

alumAI™, Inc. Terms of Use

Last Updated Date: 5/1/2020

PLEASE READ THIS TERMS OF USE AGREEMENT (THE “TERMS”) CAREFULLY. THE TERMS ARE A LEGAL CONTRACT BETWEEN YOU (“USER”) AND ALTUMAI, INC. (“ALTUMAI,” “WE,” “US” OR “OUR”).

**SECTION 14 OF THESE TERMS OF USE IS AN ARBITRATION CLAUSE THAT REQUIRES MOST DISPUTES BETWEEN US TO BE RESOLVED ON AN INDIVIDUAL, NON-CLASS ACTION BASIS THROUGH BINDING AND FINAL ARBITRATION INSTEAD OF IN COURT. SEE SECTION 14 FOR MORE INFORMATION REGARDING THIS ARBITRATION CLAUSE, AND HOW TO OPT OUT.**

BY ACCESSING OR USING ALTUMAI.COM, OR ANY OTHER WEBSITE WITH AN AUTHORIZED LINK TO THESE TERMS (“WEBSITE”), INSTALLING OR USING ANY ALTUMAI MOBILE APPLICATIONS (“APPLICATION”), REGISTERING AN ACCOUNT OR ACCESSING OR USING ANY DATA, INFORMATION, SERVICES, FEATURES OR RESOURCES AVAILABLE OR ENABLED VIA THE WEBSITE OR APPLICATION (COLLECTIVELY, THE “SERVICES”), OR CLICKING ON A BUTTON OR TAKING ANOTHER ACTION TO SIGNIFY YOUR ACCEPTANCE OF THE TERMS, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF USE, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH ALTUMAI, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF USE PERSONALLY OR ON BEHALF OF COMPANY YOU HAVE NAMED AS THE USER, AND TO BIND THAT COMPANY TO THE TERMS OF USE. THE TERM “YOU” REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, IDENTIFIED AS THE USER WHEN YOU REGISTERED ON THE APPLICATION, WHETHER AN EMPLOYEE USER OR A SUPERVISOR USER (AS DEFINED BELOW). **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF USE, YOU MAY NOT ACCESS OR USE THE WEBSITE, APPLICATION OR SERVICES.**

Your use of, and participation in, certain Services may be subject to additional terms (“Supplemental Terms”) and such Supplemental Terms will either be listed in the Terms or will be presented to you for your acceptance when you sign up to use the supplemental Service. If these Terms are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such Service.

PLEASE NOTE THAT THE TERMS ARE SUBJECT TO CHANGE BY ALTUMAI IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, altumAI will make a new copy of the Terms of Use available within the Application and any new Supplemental Terms will be made available from within, or through, the affected Service within the Application. We will also update the “Last Updated” date at the top of the Terms of Use. altumAI may require you to provide consent to the updated Terms in a specified manner before further use of the Website, Application and/or the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Website, Application and/or the Services. Otherwise, your continued use of the Website, Application and/or Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE WEBSITE OR APPLICATION TO VIEW THE THEN-CURRENT TERMS.

**1. USE OF THE SERVICES AND ALTUMAI PROPERTIES.**

**1.1 Generally.** Through the Services, altumAI provides a monitoring system designed to allow employers (“Employers”) to analyze data collected from employees (“Employees”) via the Application (collectively, “Data”). We aggregate such Data to create a unique risk score or passport status for each Employee, and then present that Data collected from and about Employees to Employers, and in some cases, other Employees, so that Employees and their Employer can track certain events, set alerts to

monitor changes in behavior, risk score or passport status, and view statistics and analytics about such events over time, all within the Application. Based on the Data collected and the risk score or passport status assigned, we provide Employers and Employees with actionable insights that are designed to improve health and safety and avoid risk of injury or disease in the workplace. The use of Data by altumAI will be subject to the terms of our Privacy Policy located at: [www.altumAI/privacy-policy](http://www.altumAI/privacy-policy). To better understand how the Data will be used, please review the Privacy Policy closely. You may be able to view and share Data with other people within your Employer organization via our Services.

