

ELSA TERMS OF SERVICE AGREEMENT

LAST REVISED ON: JUNE 3RD, 2024

Welcome to Elsa Fertility Incorporated (“Elsa,” “we,” “us” or “our”)! PLEASE READ THIS TERMS OF SERVICE AGREEMENT (“TERMS”) CAREFULLY. THESE TERMS ARE A LEGAL CONTRACT BETWEEN YOU AND ELSA. These Terms govern your use, and Elsa’s provision to you of any Elsa product or service that contains a link to these Terms, any mobile application offered by Elsa with a link to these Terms (collectively, the “App” or “Application”), and any content, information, services, features, or resources available or enabled thereon (collectively, the “Services”). You are accessing the Services as Patient recipient of Provider Services and Care Coordinator Services (each, as defined below).

Your use of the Services may be subject to any additional terms, conditions, and policies that we separately post on the Services and any agreements that you have separately executed with Elsa (“Supplemental Terms”) which are incorporated by reference into these Terms (together, the “Agreement”). To the extent there is any conflict between these Terms and any Supplemental Terms, the Supplemental Terms will control with respect to the Services or feature to which the Supplemental Terms relate.

ACCEPTANCE

BY CLICKING “I ACCEPT,” OR OTHERWISE ACCESSING OR USING THE SERVICES, OR ANY PORTION THEREOF, YOU ACKNOWLEDGE AND AGREE THAT: (i) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE AGREEMENT; (ii) YOU ARE AT LEAST EIGHTEEN (18) YEARS OF AGE; AND (iii) YOU ARE NOT A PERSON OR ENTITY BARRED FROM USING THE SERVICES UNDER THE LAWS OF THE UNITED STATES, YOUR PLACE OF RESIDENCE OR ANY OTHER APPLICABLE JURISDICTION. YOU FURTHER REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THE AGREEMENT (ON BEHALF OF YOURSELF AND, AS APPLICABLE, THE ENTITY THAT YOU REPRESENT). IF THE INDIVIDUAL ENTERING INTO THE AGREEMENT OR OTHERWISE ACCESSING OR USING THE SERVICES IS DOING SO ON BEHALF OF, OR WITHIN HIS OR HER CAPACITY AS A REPRESENTATIVE, AGENT, OR EMPLOYEE OF AN ENTITY, SUCH INDIVIDUAL AND SUCH ENTITY AGREES THAT: (i) THE TERMS “YOU” AND “YOUR” AS USED HEREIN APPLY TO SUCH ENTITY AND SUCH INDIVIDUAL; AND (ii) THAT THE INDIVIDUAL ENTERING INTO THE AGREEMENT HAS THE POWER, RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THE AGREEMENT ON BEHALF OF SUCH ENTITY. IF YOU DO NOT AGREE TO BE BOUND BY THE AGREEMENT, YOU MAY NOT ACCESS OR USE THE SERVICES.

IMPORTANT INFORMATION ABOUT ARBITRATION, CONSENTS AND UPDATES TO THE AGREEMENT

PLEASE BE AWARE THAT SECTION 13 CONTAINS PROVISIONS GOVERNING HOW TO RESOLVE DISPUTES BETWEEN YOU AND ELSA. AMONG OTHER THINGS, SECTION 13 INCLUDES AN AGREEMENT TO ARBITRATE WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING AND FINAL ARBITRATION. SECTION 13 ALSO CONTAINS A CLASS ACTION AND JURY TRIAL WAIVER. PLEASE READ SECTION 13 CAREFULLY.

UNLESS YOU OPT OUT OF THE AGREEMENT TO ARBITRATE WITHIN THIRTY (30) DAYS: (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION; AND (2) EXCEPT AS OTHERWISE SPECIFIED, YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.

PLEASE BE AWARE THAT SECTION 6 (ELSA COMMUNICATIONS) OF THE AGREEMENT CONTAINS YOUR OPT-IN CONSENT TO RECEIVE COMMUNICATIONS FROM US.

THE AGREEMENT IS SUBJECT TO CHANGE BY ELSA IN ELSA’S SOLE DISCRETION AT ANY TIME. When changes are made, Elsa will make a new copy of the Terms on the Site and, to the extent applicable, in the App, and any new Supplemental Terms will be made available from within, or through, the affected Services. We will also update the “Last Updated” date at the top of the Terms. If we make material changes to the Terms, we may (and, where

required by law, will) also provide notification of changes in another way that we believe is reasonably likely to reach you, such as via e-mail if you have an Account (as defined in Section 2.1) or another manner through the Services (which may include posting an announcement on the Site or App). Elsa may require you to provide consent to the updated Agreement in a specified manner before further use of the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you must stop using the Services. Otherwise, your continued use of the Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE SERVICES TO VIEW THE THEN-CURRENT TERMS.

1. USE OF THE SERVICES.

1.1 The Services. The Services are designed to help patients (“**Patients**”) navigate their unique fertility journeys. Elsa helps medical providers, including independent physicians, which may include obstetrics or fertility clinicians (“**Providers**”) and care coordinators (“**Care Coordinators**”) deliver clinical and non-clinical care to Patients by streamlining the complex, egg-freezing process. Elsa centralizes educational materials and access to Patient care teams along with other ancillary services (e.g., egg bank coordination, prescription services, scheduling, billing). Elsa does not provide any professional health care services, and Elsa is not a medical professional or licensed clinical provider; rather through the Services, Elsa provides a technology platform that integrates your access to Provider Services (as defined below) and other non-clinical Care Coordinator Services.

