



Colliga Apps Corporation  
Miami, Florida  
[www.colligaapps.com](http://www.colligaapps.com)

## RESEARCHER COLLIGA APPS LICENSE AGREEMENT

*Last Updated February 11, 2021*

This Colliga Apps Services Agreement for Researchers (“Researcher Terms”) govern your use of the Colliga Apps website, all Colliga Apps software products, and the services described in more detail below (collectively, the “Colliga Apps Services”) and is effective as of the date you indicate your acceptance or begin using the Colliga Apps Services.

Please read all these Researcher Terms carefully before using the Colliga Apps Services. By using the Colliga Apps Services you agree to be bound by these Researcher Terms and any applicable Research Study Plan (as defined herein), informed consent regulations and requirements, Participant Data use regulations, and our [Privacy Policy](#).

**BY SIGNING OR SELECTING THE “I AGREE” BUTTON AT THE END OF THIS AGREEMENT YOU AGREE TO BE BOUND AND TO BIND YOUR ORGANIZATION TO THIS AGREEMENT AS SET FORTH HEREIN. YOU REPRESENT AND WARRANT THAT YOU HAVE THE REQUISITE AUTHORITY AND LEGAL CAPACITY TO BIND YOUR ORGANIZATION TO THIS AGREEMENT. If you do not agree to these Researcher Terms, you should immediately cease all use of and access to the Colliga Apps Services.**

A link to a Portable Document Format (PDF) version of the policy can be found here:  
[https://colligaapps.com/wp-content/uploads/2021/02/privacy\\_policy.pdf](https://colligaapps.com/wp-content/uploads/2021/02/privacy_policy.pdf)

The Research Study Request, together with any schedules, exhibits and/or attachments agreed to by the parties (“Schedules”), the Privacy Policy, and these Researcher Terms (collectively, the “Agreement”) comprise the entire agreement of the parties with respect to the Colliga Apps Services and the relationship between the parties. In the event of any conflict between the documents, unless expressly stated otherwise, these Researcher Terms shall control the Research Study Request, and the Research Study Request shall control any Schedules.

## 1. Definitions

**1.1. Terms.** The terms “we”, “us” “our” and similar terms refer to Colliga Apps Corporation. The terms “you,” “your,” “Researcher,” and similar terms refer to you. “Participant” refers to third party research participants that may use the Colliga Apps Services or Colliga App. Capitalized terms used but not otherwise defined in this Agreement have the following meanings:

“Colliga Apps Services” refers to the Colliga Research web application, Colliga Research iOS and Android mobile application, and associated technologies used to build research studies and collect data from research participants and all enhancements and features identified on the Colliga Apps invoice.

“Confidential Information” has the meaning set forth in Section 7.

“Critical Error(s)” means a failure of Colliga Apps Services that severely impacts Researcher’s ability to use Colliga Apps Services in substantial conformity with applicable description of the services as set forth on the Colliga Apps website that cannot be temporarily eliminated through the use of a “work around.” “Work around” means a procedure by which a Researcher can avoid or substantially mitigate a problem with the Colliga Apps Services.

“Force Majeure Events” shall include, without limitation, strikes or other labor problems; fire, flood, earthquake, weather conditions, or other similar event; civil unrest, acts of terror, governmental acts or orders or restrictions; failure of suppliers; acts of God; changes in law, regulation or government policy; Internet disruption; riots, acts of a public enemy, or war; pandemics, epidemics, acts or omissions of vendors or suppliers; equipment failures; transportation difficulties; malicious or criminal acts of third parties; or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

“Intellectual Property Rights” means any and all rights arising in any **(i)** patents, patent disclosures and inventions (whether patentable or not), **(ii)** trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, **(iii)** copyrights and copyrightable works in works of authorship and computer programs, including Software, and rights in data and databases, **(iv)** trade secrets, know-how, technology, and other confidential information, **(v)** any of Colliga Apps’ technology; **(vi)** any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Researcher or any other party relating to the foregoing and **(vii)** all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world therein.

“Personally Identifiable Information” means any individually identifiable information from or about a natural person who can be identified from that information, or information, when associated with

other information, including, but not limited to **(i)** first and last name; **(ii)** a home address or other physical address, including street name and name of city or town; **(iii)** an email address or other online contact information (e.g., instant messaging user identifier); **(iv)** a telephone number; **(v)** a social security number or other government-issued personal identifier such as a tax identification number; **(vi)** an Internet Protocol address; **(vii)** Protected Health Information; and **(viii)** any other information that is combined with any of the above.

