

Project Dasein LLC

Terms of Use

Last Updated May 28, 2021

These Terms of Use (“**Terms**”) govern your use of the Aletheia Sensor and mobile application ecosystem (together, the “**App**”) provided by Project Dasein LLC (“**Project Dasein**”, “**us**”, or “**we**”), as well as other software, subscription services, associated firmware, websites, APIs, or products we offer (collectively, our “**Services**”). These Terms will remain in effect as long as you access the Services. You acknowledge that we may make changes to the Services or these Terms at any time. Additional, separate terms that apply to your use of our Services will be considered to form part of these Terms. If you have any questions, please contact us at support@projectdasein.com.

PLEASE READ THESE TERMS CAREFULLY. By using our Services, you accept and consent to these Terms and all documents incorporated by reference. You can also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you in any agreement or electronic form, or by downloading or using the App or our other Services in any manner. If you do not agree to these Terms, do not access or use our Services.

THESE TERMS INCLUDE A CLASS ACTION WAIVER AND AN ARBITRATION PROVISION THAT GOVERNS ANY DISPUTES BETWEEN YOU AND US.

1. ELIGIBILITY

To use the Services, you must be (a) at least 18 years of age or (b) at least 13 years of age and your legal guardian must give Project Dasein prior express written consent to your use of the Services, as demonstrated by your legal guardian purchasing the Services and accepting these Terms of your behalf. By using the Services, you represent and warrant that you are of legal age to form a binding contract with us for yourself or your child and that you meet all of the foregoing eligibility requirements. You may not access or use the Services if you are barred from receiving such services under applicable law or have previously been suspended or removed from any of our Services. If you do not meet all of these requirements, you must not use our Services.

2. PRIVACY

By accessing or using any of our Services, you agree that Project Dasein can collect and use your Personal Information in accordance with our **Privacy Notice**.

3. REGISTRATION

Some of our Services require you to register and create a user profile. You may have one account with Project Dasein only. You may not create multiple accounts or share your account with others. Personal Information you provide to us is governed by our Privacy Notice. You are responsible for maintaining the confidentiality of your account login credentials and the data on your account. You are also responsible for all activity that occurs in association with your account. You agree to notify us immediately of any unauthorized access to or use of your username or password or any other breach of security. Project Dasein is not liable for any loss or damages caused by your failure to maintain the confidentiality of your account credentials or your choice to share any data associated with your account with others.

4. THE SERVICES ARE NOT MEDICAL ADVICE OR INJURY PREVENTION

Project Dasein offers Services that produce Force Portraits and other useful running form diagnostics and calculate general trends for informational and research purposes only. The Services offer you information and suggestions that you may use to make decisions about your training and other activities to prevent certain injuries. How you use your Force Portraits and other information output from the App is your choice. The Services are not intended to diagnose, treat, cure, or guarantee prevention of any injury or illness. Project Dasein cannot offer you medical advice or injury predictions, or any other services related to exercise science or the practice of medicine. **YOU UNDERSTAND AND AGREE THAT THE SERVICES ARE FOR INFORMATIONAL PURPOSES ONLY AND DO NOT OFFER MEDICAL ADVICE OR GUARANTEE INJURY PREVENTION.**

Additionally, use of our Services should not replace your good judgment and common sense. Please read and comply with all safety notices that accompany our Services. We do not warrant the accuracy, completeness, or usefulness of the Force Portraits or any other output data from the Services. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such information by you or others.

5. CONSULT YOUR DOCTOR BEFORE USE

It is your responsibility to consult your doctor before using the Services, engaging in an exercise program, or changing your diet. You are also responsible for taking all necessary precautions to prevent injury to yourself and others while engaging in activities related to your use of the App. If you experience a medical emergency while using the App, stop using the App and consult with a medical professional. We are not responsible for any injuries or health problems that may result from your use of the Services, nor from any training programs, competitions, or events you learn about or participate in while using the Services.