1.2 Care Coordinator Services. Your Care Coordinator(s) will help you to understand the fertility preservation process by providing you with updates from your Provider, assisting with scheduling, ordering medications, and otherwise sharing important process-related information with you (“**Care Coordinator Services**”). You acknowledge that some Care Coordinator Services may be provided by a registered health care provider, who will identify his or herself as such, and other Care Coordinator Services may be non-clinical in nature and in such cases will be provided by non-licensed Care Coordinators. All communications with your Care Coordinator will be sent through a secure messaging platform (each message, a “**Secure Message**”). **Care Coordinator Services, including without limitation any communications you receive via a Secure Message, will not constitute professional medical, psychological, therapy, counseling, or other clinical advice, diagnosis, treatment, or recommendations or decisions of any kind by your Care Coordinator or Elsa.** To the extent any of our Care Coordinators maintain professional licensure (e.g., nursing licenses), they may not be acting in such capacity when providing Care Coordinator Services through our Services. Elsa does not make any representations or warranties about the training or skill of any Care Coordinator who provides information or communications via the Services. You acknowledge and agree that some information provided by Care Coordinators in connection with the Services is intended to be for general information purposes only and is in no way intended to create a provider-patient relationship as defined by applicable law. The Care Coordinator Services provided by Care Coordinators are not a substitute or replacement for any licensed clinical services.

1.3 Provider Services. Through the Services you may be able to schedule appointments with your Provider and otherwise interface with your Provider through telehealth video appointments through a third-party video platform (“**Telehealth Services**”) and you may discuss related laboratory or imaging results (collectively, “**Provider Services**”). No professional health care services other than Telehealth Services with your Provider or Secure Messages from your Provider or your Care Coordinator (acting in the capacity of a health care provider) are available through or in connection with the Services. If your Provider stops using the Services, we will provide you notice by email.

1.4 User Sole Responsibility for Medical Services. Your Provider or Care Coordinator may not have the benefit of information that would be obtained by examining you in person and observing your physical condition when such Provider issues advice or feedback through Telehealth Services, or when your Care Coordinator discusses your medical needs via a Secure Message. Your Provider or Care Coordinator may not be aware of facts or information that may affect your Provider’s or Care Coordinator’s opinions regarding potential treatment recommendations. For these reasons, Elsa strongly encourages you to provide all relevant information and discuss any and all diagnoses and treatment options with your health care team outside of the Services. By using the Services, including by participating in any Telehealth Services through the Services, you acknowledge and agree that you are aware of these limitations and agree to assume the risk of these limitations. Furthermore, you agree and accept that: (a) Telehealth Services and communications sent via Secure Messages are not intended to

replace a full medical evaluation or an in-person visit with a health care provider; and (b) your Provider or Care Coordinator communications via the Services may not have important information that is usually obtained through a “hands-on” physical examination. It is your responsibility to seek the advice of a physician or other qualified health care provider or professional for your medical needs. Under no circumstances can the Services replace medical services rendered by your in-person health care provider. You are responsible for selecting the Providers you engage with through the Services. You acknowledge that you have a direct relationship with your Provider(s) and Care Coordinator(s), and Elsa is not responsible for, and shall not be held liable for, their advice, any aspect of their treatment, or payment for services the Providers or Care Coordinators provide you and you are responsible for any payments that may be required. You acknowledge and agree that your Provider or Care Coordinator may not be licensed or legally permitted to practice medicine in all states or locations. If you or your Provider or Care Coordinator change locations, your care options in connection with the Services may change.

1.5 Telehealth Services Disclosures. Please note that while the Telehealth Services can improve the convenience and accessibility of communicating with Providers, there are potential risks associated with its use. These risks include, but may not be limited to:

- (a) Internet connectivity may not be sufficient to allow for appropriate communication with the Provider;
- (b) Individuals not in the session may view and/or hear your session information by eavesdropping, leading to breaches in confidentiality; and
- (c) Failures of the electronic equipment or video conferencing could cause delays in the session, evaluation or treatment.

Although we and our third-party partners incorporate network and software security protocols that are designed to protect the privacy and security of health information, in some instances, security protocols could fail, causing a breach of privacy of personal health information.

1.6 Consent for Telehealth Services. Telemedicine involves the delivery of professional health care services using electronic communications, information technology, or other means between health care provider and a patient who are not in the same physical location. Telemedicine may be used for providing information about patient laboratory test results and patient education, and the Telehealth Services may include, but are not limited to:

- (a) Electronic transmission of medical records, photo images, personal health information, or other data between a patient and health care provider;
- (b) Interactions between a Patient and Provider via audio, video, and/or data communications; and
- (c) The electronic systems used in the Telehealth Services will incorporate network and software security protocols to protect the privacy and security of health information and imaging data, and will include measures designed to safeguard the data to ensure its integrity against intentional or unintentional corruption.

1.7 Your Relationship with Elsa. You understand that by coordinating with your Care Coordinator or receiving Provider Services from your Provider through the Services, you are not entering into a provider-patient relationship with Elsa. By accepting the Agreement, you agree and consent to Elsa, that your Care Coordinator or Provider, and not Elsa, is sending you disclosures, notices, messages, reports, and other communications. It is your responsibility to monitor these communications. You acknowledge and agree that you will not hold Elsa or any Elsa affiliate liable for any loss, injury, or claim of any kind resulting from your failure to read these communications or

for your failure to comply with any treatment recommendations contained in communications from your Provider or Care Coordinator.

The services provided by each Provider or Care Coordinator is the sole responsibility of such Provider or Care Coordinator, respectively. Elsa makes no representations or warranties regarding Provider Services and Care Coordinator Services and disclaims any liability for such Provider Services and Care Coordinator Services.