“Participant Data” means all research participant user data and other information, including but not limited to all of the data set forth in the [Privacy Policy](#) about participants, such as account data, personal data, study data, and including any Personally Identifiable Information and/or Protected Health Information of research participants.

“Protected Health Information” shall have the meaning ascribed to it under the US Health Insurance Portability and Accountability Act (“HIPAA”).

“Researcher” means you, the party accessing the Colliga Apps Services.

“Research Study Plan” means the procedures, methodology and criteria for the research to be carried out by Researcher using the Colliga Apps Services.

“Software” means software included in Colliga Apps Services, including any third-party software linked or embedded in the Software, together with all subsequent Colliga Apps-authorized updates, replacements, modifications, new releases or enhancements.

“Term” has the meaning specified in Section 6.

## **2. Colliga Apps Services**

**2.1. Access.** During the Term, for the fees and on the terms and conditions set forth herein and otherwise in the Agreement, Colliga Apps will make available to Researcher access to the Colliga Apps Services, solely for Researcher’s non-commercial, educational, research purposes, with the exact applications and services to be provided to Researcher set forth in the Research Study Request. Software provided through the Colliga Apps Services may be accessible through the Internet through Colliga Apps-approved web browsers and restricted by login access by authorized users using valid access credentials, and/or through a downloadable application Software (each, a “Colliga App”). If applicable, Colliga Apps hereby grants Researcher a limited, non-transferable, non-assignable license to download, access and use the Colliga App. Your access to the Colliga Apps Services is for internal research, internal operations and internal educational purposes only, which research, operational or educational uses are to be conducted by you in a manner consistent with your tax-exempt status and may include research funded by commercial organizations, but shall not include use of the Colliga App as the basis for providing a contract or

other services to any entity. FOR THE AVOIDANCE OF DOUBT, YOU UNDERSTAND AND AGREE THAT NEITHER THE COLLIGA APPS SERVICES, THE COLLIGA APP, NOR ANY DERIVATIVE WORKS MAY BE DISTRIBUTED TO OR SHARED WITH ANY THIRD PARTY FOR ANY PURPOSE.

**2.2.** Modification. Colliga Apps reserves the right to modify Colliga Apps Services from time to time in its sole discretion.

**2.3.** Security. Researcher is solely responsible to ensure that the Researcher's systems and its operations meet the applicable requirements for HIPAA and other data security obligations. Researcher shall take all reasonable safeguards to ensure that access to the Colliga Apps Services is limited and that unauthorized personnel are not able to access Participant Data.

**2.4.** Setup for Colliga Apps Services.

**2.4.1.** Initial Activation. Following a Research Study Request, Colliga Apps will work with Researcher as necessary for Researcher to access Colliga Apps Services. This will include any study set up and consultation, customization, any import of Participant Data, and establishment of appropriate access credentials for Researcher's authorized users, if any.

**2.4.2.** Fixing Errors During Initial Activation. In the event that Researcher gives notice to Colliga Apps of any Critical Errors, Colliga Apps shall use its commercially reasonable efforts to address to such conditions within thirty (30) days from the date of receipt of Researcher's notification. If the Researcher reported Critical Errors are not satisfied within this thirty (30) day period, the Researcher will notify Colliga Apps, in writing, within five (5) business days following the end of the thirty (30) day period, and state either Researcher's acceptance of the Colliga Apps Services, Researcher's desire to extend the period for resolving the condition, or Researcher's intent to terminate the Agreement without penalty or further financial obligation. Failure to notify Colliga Apps in writing within five (5) business days following the end of the thirty (30) day period or use of the Colliga Apps Services by the Researcher in its normal business operations following the end of the thirty (30) day period will constitute acceptance of the Colliga Apps Services.

**2.5.** Downtime. Colliga Apps and Researcher acknowledge the periodic need to maintain, upgrade, change and/or provide enhancements to the Colliga Apps Services to meet the changing needs of Colliga Apps' Researchers may result in limited downtime. Colliga Apps may perform these maintenance, upgrades and/or enhancements in its sole discretion, with or without notice to Researchers.

