



End User License Agreement (EULA)

Mobile Application End User License Agreement (EULA)

This End User Licence Agreement (EULA) is between you (licensee, you and your) and **ALTHEA COMPANY PTY LTD** (“ALTHEA”) ACN 618 177 192 (ALTHEA, licensor, we, us and our) (collectively Parties) and governs your use of the mobile application (App) known as the Althea Concierge App including but not limited to programs, functions, features, content, data, user interface, electronic documentation as well as all other material in relation to the App including but not limited to questions, answers, comments, notes, information, all health and medical related materials and personal health and medical information made available via the App (“Content”).

You acknowledge and agree that to the extent not in conflict with this EULA, your use of the App will be subject to ALTHEA’s Privacy Policy

<http://www.althea.com.au/legal/privacy-statement/>, ALTHEA’s Terms of Use

<http://www.althea.com.au/legal/terms-of-service/> and the Third-Party Terms and

Conditions <http://www.althea.com.au/legal/third-parties/T&C/>.

1. ACCEPTANCE OF TERMS

1.1 By downloading, installing, operating or using the App, you acknowledge and agree to be bound by the terms and conditions of this EULA.

1.2 IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA YOU MUST NOT DOWNLOAD, INSTALL, OPERATE OR USE THE APP, OR IF YOU ALREADY HAVE DONE THIS, YOU MUST IMMEDIATELY DELETE THE APP FROM YOUR MOBILE DEVICE.

1.3 We reserve the right, at any time and from time to time, at our sole and absolute discretion to update, revise, supplement or otherwise modify this EULA (Update the EULA).

1.4 Subject to clause 1.3, if We Update the EULA We will make a reasonable effort to notify You of this change when You access the App for the first time after such an update is made.

1.5 Subject to clause 1.4, Your continued use of the App will constitute Your acknowledgement and agreement to be bound by the Updated EULA.

2. LIMITED LICENCE

- 2.1** Subject to the terms and conditions of this EULA, We grant You a limited, non-exclusive, revocable, personal, non-commercial, non-sublicensable, non-assignable and non-transferable license (Licence) to download, install, operate and use the App solely for your own lawful, non-commercial and personal use on any mobile device owned or controlled by you that can access the Android Market site and Google Play™ operated by Google Inc. or that can access the Mac Apple App Store™ and Apple App Store™ operated by Apple Inc. (Apple) (as the case may be).
- 2.2** If you download the App through the Apple App Store™ and/or the Google Play™, in addition to the terms set out here, your use of the App is also subject to Apple's EULA <https://www.apple.com/legal/macapps/stdeula/> or Google Play Terms of Service https://play.google.com/intl/en-us_us/about/play-terms.html depending on your compatible device. To the extent of any conflict between the Apple's EULA or Google Play Terms of Service, this EULA will prevail.

3. NOTICE REGARDING APPLE

- 3.1** You acknowledge and agree that this EULA is between you and ALTHEA only and not with Apple.
- 3.2** Apple is not responsible for the App and the Content thereof.
- 3.3** Apple has no obligation to provide any maintenance and support services with respect to the App.
- 3.4** In the event of any failure of the App to conform to any applicable warranty, then you may notify Apple and Apple will refund the purchase price (if any) for the relevant App to you and to the maximum extent permitted by applicable law, Apple has no other warranty obligation whatsoever with respect to the App.
- 3.5** Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and/or use of the App, including, but not limited to product liability claims, any claim that the App fails to conform to any applicable legal or regulatory requirement, and claims arising under consumer protection or similar legislation.
- 3.6** Apple is not responsible for the investigation, defence, settlement and discharge of any third-party claim that your possession and use of the App infringes that third party's intellectual property rights.
- 3.7** You agree to comply with any applicable third-party terms, when using the App.

3.8 Apple, and Apple's subsidiaries, are third party beneficiaries of this EULA, and upon your acceptance of this EULA, Apple will have the right, and will be deemed to have accepted the right, to enforce this EULA against you as a third-party beneficiary of this EULA.