Prolonged contact with wearable peripheral devices may contribute to skin irritation or allergies in some users. If you notice any skin irritation, soreness, tingling, numbness, burning, or stiffness in the area in contact with the device, remove the device and please discontinue use. If any symptoms persist after removing the device, consult your doctor. Peripheral devices that have a heart rate tracking feature may pose risks to users with certain health conditions. Consult your doctor prior to use of such products if you (a) have a medical or heart condition, (b) are taking any photosensitive medicine, (c) have epilepsy or are sensitive to flashing lights, (d) have reduced circulation or bruise easily, or (e) have tendonitis, carpal tunnel syndrome, or other musculoskeletal disorders.

6. TERMS OF SALE

Project Dasein's Aletheia Sensor and all other peripheral devices and products you purchase or receive from Project Dasein are governed by our **Terms of Sale**, which also contain our return policy and warranty information. The Terms of Sale are incorporated into and made a part of these Terms. All orders placed are subject to Project Dasein's acceptance. We may accept, decline, or place limits on your order for any reason.

7. SOFTWARE REQUIREMENTS

To use the App, you must have a compatible mobile telephone or handheld device, Internet access, and the necessary minimum specifications ("**Software Requirements**") to use the mobile application. The Software Requirements are listed on the relevant application store page. The App

software may be upgraded from time to time to add support for new functions. The App may request certain privacy permissions from time to time such as access to your geolocation or mapping applications, device camera or microphone, or other apps and associated features on your device. You acknowledge that the terms of agreement with your respective mobile network provider will continue to apply while you use the App. Data and messaging charges may apply to your use of the App or any text messaging or photo sharing features you use via the App. You accept responsibility for any such charges that arise. If you are not the bill payer for the mobile telephone or handheld device being used to access the App, you will be assumed to have received permission from the bill payer for use of the App.

8. AUTHORIZED CONNECTIONS

The App collects running data from Project Dasein's Aletheia Sensor and information you input to the App via your mobile device. You may only connect to the App using the Aletheia Sensor or another sensor that is manufactured, distributed, or sold by Project Dasein or through one of our authorized resellers or agents. You may not connect to the App with any sensor or other peripheral device that is not manufactured, distributed, or sold by Project Dasein or through our authorized resellers or agents (such as a knock off or counterfeit version of the Aletheia Sensor) or any unauthorized application or third-party connection. Any violation or attempted violation of this provision may result in the immediate termination of your ability to access the Services. If you have questions about whether a product or application is permitted under this section, please contact Project Dasein at support@projectdasein.com.

9. BETA VERSIONS

We may make versions of the Services available for testing and evaluation purposes prior to their release to the general public ("**Beta Versions**"). Beta Versions are subject in all respects to these Terms, except that we may discontinue the Services or your ability to use a Beta Version at any time, with or without notice and without further obligations to you. By participating in a Beta Version test, you consent to Project Dasein accessing all data, including your Personal Information, input or collected via your use of the Services for Project Dasein to identify bugs, discrepancies, errors, or improvements in the Services. You also understand and agree that we may contact you to learn more about your use of the Services or related activities to improve the Services. You agree to notify us of all comments or suggestions about the Services, including without limitation any problems and ideas for improvements, which come to your attention during its use of the Beta Version. By permitting you to access, download, install or use a Beta Version, we do not grant any additional right to you under any copyrights, patents, trademarks, or trade secret information. Project Dasein reserves the right to condition your access to and use of a Beta Version on your execution of a Nondisclosure, Waiver, and Release Agreement.

10. PROJECT DASEIN PROPRIETARY RIGHTS

Project Dasein's "**Content**" includes any photos, images, graphics, video, audio, data, text, music, exercise regimens, comments, software, Reports, Force Portraits, user running data, pain survey responses and resulting reports and trends, works of authorship of any kind, and other information, content, or other materials that are posted, submitted to, generated, provided, or otherwise made available through the Services. Our Content, Services, and all underlying technology are protected by copyright, trademark, patent, intellectual property, and other laws of the United States and foreign countries. We reserve all rights not expressly set forth in these Terms. You agree not to

remove, change, or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying the Services. Our logos and any other trademarks that may appear on the Services, and the overall look and feel of the Services, may not be copied, imitated, or used, in whole or in part, without our prior written permission. Other trademarks, product, and service names and company names or logos mentioned on the Services are the property of their respective owners and may not be copied, imitated, or used, in whole or in part, without the permission of the applicable trademark holder.

