



TERMS OF USE

IMPORTANT - READ CAREFULLY. The KagenAir™ Application (the "Product") is owned and operated by KagenAir™ Application, LLC ("KagenAir™") and is provided to You ("You") under the terms and conditions of these Terms of Service ("Terms"), which include the KagenAir™ Privacy Policy and Registration / Create Account Forms as set forth below and incorporated herein by reference. The term "You" includes You, the "Contracting Party," "User" or "Users," "Subscriber" or "Subscribers," "Member" or "Members," "Memberships" and anyone whom You represent to Us that You have the authority to act for. The term "Product" includes the "KagenAir™ Application Services" and associated online Internet websites, and the "Service" or "Services." "KagenAir™" includes "Us" and "We."

KagenAir™ provides its services (the "Services") to You ("You" or "Subscriber") subject to these Terms of Service. In order to use the Services, you must first agree to these Terms of Service. You may not use the Services if you do not accept these Terms of Service.

BY COMPLETING THE ELECTRONIC ACCEPTANCE PROCESS AND CLICKING THE "AGREE" BUTTON OR BY ACCESSING AND USING THE SERVICE, YOU REPRESENT AND WARRANT THAT YOU: (i) ARE AUTHORIZED TO SIGN FOR AND BIND THE CONTRACTING PARTY, (ii) AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING ALL DISCLAIMERS AND LIMITATIONS OF LIABILITY AS SET FORTH BELOW AND (iii) AGREE THAT KAGENAIR™ WILL TREAT YOUR USE OF THE SERVICES AS ACCEPTANCE OF THESE TERMS OF SERVICE FROM THAT POINT ONWARDS.

You may not use the Services and may not accept these Terms of Service if (i) you are not at least 18 years of age AND are not of legal age to form a binding contract with KagenAir™, or (ii) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are a resident or from which you use the Services.

1. **DESCRIPTION OF PRODUCT AND SERVICES.** The KagenAir™ Application is an Internet/mobile cell phone-based (smartphone) entity that allows Users ("Subscribers") to learn about environmental factors that might or might not affect how they feel, and to communicate with anyone doing business with KagenAir™. The Product allows Subscribers to measure their "Symptom Scores" using questions ("Questionnaires") created by KagenAir™ to determine a daily or weekly "Symptom Score", which composite score is then compared against specific changes in local environmental, weather and biological factors. This Product is not a medical device, and the information you voluntarily provide and store in your User account is not intended to be and should not be used for the diagnosis or treatment of any medical conditions.

2. **REGISTRATION.** To Use the Product, You must submit a complete registration. As part of the registration process for the Product, You agree to: (1) provide certain information about You as prompted to do so by the Product (such information must be current, complete and accurate); and (2) maintain and update this information as required to keep it current, complete and accurate. The information requested on Your original signup shall be referred to as registration data ("Registration Data"). If KagenAir™ discovers that any of Your Registration Data is inaccurate, incomplete or not

current, KagenAir™ may terminate Your right to access and receive the Product immediately and without notice. KagenAir™ will evaluate Your registration application. KagenAir™ may reject your registration application if it determines, in its sole discretion, that You are not an appropriate Subscriber or User of the Product. KagenAir™ reserves the right to refuse the Service to any applicant or Subscriber and need not provide a reason for its rejection. If KagenAir™ rejects Your application, You may reapply and KagenAir™ may reconsider Your application.

You may not register for this Service if You are under 18 years of age. By registering for this Service You represent to KagenAir™ that You are 18 years of age or older. Upon acceptance of this agreement and completion of the registration process You will have opened an account with KagenAir™ and will become a Subscriber to the KagenAir™ Application Services.

3. SERVICES – Subscribers may be able to

(a) Measure the severity of their symptoms of health-related conditions. Subscribers answer daily or weekly disease-specific Questionnaires created, designed and owned by KagenAir™. Subscribers' Symptom Scores are derived from information voluntarily obtained from Subscribers and other sources and are analyzed using patent pending mathematical formulations created, owned and copyrighted by KagenAir™. Such calculations are then expressed graphically as the Subscriber's "Aller-Rhythm™ display" using correlations between said Symptom Scores and pollution, weather and biological factors monitored and/or identified within a Subscriber's local or regional environment.

(b) Locate health practitioners and pharmacies who may, or may not, be able to address Subscriber's concerns, and where available, communicate with such businesses by voice and/or live video technologies, agreeing that any and all such communications are voluntarily initiated and controlled entirely by You.