THE SERVICES ARE NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTHCARE PROVIDER WITH ANY QUESTIONS YOU MAY HAVE REGARDING A MEDICAL CONDITION. NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR HEALTHCARE PROFESSIONAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF INFORMATION YOU HAVE OBTAINED THROUGH THIS SITE. **IF YOU THINK YOU MAY HAVE A MEDICAL EMERGENCY, CALL YOUR DOCTOR OR 911 IMMEDIATELY.**

**1.2 altumAI Properties.** The Application the Services, and the information and content available in the Application and the Services (as these terms are defined herein) (each, a “**altumAI Property**” and collectively, the “**altumAI Properties**”) are protected by copyright laws throughout the world.

**1.3 Application License.** Subject to your compliance with the Terms, altumAI grants you a limited non-exclusive, non-transferable, non-sub-licensable, revocable license to download, install and use a copy of the Application on a single mobile device or computer that you own or control and to run such copy of the Application solely for your own personal or internal business purposes. Furthermore, with respect to any Application 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 Application access 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 Application on a shared basis within your designated family group.

**1.4 Open Source Software.** Some of the software in our Application may be licensed by third parties under various “open-source” or “public-source” software licenses (such as the GNU General Public License, the GNU Lesser General Public License, the Apache License, the Berkeley Software Distribution License, and the MIT License) (collectively, the “**Open Source Software**”). Notwithstanding anything to the contrary in these Terms, the Open Source Software is not licensed under Section 1.3 and instead is separately licensed pursuant to the terms and conditions of their respective open-source software licenses. You agree to comply with the terms and conditions of such open-source software license agreements.

**1.5 Updates.** You understand that altumAI Properties are evolving. As a result, altumAI may require you to accept updates to altumAI Properties that you have installed on your computer or mobile device. You acknowledge and agree that altumAI may update altumAI Properties with or without notifying you. You may need to update third-party software from time to time in order to use altumAI Properties.

**1.6 Certain Restrictions.** The rights granted to you in the Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or

otherwise commercially exploit altumAI Properties or any portion of altumAI Properties, (b) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of altumAI Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (c) you shall not access altumAI Properties in order to build a similar or competitive website, application or service; (d) except as expressly stated herein, no part of altumAI Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (e) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in altumAI Properties. Any future release, update or other addition to altumAI Properties shall be subject to the Terms. altumAI, its suppliers and service providers reserve all rights not granted in the Terms. Any unauthorized use of any altumAI Property terminates the licenses granted by altumAI pursuant to the Terms.

## **2. REGISTRATION.**

**2.1 Registering Your Account.** In order to access certain features of altumAI Properties you may be required to become a Registered User. For purposes of the Terms, a **“Registered User”** is a user who has registered an account on the Website or Application (**“Account”**).

(a) An **“Employee Account”** is a user Account on the Application designed for Employees and is accessible by an employee who is invited by his or her Employer to use the Services to monitor Data for his or her own non-commercial personal use and to allow his or her Employer to monitor Data for the Employer’s internal business purposes. In creating an Employee Account, we ask that you provide complete and accurate information about yourself, and maintain and promptly update such information to keep it true, accurate, current and complete. You may not impersonate someone else, create or use an Account for anyone other than yourself, provide an email address other than your own, or create multiple Accounts. A user who registers for an Employee Account is a **“Employee User”**.

(b) An **“Supervisor Account”** is an administrative user Account on the Application designed for supervisors and is accessible by an individual working for an Employer and authorized by such Employer to use the Services to monitor Data of Employees and provide actionable recommendations based on such Data. Such Data will only be used for the Employer’s internal business purposes. In creating a Supervisor Account, we ask that you provide complete and accurate information about yourself, and maintain and promptly update such information to keep it true, accurate, current and complete. You may not impersonate someone else, create or use an Account for anyone other than yourself, provide an email address other than your own, or create multiple Accounts associated with your employer. A user who registers for an Supervisor Account is a **“Supervisor User”**.