1.8 Disclaimers for Provider Services and Care Coordinator Services. THE SECURE MESSAGING SERVICES AND TELEHEALTH SERVICES ARE NOT INTENDED FOR EMERGENT SITUATIONS AND YOUR HEALTHCARE PROVIDERS' INBOXES MAY NOT BE MONITORED REGULARLY. THE SERVICES ARE INTENDED TO HELP YOU NAVIGATE THE FERTILITY PRESERVATION PROCESS AND TO BETTER UNDERSTAND YOUR TREATMENT PLANS. YOU AGREE THAT ELSA HAS NO RESPONSIBILITY OR LIABILITY TO YOU RELATED TO ANY MEDICAL SERVICES RENDERED BY YOUR PROVIDER, OR ANY CARE COORDINATOR SERVICES BY YOUR CARE COORDINATOR(S). ANY TREATMENT OR MEDICAL ADVICE IS PROVIDED BY PROVIDERS, NOT BY ELSA, AND YOU ACCEPT SUCH SERVICES AT YOUR OWN RISK. NEITHER PROVIDERS NOR CARE COORDINATORS ARE EMPLOYEES, PARTNERS, REPRESENTATIVES, OR AGENTS OF ELSA. ELSA DOES NOT PERFORM MEDICAL SERVICES AND DOES NOT EMPLOY OR ENGAGE PROVIDERS TO PERFORM SUCH OBLIGATIONS. YOU HEREBY ACKNOWLEDGE THAT ELSA DOES NOT SUPERVISE, DIRECT, CONTROL OR ACCEPT ANY RESPONSIBILITY FOR MEDICAL SERVICES RENDERED BY YOUR PROVIDER(S) OR CARE COORDINATOR SERVICES RENDERED BY YOUR CARE COORDINATOR. THE SERVICES DO NOT PROVIDE MEDICAL DIAGNOSIS, ADVICE OR TREATMENT, AND THE SERVICES ARE NOT INTENDED TO DIAGNOSE, TREAT, CURE OR PREVENT ANY DISEASE. OUR SERVICES SHOULD NEVER BE USED FOR MEDICAL EMERGENCIES OR URGENT SITUATIONS OR INSTANCES WHERE SOMEONE MAY BE DANGER OR REQUIRE IMMEDIATE ASSISTANCE. IF YOU ARE EXPERIENCING ANY KIND OF EMERGENCY, YOU SHOULD CALL 9-1-1 IMMEDIATELY.

1.9 Rights to use the Services. The Services, and any parts thereof, are protected by copyright laws throughout the world. Subject to the Agreement, Elsa grants you the right to access and use the features and functionality of the Services. Unless otherwise specified by Elsa in a separate license, your right to use any part of the Services is subject to the Agreement. Elsa, its suppliers, and service providers reserve all rights not granted in the Agreement. Any unauthorized use of any part of the Services terminates the licenses granted by Elsa pursuant to the Agreement.

1.10 Application License. For any App made available as part of the Services, Elsa grants you, subject to your compliance with the Agreement, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the App on a single mobile device or computer that you own or control and to run such copy of the App solely for your own personal use. Furthermore, with respect to any App accessed through or downloaded from the Apple App Store (an "**App Store-Sourced Application**"), you will only use the App Store-Sourced Application: (a) on an Apple-branded product that runs the iOS (Apple's proprietary operating system); and (b) as permitted by the "Usage Rules" set forth in the Apple App Store Terms of Service. Notwithstanding the first sentence in this section, with respect to any App accessed through or downloaded from the Google Play store (a "**Google Play Sourced Application**"), you may have additional license rights with respect to use of the App on a shared basis within your designated family group.

1.11 Updates. You understand that the Services are evolving. You acknowledge and agree that Elsa may update the Services with or without notifying you. You may need to update third-party software from time to time in order to use the Services. Any future release, update or other addition to the Services shall be subject to the Agreement.

1.12 Certain Restrictions. By accessing and using the Services you agree that you will not, and will not permit any third party to: (a) license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services or any portion of the Services, including the App, or any content displayed thereon; (b) use any metatags or other "hidden text" using Elsa's name or trademarks; (c) frame or utilize framing techniques to enclose any trademark, logo, or other Elsa content (including images, text, page layout or form) of Elsa; (d) modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse-compile or reverse-engineer any part of the Services except to the extent the foregoing restrictions are expressly prohibited by applicable law;

(e) access or use the Services in order to build a similar or competitive website, product, or service; and (f) use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages or components of the Services (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from web pages in the Services for the sole purpose of and solely to the extent necessary for creating publicly-available searchable indices of the materials, but not caches or archives of such materials). All copyright and other proprietary notices on the Services (or on any content displayed on the Services) must be retained on all copies thereof.

1.13 No Support or Maintenance; Necessary Equipment. You acknowledge and agree that Elsa will have no obligation to provide you with any support or maintenance in connection with the Services. As between us and you, you are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing the Services.

1.14 Ownership. Excluding any User Content that you may provide (defined in Section 4.1 below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Services and its content are owned by Elsa or Elsa’s suppliers. Neither the Agreement (nor your access to the Services) transfers to you or any third party any rights, title or interest in or to such intellectual property rights, except for the limited access rights expressly set forth in Section 1. Elsa and its suppliers reserve all rights not granted in the Agreement. There are no implied licenses granted under the Agreement.

2. REGISTRATION AND ACCOUNTS.

2.1 Registration and Account Creation. In order to access and use certain features of the Services, you may need to register or create an account on the Services (“**Account**”) and provide certain information about yourself as prompted by the account registration form, including (but not limited to) your name, an e-mail address, photograph, and password. You agree to provide information required for your use of the Services that is, and to update such information so it remains, true, accurate, current and complete. Elsa reserves the right to establish eligibility criteria to use the Services, and in some cases, at our sole discretion, impose limitations or restrictions on certain Accounts including, but not limited to, deletion of Accounts.

2.2 Access via Third-Party Services. You may have the opportunity to access the Services through certain third-party services (e.g., third-party email providers and other social networking sites) (“**TPS**”) as part of the functionality of the Services. If you connect via a TPS, you may link your Account with a TPS, by allowing Elsa to access your TPS, as is permitted under the applicable terms and conditions that govern your use of each TPS. You represent that you are entitled to grant Elsa access to your TPS account (including, for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable TPS. By granting Elsa access to any TPS accounts, you understand that Elsa may access, make available and store (if applicable) any information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials accessible through the Services that you have provided to and stored in your TPS account (“**TPS Content**”) so that it is available on and through the Services. Unless otherwise specified in the Agreement, all TPS Content will be considered to be User Content (as defined below). Depending on the TPS account you choose and subject to the privacy settings that you have set in such TPS account, personally identifiable information that you post to your TPS account may be available on and through the Services. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY TPS ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND ELSA DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS. Elsa is not responsible for any TPS Content, including but not limited to, accuracy or legality of, or infringement by, the TPS Content.