(c) View weather information obtained hourly from the U.S. National Weather Service (NWS), the U.S. Environmental Protection Agency (EPA) and other reliable weather sources as determined solely by KagenAir™ and interpretations of potential pollen and mold spore exposures within the United States and Canada. At no time, however, does KagenAir™ assume any responsibility for the reliability, accuracy or timeliness of any such information, as said information is not controlled entirely by KagenAir™.

4. NO PATIENT – PHYSICIAN RELATIONSHIP – At no time whatsoever, either because of the use of the application process or of the KagenAir™ Application and its associated online website(s) does the Subscriber or KagenAir™ establish, in fact or appearance, a patient-physician relationship.

5. HEALTH INFORMATION. You understand and agree that KagenAir™ does not hold itself out to be a health care provider; is not an electronic health record product or service; and is not providing you with Health Care. You also understand and agree that you may be creating electronic personal health information (ePHI) by using the Service. This information you provide will be stored for KagenAir™ by a third party provider. KagenAir™ has entered into data storage contracts with third party providers. KagenAir's contracts contain protective requirements for the third party providers to safeguard your ePHI, and you agree that these safeguards are a reasonable method of safeguarding your ePHI. In making use of the features of KagenAir's Products and Services, you may personally cause your ePHI to be transmitted into the Product and/or to one or more Health Care Providers or others. You agree that any steps you may take in transmitting your ePHI into the Product or to third persons do not constitute transmission of that information by KagenAir™ and that you authorize any and all such transmissions.

6. PROPRIETARY RIGHTS – (a) No Resale or Commercial Use of the Product. Your right to Use the Product is restricted to You. You agree not to resell the use of the Product or any materials received by You in connection therewith or any other information obtained by You from KagenAir™, without first obtaining the express prior written consent of KagenAir™.

(b) The KagenAir™ Application, LLC, KagenAir™, Allergy Hot Spots™, Flu Hot Spots™, and any and all other names, logos, icons and marks used herein, and all other items identifying KagenAir™ products and services, are trademarks of KagenAir™ and may not be used without prior written permission from KagenAir™. You may not create or enable the creation of derivative works, modifications, or adaptations of the Services or any information relating thereto, copy, reproduce, distribute, lease, loan, rent, timeshare, deliver or otherwise transfer to any third party, directly or indirectly, the account access granted to You, in whole or in part, or create derivative works of this service without expressly being authorized to do so by KagenAir™. Furthermore, You may not attempt to reverse engineer, decompile, recompile, alter, modify, disassemble or otherwise attempt to derive source code from the Product. All rights not expressly granted in these Terms are reserved exclusively to KagenAir™. You may not remove or modify any proprietary marking or restrictive legends placed on the Product; use any robot, spider, other automatic device or program or manual process to copy or reproduce the Product; interfere with the functionality of the Product by (i) uploading, storing, emailing, posting, linking, transmitting, distributing, publishing or otherwise disseminating any material that contains software viruses, Trojan horses, worms, time bombs, or any other computer code, file or program designed to interrupt, destroy or limit the functionality of the Product; (ii) disrupting the normal flow of the Product, using a screen to scroll faster than it can be usable or acting in a manner that limits other user's use of the Product; (iii) otherwise modifying the Product or interfering or attempting to interfere with the proper operation of the Product or the use of the Product by third parties, including through the use of any device, software or routine; or (iv) using the Product to disrupt the servers or networks connected to the web servers with respect to the Product; upload, store, post, email, transmit, distribute, publish or otherwise disseminate on or through the Product (i) any information that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous or racially or ethnically objectionable, or promotes such activity; (ii) any unauthorized advertising, junk mail, spam, chain letters, or any other form of solicitation; or (iii) any information or content that, to the best of Subscriber's knowledge, infringes any patent, trademark, trade secret, or other proprietary rights or any contractual rights of any party; or violate (intentionally or unintentionally) any applicable local, state, national, or international law or regulation, including, but not limited to, laws regarding the transmission through the Product of technical data or software exported from the United States and/or the countries in which the Subscriber resides, and all local laws and regulations regarding online conduct and acceptable content.

7. PRIVACY. KagenAir™'s use of any personal information You provide is set forth in the KagenAir™ Application's Privacy Policy.