**2.2 Registration Data.** You represent that you are (a) at least sixteen (16) years of age; and (b) not a person barred from using altumAI Properties under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account; provided that Employers are responsible for those activities occurring under Supervisor Accounts. You may not share your Account or password with anyone, and you agree to (i) notify altumAI immediately of any unauthorized use of your password or any other breach of security; and (ii) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or altumAI has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, altumAI has the right to suspend or terminate your Account and refuse any and all current or future use of altumAI Properties (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself.

You agree not to create an Account or use altumAI Properties if you have been previously removed by altumAI, or if you have been previously banned from any of altumAI Properties.

**2.3 Acknowledgement and Employer Responsibility.** Supervisor Users and Employee Users acknowledge and agree that their Employers will be collecting and monitoring their personal information and other Data. Employers are solely responsible for all Data made available on the Application, including all consents and notices necessary or required to collect and use Data, all of which must be conveyed to, and agreed to by, Supervisor Users and Employee Users, prior to the collection and use of any such Data.

**2.4 Necessary Equipment and Software.** You must provide all equipment and software necessary to connect to altumAI Properties, including but not limited to, a mobile device that is suitable to connect with and use altumAI Properties, and the altumAI wearable device to measure and track Data. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing altumAI Properties.

**3. STORAGE.** Unless expressly agreed to by altumAI in writing elsewhere, altumAI has no responsibility or liability for the deletion or accuracy of Data; the failure to store, transmit or receive transmission of Data; or the security, privacy, storage, or transmission of other communications originating with or involving use of altumAI Properties. Certain Services may enable you to specify the level at which such Services restrict access to Data. You are solely responsible for applying the appropriate level of access to Data. If you do not choose, the system may default to its most permissive setting. You agree that altumAI retains the right to create reasonable limits on altumAI' use and storage of Data, such as limits on file size, storage space, processing capacity, and similar limits described in the web pages accompanying the Services and as otherwise determined by altumAI in its sole discretion.

#### **4. OWNERSHIP.**

**4.1 altumAI Properties.** Except with respect to your Data, you agree that altumAI and its suppliers own all rights, title and interest in altumAI Properties, including all software, portal, algorithms, know-how, processes, methodologies, inventions, techniques and any other technology used by altumAI to offer the Services to Employer and you. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any altumAI Properties.

**4.2 Trademarks.** "altumAI", and other related graphics, logos, trademarks, service marks and trade names used on or in connection with altumAI Properties are the trademarks of altumAI and may not be used without permission in connection with any third-party products or services. Other trademarks, service marks and trade names that may appear on or in altumAI Properties are the property of their respective owners.

**4.3 Other Content.** Except with respect to Data, you agree that you have no right or title in or to any content or other data that appears on or in altumAI Properties.

**4.4 Data.** altumAI does not claim ownership of Data. Subject to any applicable account settings that you select, you grant altumAI a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display, Data (in whole or in part) for the purposes of operating the Services and providing altumAI Properties to you and to our other users. Further, altumAI has the right to use any Data on an aggregated, anonymized basis for the purposes of improving the Services and altumAI's other products and services, as well as for altumAI's business

purposes; provided, however, that altumAI will not disclose any such Data in a manner that identifies the Employer or any Employee User. You agree that you, not altumAI, are responsible for all of the Data that you make available on or in altumAI Properties.

**4.5 Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals to altumAI through its suggestion, feedback, wiki, forum or similar pages (“**Feedback**”) is at your own risk and that altumAI has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to altumAI a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of altumAI Properties and/or altumAI’ business.

**5. USER CONDUCT.** As a condition of use, you agree not to use altumAI Properties for any purpose that is prohibited by the Terms or by applicable law. You shall not (and shall not permit any third-party) either (a) to take any action that: (i) infringes any patent, trademark, trade secret, copyright, right of publicity, privacy or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another’s privacy, tortious, obscene, offensive, or profane; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk e-mail; (iv) involves commercial activities and/or sales without altumAI’ prior written consent, such as contests, sweepstakes, barter, advertising, or pyramid schemes; (v) impersonates any person or entity, including any employee or representative of altumAI; (vi) interferes with or attempts to interfere with the proper functioning of altumAI Properties or uses altumAI Properties in any way not expressly permitted by the Terms; or (vii) to attempt or engage in, any potentially harmful acts that are directed against altumAI Properties, including but not limited to violating or attempting to violate any security features of altumAI Properties, using manual or automated software or other means to access, “scrape,” “crawl” or “spider” any pages contained in altumAI Properties, introducing viruses, worms, or similar harmful code into altumAI Properties, or interfering or attempting to interfere with use of altumAI Properties by any other user, host or network, including by means of overloading, “flooding,” “spamming,” “mail bombing”, or “crashing” altumAI Properties.