### **3. Researcher Responsibilities**

#### **3.1. Researcher Roles. Researcher acknowledges and agrees to the following:**

- 3.1.1.** Researcher must provide accurate contact information to be posted along with all research studies they conduct using Colliga Apps Services.
- 3.1.2.** Researcher agrees to accurately represent the procedures and goals of their studies. In addition to obtaining all necessary approvals from any appropriate institutions and institutional review board, Researcher agrees to notify Colliga Apps of deception involved in any study designs, at the time the study is submitted for Colliga Apps review.
- 3.1.3.** Researcher acknowledges that all studies are subject to review and final approval by Colliga Apps. Colliga Apps reserves the right to reject a study and/or request revisions for any reason, or terminate any study in process. However, Colliga Apps' approval is not based on a complete review of research practices and does not constitute endorsement of a study. Researchers still hold ultimate responsibility for their study design and ethical compliance.
- 3.1.4.** Researchers agree to collect Participant Data from Participants only using Colliga Apps Services. Researchers may not contact or communicate with Participants outside of Colliga App Services to collect Participant Data. Researchers agree to collect and use Participant Data strictly in accordance with the specifications set forth in any Research Study Plan.
- 3.1.5.** Except as expressly set forth in this Agreement, all regulatory and administrative matters related in any way to the Researcher, its research, its Research Study Request, and its research communications, and the compliance with applicable law, are the sole responsibility of Researcher, and Colliga Apps has no liability therefore.

#### **3.2. THE INFORMED CONSENT PROCESS**

**RESEARCHER ACKNOWLEDGES AND AGREES THAT MUST AND IS SOLELY RESPONSIBLE FOR OBTAINING THE INFORMED CONSENT FROM ALL PARTICIPANTS IN ANY RESEARCH STUDY. RESEARCHER ACKNOWLEDGES AND AGREES THAT RESEARCHER WILL COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS CONCERNING THE INFORMED CONSENT PROCESS.** Researcher is solely responsible for, and shall, present to Participants information sufficient to enable persons to voluntarily decide whether or not to participate as a research subject.

Researcher's informed consent process must be a dialogue of the study's purpose, duration, procedures, alternatives, risks, and benefits. The process of consenting is ongoing and must be made clear to the Participant that it is his or her right to "withdraw" or "opt-out" of the study at any time, not just at the initial signing of paperwork.

Participant must also be fully informed in writing of all Participant Data collected, accessed, and reviewed by Researcher and Researcher's authorized users, and how, precisely, Researcher intends collect, access, use, and store Participant Data.

Researcher expressly agrees to comply with regulations for the protection of human subjects, the Health Insurance Portability and Accountability Act (HIPAA), and the California Experimental Research Subject's Bill of Rights, if applicable.

**Failure to comply with these regulations, any other applicable regulations, or any Researcher responsibility identified above, will result in the immediate termination by Colliga Apps of any research study not in compliance, without notice to Researcher.**

**3.3. General Obligations.** During the Term, Researcher shall:

- a)** Provide Colliga Apps with all information and assistance that Colliga Apps may reasonably require to provide Colliga Apps Services to Researcher, and Researcher will make timely decisions and obtain required IRB or other institutional approvals with respect to the research study to be provided under this Agreement;
- b)** Be responsible for all activities that occur under any use of Colliga Apps Services through the Researcher's or its authorized user's access credentials;
- c)** Have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Researcher research studies and Participant Data;
- d)** Use commercially reasonable efforts to prevent unauthorized control or tampering or any other unauthorized access to, or use of, Colliga Apps Services and notify Colliga Apps immediately upon Researcher becoming aware of any unauthorized use or security breach;
- e)** Comply with all applicable local, state, federal, and foreign laws (including laws regarding privacy and protection of personal, health, medical, or consumer information) in using Colliga Apps Services;
- f)** Obtain and maintain all computer hardware, software and communications equipment, including appropriate Internet connectivity and broadband, needed to access Colliga Apps Services, as applicable; and
- g)** Implement and maintain backup, security and business continuity measures to maintain the security and integrity of the Participant Data, and other data and materials that are within the control of Researcher or that reside within the Researcher's systems.