8. MODIFICATIONS. KagenAir™ may amend these Terms at any time by posting a revised Terms of Use, or Terms of Service, document on its Application Form in the Information Center in the Hamburger Menu, or by sending You information regarding the Amended Terms in a Notification or an email to the email address You provide to Us. You are responsible for regularly reviewing the contents of the Information Center of the KagenAir™ Application to obtain timely notice of such amendments. You understand and agree that if You continue to use Your membership account after such amended

terms have been posted or information regarding such amendment has been sent to You, KagenAir™ will treat your continued use as acceptance of the revised Terms of Use, or Terms of Service. Further, KagenAir™ reserves the right to modify or discontinue the Product with or without notice to You. KagenAir™ shall not be liable to You or any third party should KagenAir™ exercise its right to modify or discontinue the Product.

9. PASSWORD AND SECURITY. KagenAir™ will allow You to create Your initial access codes and/or passwords for access to Your account. You agree to carefully safeguard all of Your account information. You are solely responsible if You do not maintain the confidentiality of Your account information. Furthermore, You are solely responsible for any and all activities that occur through the use of Your account by anyone. You agree to immediately notify KagenAir™ of any unauthorized use of Your account by anyone or any other breach of security known to You, including if You believe that any account information has been stolen or otherwise compromised, or if there is any other reason to deactivate a Password. KagenAir™ reserves the right to delete or change your Password, Sign-In Name, or Unique Identifier at any time and for any reason. KagenAir™ will not be liable for any losses or damages caused by any unauthorized use of your account.

10. TERMINATION. KagenAir™ may immediately terminate Your right to use the Product if: (1) You breach these Terms; (2) KagenAir™ is unable to verify or authenticate any information You provide to Us; (3) such information is inaccurate; or (4) KagenAir™ decides, in its sole discretion, to discontinue offering the Product. KagenAir™ shall not be liable to You or any third party for termination of the Product. You may terminate this agreement with or without cause at any time. Should You object to any terms and conditions of the Terms or any subsequent modifications thereto or become dissatisfied with the Product in any way, Your sole recourse is to immediately: (a) discontinue use of the Product; (b) terminate Your participation in any and all discount and promotional programs; and (c) notify KagenAir™ of termination. Upon termination of membership, Your right to use the Product ceases immediately.

11. DISCLAIMER OF WARRANTIES. YOU EXPRESSLY AGREE THAT USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" BASIS. KAGENAIR™ EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. KAGENAIR™ MAKES NO WARRANTY THAT THE SERVICE WILL MEET YOUR EXPECTATIONS OR REQUIREMENTS, OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, ACCURATE OR ERROR FREE, NOR DOES KAGENAIR™ MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICE OR THAT DEFECTS IN THE SERVICE WILL BE CORRECTED. YOU UNDERSTAND AND AGREE THAT ANY MATERIALS AND/OR INFORMATION RECEIVED OR DOWNLOADED, OR OTHERWISE OBTAINED, THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, CELL PHONE, IPAD, TABLET, PERSONAGE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR TRANSMITTAL OF SUCH MATERIAL AND/OR DATA. INFORMATION OR ADVICE, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM KAGENAIR™ OR THROUGH ANY PERSON OR MEDICAL PRACTITIONERS ASSOCIATED WITH KAGENAIR™ SERVICES SHALL NOT IN ANY WAY CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE

EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

ANY AND ALL CONTENT HEREIN, INCLUDING WRITTEN OR SPOKEN TEXT, GRAPHICS, IMAGES, AND OTHER MATERIALS ON OR IN THE KAGENAIR™ APPLICATION AND ITS ASSOCIATED WEBSITES (“CONTENT”) IS INTENDED SOLELY FOR INFORMATIONAL PURPOSES AND NOTHING HEREIN CONSTITUTES THE CREATION OF A PATIENT–PHYSICIAN RELATIONSHIP.

CONTENT HEREIN IS NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT FOR ANY MEDICAL CONDITIONS. ALWAYS SEEK THE ADVICE OF YOUR PERSONAL PHYSICIAN AND/OR OTHER QUALIFIED CAREGIVERS WITH QUESTIONS YOU MAY HAVE REGARDING YOUR HEALTH. NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF ANYTHING YOU READ ON THE KAGENAIR™ APPLICATION OR ITS ASSOCIATED CONTENT OR WEBSITE.