**6. INVESTIGATIONS.** altumAI may, but is not obligated to, monitor or review altumAI Properties at any time. If altumAI becomes aware of any possible violations by you of any provision of the Terms, altumAI reserves the right to investigate such violations, and altumAI may, at its sole discretion, immediately terminate your license to use altumAI Properties, without prior notice to you.

**7. INTERACTIONS WITH OTHER USERS.** You are solely responsible for your interactions with other users of the Services and any other parties with whom you interact through the Services; provided, however, that altumAI reserves the right, but has no obligation, to intercede in such disputes. You agree that altumAI will not be responsible for any liability incurred as the result of such interactions.

**8. THIRD-PARTY SERVICES.**

**8.1 Third-Party Websites and Applications.** altumAI Properties may contain links to third-party websites (“**Third-Party Websites**”) and applications (“**Third-Party Applications**”). When you click on a link to a Third-Party Website or Third-Party Application, we will not warn you that you have left altumAI Properties and are subject to the terms and conditions (including privacy policies) of another

website or destination. Such Third-Party Websites and Third-Party Applications are not under the control of altumAI. altumAI is not responsible for any Third-Party Websites or Third-Party Applications. altumAI provides these Third-Party Websites and Third-Party Applications only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites or Third-Party Applications, or any product or service provided in connection therewith. You use all links in Third-Party Websites and Third-Party Applications at your own risk. When you leave our Application, the Terms and our policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites or Third-Party Applications, and make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

**8.2 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 (each, an “**App Store**”). You acknowledge that the Terms is between you and altumAI and not with the App Store. altumAI, not the App Store, is solely responsible for altumAI Properties, including the Application, the content thereof, maintenance, support services, and warranty therefor, 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 altumAI Properties, 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 altumAI Property, including the Application. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of the Terms and will have the right to enforce it.

**8.3 Accessing and Downloading the Application from iTunes.** The following applies to any App Store Sourced Application accessed through or downloaded from the Apple App Store:

**(a)** You acknowledge and agree that (i) the Terms is concluded between you and altumAI only, and not Apple, and (ii) altumAI, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

**(b)** You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

**(c)** In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between altumAI and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of altumAI.

**(d)** You and altumAI acknowledge that, as between altumAI and Apple, Apple 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: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform

to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

(e) You and altumAI 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 altumAI and Apple, altumAI, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Terms.

(f) You and altumAI acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Terms as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

(g) Without limiting any other terms of the Terms, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

**9. Indemnification.** You agree to indemnify and hold altumAI, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a "**altumAI Party**" and collectively, the "**altumAI Parties**") harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of any and all of the following: (a) your use of, or inability to use, any altumAI Property; (b) your violation of the Terms; (c) your violation of any rights of another party, including any Registered Users; or (d) your violation of any applicable laws, rules or regulations. Employers agree to indemnify and hold the altumAI Parties harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of Data, including Employers' failure to provide any necessary consents or notices to their Supervisor Users. altumAI reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with altumAI in asserting any available defenses. This provision does not require you to indemnify any of the altumAI Parties for any unconscionable commercial practice by such party or for such party's fraud, deception, false promise, misrepresentation or concealment, suppression or omission of any material fact in connection with the Website, Application or any Services provided hereunder. You agree that the provisions in this section will survive any termination of your Account, the Terms and/or your access to altumAI Properties.

