with, and be liable for, any of its Representatives' noncompliance with, this Section 8.1.

8.2 Compelled Disclosures. If the Receiving Party is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party of such requirement so that the Disclosing Party can seek a protective order or other appropriate remedy or waive its rights under this Section 8; and (b) provide reasonable assistance to the Disclosing Party at Disclosing Party's expense in opposing such disclosure or seeking a protective order or other limitations on disclosure. If Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 8, Receiving Party remains required by Law to disclose any Confidential Information, Receiving Party shall disclose only that portion of the Confidential Information that Receiving Party is legally required to disclose and, at Disclosing Party's expense, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

## 9. Intellectual Property Rights.

9.1 DentalBee Materials. All right, title, and interest in and to the DentalBee Materials, including all Intellectual Property Rights therein, are and will remain with DentalBee and, with respect to Third-Party Materials, the applicable third-party providers own all right, title, and interest, including all Intellectual Property Rights, in and to the Third-Party Materials. Customer has no right, license, or authorization with respect to any of the DentalBee Materials except as expressly set forth in Section 2.1 or, with respect to the Third-Party Materials the applicable third-party license, in each case subject to Section 3.1. All other rights in and to the DentalBee Materials are expressly reserved by DentalBee. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to DentalBee an assignment of all right, title, and interest in and to the Resultant Data, including all Intellectual Property Rights relating thereto.

9.2 Customer Data. As between Customer and DentalBee, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data as are necessary or useful to DentalBee, its Subcontractors, and the DentalBee Personnel to enforce this Agreement and exercise DentalBee's, its Subcontractors', and the DentalBee Personnel's rights and perform DentalBee's, its Subcontractors', and the DentalBee Personnel's obligations hereunder. Further, Customer grants to DentalBee a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its Platform any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorized Users relating to the operation of DentalBee's Platform. Customer acknowledges that through the course of processing and interacting with Customer Data, including the embedded machine learning algorithms and artificial intelligence capabilities, the Platform may be enhanced or improved as a result of such processing, and such enhancements, changes, modifications, or improvements to the



platform resulting from the processing of Customer Data will be exclusively owned by DentalBee.

9.3 Retention of Recordings. As part of the Platform, interactions between Authorized Users and patients will be recorded and transcribed solely as necessary to provide and improve the Platform. DentalBee will only retain or store such recorded interactions as long as reasonably necessary.

## 10. Representations and Warranties.

10.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;
- (b) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder;
- (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party; and
- (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

10.2 Additional DentalBee Warranties. DentalBee warrants to Customer that:

- (a) it will perform the Platform using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement;
- (b) the Platform (excluding Customer Materials and Third-Party Materials), as delivered by DentalBee and used in accordance with this Agreement: (i) will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights or other rights of any third-party; (ii) will comply with all applicable Laws; and (iii) will not contain Harmful Code;
- (c) in providing access to the Platform hereunder, DentalBee will comply with all Laws; and
- (d) when delivered and for the Term, the Platform (excluding Customer Materials and Third-Party Materials) will be, and will function, in all respects in conformity with this Agreement. If any non-conformity is discovered during such warranty period, DentalBee shall promptly remedy such non-conformity at DentalBee's sole cost and expense.

10.3 Additional Customer Warranties. Customer warrants to DentalBee that the Customer Materials, as delivered by Customer and used in accordance with this Agreement: (a) will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights or other rights of any third-party; (b) will comply with all applicable Laws; and (c) will not contain Harmful Code; (d) Customer has the requisite authority and consent to deliver all Customer Materials and information to DentalBee.

10.4 DISCLAIMER. THE PLATFORM USES COMPLEX AI TECHNOLOGY AND MACHINE LEARNING TO PROVIDE THE SERVICES BUT HUMAN INTERACTION, VOICING, AND LANGUAGE DIFFERENCES MEAN ANY TRANSCRIPTS OR PLATFORM OUTPUT MAY NOT BE ACCURATE AND CUSTOMER IS RESPONSIBLE FOR REVIEWING THE OUTPUT FOR ACCURACY. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES,



WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND SERVICE PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