- 3.4. Researcher Software.** In the event Researcher implements or uses any of its own software in connection with Colliga Apps Services, such software must be approved by Colliga Apps for use with Colliga Apps Services.
- 3.5. Use of Colliga Apps Services.** Researcher agrees to use Colliga Apps Services only for the non-commercial, educational and research purposes expressly described herein. **Under no circumstances may Researcher collect and sell, lease or otherwise make Participant Data commercially available to any third parties.** Researcher also agrees not to access or attempt to access Colliga Apps Services by means other than through the interfaces supported or provided by Colliga Apps and through web browsers that are approved by Colliga Apps. Researcher will be provided access credentials for all authorized users. All authorized users will be employees or consultants/independent contractors of Researcher. Researcher shall not knowingly engage in any activity that interferes with or disrupts Colliga Apps Services (or the servers and networks connected to Colliga Apps Services). Researcher shall not reproduce, duplicate, copy, sell, trade or resell any of the components or services associated with Colliga Apps Services. Researcher may not grant, sublicense, lease or otherwise assign usage rights to Colliga Apps Services and may not modify, commercialize or create derivative works based, in whole or in part, on the Software and/or its contents.
- 3.6. Access Credentials.** Researcher must obtain from Colliga Apps appropriate access credentials for each authorized user that will access Colliga Apps Services. Researcher acknowledges and agrees that Researcher is responsible for maintaining the confidentiality of access credentials associated with Researcher's access to Colliga Apps Services. Researcher shall be solely responsible to Colliga Apps for all activities that occur under Researcher's account or related access credentials. Researcher will not: **(i)** transmit or share any access credentials to persons other than authorized users **(ii)** permit the access credentials to be cached in proxy servers and accessed by individuals who are not authorized users, or **(iii)** permit access to the Services through a single access credential being made available to multiple users on a network.
- 3.7. Activities.** In using Colliga Apps Services, Researcher will not, and will not permit any of its authorized users to: **(a)** send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; **(b)** send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; **(c)** send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; **(d)** interfere with or disrupt the integrity or performance of the Services or the data contained therein; or **(e)** attempt to gain unauthorized access to the Services or its related systems or networks.

**3.8. No Agency.** In providing Colliga Apps Services under this Agreement, Colliga Apps shall act solely as an independent contractor and the relationship between Colliga Apps and Researcher under this Agreement will be that of independent contractors. Neither party is the legal representative, agent, joint venture, partner, employee, or employer of the other party under this Agreement for any purpose whatsoever. Neither party has any right, power, or authority under this Agreement to assume or create any obligation of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or to bind the other party in any respect. Colliga Apps will have at all times during the Term full control over the engagement, employment, direction, compensation and discharge of all personnel providing and assisting in providing, rendering, developing and accomplishing the Services and Colliga Apps' obligations under this Agreement. Colliga Apps is solely responsible for all matters relating to payment of such personnel, including wages, income tax withholding, fees, expenses, benefits, compliance with workers' compensation, unemployment and disability insurance, Social Security withholding, and all other federal, state and local laws, rules, codes and regulations governing such matters.

**3.9. Force Majeure.** Neither party shall be deemed to be in default of any provision of this Agreement or be liable for any delay or failure in performance, except for the obligation to make payments, due to a Force Majeure Event, provided, however, that if any such Force Majeure Event lasts more than 30 consecutive days, the party affected by the other's delay or inability to perform may elect at its sole discretion to terminate this Agreement.

#### **4. Pricing and Payment**

**4.1. General.** In consideration of the Colliga Apps Services to be provided by Colliga Apps under this Agreement, the Researcher agrees to pay the fees specified on the Colliga Apps website and updated from time to time.

#### **5. Representations and Warranties**

**5.1. Representations, Warranties, and Covenants of the Parties.** Researcher and Colliga Apps each hereby represents and warrants to the other party as follows:

**5.1.1 Valid and Binding.** This Agreement is the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms. The party is not bound by any other contract or agreement that conflicts with or would prevent full performance of this Agreement.

**5.1.2 Compliance with Laws.** It will comply with all laws, rules, regulations, ordinances, and codes that are applicable to its obligations under this Agreement, including, without limitation,



any laws and the regulations promulgated with respect thereto regarding the security, integrity and privacy of nonpublic personal information.

**5.1.3** Any and all warranties shall be void as to any part of Colliga Apps Services damaged or rendered unserviceable by: **(a)** the acts or omissions of non-Colliga Apps personnel except when Colliga Apps instructs or requires Researcher to perform any modifications with respect thereto; **(b)** misuse by Researcher, its employees or agents, **(c)** theft, vandalism, fire, water, or other peril; or **(d)** moving, relocation, alterations, or additions not performed in accordance with this Agreement.

**5.1.4** The Internet. The Researcher is responsible for obtaining its own broadband Internet connectivity to access the Software and certain of the Services. The Researcher acknowledges and agrees that Colliga Apps does not operate or control the Internet or activities on the Internet and that **(i)** viruses, worms, Trojan Horses, or other undesirable data or software; or **(ii)** unauthorized users (e.g. hackers), may attempt to obtain access to the Researcher's or its patients' data, website(s), computers, or networks and that data may be destroyed by such attacks and the Services may be interrupted or compromised.