IF YOU THINK YOU MAY HAVE A MEDICAL EMERGENCY, CALL YOUR DOCTOR OR DIAL 911 IMMEDIATELY.

WE DO NOT ENDORSE ANY SPECIFIC TESTS, PHYSICIANS, PRODUCTS, PROCEDURES, OPINIONS OR OTHER HEALTH INFORMATION MENTIONED IN THIS APPLICATION OR ON OUR ASSOCIATED WEBSITES. WE DO PROVIDE YOU WITH INFORMATION AND ABILITY FOR YOU TO CONTACT CLINICS AND PHYSICIANS WHOM YOU MAY DECIDE TO CONTACT ON YOUR OWN. RELIANCE UPON ANY INFORMATION PROVIDED HEREIN IS SOLELY AT YOUR OWN RISK. YOU AGREE THAT ALL OF THE KAGENAIR™ CONTENT IS PROVIDED ON AN “AS IS” BASIS.

12. LIMITATION OF LIABILITY. IN NO EVENT SHALL KAGENAIR™ BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF OR THE INABILITY TO USE THE SERVICE, INCLUDING, BUT NOT LIMITED TO, PERSONAL AND ECONOMIC DAMAGES FOR LOSS OF GOOD HEALTH OR PROFITS. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE PRODUCT IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND THAT THE OPERATION OF THE PRODUCT MAY NOT BE UNINTERRUPTED OR ERROR–FREE.

13. INDEMNITY. You hereby agree, at Your expense, to indemnify, defend and hold KagenAir™ harmless from and against any loss, costs, damages, liability or expense arising out of or relating to: (1) a third-party claim, action or allegation of infringement based on personal information, data, files or other content submitted by You; (2) any fraud, manipulation or other breach of these Terms by You; or (3) any third-party claim, action or allegation brought against Us arising out of or relating to a dispute between its Users over the terms and conditions of a contract or related to the purchase and/or sale of any Services and promotions.

Furthermore, by agreeing to these Terms of Use, You unconditionally agree: (a) that Your participation in all electronic communications herein is voluntary, including but not limited to live video chat services, named Quick Chat!®, and Notifications; (b) that You understand KagenAir’s telemedicine services (telehealth services) are voluntary; (c) that

You understand fees may be charged to You for live telemedicine office visits using Quick Chat!® services; (d) that Quick Chat!® services may include delivery of prescription medications and/or refills, appointment scheduling, patient education and other health-related services; (e) that participating physicians, and/or other caregivers, have the exclusive right to determine whether or not Your symptoms being discussed, diagnosed and/or treated are appropriate for a telemedicine video encounter; (f) that You understand security measures used during Quick Chat!® video calls and Notifications include encryption of personal data, password protection and authentication techniques, but are still associated with risks to privacy notwithstanding such measures; (g) that now and forever You hold KagenAir, LLC and its employees, associates and consultants harmless, as above, for any personal information lost or stolen for any reason whatsoever; and (h) that You may seek care or information from physicians and caregivers You may have communicated with using Quick Chat!® and with whom You have established a patient–physician relationship.

14. GENERAL TERMS. These Terms are governed in all respects by the laws of the State of Wisconsin as such laws are applied. You submit to personal jurisdiction in Wisconsin and further agree that any cause of action relating to these Terms shall be brought in a court in Outagamie County, Wisconsin. If any provision of this Agreement whether in a full paragraph of more or less than a full paragraph is held to be invalid or unenforceable, such provision shall be stricken and the remaining provisions shall be enforced. Failure by KagenAir™ to act with respect to any one or more breaches of this agreement by You does not waive the right of KagenAir™ to act with respect to subsequent or similar breaches. You may not assign or transfer this Agreement or any rights hereunder and any attempt to do so is void. This Agreement shall inure to the benefit of and be binding upon each party's successors and assigns. KagenAir™ shall not be liable for any delay or failure to perform resulting directly or indirectly from any causes beyond KagenAir™'s reasonable control. Unless otherwise provided in this Agreement, any notice required or permitted to be given under this Agreement shall be delivered (i) by hand; (ii) by registered or certified mail, postage prepaid and return receipt requested to the address provided by the other party, or to such other address as a party may designate by written notice in accordance with this Section; (iii) by overnight courier or (iv) by electronic mail with confirming letter mailed under the conditions described in (ii). Notice so given shall be deemed effective when received, or if not received by reason of fault of addressee, when delivered. These Terms constitute the complete and exclusive understanding and agreement of the parties relating to the subject matter hereof and supersedes all prior understandings, proposals, agreements, negotiations and discussions between the parties, whether written or oral.