## 11. Indemnification.

11.1 Mutual Indemnification. Each indemnifying Party ("**Indemnifying Party**") shall indemnify, defend, and hold harmless the other Party ("**Indemnified Party**") and the Indemnified Party's officers, directors, employees, agents, successors, and assigns (each, an "**Indemnitee**") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, that are incurred by an Indemnitee, arising out of or resulting from any claim, suit, action, or proceeding (each, an "**Action**") alleging: (a) Indemnifying Party's breach of any representation, warranty, covenant, or obligation of Indemnifying Party under this Agreement; (b) any gross negligence by Indemnifying Party in connection with providing the Platform under this Agreement; or (c) that any Service excluding Customer Materials and Third-Party Materials (when DentalBee is the Indemnifying Party) or Client Materials (when Customer is the Indemnifying Party), as delivered and used in accordance with this Agreement: (i) infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other rights of any third party; and (ii) violates any applicable Law.

11.2 Indemnification Procedure. Indemnified Party will promptly notify Indemnifying Party in writing of any Action for which it is entitled to be indemnified pursuant to Section 11.1 and cooperate with Indemnifying Party at Indemnifying Party's sole cost and expense. Indemnifying Party shall immediately take control of the defense and investigation of such Action and shall employ counsel of its own choosing to handle and defend the same, at Indemnify Party's sole cost and expense. Indemnifying Party shall not settle any Action in a manner that adversely affects the rights of the Indemnified Party without Indemnified Party's prior written consent, which shall not be unreasonably withheld or delayed. Indemnified Party's failure to perform any obligations under this Section 11.2 will not relieve Indemnifying Party of its obligations under this Section 11 except to the extent that Indemnifying Party can demonstrate that it has been materially prejudiced as a result of such failure. Indemnified Party may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

## 12. Limitations of Liability.

12.1 EXCLUSION OF INDIRECT DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CLAIMS ASSERTING OR BASED ON THE USE, INTERRUPTION, DELAY, OR INABILITY TO USE THE WEBSITE OR PLATFORM, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF PLATFORM ACCESS, BUSINESS, OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION, SHUTDOWN, SYSTEM INCOMPATIBILITY, OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION, FAILURE TO ACCURATELY TRANSFER, READ, OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, OR BREACHES IN SYSTEM SECURITY, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE, OR ENHANCED DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

12.2 CAP ON MONETARY LIABILITY. EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.3, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED TWO TIMES THE AGGREGATE AMOUNTS PAID OR PAYABLE TO DENTALBEE PURSUANT TO THIS AGREEMENT IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CAUSE OF ACTION.



12.3 Exceptions. The exclusions and limitations in Sections 12.1 and 12.2 shall not apply to a Party's obligations under Section 8, 11, a breach of an applicable business associate agreement, or a Party's gross negligence or willful misconduct or breach. These exceptions shall be subject to a limit of five hundred thousand dollars (\$500,000). Notwithstanding anything to the contrary in this Agreement, there shall be no limit to damages based on intellectual property infringement.

### 13. Term and Termination.

13.1 Term. Unless stated otherwise in an applicable Order Form, the term of this Agreement commences as of the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect for one year (the "**Initial Term**") and shall automatically renew for successive 1-year terms (the "**Renewal Term**", and together with the Initial Term, the "**Term**").

13.2 Termination for Cause. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 15 days after the non-breaching Party provides the breaching Party with written notice of such breach.

13.3 Other Termination. Either Party may terminate this Agreement, effective upon written notice to the other party, if the other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

13.4 Effect of Termination or Expiration. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

- (a) All rights, licenses, consents, and authorizations granted by either Party to the other hereunder will immediately terminate. DentalBee may disable all Customer and Workstation access to the DentalBee Materials.
- (b) Customer will remain obligated to pay Fees for all Platform access received before the effective date of such termination.
- (c) Upon written request by Customer, DentalBee shall promptly return all such Customer Materials to Customer and permanently erase Customer's Confidential Information from its computer systems, notwithstanding any electronic backup records maintained in the normal course of business. DentalBee's obligations under this Section 13.4(c) do not apply to any Resultant Data.
- (d) If Customer terminates this Agreement pursuant to Section 13.3, Customer will be relieved of any obligation to pay any further Fees hereunder.

13.5 Surviving Terms. The provisions set forth in the following sections, and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section 3.1, Sections 8-9, Section 13.5, and Sections 10-12.

### 14. Miscellaneous.

14.2 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract



for or bind the other party in any manner whatsoever.