## **10. DISCLAIMER OF WARRANTIES AND CONDITIONS.**

**10.1 As Is.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF ALTUMAI PROPERTIES IS AT YOUR SOLE RISK, AND ALTUMAI PROPERTIES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. ALTUMAI PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARISING FROM USE OF THE APPLICATION.

(a) THE ALTUMAI PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) ALTUMAI PROPERTIES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF ALTUMAI PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF ALTUMAI PROPERTIES WILL BE ACCURATE OR RELIABLE.

**(b)** ANY DATA DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH ALTUMAI PROPERTIES 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 ALTUMAI PROPERTIES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH DATA.

**(c)** THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. ALTUMAI MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

**(d)** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM ALTUMAI OR THROUGH ALTUMAI PROPERTIES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

**(e)** FROM TIME TO TIME, ALTUMAI MAY OFFER NEW "BETA" FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT ALTUMAI'S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**10.2 Not Intended for Emergency Use.** ALTUMAI'S GOAL IS TO PROVIDE HELPFUL AND ACCURATE INFORMATION ON THE SERVICES. HOWEVER, THE SERVICES ARE DEPENDENT UPON A NUMBER OF FACTORS THAT ARE OUTSIDE THE CONTROL OF ALTUMAI, SUCH AS THE PLACEMENT AND MAINTENANCE OF THE DEVICE INCORPORATING OUR APPLICATION, INCLUDING WHETHER INDIVIDUALS WEAR THE WEARABLE DEVICES INCORPORATING OUR APPLICATION. USE OF THE SERVICES SHOULD NOT REPLACE YOUR GOOD JUDGMENT AND COMMON SENSE. IF YOU ARE EXPERIENCING A MEDICAL OR OTHER EMERGENCY, CALL 911.

**10.3 Medical Disclaimer.** THE CLAIMS MADE IN CONNECTION WITH THE APPLICATION OR THROUGH THE SERVICES HAVE NOT BEEN EVALUATED BY THE FOOD AND DRUG ADMINISTRATION AND ARE NOT INTENDED TO DIAGNOSE, TREAT, CURE OR PREVENT ANY DISEASE OR MEDICAL CONDITION.

ALTUMAI DOES NOT OFFER MEDICAL ADVICE OR DIAGNOSES, OR ENGAGE IN THE PRACTICE OF MEDICINE. THE CONTENTS OF THE APPLICATION, INCLUDING TEXT, GRAPHICS, IMAGES, AND OTHER DATA CREATED BY THE SERVICES OR OTHERWISE CONTAINED IN THE APPLICATION OR THROUGH THE SERVICES ARE FOR INFORMATIONAL PURPOSES ONLY, AND IS NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, TREATMENT, OR PUBLIC HEALTH INFORMATION. WE CANNOT GUARANTEE THAT THE SERVICES WILL CORRECTLY AND/OR COMPREHENSIVELY APPRISE YOU OF ALL RISKS RELATING TO YOU OR OTHER EMPLOYEES OR THAT YOUR RISK SCORE OR THE ALTUMAI RISK SCORE OF ANY EMPLOYEE WILL BE LOWERED.

**10.4 No Liability for Conduct of Third Parties.** YOU ACKNOWLEDGE AND AGREE THAT ALTUMAI PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD ALTUMAI PARTIES LIABLE, FOR THE CONDUCT OR OMISSIONS OF THIRD PARTIES, INCLUDING THE ACTIONS OF FIRST RESPONDERS OR ANY OTHER USERS OF THE APPLICATION, AND THAT THE RISK OF INJURY OR DISEASE FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU.