3.9 You hereby represent and warrant that 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 you are not listed on any U.S. Government list of prohibited or restricted parties.

4. TERM, TERMINATION AND SUSPENSION

4.1 The EULA will commence when you install the App on your mobile device and will remain in effect until terminated by you or us.

4.2 We reserve the right to immediately terminate, suspend or disable the App; suspend or terminate the EULA; suspend or terminate or limit the Licence and/or your rights thereunder at any time, with or without cause, without notice and for such period or periods as we determine in our absolute discretion.

4.3 You may terminate this EULA at your sole and absolute discretion by uninstalling and discontinuing your use of the App.

5. INSTALLATION, UPDATES AND MAINTENANCE

5.1 You acknowledge and agree that:

- I. The App requires a compatible 3G or higher enabled mobile device with internet connectivity and access to the Android Market site or Google Play™ operated by Google Inc. or the Mac Apple App Store™ and Apple App Store™ operated by Apple;
- II. Your use of the App may incur internet data charges, may involve the downloading of images, content and other items that may attract internet data fees and will consume the battery charge of your mobile device.
- III. The App does not provide for international roaming, and you may incur international roaming charges if the App or your mobile device is used outside Australia.
- IV. The continued availability of the App, and Content provided through the operation and use of the App, may be subject to external factors out of our control including but not limited to routine maintenance, malfunction in equipment, hardware or software, internet access, and delay or failure of transmission.
- V. We may modify or update the App at any time without notice including but not limited to disabling or enabling certain features or functionalities of the App,

introducing new features and functionalities to the App, bug fixes, error corrections, and workflow and design changes.

- VI. We may, but we are not obligated to, provide maintenance and technical support for the App from time to time and we may suspend, terminate or disable some or all of the features and functionalities of the App in order to provide such services (if any) at any time without notice.
- VII. As part of the App installation process your mobile device settings may change and you acknowledge that by installing the App You approve any such changes to your mobile device settings.
- VIII. You may be required to download the latest version of the App from time to time including but not limited to any updates. It is your responsibility to ensure that you are using the most up to date version of the App at any given time.

5.2 By downloading and using the most up to date version of the App you acknowledge and agree to be bound by the then current terms and conditions of this EULA.

6. RESTRICTIONS AND TERMS OF USE

6.1 You acknowledge and agree that this App will be used by you for your sole lawful, non-commercial and personal use only.

6.2 You must not, and you must not permit others to:

- I. reverse engineer, decompile, decode, decrypt, disassemble or in any way derive source code or codes from the App;
- II. modify, translate, adapt, alter, or create derivative works from the App and the Content;
- III. copy, distribute, publicly display, transmit, sell, rent, lease or otherwise exploit the App and the Content; or
- IV. distribute, sublicense, rent, lease, loan or allow any third-party access to or use of the App and your Content;
- V. use the App in any manner whatsoever that could lead to a violation of any local, state, federal or international laws, rules or regulations in the jurisdiction in which you use the App and the Content.

6.3 You must abide by the terms of use specified in clause 6.4 when you access, operate or use the App, including any functions or features that enable You to post comments, content, material, or interact with other users and take all reasonable steps to ensure that no unauthorised person will have access to your mobile device or your personal and/or medical information.