14.3 Force Majeure. Neither Party will be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any acts of God, flood, fire, earthquake or explosion, war, terrorism, pandemics, invasion, riot or other civil unrest, embargoes, or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns, or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition, or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation facilities (each of the foregoing, a “**Force Majeure Event**”), in each case, provided that (i) such event is outside the reasonable control of the affected Party; (ii) the affected Party provides prompt notice to the other Party, stating the period of time the occurrence is expected to continue; and (iii) the affected Party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event. Client may terminate this Agreement if a Force Majeure Event affecting DentalBee continues substantially uninterrupted for a period of 30 days or more. No Force Majeure Event will modify or excuse DentalBee’s responsibility or liability, or limit Client’s remedies, under Section 5.3, except to the extent DentalBee demonstrates by documentary evidence that it exercised the standard of care required under that Section.

14.5 Entire Agreement. This Agreement, including the exhibits and DentalBee’s data privacy, terms of use and data security policies, constitutes the entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, whether written or oral, with respect to such subject matter. If there is an inconsistency between any of the provisions in the main body of this Agreement and any exhibit or policy, the provisions in the main body of this Agreement shall prevail.

14.6 Assignment. Neither Party shall assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without the other Party’s prior written consent, which consent shall not be unreasonably withheld or delayed, except pursuant to (a) the sale of all or substantially all of the assets of the Party, or (b) any merger, or other business combination by which the Party is acquired by or acquires another entity with the result that the Party is not the surviving entity of the merger or other business combination; provided however that in the event of sale of all or substantially all of the assets of a Party or such business combination, the acquiring or surviving entity shall likewise be prohibited from further assignment as provided in this Section 14.6. No delegation or other transfer will relieve either Party of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 14.6 is void. This Agreement is binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

14.7 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

14.8 Amendment and Modification; Waiver. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing and signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

14.9 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render



unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.10 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 8 or, in the case of Customer, Section 3.1, would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

14.11 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule that would require or permit the application of Laws of any jurisdiction other than those of the State of Delaware. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Delaware, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

14.12 Waiver of Jury Trial; Attorney Fees. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby. If any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.



## BUSINESS ASSOCIATE AGREEMENT

1. Effect. This BAA defines, modifies, and replaces any prior arrangements between the parties with respect to PHI. This BAA is made subject to the terms and conditions of the Agreement. Except as otherwise set forth in this BAA, the terms and provisions of this BAA will supersede any other conflicting or inconsistent terms and provisions in the Agreement. Absent an Agreement, this BAA shall govern DentalBee's obligations with respect to PHI from Customer.
2. Definitions. The following capitalized terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (also referred to as "PHI"), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured PHI, and Use.
3. Permitted uses and disclosures by DentalBee.
  - a. Except as specifically limited in this BAA, DentalBee may use or disclose PHI to perform its obligations under this BAA, to provide the Platform, and to perform functions, activities, or services for Customer or on Customer's behalf in connection with the Platform or the Agreement, or as required by law.
  - b. DentalBee may use PHI for its proper management and administration (e.g., research and testing in support of its products or services) and to carry out its legal responsibilities;
  - c. DentalBee may disclose PHI for its proper management and administration, or to carry out its legal responsibilities, provided the disclosures are required by law or DentalBee obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies DentalBee when the person becomes aware that the confidentiality of the information has been breached.
  - d. DentalBee may provide data aggregation services relating to Customer's and DentalBee's other customers' health care operations.
  - e. DentalBee may de-identify PHI so long as such de-identification meets the requirements of 45 CFR 164.514(a)-(c). Information de-identified in accordance with this section will no longer constitute PHI under the HIPAA Rules, and DentalBee may use, disclose, or transfer such de-identified data at its discretion, for any lawful purpose, even after this BAA ends.
  - f. DentalBee may disclose PHI (i) for the treatment activities of a health care provider; (ii) to a covered entity or health care provider for the payment activities of the entity that receives the PHI; or (iii) to another covered entity for health care operations activities of the entity that receives the PHI, if each entity either has or had a relationship with the Individual who is the subject of the PHI being disclosed, the PHI pertains to such relationship, and the disclosure is for the covered entity's health care operations in accordance with 45 C.F.R. § 164.506(c)(4)(i).
4. DentalBee's obligations and activities.
  - a. *Safeguards against misuse of PHI.* DentalBee shall use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this BAA, and comply when applicable with Subpart C of 45 CFR Part 164 with respect to electronic PHI that DentalBee creates, receives, maintains, or transmits on Customer's behalf;
  - b. *Reporting of Disclosures of PHI.* DentalBee shall report to Customer any use or disclosure of PHI not covered by this BAA (including breaches of unsecured PHI) of which we become aware, as well as any security incidents of which we become aware, in accordance with 45 CFR 164.410 and 164.412. Notwithstanding the foregoing, the