11. REPORTS

We may, from time to time, de identify or anonymize the Personal Information or other user data (“**Deidentified Information**”) that we collect from your use of the App and combine it with others’ Deidentified Information for research, analysis, machine learning, or to generate reports and studies (collectively, “**Reports**”). Any such Reports are the sole and exclusive property of Project Dasein, and we reserve the right to disclose, share, distribute, or publish our Reports for any purpose provided such Reports are not reasonably linkable, directly or indirectly, to your Personal Information. You hereby assign any rights you may have to such reports, studies, and your Deidentified Information contained therein to Project Dasein in perpetuity throughout the world for any and all present or future uses in any and all languages and for no compensation. All Deidentified Information will be treated as nonconfidential and nonproprietary. We shall be under no obligation of any kind with respect to such Deidentified Information and shall be free to reproduce, make derivative works from, use, disclose, and distribute the Reports to others without limitation. Additionally, we may use any ideas, concepts, know-how, or techniques contained in generating reports or studies for any purpose whatsoever, including but not limited to developing, manufacturing, or marketing products incorporating such information.

12. FEEDBACK

You may from time-to-time provide us materials, communications, suggestions, comments, improvements, ideas, or other feedback related to the Services (“**Feedback**”). You hereby additionally grant to us all rights, titles, and interests in and to any Feedback. In the event this grant is not sufficient for us to fully realize and use the Feedback, you grant us a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use and incorporate into the Services, Project Dasein’s website or other services any of the Feedback. By providing Feedback, you are representing that the Feedback is not subject to any intellectual property claim by a third party or any license terms which would require products or services derived from that Feedback to be licensed to or from, or shared with, any third party.

13. USER CONTENT

The Services may include features that enable you to post, upload, store, share, send, or display running routes, race or event information, photos, images, video, data, text, comments, and other information and content (“**User Content**”) to and via the Services. You retain all rights to your User Content that you post to the Services. You are responsible for your User Content. You represent and warrant that you own your User Content or that you have all rights necessary to grant us a license to use your User Content as described in these Terms.

By making your User Content available on or through the Services you hereby grant to Project Dasein a non-exclusive, transferable, sublicensable, worldwide, royalty-free license to use, copy, modify, publicly display, publicly perform, reproduce, translate, create derivative works from, and

distribute your User Content, in whole or in part, including your name and likeness, in any media.

Project Dasein relies on accurate User Content to provide and improve the Services. Any attempts to submit inaccurate User Content to the Services is strictly prohibited. You represent and warrant that your User Content, the use and provision of your User Content on the Services, and your use of the Services will not (a) infringe, misappropriate, or violate a third party's patent, copyright, trademark, trade secret, moral rights, or other intellectual property rights, or rights of publicity or privacy; (b) violate, or encourage any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (c) be fraudulent, false, misleading, or deceptive; (d) be defamatory, obscene, pornographic, vulgar, or offensive; (e) promote discrimination, bigotry, racism, hatred, harassment, or harm against any individual or group; (f) be violent or threatening or promote violence or actions that are threatening to any person or entity; or (g) promote illegal or harmful activities or substances. Project Dasein may, in our sole discretion, alter, remove, or refuse to display any of your User Content, and may forbid you from posting, uploading, storing, sharing, sending, or displaying your User Content to and via the Services.

14. LICENSE GRANT

Project Dasein grants you a limited, non-exclusive, non transferable, non-sublicensable, revocable license to access, download, install, and use the Services for your own personal, non-commercial purposes, subject to these Terms. The Services are licensed to you, not sold. Nothing in these Terms is intended to, or may be construed as, conferring by implication, estoppel, or otherwise any ownership, license, or other grant of right to any copyright, trademark, or other intellectual property of Project Dasein or any third party, except as expressly provided in these Terms. We reserve all rights not expressly granted in these Terms.

15. YOUR USE OF THE SERVICES

You represent and warrant that (a) you will use the Services in compliance with applicable laws; (b) any information you submit to us is truthful and accurate; (c) you will maintain the accuracy of that information; (d) you will not do anything that might jeopardize the security of your account; and (e) you will notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. Any information that you provide to us will also be subject to our Privacy Notice.