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



**11.1 Disclaimer of Certain Damages.** YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL ALTUMAI PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER OR NOT ALTUMAI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE TERMS OR ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF ALTUMAI PROPERTIES, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE ALTUMAI PROPERTIES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH THE ALTUMAI PROPERTIES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON ALTUMAI PROPERTIES; OR (5) ANY OTHER MATTER RELATED TO ALTUMAI PROPERTIES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY. THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF A ALTUMAI PARTY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY A ALTUMAI PARTY'S NEGLIGENCE; OR FOR (B) ANY INJURY CAUSED BY A ALTUMAI PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.2 Cap on Liability.** UNDER NO CIRCUMSTANCES WILL ALTUMAI PARTIES BE LIABLE TO YOU FOR MORE THAN ONE HUNDRED U.S. DOLLARS (\$100.00). THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF AN ALTUMAI PARTY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY A ALTUMAI PARTY'S NEGLIGENCE; OR FOR (B) ANY INJURY CAUSED BY A ALTUMAI PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.3 Data.** ALTUMAI ASSUMES NO RESPONSIBILITY FOR THE ACCURACY, TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY DATA, USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

**11.4 Basis of the Bargain.** THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN ALTUMAI AND YOU.

## **12. TERMINATION.**

**12.1 Termination.** These Terms shall remain in full force and effect until your Account is terminated as provided herein. You may delete your Account at any time, for any reason by emailing ask@altumAI.com. altumAI may terminate your Account if (a) you are in breach of the Terms; (b) if altumAI decides in its sole discretion to stop providing the applicable Services; or (c) for any or no reason, without giving you notice. You understand that any termination of these Terms and your Account may involve deletion of your Account information from our live databases and all the information stored for such Account. altumAI will not have any liability whatsoever to you for any termination of your Account or related deletion of your information.

**12.2 Effect of Termination.** Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services also includes deletion of your password and all related information, files and Data associated with or inside your Account (or any part thereof). Upon termination of any Service, your right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Data associated therewith from our live databases. altumAI will not have any liability whatsoever to you for any

suspension or termination, including for deletion of Data. All provisions of the Terms which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

**13. INTERNATIONAL USERS.** altumAI Properties can be accessed from countries around the world and may contain references to Services and Data that are not available in your country. These references do not imply that altumAI intends to announce such Services or Data in your country. altumAI Properties are controlled and offered by altumAI from its facilities in the United States of America and are intended only for use by U.S. Employees. altumAI makes no representations that altumAI Properties are appropriate or available for use in other locations. Those who access or use altumAI Properties from other countries do so at their own volition and are responsible for compliance with local law.

**14. DISPUTE RESOLUTION.** *Please read the following arbitration agreement in this Section (“Arbitration Agreement”) carefully. It requires you to arbitrate disputes with altumAI and limits the manner in which you can seek relief from us. This Section 14 only applies to residents of the United States.*

**14.1 Applicability of Arbitration Agreement.** You agree that any dispute, claim, or request for relief relating in any way to your access or use of the Website, to any products sold or distributed through the Website, or to any aspect of your relationship with altumAI, will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims or seek relief in small claims court if your claims qualify,; and (2) you or altumAI 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). **This Arbitration Agreement shall apply, without limitation, to all disputes or claims and requests for relief that arose or were asserted before the effective date of the Terms or any prior version of the Terms.**

**14.2 Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your dispute or claim or request for relief to our registered agent: United States Corporation Agents, Inc., 221 N Broad Street, Suite 3A, Middletown, Delaware 19709. 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, shall 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 shall 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](http://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. If the arbitrator finds that you cannot afford to pay JAMS’s filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, altumAI will pay them for you. In addition, altumAI will reimburse all such JAMS’s filing, administrative, hearing and/or other fees for disputes, claims, or requests for relief totaling less than \$10,000 unless the arbitrator determines the claims are frivolous.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

**14.3 Authority of Arbitrator.** The arbitrator shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any assertion that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and altumAI. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Terms (including the Arbitration Agreement). The arbitrator shall 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 arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

**14.4 Waiver of Jury Trial.** YOU AND ALTUMAI 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 altumAI are instead electing that all disputes, claims, or requests for relief shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 14.1 above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow the Terms as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

**14.5 Waiver of Class or Other Non-Individualized Relief.** ALL DISPUTES, CLAIMS, AND REQUESTS FOR RELIEF WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If a decision is issued stating that applicable law precludes enforcement of any of this subsection's limitations as to a given dispute, claim, or request for relief, then such aspect must be severed from the arbitration and brought into the State or Federal Courts located in the State of California. All other disputes, claims, or requests for relief shall be arbitrated.