6.4 You must not, and you must not permit any other person to:

- I. use the App or the functions and the information the App provides in any way that is offensive or that results or could result in any loss or any damage to any person;
- II. allow a user under the age of 18 to use the App or the functions and the information the App provides;
- III. defame, abuse, harass, stalk, threaten or otherwise violate the legal rights of others using the App including ALTHEA and its directors, officers, agents, employees, licensees, contractors, assignees or successors;
- IV. upload, email, post, publish, distribute or otherwise transmit any information about any person that may identify them or that may compromise their privacy or breach their confidentiality without their prior written consent;
- V. impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with any person or entity;
- VI. upload, email, post, publish, distribute or otherwise transmit content that is false or misleading, inappropriate, tasteless, harassing, threatening, abusive, hateful, profane, defamatory, obscene, pornographic, racially vilifying, which promotes bigotry or hatred or harm against a group or individual, deliberately provocative or indecent, designed to provoke a negative response from one or more users, infringes another's rights including but not limited to intellectual property rights, or violates any applicable laws or regulations;
- VII. upload, email, post, publish, distribute or otherwise transmit content that is of nuisance value, inappropriate, off topic, vexatious, constitutes unsolicited bulk e-mail, junk mail, spam or chain letters, contains a solicitation for funds, promotion, advertisement, solicitation for goods or services, or other commercial matter; solicit, collect or store personal data about other users,
- VIII. solicit other users to use or join or become members of any commercial online or offline service or other organization;
- IX. violate the property rights of others and You must not upload, email, post, publish, distribute or otherwise transmit content that infringes any patent, trade mark, trade secret, copyright or other proprietary rights of any party; or
- X. post any instructions, software, malware or other materials that harm other users' computers or would allow App users or third parties to harm other users' computers, mobile devices, tablet devices or to inappropriately access software or Websites and you must not employ any type of bots for the use of scrolling, showing multiple screens, or other activities that might disrupt online communication.

7. WARRANTY DISCLAIMER

7.1 The App is provided to you on an “as is” and “as available” basis.

7.2 To the maximum extent permitted by law, we expressly disclaim all representations and warranties, whether express or implied, with respect to the App, the Content and your access to and operation and/or use thereof, including but not limited to all implied warranties of merchantability or fitness for a particular purpose or any warranties of title, non-infringement and/or arising from a course of dealing or usage of trade.

7.3 We expressly disclaim all guarantees, representations and warranties, whether express or implied, that the App will meet your requirements or that your operation and/or use, or the results of the operation and use of the App will be uninterrupted, complete, reliable, accurate, current, error-free, free of viruses or otherwise secure.

7.4 You agree that you download, install, operate and use the App at your own risk.

8. DISCLAIMER

8.1 ALTHEA is not a medical practitioner, doctor, qualified health care professional or any other qualified professional health care provider.

8.2 Nothing contained in this App or the Content is intended to constitute or to be used as medical advice and nothing contained in this App or the Content is intended to be used to diagnose, treat, cure or prevent any disease; nor should it be used for any therapeutic purposes or as a substitute for the advice of your health care professional.

8.3 All Content provided on or through the App, including but not limited to Third Party Content and all other text, graphics and images is provided for informational purposes only.

8.4 No doctor-patient relationship is formed between you and us by your use of the App.

8.5 You should always seek the advice of a doctor, qualified health professional or other qualified health care provider if You have questions about any physical or mental health condition or any of the information you receive from the App.

8.6 You should never disregard or delay seeking professional medical advice, diagnosis, or treatment based on anything you read or obtain through the App.

8.7 Some of the information ALTHEA provides may become outdated, which may result in it being incorrect. Health care knowledge and health care practice can evolve and change rapidly, and therefore ALTHEA makes no representation or warranty, either express or implied, as to the accuracy, completeness, adequacy,

currency or timeliness of the Content provided on the App. ALTHEA will not be liable to you for your reliance on any incorrect, inaccurate, incomplete or outdated Content on the App.

8.8 The App may include interactive features that allows users of the App to communicate with us and you acknowledge that:

- I. You use the Content provided on the App at your own risk.
- II. ALTHEA assumes no liability or responsibility for any errors or omissions in any of the Content on the App or the information provided to you.
- III. ALTHEA does not endorse, represent or guarantee the validity, truthfulness, accuracy, completeness or reliability of any of the Content on the App.

9. INDEMNITY

9.1 You agree to release and indemnify ALTHEA, its directors, officers, agents, employees, licensees, contractors, assignees and successors from all losses, costs, expenses and damages of any kind including but not limited to direct or indirect, consequential, incidental, special, exemplary or punitive damages, and any liabilities arising out of or in connection with:

- I. any past, present or future claims, actions, suits, demands, causes of action, liabilities and costs of whatever kind and wherever situated which You or any third party now have or may have arising out of or in connection with your operation and use of, or inability to operate and use the App on any mobile device that you own or do not own or control;
- II. a breach by You of Your obligations under this EULA;
- III. any wilful, unlawful or negligent act or omission by you; and
- IV. any use or reliance of the App or Content, or by any reason arising from this EULA.