**5.1.5** DISCLAIMER. COLLIGA APPS FURNISHES THE ABOVE WARRANTIES IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS OTHERWISE STATED IN THIS AGREEMENT, COLLIGA APPS MAKES NO REPRESENTATIONS, WARRANTIES OR AGREEMENTS WITH RESPECT TO THE SERVICES, AND COLLIGA APPS SPECIFICALLY DISCLAIMS AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **6. Term and Termination**

**6.1.** Term. The initial term of this Agreement shall be 24 months after your account activation (the "Initial Term"). Thereafter this Agreement will automatically renew for consecutive two-year renewal periods (each, a "Renewal Term") unless either party provides written notice of non-renewal at least ninety (90) days prior to expiration of the then-current term (the Initial Term and any Renewal Terms are collectively referred to as the "Term"). Notwithstanding the foregoing, the Term may re-commence or be extended if Researcher submits, and Colliga Apps accepts, a new Research Study Request.

- 6.2. Termination. For Breach.** In the event that Researcher shall be in breach or default of any of the terms, representations, warranties, covenants, or obligations contained in this Agreement, then in addition to all other rights and remedies of law or equity or otherwise, Colliga Apps shall have the right to terminate this Agreement immediately without notice.
- 6.3. Transition upon Termination or Expiration.** Upon the expiration or earlier termination of this Agreement, except as otherwise provided in this Agreement, at a Researcher's reasonable request, for a period of up to 30 days following the expiration or earlier termination of this Agreement (the "Transition Period"), Colliga Apps shall cooperate with Researcher and permit Researcher to retrieve (via download, in an industry standard format if reasonably possible) any de-identified Participant Data (to the extent available) then in Colliga Apps' possession. Upon termination of this Agreement as a result of a default by Colliga Apps, Colliga Apps agrees to convert Participant Data into a machine readable, non-proprietary format within a reasonable time period at no cost to Researcher upon Researcher's request. Upon the expiration of the Term or upon termination of this Agreement as a result of a default by Researcher or by Researcher for convenience, Colliga Apps shall convert the Participant Data as described above, and Researcher shall reimburse Colliga Apps for all time and expense involved. Colliga Apps shall not be obligated to provide the Participant Data to Researcher until all amounts due under the Agreement have been paid. This Agreement will continue to govern all Services during the Transition Period, except that in no event will Researcher have any continuing right to use any Software or Colliga Apps Services after the effective date of termination of this Agreement.

## **7. Confidential Information; Data Ownership and Use**

- 7.1. Definitions; Exclusions.** As used in this Agreement, the term "Confidential Information" means any and all proprietary non-public information, knowledge, data, and all other content and materials belonging to either party hereto and disclosed or provided to the other party either directly or indirectly in any manner whatsoever (including, without limitation, in writing, orally, electronically, in all types of hard drives, disks, diskettes, computer memory or storage, or other media, or by drawings or inspection of physical items, and whether or not modified or merged into other materials), in connection with either party's business or this Agreement, including, without limitation, any non-public information related to any of the following: **(a)** technical, business, financial and marketing information, including, without limitation, trade secrets, patents, patent applications, copyrights, know-how, processes, ideas, inventions (whether patentable or not), formulas, computer programs, software, firmware, databases, technical drawings, designs, algorithms, technology, circuits, layouts, interfaces, materials, schematics, names and expertise of employees and consultants, any other technical, business, financial, customer and product development plans, supplier information, forecasts, strategies and other confidential information; **(b)** third party confidential information to the extent it is identified as "Confidential Information,"

which is expressly understood to include Participant Data; **(c)** the Colliga Apps Services; **(d)** the terms and conditions of this Agreement; **(e)** all Personally Identifiable Information related to any employees, consultants, subcontractors, customers or other individuals, including, but not limited to, names, addresses, e-mail addresses, social security numbers, etc.; and **(f)** all reports, analyses, compilations, studies, or other documents prepared by either party or its Representatives which contain or otherwise reflect any Confidential Information of the other party. For purposes of this Section, the term “Representatives” of a party means any and all officers, directors, employees, consultants, contractors, agents, attorneys, accountants, financial advisors, and other representatives of such party. Confidential Information does not include information that the receiving party can document: **(i)** is or becomes (through no improper action or inaction by the receiving party or any affiliate, agent, consultant or employee) generally available to the public; **(ii)** was in its possession or properly known by it, without restriction, prior to receipt from the disclosing party; **(iii)** was rightfully disclosed to it by a third party without restriction; or **(iv)** is independently developed by the receiving party subsequent to such disclosure, by employees without access to, or use of, the disclosing party’s Confidential Information.