You agree to not rent, retransmit, disclose, publish, sell, assign, lease, sublicense, market or transfer the Services or any portion thereof (including our Content) or use it in any manner not expressly authorized by these Terms. You agree not to copy, reverse engineer, translate, port, modify, or make derivative works of any portion of the Services. Tampering with the Services, conducting fraudulent activities on the Services and all other illegal activities are prohibited and may subject a user to legal action and/or termination of your access to the Services.

You further agree not to (a) upload any User Content or other data that contains software viruses or is designed to interrupt, destroy, or limit the functionality of any equipment or services, or that contains other harmful, disruptive, or destructive files or content; (b) use or attempt to use another user's account without authorization, or impersonate any person or entity; (c) harvest, solicit, or collect information of other users for any reason whatsoever, including, without limitation, for sending unsolicited communications; (d) post, advertise, or promote products or services commercially, or upload any content that is advertising, promotional material, junk mail, spam, or a contest or sweepstake, or that furthers or promotes criminal activity; or (e) use the Services in

any manner that, in our sole discretion, is objectionable or restricts or inhibits any other person from using or enjoying the Services, or which may expose us or our users to any harm or liability of any type.

16. PROHIBITED ACTS

You are strictly prohibited from violating or trying to violate our security features, such as by (a) accessing data not intended for you or logging onto a server or an account which you are not authorized to access; (b) attempting to probe, scan, or test the vulnerability of a system or network or to breach security or authentication measures unless we expressly authorize that you do so in writing; (c) attempting to interfere with service to any user, host, or network, such as by means of submitting a virus to the Site, overloading, “flooding,” “spamming,” “mail bombing,” or “crashing”; or (d) sending unsolicited email, including promotions and/or advertising of products or services forging any TCP/IP packet header or any part of the header information in any email or newsgroup posting. You hereby agree not to use any device, software, or routine to interfere, or try to interfere, with the proper working of our Services or any activity being conducted on via the Services. You further agree not to use, or try to use, any engine, software, tool, agent, or other device or mechanism (including browsers, spiders, robots, avatars or intelligent agents) to navigate or search the Services other than the search engine and search agents that we make available via the Services and other than the generally available third-party web browsers. If you violate our system or network security, you may face civil or criminal liability. We will investigate occurrences that may involve such violations. We may involve or cooperate with law enforcement authorities in prosecuting users who are involved in such violations.

17. FEES

You are responsible for all charges and fees associated with your use of the Services, including but not limited to all wireless and/or internet service provider fees, devices and equipment, sales taxes, and any other fees and charges necessary to access the Services. We offer the Services at various fee structures such as a one-time fee, fees based on hourly use of the subscribed-to Services, or fees based on reaching pre-defined milestones. You agree to pay all fees associated with the Services you select at the time of signup. All fees are payable in advance and quoted in United States dollars. You are responsible for payment of any taxes, fees, or other charges associated with your use of the Services and associated fees. We reserve the right to change our subscription levels and features offered or adjust our fees or any components thereof in any manner and at any time.

18. PAYMENT

You must maintain a valid payment method on file with us. You agree that we may charge your credit or debit card or withdraw amounts from your designated account at your depository institution or charge any other payment method that you have on file with the fees due hereunder, any sales and use taxes and any late fees or interest (as described below). You represent and warrant that the payment information you provide to us is correct and accurate and you are using a form of payment that you are legally authorized to use for this purpose. You agree that you are solely liable for any payment or credit card fraud, abuse, or unauthorized use by you or others. Payments are nonrefundable, and there are no refunds or credits for partially used Services.

If you do not pay on time or if we cannot charge the payment method you have on file for any reason, we reserve the right to either suspend or terminate your access to the Services. In addition, if any payment is not received within 30 days after the due date, then we may charge a late fee of

\$10 and we may assess interest at the rate of 1.5% of the outstanding balance per month (18% per year), or the maximum rate permitted by law, whichever is lower, from 30 days after the due date until the date paid. If your unpaid fees are referred to an attorney or collections agency, you shall pay all reasonable attorney's fees or collections agency fees.

If you access our Services through a third-party subscription, your use of the Services is also subject to the third party's terms and conditions and your access to the Services is subject to our receipt of payment from such third party. Project Dasein reserves the right to terminate your use of the Services if your payment via a third-party subscription is not received for any reason.