**14.6 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: ask@altumAI.com, within 30 days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your altumAI username (if any), the email address you used to set up your altumAI 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 the Terms 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.

**14.7 Severability.** Except as provided in Section 14.5, 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 shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

**14.8 Survival of Agreement.** This Arbitration Agreement will survive the termination of your relationship with altumAI.

**14.9 Modification.** Notwithstanding any provision in the Terms to the contrary, we agree that if altumAI makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing altumAI at the following address: 801 S. Figueroa Street, Suite 620, Los Angeles, CA 90017.

## **15. ALERTS AND NOTIFICATIONS**

As part of your use of the Services, you may receive notifications, text messages, alerts, emails and other electronic communications. You agree to the receipt of these communications. You can control most communications from the Application using your Account settings. We may need to provide you with certain communications, such as service announcements and administrative messages. You are responsible for any messaging or data fees you may be charged by your wireless carrier.

## **16. GENERAL PROVISIONS.**

**16.1 Electronic Communications.** The communications between you and altumAI may take place via electronic means, whether you visit altumAI Properties or send altumAI e-mails, or whether altumAI posts notices on altumAI Properties or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from altumAI in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that altumAI provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect 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. (“E-Sign”).

**16.2 Release.** YOU HEREBY RELEASE THE ALTUMAI PARTIES FROM ANY AND ALL LIABILITY, CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION, WHATSOEVER, ARISING OUT OF OR RELATED TO ANY LOSS, PROPERTY DAMAGE, PHYSICAL INJURY, CONTAGIOUS DISEASE OR DEATH THAT MAY BE SUSTAINED BY YOU WHICH MAY BE SUSTAINED BY YOU WHILE USING OR IN CONNECTION WITH THE USE OF THE SERVICES. THIS RELEASE WILL BE BINDING UPON YOUR RELATIVES, SPOUSE, HEIRS, NEXT OF KIN, EXECUTORS, ADMINISTRATORS, AND ANY OTHER INTEREST PARTIES.

You waive and relinquish any and all rights and benefits otherwise conferred by any statutory or non-statutory law of any jurisdiction that would purport to limit the scope of a release or waiver, including any all rights and benefits which you have or may have under California Civil Code Section 1542 or any similar provision of the statutory or non-statutory law of any other jurisdiction (including without limitation Missouri, Delaware and Pennsylvania) to the full extent that you may lawfully waive all such rights and benefits. You acknowledge that the releases in these Terms are intended to be as broad and inclusive as permitted by law, and as a complete and continuous release and waiver of liability for any and all use of the Services.

**16.3 Assignment.** The Terms, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without altumAI’ prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

**16.4 Force Majeure.** altumAI 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.

**16.5 Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to altumAI Properties, please contact us at: ask@altumAI.com. 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.

**16.6 Exclusive Venue.** To the extent the parties are permitted under the Terms to initiate litigation in a court, both you and altumAI agree that all claims and disputes arising out of or relating to the Terms will be litigated exclusively in the state or federal courts located in Los Angeles County, California.

**16.7 Governing Law** THE TERMS AND ANY ACTION RELATED THERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF CALIFORNIA, 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 THE TERMS.

**16.8 Notice.** Where altumAI requires that you provide an e-mail address, you are responsible for providing altumAI with your most current e-mail address. In the event that the last e-mail address you provided to altumAI is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Terms, altumAI' dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to altumAI at the following address: 801 S. Figueroa Street, Suite 620, Los Angeles, CA 90017. Such notice shall be deemed given when received by altumAI by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

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

**16.10 Severability.** If any portion of the Terms 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.

**16.11 Export Control.** You may not use, export, import, or transfer altumAI Properties except as authorized by U.S. law, the laws of the jurisdiction in which you obtained altumAI Properties, and any other applicable laws. In particular, but without limitation, altumAI Properties may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using altumAI Properties, you represent and warrant that (y) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (z) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use altumAI Properties for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by altumAI are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer altumAI products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

**16.12 Entire Terms.** The Terms are 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.