**7.2. Restrictions on Use of Confidential Information.** Except to the extent necessary in order to perform its obligations under this Agreement and subject to the terms of this Agreement, each party agrees that it shall during the Term and thereafter: **(a)** hold in strict confidence all Confidential Information belonging to the other party; **(b)** use the Confidential Information solely to perform under this Agreement; and **(c)** not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any person or entity other than to its Representatives who need to know such Confidential Information and who are under confidentiality obligations at least as restrictive as the terms in this Agreement. The receiving party is solely responsible for the handling and treatment of the Confidential Information of the disclosing party by the Representatives of the receiving party. Each party shall use the same degree of care to protect the disclosing party’s Confidential Information as it uses to protect its own Confidential Information of like nature, but under no circumstances less than reasonable care. Without limiting the generality of the foregoing, to the extent that this Agreement permits the copying of Confidential Information, all such copies shall bear the same confidentiality notices, legends, and Intellectual Property Rights designations that appear in the original versions.

**7.3. Compelled Disclosures.** Notwithstanding the foregoing, the receiving party may disclose Confidential Information of the other party in response to a valid court order, subpoena, law, rule, regulation (including, without limitation, any federal or state securities laws or any securities exchange regulation), or other governmental action, provided that: **(a)** to the extent permitted by applicable law or regulation, the receiving party notifies the disclosing party prior to disclosure of the information; **(b)** the receiving party reasonably cooperates with the disclosing party, at the disclosing party’s expense, in any attempt by the disclosing party to limit or prevent the disclosure

of the Confidential Information; and **(c)** in the absence of a protective order, the receiving party discloses only that portion of the Confidential Information it is advised by its counsel that it is legally required or compelled to disclose, and the receiving party uses its best efforts to ensure that confidential treatment will be accorded the Confidential Information so disclosed.

**7.4. Remedies upon Breach.** Each party agrees that the other party may have no adequate remedy at law if there is a breach or threatened breach of this Section 7 and, accordingly, that either party is entitled to seek injunctive or other equitable relief to prevent or remedy such breach or threatened breach in addition to any other legal or equitable remedies available to such party without posting any performance bond.

**7.5. Return or Destruction.** Upon the termination or expiration of this Agreement or upon the written request of the disclosing party, the receiving party shall **(a)** at its own expense, **(i)** promptly return to the disclosing party all Confidential Information that is in tangible form (and all copies thereof) that is the property of the disclosing party or that contains any Confidential Information of the disclosing party (collectively, the “Material Information”), or **(ii)** upon the written request of the disclosing party, destroy the Material Information and provide the disclosing party with written confirmation of such destruction; and **(iii)** cease all further use of any Material Information, whether in tangible or intangible form.

**7.6. Participant Data.** To the extent that Researcher accesses Participant Data while using the Colliga Apps Services, Researcher agrees as follows: **(a)** it shall only provide such Participant Data to its personnel with a need to access such information as part of their performance of duties directly related to this Agreement; **(b)** it shall use generally accepted industry standard to secure and store such Participant Data in accordance with applicable law, regulations, and other privacy obligations; **(c)** it shall promptly notify Colliga Apps of any unauthorized access to Participant Data as soon as it becomes aware of such incident.

**7.7. HIPAA Compliance.** To the extent Researcher and Colliga Apps are required to comply with the requirements of HIPAA, in the performance of this Agreement, Colliga Apps and Researcher agree to negotiate a business associate agreement with respect to the treatment of Protected Health Information. If any provision hereof is potentially or actually in conflict with the provisions of the Business Associate Agreement with respect to the treatment of Protected Health Information, the terms of the Business Associate Agreement shall prevail.

## **8. Intellectual Property**

**8.1. Ownership.** Researcher acknowledges and agrees that all right, title and interest, including, without limitation, any and all Intellectual Property Rights, in and to: **(i)** Colliga Apps Services,

including any Software and applications, enhancements, new versions, modifications and derivative works thereof, **(ii)** Colliga Apps websites; **(iii)** Intellectual Property Rights in and relating thereto, and **(iv)** documentation, creations, ideas and works related to Colliga Apps Services are the sole and exclusive property of Colliga Apps and except for the license, which shall terminate when this Agreement terminates, Researcher acquires no right or interest in such property. All rights not specifically granted in this Agreement are reserved by Colliga Apps.