2.3 Account Responsibilities. You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify Elsa of any unauthorized use, or suspected unauthorized use of your Account or any other

breach of security. You agree not to create an Account using a false identity or false information, or on behalf of someone other than yourself. You agree that you shall monitor your Account to restrict use by minors, and you will accept full responsibility for any unauthorized use of the Services by minors. Elsa cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

3. PAYMENT.

3.1 Payment Terms. You agree to pay all fees or charges owed to your Provider and set forth in your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable, and Elsa shall collect such fees on behalf of your Provider. You must provide a valid credit card (Visa, MasterCard, or any other issuer or method of payment accepted by us) or other method of payment (“**Payment Method**”), if you wish to make payment to your Provider through the Services. Your Payment Method agreement governs your use of the designated credit card, and you must refer to that agreement, not this Agreement, to determine your rights and liabilities. By providing your Payment Method and associated payment information to Stripe (as defined below), you agree that Elsa is authorized to immediately invoice your account for all fees and charges due and payable hereunder and that no additional notice or consent is required. You agree to update your Account in the event of any change in your billing address or the credit card account used for payment hereunder. Elsa reserves the right at any time to change its prices and billing methods, either immediately upon posting such changes to the Service or by e-mail delivery to you. Elsa uses Stripe (“**Stripe**”) as the third-party service provider for payment services (e.g., card acceptance, and related services). By making a payment to your Provider through the Services, you agree to be bound by the Stripe Privacy Policy: <https://stripe.com/privacy>, and hereby consent and authorize Elsa and Stripe to share any information and payment instructions you provide with third-party service provider(s) to the minimum extent required to complete your transactions. You also agree to be bound by Stripe’s Services Agreement: <https://stripe.com/legal>. All information that you provide to us or to Stripe must be accurate, current, and complete. By making a payment through the Services, you authorize Elsa via Stripe to charge your Payment Method in accordance with this Section 3, and you agree that Elsa is authorized to charge your Payment Method for all fees and charges due and payable hereunder and that no additional notice or consent is required. YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY PAYMENT METHOD USED TO PAY ANY AMOUNTS OWED IN CONNECTION WITH THE SERVICES.

3.2 Insurance. Certain Provider Services may be reimbursable under your health insurance plan whether government-sponsored or private, although reimbursement is solely up to the applicable plan or program. Elsa will have no liability in connection with your ability to secure reimbursement for any such Provider Services. Elsa is not an insurer, the Services are not insurance products, and the amounts you pay to Elsa are not insurance premiums. If you desire any type of health or other insurance, you will need to purchase such insurance separately. Furthermore, Elsa will not bill insurance on your behalf.

3.3 Disputes. If you have any requests for a refund, or if you think a correction should be made to any fees you incurred, please contact your Provider directly.

3.4 Taxes. The subtotal of Fees presented to you on the Service prior to making a payment may not include Sales Tax (defined below) that may be due in connection with such purchase. If Elsa determines it has a legal obligation to collect Sales Tax from you in connection with this Agreement, Elsa shall collect such Sales Tax in addition to the subtotal Fees, and the subtotal Fees and Sales Tax shall comprise the total Fees for any purchase. For purposes of this section, “**Sales Tax**” means any sales or use tax and any other tax measured by sales proceeds that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.

4. USER CONTENT.

4.1 User Content. “**User Content**” means any and all information and content that a user submits to, or uses with, the Services (e.g., User Content may include information you include in your profile). You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any

reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party. You hereby represent and warrant that your User Content does not violate Section 5. You further represent that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display your User Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in your User Content. You may not represent or imply to others that your User Content is in any way provided, sponsored or endorsed by Elsa. Because you are responsible for your User Content, you may expose yourself to liability if, for example, your User Content violates Section 5. Except as required by HIPAA or related state-specific privacy laws and regulations, Elsa is not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice. You are solely responsible for creating and maintaining your own backup copies of your User Content if you desire.

4.2 License. You hereby grant (and you represent and warrant that you have the right to grant) to Elsa an irrevocable, nonexclusive, royalty-free and fully-paid, worldwide license to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use and exploit your User Content, and to grant sublicenses of the foregoing rights, solely for the purposes of including your User Content in connection with the Services. You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Content.

4.3 Sharing your Health Information. You acknowledge and agree that your personal information, including test results, may be shared by and among the Provider(s) and Care Coordinator(s) involved in your fertility treatment journey, subject to your separate written authorization. For the avoidance of doubt, the terms of your separate written authorization will control and supersede these Terms with respect to the subject matter of such written authorization.

4.4 Enforcement. We reserve the right (but have no obligation) to review any User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate Section 5 or any other provision of the Agreement or otherwise create liability for us or any other person. Such action may include removing or modifying your User Content, terminating your Account in accordance with Section 12, and/or reporting you to law enforcement authorities.

4.5 Feedback. If you provide Elsa with any feedback or suggestions regarding the Services (“Feedback”), you hereby assign to Elsa all rights in such Feedback and agree that Elsa shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. Elsa will treat any Feedback you provide to Elsa as non-confidential and non-proprietary. You agree that you will not submit to Elsa any information or ideas that you consider to be confidential or proprietary.

5. ACCEPTABLE USE POLICY. You agree not to: (a) use the Services to upload, transmit, display, or distribute any User Content that (i) violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; or (ii) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party, or is otherwise objectionable; (b) upload, transmit, or distribute to or through the Services any computer viruses, worms, or any software intended to damage or alter a computer system or data; (c) send through the Services unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (d) abuse other users’ personal information that you receive through the Services, such as to harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (e) interfere with, disrupt, or create an undue burden on servers or networks connected to the Services, or violate the regulations, policies or procedures of such networks; (f) attempt to gain unauthorized access to the Services (or to other computer systems or networks connected to or used together with the Services), whether through password mining or any other means; (g) interfere with any other user’s use and enjoyment of the Services; (h) impersonate any person or

entity, including any employee or representative of Elsa; (i) record or screen-capture Content that is made available to you on the Services; (j) use or rely on the Services in an emergency situation; or (k) use software or automated agents or scripts to produce multiple accounts on the Services, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) the Services (*provided, however*, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Site for the sole purpose of and solely to the extent necessary for creating publicly-available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

6. ELSA COMMUNICATIONS.

6.1 E-mail. You may have the opportunity to provide us with your e-mail address. By providing your e-mail address to us, you consent to receive e-mail communications from Elsa. E-mail communications from Elsa may include communications about the Services and other offers.