19. COMMUNICATIONS

As part of your use of the Services, you may receive service notifications, alerts, emails, or other communications through our online channels. You agree to the receipt of these communications to use the Services, and you will not be able to opt-out from receiving these messages. We may also send you marketing communications by email, mail, or other methods if you opt-in to receive those messages. You can opt-out of marketing communications by adjusting your App settings or unsubscribing from our marketing emails.

a. Consent to Electronic Communications

By downloading or using our Services, creating a profile, or typing your name into any of our electronic forms and indicating your acceptance or submission of information by clicking a box, you consent to (a) our communicating with you electronically; (b) receiving all applications, notices, disclosures, and authorizations (collectively, "**Records**") from us electronically; and (c) entering into agreements and transactions using electronic Records and signatures. Please note that federal law treats electronic signatures as having the same legal force and effect as if they were signed on paper by hand, and online contracts have the same legal force as signing an equivalent paper contract in ink. We will use electronic documents for all communications, notices, agreements, disclosures, authorizations, and other documents necessary to provide you with the Services. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. You must have a computer or other web-enabled device, an internet connection, an active email account, and the ability to receive and read PDF files to conduct business with us electronically. You agree to be responsible for keeping your own Records. If you require assistance with your Records or if you wish to receive Records in paper format or to withdraw your consent to receiving electronic records from us, please contact us at support@projectdasein.com. Agreements and transactions executed prior to this request will remain valid and enforceable.

b. Texting Consent

By providing us with your wireless phone number, you consent to us sending you informational text messages related to the Services and other information you request from us. The number of texts that we send to you will be based on your circumstances and requests. You can unsubscribe from text messages by replying STOP or UNSUBSCRIBE to any of these text messages. Messaging and data charges may apply to any text message you receive or send. Please contact your wireless carrier if you have questions about messaging or data charges.

20. UPDATES

From time to time, we may, in our sole discretion, develop and provide updates to our Services, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, “**Updates**”). Updates may also modify or delete in their entirety certain features and functionality. You agree that we have no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. Based on your device settings, when an internet-connected device is connected to the internet, either (a) the Services will automatically download and install all available Updates; or (b) you may receive notice of or be prompted to download and install available Updates. You agree to promptly download and install all Updates and acknowledge and agree that our Services or portions thereof may not properly operate should you fail to do so. You further agree that all Updates will be deemed part of the Services and be subject to these Terms.

21. UNSOLICITED SUBMISSIONS

Please do not send or provide any unsolicited data, reports, studies, ideas, works, materials, proposals, suggestions, content, or the like (all of the foregoing “**Unsolicited Submissions**”) in any form to Project Dasein or any of its employees or contractors. As a result of the legal and business complexities, we regret that it has become necessary for us to adopt a strict policy against accepting or considering any Unsolicited Submissions sent to us. This policy is necessary to avoid potential misunderstandings or disputes that may arise if our new products or services or marketing campaigns were to appear similar to an idea submitted by you. If, despite our request that you not send us your Unsolicited Submissions, you still submit them, then regardless of what your correspondence says, you understand and agree that the following terms will apply to your submissions: (a) your Unsolicited Submissions and their contents will automatically become the property of Project Dasein, without any compensation to you; (b) there is no obligation for Project Dasein to review, consider, or otherwise use the Unsolicited Submissions; (c) Project Dasein may use or redistribute the Unsolicited Submissions and their contents for any purpose and in any way; and (d) there is no obligation to keep any submissions confidential.

22. COPYRIGHT INFRINGEMENT/DMCA NOTICE

Project Dasein takes claims of copyright infringement seriously. It is our policy, in appropriate circumstances and at our discretion, to respond to notices of alleged copyright infringement in accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) (“**DMCA**”). Upon receipt of a DMCA compliant notice, we will expeditiously remove or disable access to the content that is the subject of the notice.