**8.2.** All Software in whatever form, including apps and any computer programs and any documentation for use of the Software or Colliga Apps Services, are furnished to Researcher only under a personal, non-exclusive, non-transferable, non-assignable license solely for Researcher's own non-commercial use. All of the Software is and shall remain the exclusive and confidential property of Colliga Apps or third parties from whom Colliga Apps has secured the right to use the same. This Agreement is not a sale and does not convey to Researcher any rights of ownership in or related to the Intellectual Property Rights of Colliga Apps in Colliga Apps Services, or any Participant Data. Researcher shall not: **(i)** rent, loan, sublicense or otherwise transfer or assign, in whole or in part, its right to use Colliga Apps Services as a service bureau or in a time-sharing environment to process information or data of any third party; **(ii)** create Internet "links" to Colliga Apps Services or "frame" or "mirror" any of Colliga Apps' content on any other server; or **(iii)** reverse engineer, de-compile, attempt to derive source code (or underlying ideas, algorithms, structure or organization), modify in any way, or create derivative works from the Colliga Apps Services, or any portions thereof in order to **(X)** build a competitive product or service, **(Y)** build a product using similar ideas, features, functions or graphics of Colliga Apps Services or Software; or **(Z)** copy any ideas, features, functions or graphics of Colliga Apps Services.

**8.3.** Participant Data; Research Study Data; Limited License. Colliga Apps shall have, and Researcher hereby grants Colliga Apps, the right to use the research study data for statistical purposes in an aggregated and de-identified manner consistent with HIPAA and other privacy regulations. Notwithstanding any other provision, Colliga Apps agrees that it shall have access to, use and maintain any data referred to in this Section only in accordance with applicable law.

**8.4.** Identifying Information. Any logo, program names, trademarks, service marks, documentation, and other support materials that are covered under this Agreement or otherwise provided by one party to the other are either copyrighted, trademarked, or are held as proprietary by the providing party. The receiving party agrees not to remove any such notices and product identification and additionally agrees to take all action necessary to protect the providing party's rights thereto.

## **9. Dispute Resolution**

- 9.1. Process.** The parties hereto agree that prior to submitting any and all claims to litigation, arbitration or any other form of binding dispute resolution, the parties will submit such claims to non-binding mediation and that they shall engage in a good faith effort to mediate the dispute. Any mediator shall have no prior or current relationship or affiliation with either party (other than serving as mediator in prior disputes involving a party), and shall be a person who mediates disputes on a routine basis. If the parties are unable to agree on a mediator, they shall each select a mediator and those two mediators shall select the mediator. Both parties agree that all mediation will be held in Miami-Dade County, Florida. In the event the parties are unable to resolve the dispute through mediation in which the resolution determines the party responsible for the costs of the mediator, the parties shall share equally the cost and expenses of the mediator.
- 9.2. Enforcement Costs.** If legal action is commenced by either party to enforce or defend its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in enforcing its rights under this Agreement in addition to any other relief granted for such breach.

## **10. Indemnification.**

- 10.1. By Researcher.** Researcher shall defend, indemnify and hold harmless Colliga Apps and its affiliates, subsidiaries, officers, directors, employees and agents against any threats, claims, suits or actions brought by a third party against Colliga Apps arising from or related, directly or indirectly, to the third party's use of Colliga Apps Services in connection with or relating to Researcher or Researcher's research stud(ies), provided that Colliga Apps: **(i)** promptly informs and furnishes Researcher with a copy of such threat, claim, suit or action (but the delay or failure to notify shall not affect Researcher's obligation to provide indemnification unless Researcher is unduly prejudiced by such failure or delay); **(ii)** gives Researcher all relevant evidence in Colliga Apps' possession or custody or under its control; and **(iii)** gives Researcher reasonable assistance in such claim, suit or action, and, for a claim for monetary damages only, the sole control of the defense thereof and all negotiations for its compromise or settlement. Notwithstanding the foregoing, Researcher shall not enter into any settlement that affects Colliga Apps' rights or interest without Colliga Apps' prior written consent. Colliga Apps has the right to participate in the defense at Colliga Apps' own expense. **For the avoidance of doubt, "third parties" herein shall be understood to specifically include Participants, and more specifically Participants or potential or past Participants in Researcher's research studies.**

## **11. LIMITATION OF LIABILITY.**

THE COLLIGA APPS SERVICES ARE PROVIDED TO YOU ON AN "AS IS", "AS AVAILABLE" BASIS. THE INFORMATION, SOFTWARE AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE

COLLIGA APPS SERVICES MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY MADE TO THE INFORMATION HEREIN. WE MAY MAKE IMPROVEMENTS AND/OR CHANGES AT ANY TIME.