6.2 SMS Messages. SMS. Elsa may offer one or more mobile message programs (collectively, the “**Message Service**”) that allow users to receive SMS/MMS mobile messages by opting-in such as through online or application-based enrollment forms. We do not charge for the Message Service, but you are responsible for all charges and fees associated with mobile messaging imposed by your wireless carrier and you acknowledge that your carrier may charge you or deduct usage credit from your account when you text us or we send messages to you. Message and data rates may apply. By enrolling a telephone number in the Message Service, you authorize us to send SMS and MMS mobile messages to the number you specify, and you represent that you are authorized to receive mobile messages at such number. The messages sent through the Message Service may include service-related updates such as notifications alerting you to an upcoming appointment with a Provider, and other communications to facilitate your access to our offerings. You agree that these messages may be transmitted using an automatic telephone dialing system (“**ATDS**”), other automated systems for the selection or dialing of telephone numbers, or different technology. Your consent to receive mobile messages via an ATDS or other automated system for the selection or dialing of numbers is not required (directly or indirectly) as a condition of purchasing any property, goods or services. While you consent to receive messages sent using an ATDS, the foregoing shall not be interpreted to suggest or imply that any or all of our messages are sent using such a system. Message frequency varies. If you do not wish to continue participating in a Message Service program we offer, reply with the keyword STOP to any mobile message you receive from that program to opt out. You may receive an additional mobile message confirming your decision to opt out. You acknowledge that our text message platform may not recognize and respond to unsubscribe requests that alter, change, or modify the STOP keyword command and you agree that that we and our service providers will have no liability for failing to honor such requests. To the extent you subscribe to more than one Message Service program that we operate, you must unsubscribe from each program separately. For Message Service support or assistance, text the HELP keyword in response to any message you receive through the Message Service. Please note that the use of this email address is not an acceptable method of opting out of the Message Service. We may change any short code or telephone number we use to operate the Message Service at any time with notice to you. You acknowledge that any messages, including any STOP or HELP requests, you send to a short code or telephone number we have changed may not be received and we are not responsible for honoring requests made in such messages. The Message Service may not be available in all areas or supported by all carriers or all devices. Check with your carrier for details. Delivery of mobile messages is subject to effective transmission from your wireless carrier/network operator and is outside of our control. We and the wireless carriers supported by the Message Service are not liable for any failed, delayed or undelivered messages. If you decide to change your mobile phone number, you agree to first opt out of each Message Service program in which your number is enrolled.

6.3 Push Notifications. By entering into this Agreement or using the App, you agree to receive push notifications from us. Such communications from us may include but are not limited to operational communications concerning your Account, appointment reminders, and notifications related to test results or Secure Messaging Services.

6.4 Electronic Communications. The communications between you and Elsa use electronic means, whether you use the Services or send us e-mails, or whether Elsa posts notices on the Services or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from Elsa in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Elsa provides to you electronically satisfy any legal requirement that such communications would satisfy if they were to be in a hardcopy writing. The foregoing does not affect your non-waivable rights, or your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq.

7. INDEMNIFICATION. You agree to indemnify and hold Elsa (and its officers, employees, and agents) harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Services, (b) your User Content, (c) your violation of the Agreement, or (d) your violation of applicable laws or regulations. Elsa reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Elsa. Elsa will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

8. THIRD-PARTY LINKS AND APPLICATIONS; OTHER USERS

8.1 Third-Party Links and Applications. The Services may contain links to third-party websites and services, and applications for third parties (collectively, "**Third-Party Links and Applications**"). Such Third-Party Links and Applications are not under the control of Elsa, and Elsa is not responsible for any Third-Party Links and Applications. Elsa provides access to these Third-Party Links and Applications only as a convenience to you, and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links and Applications. You use all Third-Party Links and Applications at your own risk, and should apply a suitable level of caution and discretion in doing so. When you click on any of the Third-Party Links and Applications, the applicable third-party's terms and policies apply, including the third-party's privacy and data-gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links and Applications.

8.2 Other Users. Each user of the Services is solely responsible for any and all of its own User Content. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content, whether provided by you or by others. We make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content. Your interactions with other users are solely between you and such users. You agree that Elsa will not be responsible for any loss or damage incurred as the result of any such interactions. If there is a dispute between you and any user of the Services, we are under no obligation to become involved. *Provided, however,* we reserve the right to intercede in such disputes at our sole discretion.

9. Release. You hereby release and forever discharge Elsa (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present, and future dispute, claim, controversy, demand, right, obligation, liability, action, and cause of action of every kind and nature (including personal injuries, death, and property damage) that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Services (including interactions with any other users of the Services or any Third-Party Links and Applications). If you are a California resident, you hereby waive California Civil Code 1542 in connection with the foregoing, which states, "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." The foregoing release does not apply to any claims, demands, or any losses, damages, rights, and actions of any kind, including personal injuries, death or property damage for any unconscionable commercial practice by Elsa or for fraud, deception, false, promise, misrepresentation or concealment, suppression, or omission of any material fact in connection with the Services.

10. DISCLAIMERS.

10.1 Generally. THE SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS AND NO GUARANTEES REGARDING OUTCOMES OR PERFORMANCE. WE HAVE NO LIABILITY FOR RESULTS IN

CONNECTION WITH THE SERVICES OR THE ACTIONS OR OMISSIONS OF ANY USER. ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE SERVICES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS THE SERVICES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT WHETHER PROVIDED BY ELSA OR ANOTHER USER OF THE SERVICES. ELSA (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE – INCLUDING WITHOUT LIMITATION HIGH-RISK ACTIVITIES, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SITE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