9.2 ALTHEA will not indemnify, defend or hold you harmless with respect to any third-party claims of whatever nature against you arising out of or in relation to your use of the App or the Content.

10. LIMITATION OF LIABILITY

10.1 To the maximum extent permitted by law, Althea will not be liable for any direct or indirect damage suffered by you. To the extent permitted by law, liability under any condition or warranty which cannot legally be excluded is limited to:

- I. in the case of goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
- II. in the case of services:
 - (i) supplying the services again; or
 - (ii) paying the cost of having the services supplied again.

10.2 Notwithstanding clause 10.1 or any other provisions of this EULA, you agree that under no circumstances will ALTHEA's total liability for any loss or damage suffered or incurred by you exceed the licence fees (if any) paid by you for the App. In this regard, the total liability may be nil.

11. INTELLECTUAL PROPERTY, TRADE MARK AND COPYRIGHT

- 11.1** You acknowledge and agree that we own absolutely, or have the right to use, all copyright, trademarks and all other intellectual property in the App and the Content including but not limited to visual interfaces, interactive features, information, graphics, designs, compilations, computer codes and all other elements of the App.
- 11.2** You acknowledge and agree that You own no copyright or other intellectual property rights in the App and the Content.
- 11.3** Nothing in this EULA grants you permission to use and reproduce our trademarks or trade names.
- 11.4** You must not adopt, use, or attempt to register any trademarks or trade names that are deceptively or confusingly similar to our trademarks or creates combination marks with any of our trademarks or trade names.
- 11.5** You acknowledge and agree that you have no legal or equitable proprietary or other title or interest in the App and the Content other than the right to use the App pursuant to this EULA, and that the title to and all other proprietary rights in the App are retained by and are the absolute property of ALTHEA.
- 11.6** You acknowledge and agree that damages may not be an adequate remedy for breach by you of this clause 11 and that we are entitled to apply for and be granted specific performance or injunctive relief in addition to any other legal or equitable remedy available to us for breach or threatened breach by you of this clause 11.

12. COLLECTION OF DATA AND PRIVACY

12.1 You acknowledge and agree that we may collect and use certain information through the App as set out in the ALTHEA Privacy Policy, which is attached to this EULA.

13. THIRD PARTY CONTENT

13.1 The App may utilise or include third party content, software, application, website or other copyright materials (Third Party Content). Your use of such Third-Party Content is governed by the Third-Party Terms and Conditions <http://www.althea.com.au/legal/third-parties/t&c/> .

13.2 By accepting this EULA, you agree that you also accept the Third-Party Terms and Conditions.

13.3 ALTHEA expressly disclaims all representations and warranties, whether express or implied, in connection with Third Party Content and will have no liability in connection therewith.

14. ACCOUNT INFORMATION

14.1 You are solely responsible for maintaining the confidentiality of your App login, your registration information, and protecting your mobile device from damage, theft or hacking.

15. GOVERNING LAW

15.1 This EULA is governed by and construed in accordance with the laws of the State of Victoria and the Federal laws of Australia and each Party submits to the non-exclusive jurisdiction of the courts of the State of Victoria, the Federal Courts of Australia (as the case may be) and courts hearing appeals from those courts.

16. GENERAL

16.1 The provisions of this EULA will be separate and severable from each other to the extent that if any provision or provisions are considered to be inoperative, void or otherwise unenforceable then the remaining provision or provisions will be binding on and enforceable by the Parties.

16.2 The rights and obligations of the Parties in respect of the EULA and the indemnities and warranties contained in this EULA will remain in full force and effect and will not merge or be extinguished by or upon termination of, or completion of any obligations under this EULA.

16.3 This EULA contains the entire agreement between the Parties with respect to its subject matter and supersedes all prior agreements and understandings

between the Parties in connection with it.