parties acknowledge and agree that this Section 3(c) constitutes notice by DentalBee to Customer of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice to Customer shall be required. "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on our firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incidents resulted in unauthorized access, use or disclosure of Customer's electronic PHI;

- c. *Notification of Breach.* DentalBee shall notify Customer of the discovery of any Breach of Unsecured PHI in accordance with HIPAA Regulations as soon as practicable, but no later than five (5) business days after discovery of any Breach. Such notice shall include the identity of each Individual whose Unsecured PHI has been, or is reasonably believed to have been, breached. DentalBee's obligation to report under Section 3(c) and this Section 3(d) is not and will not be construed as an acknowledgement by DentalBee of any fault or liability with respect to any use, disclosure, Security Incident or Breach.
- d. *Agreements with Third Parties.* In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, DentalBee shall ensure that its affiliates, agents, or subcontractors that create, receive, maintain, or transmit PHI on our behalf agree to the same or materially similar terms that apply to DentalBee with respect to such information;
- e. *Access to Information.* Unless expressly agreed to in the Agreement, DentalBee and Customer mutually understand that DentalBee is not responsible for maintaining any Designated Record Set on behalf of Customer. If DentalBee maintains PHI in a Designated Record Set, as defined in 45 C.F.R. § 164.501, then upon Customer's request, DentalBee shall provide access to such PHI in a Designated Record Set to the Individual in order for Customer to comply with the requirements under 45 C.F.R. § 164.524. If DentalBee receives a direct request from an Individual for access to PHI, it will forward the request to Customer to fulfill. If DentalBee provides copies or summaries of PHI to an Individual, DentalBee may impose a reasonable, cost-based fee in accordance with 45 C.F.R. § 164.524(c)(4). Notwithstanding the foregoing, if the PHI that is the subject of a request for access is maintained in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, DentalBee shall provide access to the PHI in the electronic form and format requested. Further, if an Individual's request for access directs DentalBee to transmit the copy of PHI directly to another person designated by the Individual, DentalBee shall provide the copy to the person designated by the Individual. The Individual's request must be in writing, signed by the Individual, and clearly identify the designated person;
- f. *Availability of PHI for Amendment.* If DentalBee maintains PHI in a Designated Record Set, DentalBee agrees to make available PHI for amendment and incorporate any amendments to PHI in a Designated Record Set, in order for Customer to comply with 45 C.F.R. § 164.526. If DentalBee receives a direct request from an Individual for amendment to PHI, DentalBee will forward the request to Customer to fulfill.
- g. *Accounting of Disclosures.* Within forty-five (45) days after notice by Customer to DentalBee, DentalBee shall make available such information as is in its possession and that is required for Customer to make the accounting required by 45 C.F.R. § 164.528. If DentalBee receives a direct request from an Individual for an accounting of disclosures of PHI, DentalBee will forward the request to Customer to fulfill. The obligations set forth in the foregoing section will not apply to disclosures of PHI related to the Treatment of a patient, the processing of Payments related to such Treatment, or the Health Care Operations of a covered entity or its business associate and not relating to disclosures made earlier than six (6) years prior to the date on which the accounting was requested.



- h. To the extent DentalBee has agreed in writing to carry out Customer's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Customer in performance of such obligation(s).
- i. DentalBee agrees to make its internal practices, books, and records available to the Secretary to determine compliance with the HIPAA Regulations.
- j. Except for the purposes set forth in the Agreement and as otherwise provided by law, DentalBee shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless Customer receives a valid HIPAA authorization.
- k. DentalBee shall make reasonable efforts to limit the use, disclosure, or request of PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