10.2 NOT MEDICAL SERVICES. THE SERVICES DO NOT PROVIDE MEDICAL DIAGNOSIS, ADVICE OR TREATMENT, AND THE SERVICES ARE NOT INTENDED TO DIAGNOSE, TREAT, CURE OR PREVENT ANY DISEASE. ELSA IS NOT A LICENSED HEALTH CARE PROVIDER, NOR DOES IT RENDER HEALTHCARE ADVICE OR SERVICES. YOU ARE SOLELY RESPONSIBLE FOR USING YOUR OWN JUDGEMENT IN ASSESSING THE VALIDITY AND USEFULNESS OF ANY RESULTS OR OTHER INFORMATION MADE AVAILABLE THROUGH THE SERVICES. THE USE OF INFORMATION PROVIDED THROUGH THE SERVICES IS SOLELY AT YOUR OWN RISK. YOU ACKNOWLEDGE THAT SOME OF THE CONTENT THAT IS PROVIDED THROUGH THE SERVICES MAY BE PROVIDED BY LICENSED CLINICIANS AND OTHER HEALTH CARE PROFESSIONALS, HOWEVER, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PROVISION OF SUCH INFORMATION DOES NOT CREATE A PROFESSIONAL/PATIENT RELATIONSHIP BETWEEN YOU AND ELSA.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

11. LIMITATION ON LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL ELSA (OR OUR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THE AGREEMENT OR YOUR USE OF, OR INABILITY TO USE, THE SERVICES OR ANY PART THEREOF, EVEN IF ELSA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SERVICES ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THE AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO FIFTY DOLLARS (\$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THE AGREEMENT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN ELSA AND YOU.

12. TERM AND TERMINATION.

12.1 Term. This Agreement commences on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use the Services or maintain an Account, unless terminated earlier in accordance with this Agreement.

12.2 Termination. Elsa has the right to suspend or terminate the function or existence of all or any part of the Services and/or your Account at any time, and without notice as it deems advisable, including where you violate this Agreement, as required by law, or due to security or welfare concerns. To the extent permitted by applicable law, Elsa shall not be liable to you or any third party(s) for any loss or damage that is caused by or arises from or in connection with any such suspensions or terminations. You may terminate this Agreement, your Account or your access to the Services at any time, for any reason by sending an email to: support@elsafertility.com.

12.3 Effect of Termination. Termination of your Account includes removal of access to the Services and barring of further use of the Services and also includes deletion of your password and all related information, files and data associated with or inside your Account (or any part thereof), including your User Content. Upon termination of your Account, your right to use the Services will automatically terminate immediately. You understand that any termination of your Account may involve deletion of User Content associated therewith from our live databases. All provisions of this Agreement which by their nature should survive, shall survive termination of your Account, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

13. ARBITRATION CLAUSE AND CLASS ACTION WAIVER . Please read the following arbitration agreement in this section (“Arbitration Agreement”) carefully. It requires that you and Elsa arbitrate disputes against each other.

13.1 Applicability of Arbitration Agreement. Subject to the terms of this Arbitration Agreement, you and Elsa agree that any dispute, claim, or disagreement arising out of or relating in any way to your access to or use of the Services, any communications you receive, any products sold or distributed through the Services, or the Terms, including claims and disputes that arose between us before the effective date of these Terms (each, a “Dispute”) will be resolved by binding arbitration, rather than in court, except that: (a) you and Elsa may assert claims or seek relief in small claims court if such claims qualify and remain in small claims court; and (b) you or Elsa may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). For purposes of this Arbitration Agreement, “Dispute” will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of the Terms as well as claims that may arise after the termination of these Terms.

13.2 Informal Dispute Resolution. There may be instances when a Dispute arises between you and Elsa. If that occurs, Elsa is committed to working with you to reach a reasonable resolution. You and Elsa agree that good-faith informal efforts to resolve Disputes can result in a prompt, low-cost and mutually-beneficial outcome. You and Elsa therefore agree that before either party commences arbitration against the other (or initiates an action in small claims court if a party so elects), we will personally meet and confer telephonically or via videoconference, in a good-faith effort to resolve informally any Dispute covered by this Arbitration Agreement (“Informal Dispute Resolution Conference”). If you are represented by counsel, your counsel may participate in the conference, but you also agree to participate in the conference.

The party initiating a Dispute must give notice to the other party in writing of its intent to initiate an Informal Dispute Resolution Conference (“Notice”), which Informal Dispute Resolution Conference must occur within forty-five (45) days after the other party receives such Notice, unless an extension is mutually agreed-upon by the parties in writing. Notice to Elsa that you intend to initiate an Informal Dispute Resolution Conference should be sent by e-mail to disputes@elsafertility.com or regular mail to our offices located at Elsa Fertility Incorporated: 680 Jane Stanford Way, Stanford, CA, 94305 Attn: Elsa Operations. The Notice must include: (a) your name, telephone number, mailing address, e-mail address associated with your account (if you have one); (b) the name, telephone number, mailing address and e-mail address of your counsel, if any; and (c) a description of your Dispute.

The Informal Dispute Resolution Conference will be individualized such that a separate conference must be held each time either party initiates a Dispute, even if the same law firm or group of law firms represents multiple users in similar cases, unless all parties agree; multiple individuals initiating a Dispute cannot participate in the same Informal Dispute Resolution Conference unless all parties agree. In the time between a party’s receiving the Notice and the Informal Dispute Resolution Conference, nothing in this Arbitration Agreement will prohibit the parties

from engaging in informal communications to resolve the initiating party's Dispute. Engaging in the Informal Dispute Resolution Conference is a condition precedent and requirement that must be fulfilled before commencing arbitration. The statute of limitations and any filing fee deadlines will be tolled while the parties engage in the Informal Dispute Resolution Conference process required by this section.

13.3 Waiver of Jury Trial. YOU AND ELSA HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Elsa are instead electing that all Disputes will be resolved by arbitration under this Arbitration Agreement, except as specified in the subsection titled "Applicability of Arbitration Agreement" above. There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

13.4 Waiver of Class and Other Non-Individualized Relief. YOU AND ELSA AGREE THAT, EXCEPT AS SPECIFIED IN SUBSECTION 13.9 (BATCH ARBITRATION), EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS, AND THE PARTIES HEREBY WAIVE ALL RIGHTS TO HAVE ANY DISPUTE BE BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED ON A CLASS, COLLECTIVE, REPRESENTATIVE, OR MASS ACTION BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND DISPUTES OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party's individual claim. Nothing in this paragraph is intended to, nor will it, affect the terms and conditions under the subsection 13.9 (Batch Arbitration). Notwithstanding anything to the contrary in this Arbitration Agreement, if a court decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this subsection, "Waiver of Class and Other Non-Individualized Relief," are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and Elsa agree that that particular claim or request for relief (and only that particular claim or request for relief) will be severed from the arbitration and may be litigated in the state or federal courts located in New York, New York. All other Disputes will be arbitrated or litigated in small claims court. This subsection does not prevent you or Elsa from participating in a class-wide settlement of claims.