If you are a copyright owner or an authorized agent thereof, and you wish to file a notice of infringement with us, then you may contact us at

Project Dasein

494 SW Veterans Way, Suite 1

Redmond, OR 97756

Email: support@projectdasein.com

Please include the following information with your complaint (you should speak with your legal counsel or *See* 17 U.S.C. § 512(c)(3) to confirm these requirements):

- a. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- b. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Services are covered by a single notification, a representative list of such works at that site.
- c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material.
- d. Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and if available, an electronic mail address at which you may be contacted.
- e. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- f. A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

You acknowledge that if you fail to comply with all of the requirements of this section, your DMCA notice may not be valid. If material is believed in good faith by Project Dasein to infringe a copyright or otherwise violate any intellectual property rights, Project Dasein will remove or disable access to the material.

Before submitting a notice of claimed copyright infringement, please note that doing so can have serious legal consequences. Be sure to consider whether the “fair use” doctrine or another similar limitation of copyright rights applies in your circumstances. **Please note that under Section 512(f) of the DMCA, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.** If you are unsure whether the material available online infringes your copyright, we suggest that you contact an attorney before sending us a notice.

23. ENFORCEMENT OF THESE TERMS

Project Dasein reserves the right (but is not required) to remove or disable your access to our Services, any Content, or your User Content at any time and without notice, and at our sole discretion, if we determine that your use of our Services or your User Content is objectionable or in violation of these Terms. We have the right to investigate violations of these Terms and any conduct that affects our Services, and in response may take any action we may deem appropriate.

24. CANCELLATION AND TERMINATION

If you cancel the Services, your cancellation is effective immediately. We may terminate your use of the Services and these Terms immediately upon giving notice to you if you breach any of these Terms or any other agreement between you and us. In addition, we may terminate your use of the Services and these Terms for any other reason or for no reason by giving you 30 days’ notice. If you cancel or otherwise terminate these Terms, we will retain any fees you paid to us under these Terms.

Upon termination of these Terms (a) the rights and licenses granted to you herein shall terminate as to the terminated rights; (b) you shall cease all use of the Services that have been terminated; and (c) Project Dasein may at its own discretion remove and/or purge data, account information, and any other information obtained by us in connection with providing you the Services. We reserve the right to disable any username, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms.

25. GEOGRAPHIC RESTRICTIONS

Project Dasein is owned and operated in the United States. We make no claims that the Services or any other products or services or their content is accessible or appropriate outside of the United States. Access to our Services may not be legal by certain persons or in certain countries. If you access the Services from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

26. DISCLAIMER OF WARRANTIES

YOU USE THE SERVICES AT YOUR OWN RISK. THE SERVICES AND OUR CONTENTS ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES ARISING OUT OF OR RELATED TO THESE TERMS OR THE SERVICES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. We make no warranty that the Services or our Contents will meet your requirements or be available on an uninterrupted, secure, or error-free basis. We make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness, or reliability of the Services or any Contents.

27. LIMITATION OF LIABILITY

NEITHER PROJECT DASEIN, ITS SUPPLIERS, OR LICENSORS, NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING PERSONAL INJURY, HEALTH OR MEDICAL ISSUES, LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE, OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT PROJECT DASEIN HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

IN NO EVENT WILL PROJECT DASEIN'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS YOU HAVE PAID TO US FOR USE OF THE SERVICES OR ONE HUNDRED DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO PROJECT DASEIN, AS APPLICABLE.

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

28. INDEMNIFICATION

YOU WILL INDEMNIFY AND HOLD HARMLESS PROJECT DASEIN OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS, LICENSORS, AND CONTRACTORS FROM AND AGAINST ANY CLAIMS, SUITS, ACTIONS, DEMANDS, DISPUTES, ALLEGATIONS, OR INVESTIGATIONS BROUGHT BY ANY THIRD PARTY, GOVERNMENTAL AUTHORITY, OR INDUSTRY BODY, AND ALL LIABILITIES, DAMAGES, LOSSES, COSTS, AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR IN ANY WAY CONNECTED WITH (A) YOUR ACCESS TO OR USE OF THE SERVICES; (B) YOUR CONTENT; (C) YOUR BREACH OR ALLEGED BREACH OF ANY WARRANTIES MADE BY YOU HEREUNDER OR YOUR VIOLATION OF ANY OTHER PROVISION OF THESE TERMS; OR (D) YOUR VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD-PARTY. WE RESERVE THE RIGHT TO ASSUME CONTROL OF THE DEFENSE OF ANY THIRD-PARTY CLAIM THAT IS SUBJECT TO INDEMNIFICATION BY YOU, IN WHICH EVENT YOU WILL COOPERATE WITH US IN ASSERTING ANY AVAILABLE DEFENSES.