WE MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, AND ACCURACY OF THE INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS CONTAINED IN THE COLLIGA APPS SERVICES FOR ANY PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL SUCH INFORMATION, SOFTWARE SERVICES AND RELATED GRAPHICS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. WE HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THIS INFORMATION PRODUCTS, SERVICES AND RELATED GRAPHICS, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, IN NO EVENT WILL WE AND OUR AFFILIATES, PROVIDERS, EMPLOYEES, OFFICERS, DIRECTORS OR AGENTS BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION THOSE RELATING TO LOST PROFITS OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THE COLLIGA APPS SERVICES OR FROM THE USE OF OR INABILITY TO USE THE COLLIGA APPS SERVICES, WHETHER BASED ON CONTRACT, WARRANTY, PRODUCT LIABILITY, TORT OR OTHER LEGAL THEORY AND EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU, BUT IS HEREBY DISCLAIMED TO THE FULLEST EXTENT ALLOWABLE.

**Colliga Apps' maximum liability under this Agreement shall be three times the Fees actually paid for the Colliga Apps Services.**

## **12. General Provisions.**

- 12.1.** Entire Agreement. This Agreement (consisting of these Terms, any Research Study Request, any Schedules, and any other document incorporated herein) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous written or oral agreements, communications, and understandings between the parties with respect to the subject matter hereof.
- 12.2.** Amendment. Colliga Apps reserves the right to modify these Terms and or its policies relating to the Services at any time, effective upon written notice, which may be by email, or any other means; any continued use of the Services after any such changes and notification shall constitute the Researcher's consent to such changes.

- 12.3. Waiver.** No waiver of any provision of this Agreement is effective unless in a writing and signed by the party against whom such waiver is sought to be enforced. No failure or delay by either party in exercising any right, power, or remedy under this Agreement operates as a waiver of any such right, power, or remedy. The express waiver of any right or default hereunder is effective only in the instance given and does not operate as or imply a waiver of any similar right or default on any subsequent occasion.
- 12.4. Severability.** If any provision in this Agreement is held invalid, illegal or unenforceable under applicable law, that provision will be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its invalidity, illegality or unenforceability, and the other provisions of this Agreement will remain in full force and effect.
- 12.5. Assignment; Successors and Assigns.** Researcher may not assign or transfer its interests, rights, or obligations under this Agreement by written agreement, merger, consolidation, operation of law, or otherwise, without the prior written consent of the Licensor, which consent may not be unreasonably withheld. All assignments in contravention of this Section 12.5 shall be null and void. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.
- 12.6. Survivability.** The terms and conditions of this Agreement regarding confidentiality, indemnification, limitation of liability, payment obligations and all others that by their sense and context are intended to survive the execution, delivery, performance, termination or expiration of this Agreement survive and continue in effect.
- 12.7. Governing Law; Jurisdiction and Venue.** The validity, construction, interpretation, and performance of this Agreement (and the rights and obligations of the parties with respect to their relationship hereunder) are governed by and must be construed and enforced in accordance with the laws of the State of Florida. After availing themselves of the dispute resolution provision herein, all disputes arising under this Agreement must be brought exclusively in the state and federal courts located in Miami-Dade County, Florida; and each party hereby submits to the personal jurisdiction of such state and federal courts. Researcher further agrees that if its staff or employees are necessary witnesses to any legal proceeding hereunder, Researcher will be responsible for ensuring that such persons are present and available for any legal proceeding in Hillsborough County for a reasonable time to the extent it is within Researcher's control. Researcher further agrees that it will bear all costs and expenses of ensuring such witnesses are present and available in Miami-Dade County, and agrees that it will not object to the choice of venue as result of those costs and expenses. The parties agree that the United Nations



Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act are expressly excluded from this Agreement.

**12.8.** Third Party Beneficiaries. This Agreement is entered into solely between Researcher and Colliga Apps and, except for the parties' indemnification obligations hereunder, does not, and will not be deemed to, create any rights in any third parties or to create any obligations of either Researcher or Colliga Apps to third parties.

**12.9.** Counterparts. This Agreement, including the Research Study Request, may be executed in any number of counterparts, each of which is deemed an original, and all of which together constitute one instrument. The parties agree that a signed counterpart sent by means of electronic transmission is as effective and has the same force and effect as the original thereof.

**12.10.** Headings and Interpretation. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

Last Revised: 2/11/2021