13.5 Rules and Forum. These Terms evidence a transaction involving interstate commerce; and notwithstanding any other provision herein with respect to the applicable substantive law, the Federal Arbitration Act, 9 U.S.C. § 1 et seq., will govern the interpretation and enforcement of this Arbitration Agreement and any arbitration proceedings. If the Informal Dispute Resolution Process described above does not resolve satisfactorily within sixty (60) days after receipt of Notice, you and Elsa agree that either party shall have the right to finally resolve the Dispute through binding arbitration. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims, counterclaims, or request for relief under \$250,000, not inclusive of attorneys' fees and interest, will be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other disputes will be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. Your responsibility to pay any JAMS fees and costs will be solely as set forth in the applicable JAMS rules.

A party who wishes to initiate arbitration must provide the other party with a request for arbitration (the "Request"). The Request must include: (1) the name, telephone number, mailing address, e-mail address of the party seeking arbitration and the account username (if applicable) as well as the e-mail address associated with any applicable account; (2) a statement of the legal claims being asserted and the factual bases of those claims; (3) a description of the remedy sought and an accurate, good-faith calculation of the amount in controversy in United States Dollars; (4) a statement certifying completion of the Informal Dispute Resolution process as described above; and (5) evidence that the requesting party has paid any necessary filing fees in connection with such arbitration.

If the party requesting arbitration is represented by counsel, the Request will also include counsel's name, telephone number, mailing address, and e-mail address. Such counsel must also sign the Request. By signing the Request, counsel certifies to the best of counsel's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (1) the Request is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual and damages contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Unless you and Elsa otherwise agree, or the Batch Arbitration process discussed in subsection 13.9 (Batch Arbitration) is triggered, the arbitration will be conducted in the county where you reside. Subject to the applicable JAMS rules, the arbitrator may direct a limited and reasonable exchange of information between the parties, consistent with the expedited nature of the arbitration.

You and Elsa agree that all materials and documents exchanged during the arbitration proceedings will be kept confidential and will not be shared with anyone except the parties' attorneys, accountants, or business advisors, and then subject to the condition that they agree to keep all materials and documents exchanged during the arbitration proceedings confidential.

13.6 Arbitrator. The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of New York and will be selected by the parties from the JAMS roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within thirty-five (35) days of delivery of the Request, then JAMS will appoint the arbitrator in accordance with the applicable JAMS rules, *provided* that if the Batch Arbitration process under subsection 13.9 (Batch Arbitration) is triggered, JAMS will appoint the arbitrator for each batch.

13.7 Authority of Arbitrator. The arbitrator will have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement, except for the following: (a) all Disputes arising out of or relating to the subsection titled "Waiver of Class and Other Non-Individualized Relief," including any claim that all or part of the subsection titled "Waiver of Class and Other Non-Individualized Relief" is unenforceable, illegal, void or voidable, or that such subsection titled "Waiver of Class and Other Non-Individualized Relief" has been breached, will be decided by a court of competent jurisdiction and not by an arbitrator; (b) except as expressly contemplated in the subsection titled "Batch Arbitration," all Disputes about the payment of arbitration fees will be decided only by a court of competent jurisdiction and not by an arbitrator; (c) all Disputes about whether either party has satisfied any condition precedent to arbitration will be decided only by a court of competent jurisdiction and not by an arbitrator; and (d) all Disputes about which version of the Arbitration Agreement applies will be decided only by a court of competent jurisdiction and not by an arbitrator. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties, except as expressly provided in the subsection titled "Batch Arbitration." The arbitrator will have the authority to grant motions dispositive of all or part of any Dispute. The arbitrator will issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us. Judgment on the arbitration award may be entered in any court having jurisdiction.

13.8 Attorneys' Fees and Costs. The parties shall bear their own attorneys' fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the Request was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). If you or Elsa need to invoke the authority of a court of competent jurisdiction to compel arbitration, then the party that obtains an order compelling arbitration in such action shall have the right to collect from the other party its reasonable costs, necessary disbursements, and reasonable attorneys' fees incurred in securing an order compelling arbitration. The prevailing party in any court action relating to whether either party

has satisfied any condition precedent to arbitration, including the Informal Dispute Resolution Process, is entitled to recover its reasonable costs, necessary disbursements, and reasonable attorneys' fees and costs.

13.9 Batch Arbitration. To increase the efficiency of administration and resolution of arbitrations, you and Elsa agree that in the event that there are one hundred (100) or more individual Requests of a substantially similar nature filed against Elsa by or with the assistance of the same law firm, group of law firms, or organizations, within a thirty (30)-day period (or as soon as possible thereafter), JAMS will (a) administer the arbitration demands in batches of 100 Requests per batch (plus, to the extent there are less than 100 Requests left over after the batching described above, a final batch consisting of the remaining Requests); (b) appoint one arbitrator for each batch; and (c) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award ("**Batch Arbitration**").

13.10 All parties agree that Requests are of a "substantially similar nature" if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. To the extent the parties disagree on the application of the Batch Arbitration process, the disagreeing party shall advise JAMS, and JAMS will appoint a sole standing arbitrator to determine the applicability of the Batch Arbitration process ("**Administrative Arbitrator**"). In an effort to expedite resolution of any such dispute by the Administrative Arbitrator, the parties agree the Administrative Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator's fees will be paid by Elsa.

13.11 You and Elsa agree to cooperate in good faith with JAMS to implement the Batch Arbitration process including the payment of single filing and administrative fees for batches of Requests, as well as any steps to minimize the time and costs of arbitration, which may include: (1) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (2) the adoption of an expedited calendar of the arbitration proceedings. This Batch Arbitration provision will in no way be interpreted as authorizing a class, collective and/or mass arbitration or action of any kind, or arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision.