29. DISPUTE RESOLUTION

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT CONTAINS A CLASS ACTION WAIVER, REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES, AND CLAIMS AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

You agree that any dispute between you and Project Dasein arising out of or relating to these Terms of Use, the Services, or any other Project Dasein products or services (collectively, “**Disputes**”) will be governed by the arbitration procedure outlined below.

a. Informal Dispute Resolution

We want to address your concerns without needing a formal legal case. Before filing a claim against Project Dasein, you agree to try to resolve the Dispute informally by contacting support@projectdasein.com. Project Dasein will contact you by email as part of a good faith effort to resolve the Dispute informally. If a Dispute is not resolved within 30 days after submission, you or Project Dasein may bring a formal proceeding.

b. Arbitration Agreement

You and Project Dasein each agree to resolve any Disputes through final and binding arbitration. Notwithstanding the foregoing you can decline this agreement to arbitrate by contacting Project Dasein at support@projectdasein.com within 30 days of first accepting these Terms of Service and stating that you (include your first and last name) decline this arbitration agreement or, The American Arbitration Association (AAA) will administer the arbitration under its Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes. The arbitration will be held in Portland, Oregon, United States, or any other location we agree to. The AAA rules will govern payment of all arbitration fees.

c. Exceptions to Agreement to Arbitrate

Notwithstanding Section 29(b), either you or Project Dasein may assert claims, if they qualify, in small claims court in Portland, Oregon or any United States county where you live or work. Either party may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of our Services, or infringement of intellectual property rights (for example, trademark, trade secret, copyright, or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above.

d. Class Action Waiver

You may only resolve Disputes with Project Dasein on an individual basis and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations are not allowed under our agreement.

e. Governing Law

Except as otherwise required by applicable law, the Terms of Use and the resolution of any Disputes shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of laws principles. Except as otherwise required by applicable law, in the event that the agreement to arbitrate is found not to apply to you or your claim, you and Project Dasein agree that any judicial proceeding (other than small claims actions) will be brought in the federal or state courts of Multnomah County, Oregon. Both you and Project Dasein consent to venue and personal jurisdiction there. We both agree to waive our right to a jury trial.

f. Limitation on Claims

Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to your use of the Services must be filed within one (1) year after such claim or cause of action arose, or else that claim or cause of action will be barred forever.

30. MISCELLANEOUS

a. Entire Agreement

Except as otherwise stated herein, these Terms constitute the entire and exclusive understanding and agreement between Project Dasein and you regarding the Services, and these Terms supersede and replace any and all prior oral or written understandings or agreements between Project Dasein and you regarding the Services and our Contents.

b. Relationship of Parties

The parties' relationship, as established by these Terms, is solely that of independent contractors. These Terms do not create any partnership, joint venture, or similar business relationship between the parties. Neither party is a legal representative of the other party, and neither party can direct and control the day-to-day activities of the other, assume or create any obligation, representation, warranty, or guarantee, express or implied, on behalf of the other party for any purpose whatsoever.

c. Assignment

You may not assign, delegate, or transfer these Terms, by operation of law or otherwise, without our prior written consent. Any attempt by you to assign or transfer these Terms, without such

consent, will be null. Project Dasein may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors, and permitted assigns.

d. Waiver; Severability

Project Dasein's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Project Dasein. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise. If for any reason a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible, and the other provisions of these Terms will remain in full force and effect.

e. Notices

Any notices or other communications provided by us under these Terms, including those regarding modifications to these Terms, will be given (i) via email; or (ii) by posting to the Services. For notices made by e-mail, the date of receipt on the message will be deemed the date on which such notice is transmitted.

f. Changes

We reserve the right to revise these Terms of Use at any time by updating this posting without prior notice. Your continued use of our Services following the posting of changes constitutes your acceptance of such changes. You are advised to periodically visit this page to determine the then current Terms of Use.