You understand and agree that You are solely responsible for periodically reviewing the Terms of Service. You must report any violations of these Terms, and to do so, you shall send such an email communication to info@KagenAir.com

With the use of this Application You may receive advertising information, coupons, contact information and other information from health care providers and others. KagenAir™ reserves the exclusive right to offer its associated vendors and/or retailers the opportunity to provide said advertising, coupons, contact opportunities and other information to You through KagenAir™ Notifications, Video Chats, direct mail or any other online, cell phone or cable communications. By doing so, KagenAir™ assumes no responsibility for the accuracy of such information provided to You in this manner and does not endorse or support the providers of these items to You.

15. INFORMATION WE COLLECT. We identify Your current location, with Your permission, via GPS (global position satellites) to enable Us to provide You with Your

local weather, pollution, pollen, mold spore, viral infections and other environmental or health information. We also collect personal information that You voluntarily provide to Us, including but not limited to Your name, street address, telephone numbers and email address, as well as all other information You willingly provide. This information helps Us provide You with more accurate and detailed information about You. Even if You do not provide Us with personal information, we collect non-personal information about Your use of our Product. We may use "Cookies" and "Web Beacons" to collect anonymous, non-personally identifiable information about Your use of our Application. For example, we may use cookies to help You navigate our Application and/or website more efficiently and statistically monitor how many people are using our services. "Cookies" are small text records used by our system that allow Us to track Subscriber requests and tailor the resulting Subscriber experience. "Web Beacons" are tiny graphic image files, embedded in a web page in GIF, jpeg or HTML format, that provide a presence on a web page and send back to its home server (which can belong to the host site, a network advertiser or some other third party) information from Your browser, such as the IP address, the URL of the page on which the beacon is located, the type of browser that is accessing the Site and the ID number of any Cookies on Your computer previously placed by that server. Web Beacons may also be used to place a Cookie on Your electronic device or computer.

This Application is designed for general audiences, and is not intended to attract children under the age of 18. We do not knowingly collect personal information from any person We actually know is under the age of 18.

The personal information collected by Us will be used to provide Subscriber services You have requested or authorized, including but not limited to offering You coupons to be delivered to You from Us from third parties. We may also use non-personal information for research purposes and may provide such information, de-identified, in the aggregate to third parties.

We may contract with other companies and individuals to help Us provide services, such as hosting some of our content on another company's computer, We may hire another company to answer Subscriber questions or send out information about our products and other services. In order to perform their jobs, these companies may have limited access to some of the information we maintain about You. We require all such companies to comply with the terms of our Privacy Policy, to limit their access to any personal information to the minimum necessary to perform their obligations and not to use the information they may access for purposes other than fulfilling their responsibilities to Us.

If we transfer a business unit or an asset to another company, we will require it to honor the applicable Terms of this Privacy Policy. In the event that the KagenAir™ Application, or substantially all of its assets, is acquired by a third party, personally identifiable information will be among the transferred assets.

We make appropriate attempts to secure Your information, but there is always some risk in transmitting any electronic information over the Internet. There is always a risk that thieves could find some way to circumvent our efforts to secure our data and our systems. Although we take measures to protect Your information, we cannot guarantee the personal information we collect will never be obtained and/or disclosed in a manner inconsistent with the Privacy Policy below.

16. LIMITED LICENSE. Subject to the terms and conditions of these Terms of Service, KagenAir™ hereby grants to Subscriber a personal, non-exclusive, non-transferable,

and non-sublicensable license for the Term of this agreement to access and use the Services.

17. MAINTENANCE. KagenAir™ will schedule maintenance to the Product during non-peak usage hours. KagenAir™ may temporarily limit or suspend the availability of all or part of the Product if it is necessary for reasons of public safety, security, maintenance of the Services, interoperability of services, data protection, or to perform work that is necessary for operational or technical reasons.

18. ENTIRE AGREEMENT. These Terms of Service (including the Schedules hereto) contain the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements and commitments with respect thereto. There are no other oral or written understandings, terms, or conditions, and neither Party has relied upon any representation, express or implied, not contained in these Terms of Service.

Date: January 1, 2016

KagenAir, LLC 100 W. Lawrence Street, Appleton, WI 54911