5. Customer's Obligations and Restrictions.

- a. *Customer Obligations.* Customer will implement its own appropriate safeguards, not inconsistent with this BAA, to prevent unauthorized use and disclosure of PHI and will maintain the necessary consents required by law before using the Platform to process PHI.
- b. *Minimum Necessary.* DentalBee may deem that Customer is disclosing to it only that PHI which Customer determines is reasonably necessary to achieve the intended purpose of the disclosure.
- c. *Changes in Policies and Procedures.* Customer shall notify DentalBee prior to implementing any change in its privacy or security policies and procedures, including its Notice of Privacy Practices, which would affect DentalBee's obligations hereunder.
- d. *Notice of Restrictions on Use or Disclosure.* Customer agrees to notify DentalBee of any restriction on the use or disclosure of PHI that it has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect DentalBee's use or disclosure of PHI. To the best of Customer's knowledge, there are no such restrictions as of the date of this BAA.
- e. *Permitted Actions by Customer.* In no event will Customer request DentalBee to use or disclose PHI in any manner not permitted by HIPAA Rules if done by Customer, nor will Customer send unencrypted PHI to DentalBee in any form. Should Customer do so, DentalBee will not be responsible for damages related to such requests or unencrypted PHI.

6. Term and Termination.

- a. This BAA will become effective contemporaneously with the Agreement, and unless otherwise terminated as provided herein, will have a term that will run concurrently with that of the last expiration date or termination of the Agreement, if any.
- b. If either party learns of a material breach of this BAA by the other party, the non-breaching party will notify the breaching party and provide a reasonable opportunity to cure the breach, and if such breach is not cured within a reasonable time, terminate this BAA and the Service components that DentalBee determines require or permit ongoing access to PHI. If a cure is not possible, then the non-breaching party may immediately terminate this BAA and the Service components that DentalBee determines require or permit ongoing access to PHI.
- c. Except as provided in this subsection, on termination of this BAA, DentalBee will return or destroy all PHI currently in its possession, and it will retain no copies of the PHI. If DentalBee determines that returning or destroying PHI is infeasible (e.g., retention of PHI is necessary to continue its proper management and



administration or to carry out its legal obligations), DentalBee will inform Customer of the conditions that make return or destruction infeasible and will extend the protections of this BAA to such PHI to limit further uses and disclosures of PHI to those purposes that make the return or destruction infeasible, for as long as DentalBee maintains such PHI. The terms of this subsection apply to PHI in possession of DentalBee's subcontractors and agents.

- d. *Survival.* The obligations of the parties under Sections 4, 5, 6, and 7 of this BAA shall survive the termination of this BAA.



## MINIMUM SERVICE LEVELS

**1. Exhibit.** This exhibit describes the standard software as a service support levels currently offered by DentalBee to its Customers. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the main body of the Agreement.

**2. Service Availability.** DentalBee will use commercially reasonable efforts to provide availability to the Website at least 99% of the time as measured over the course of each calendar month, excluding unavailability as a result of any of the Exceptions described below (the “**Availability Requirement**”). “**Service Level Failure**” means a material failure of the Website to meet the Availability Requirement. “**Available**” means the Website is available for access and use by Customer and its visitors over the Internet and operating in material accordance with this Agreement.

**3. Service Availability Exceptions.** For purposes of calculating the Availability Requirement, the following are “**Exceptions**” to the Availability Requirement, and neither the Website will be considered un-Available nor any Service Level Failure be deemed to occur in connection with any failure to meet the Availability Requirement or impaired ability of Customer or its visitor to access or use the Website that is due, in whole or in part, to any:

- (a) Scheduled Downtime;
- (b) Website downtime or degradation due to a Force Majeure Event;
- (c) an act or omission by Customer to use of the Website or hosting environment that does not strictly comply with this Agreement;
- (d) Customer’s internet connectivity;
- (e) failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by DentalBee pursuant to this Agreement;
- (f) any other circumstances beyond DentalBee’s reasonable control; and
- (g) any suspension or termination of the Customer’s access to or use of the Website as permitted by this Agreement.

**4. Scheduled Downtime.** DentalBee will use commercially reasonable efforts to; (a) schedule downtime for routine maintenance of the Website between the hours of 1 a.m. and 4 a.m., Eastern Time; and (b) give Customer at least 12 hours’ prior notice of all scheduled outages of the hosting Platform (“**Scheduled Downtime**”).

**5. Support & Availability.** DentalBee provides online case submissions with business-hour support providing call-back responses to Customer issues and cases, which includes:

- (a) on-line support through Provider’s website;
- (b) on-line case submission; and
- (c) under 5 business day email-back response time.