13.12 Thirty (30)-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: Elsa Fertility Incorporated: 680 Jane Stanford Way, Stanford, CA, 94305; Elsa Operations, within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, the e-mail address you used to set up your Elsa account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of these Terms of Service will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

13.13 Invalidity, Expiration. Except as provided in the subsection titled "Waiver of Class or Other Non-Individualized Relief," if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts will be of no force and effect and will be severed and the remainder of the Arbitration Agreement will continue in full force and effect. You further agree that any Dispute that you have with Elsa as detailed in this Arbitration Agreement must be initiated via arbitration within the applicable statute of limitation for that claim or controversy, or it will be forever time-barred. Likewise, you agree that all applicable statutes of limitation will apply to such arbitration in the same manner as those statutes of limitation would apply in the applicable court of competent jurisdiction.

13.14 Modification. Notwithstanding any provision in these Terms to the contrary, we agree that if Elsa makes any future material change to this Arbitration Agreement, it will notify you. Unless you reject the change within thirty (30) days of such change becoming effective by writing to Elsa at: 680 Jane Stanford Way, Stanford, CA, 94305 Attn: Elsa Operations, your continued use of the Services, including the acceptance of products and services offered on or through the Services, following the posting of changes to this Arbitration Agreement constitutes your acceptance of any such changes. Changes to this Arbitration Agreement do not provide you with a new opportunity

to opt out of the Arbitration Agreement if you have previously agreed to a version of these Terms and did not validly opt out of arbitration. If you reject any change or update to this Arbitration Agreement, and you were bound by an existing agreement to arbitrate Disputes arising out of or relating in any way to your access to or use of the Services, any communications you receive, any products sold or distributed through the Services or the Agreement, the provisions of this Arbitration Agreement as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms) remain in full force and effect. Elsa will continue to honor any valid opt-outs of the Arbitration Agreement that you made to a prior version of these Terms.

14. GENERAL.

14.1 App Stores. You acknowledge and agree that the availability of the Application and the Services is dependent on the third party from whom you received the Application license, *e.g.*, the Apple App Store or Google Play Store (an “**App Store**”). You acknowledge that the Agreement is between you and Elsa and not with the App Store. Elsa, not the App Store, is solely responsible for the Services, including the Application, the content thereof, maintenance, support services, and warranty therefore, and addressing any claims relating thereto (*e.g.*, product liability, legal compliance or intellectual property infringement). In order to use the Application, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with the Services, including the Application. You agree to comply with, and your license to use the Application is conditioned upon your compliance with, all terms of agreement imposed by the applicable App Store when using any Services, including the Application. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of the Agreement and will have the right to enforce it. You acknowledge that neither Apple nor Google (the “**App Provider**”) has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store-Sourced Application. In the event of any failure of the App Store-Sourced Application to conform to any applicable warranty, you may notify the App Provider, and the App Provider will refund the purchase price for the App Store-Sourced Application to you and to the maximum extent permitted by applicable law, the App Provider will have no other warranty obligation whatsoever with respect to the App Store-Sourced Application. As between Elsa and the App Provider, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Elsa. You and Elsa acknowledge that, as between Elsa and the App Provider, the App Provider is not responsible for addressing any claims you have or any claims of any third party relating to the App Store-Sourced Application or your possession and use of the App Store-Sourced Application, including, but not limited to: (a) product liability claims; (b) any claim that the App Store-Sourced Application fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation. You and Elsa acknowledge that, in the event of any third-party claim that the App Store-Sourced Application or your possession and use of that App Store-Sourced Application infringes that third-party’s intellectual property rights, as between Elsa and an App Provider, First Party, not the App Provider, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Agreement. Without limiting any other terms of the Agreement, you must comply with all applicable third-party terms of agreement when using the App Store-Sourced Application.

14.2 Assignment. The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Elsa’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. Elsa may assign or transfer any rights or obligations under this Agreement without your prior written consent as part of a corporate reorganization, or upon a change of control, consolidation, merger, sale of all or substantially all of its business or assets.

14.3 Force Majeure. Elsa shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor, or materials.

14.4 Governing Law. THE AGREEMENT AND ANY ACTION RELATED THERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF NEW YORK, CONSISTENT WITH THE FEDERAL

ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THIS AGREEMENT. To the extent the parties are permitted under the Agreement to initiate litigation in a court, both you and Elsa agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in New York, New York.

14.5 Notice. Where Elsa requires that you provide an e-mail address, you are responsible for providing Elsa with your most current e-mail address. In the event that the last e-mail address you provided to Elsa is not valid, or for any reason is not capable of delivering to you any notices required/permitted by the Agreement, Elsa's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Elsa at the following address: 680 Jane Stanford Way, Stanford, CA, 94305. Such notice shall be deemed given when received by Elsa by letter delivered by a nationally-recognized overnight delivery service or first-class postage prepaid mail at the above address.

14.6 Waiver. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

14.7 Severability. If any portion of the Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

14.8 International Users. The Site and other parts of the Services can be accessed from countries around the world and may contain references to services and content that are not available in your country. These references do not imply that Elsa intends to announce such services or content in your country. The Services are controlled and offered by Elsa from its facilities in the United States of America. Elsa makes no representations that the Services are appropriate or available for use in other locations. Those who access or use the Services from other countries do so at their own volition and are responsible for compliance with local law.

14.9 Export Control. The Services may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Elsa, or any products utilizing such data, in violation of the United States export laws or regulations.

14.10 Copyright/Trademark Information. Copyright © 2024, Elsa Fertility Incorporated All rights reserved. All trademarks, logos and service marks ("**Marks**") displayed on the Services are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks. All goodwill generated from the use of any Elsa Marks will inure to Elsa's benefit.

14.11 Questions, Complaints, Claims. If you have any questions, complaints or claims with respect to the Services, please contact us at the contact information below. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation. In addition, in accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting it in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

14.12 Entire Agreement. The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.

14.13 Contact Information:

Elsa Fertility Incorporated
680 Jane Stanford Way, Stanford, CA, 94305
support@elsafertility.com