

WAIVER AND RELEASE

In consideration of my use of the Resources (as defined below), I expressly agree and contract, on behalf of myself, my heirs, executors, administrators, successors and assigns, that:

1. **Definitions.**

“Foundation” means the Al Huda Foundation (the “Foundation”) and its insurers, employees, officers, directors, and associates.

“Facility” means the portions of the Premises accessible to the public and/or authorized for use.

“Network” means the public wi-fi network and internet access provided in connection therewith.

“Party” means you and the Foundation.

“Policy” means the Conduct Policy located at <https://alhudafoundation.org/wp-content/uploads/2023/04/Conduct-Policy.pdf>.

“Premises” means the real property located at 12201 Lantern Road, Fisher, IN 46060

“Rental Agreement” means any rental agreement executed by and between you and the Foundation.

“Resources” mean the Facility and any equipment contained therein, the Network, and such other services, facilities, or resources as the Foundation may provide from time to time.

“Services” mean the provision of the Resources

2. **Limitation of Liability.**

2.1. **DISCLAIMER.** USE OF THE RESOURCES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE RESOURCES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY THE YOU FROM THE FOUNDATION OR THROUGH THE RESOURCES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, THE FOUNDATION, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE RESOURCES WILL MEET YOUR REQUIREMENTS; OR THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE.

FEDERAL LAW, AND SOME STATES AND OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS AND EXCLUSIONS UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

2.2. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE FOUNDATION, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OR MISUSE OF THE RESOURCES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE FOUNDATION ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT INCLUDING ANY DEFECT TO ANY RESOURCES; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OR MISUSE OF THE RESOURCES; (III) ANY INJURY, HARM, OR DEATH WHICH RESULTS TO THE YOU OR ANY THIRD PARTY FROM THE USE OR MISUSE OF ANY RESOURCE . IN NO EVENT SHALL THE FOUNDATION, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO THE YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO THE FOUNDATION IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENTS WHICH GIVE RISE TO SUCH CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS HEREUNDER, OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF THE FOUNDATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

2.3. Indemnification. You agree to indemnify, defend and save harmless the Foundation, its members, officers, shareholders, agents and employees (collectively, the “Indemnified Parties”) from all claims, causes of action, penalties, damages, liability, loss, costs, and expenses (each a “Claim”) and reasonable attorney’s fees associated arising from or in connection with (i) any breach of this Waiver by you, (ii) your use or misuse of the Resources, (iii) your violation of the Policy, or (iv) any injury, damage, or loss to any third party with whom you share access to the Resources but who has is not a party to this waiver which arises from (1) such third party’s use or misuse of the Resources, (2) such third party’s violation of the Policy.

2.4. Changes In Service. We reserve the right to change or eliminate the Resources or access to the Resources at any time for any reason with or without notice to you.

2.5. Waiver of Claims and Covenant Not To Sue. You agree to forever release, discharge, hold harmless, and not to sue the Foundation for any Claim arising from or in connection with:

- (i) your use or misuse of the Resources, including any such Claim arising from playing a sport or engaging in any physical activity in the Facility.
- (ii) the use or misuse of the Resources by any third party;
- (iii) any viruses or malware acquired by your use of the Network;
- (iv) any damage, undesired resource usage, or other detrimental effects to any device you use to access the Network;
- (v) your usage of personally identifying information, payment information, or other sensitive data over the Network; or
- (vi) any lost, stolen, or damaged personal property brought onto the Premises.

2.6. Acknowledgements. You hereby acknowledge:

- (i) If you are using the Facilities to engage in any sport, a sport is a physical activity which is inherently dangerous and therefore use of the Facilities may result in accidental injury, permanent disability, or even death;
- (ii) That public Wi-Fi networks such as the Network are inherently less secure than a private network, and users should never share personally identifying information, payment information, or other sensitive data or information over such a Wi-Fi network;
- (iii) You should not have any expectation of privacy as to your internet usage. It is possible to monitor internet usage patterns and the Foundation may regularly inspect any and all files stored on Foundation's resources to the extent necessary to ensure compliance with its Policy.
- (iv) That you have consulted a physician or have had the opportunity to consult a physician before engaging in any sport or physical activity; and
- (v) The Foundation provides the Resources expressly conditioned upon and in express reliance upon the acknowledgements contained in this section.

2. Termination and Survival. The Foundation may terminate your access to the Resources at any time, for any reason or no reason, including without limitation a violation of the Policy or any Rental Agreement, and in the event the Foundation terminates your access in

accordance with this Section the provisions of this Agreement will survive and continue in full force in accordance with their terms notwithstanding the termination of your use of the Resources.

3. Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (a) when delivered personally to the recipient, (b) when sent by electronic mail or facsimile, on the date of transmission to such recipient, if received during normal business hours and, if not, the next business day after transmission, (c) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), or (d) three (3) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient at the on file with the other Party.

4. Severability. Any term or provision of this Agreement that is held invalid or unenforceable by a court of competent jurisdiction in any situation shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to replace invalid or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid or unenforceable provisions.

5. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign, delegate or otherwise transfer either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of each other Party.

6. Governing Law. This Agreement and any claim or controversy arising hereunder shall be governed by and construed in accordance with the domestic laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule (whether of the State of Indiana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Indiana.

7. Consent to Jurisdiction. Each of the Parties irrevocably submits to the exclusive jurisdiction of any State or Federal court sitting in Fishers, Indiana (collectively, the “Designated Courts”), for the purposes of any suit, legal action, dispute or other proceeding arising out of or relating to this Agreement and the transactions contemplated hereby, and to the non-exclusive jurisdiction of the Courts for the enforcement of any judgment obtained thereunder. Each of the Parties further agrees that service of any process, summons, notice or other document by U.S. registered mail to such Party’s respective address set forth above shall be effective service of process for any action, suit or proceeding in the Courts with respect to any matters to which the Parties have submitted to jurisdiction as set forth above. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any dispute, action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the Designated Courts, and hereby further irrevocably and unconditionally waives and agrees not to

plead or claim in any such Designated Court that any such dispute, action, suit or proceeding brought in any such Court has been brought in an inconvenient forum or venue.

8. WAIVER OF JURY TRIAL. EACH PARTY WAIVES ITS RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY PARTY AGAINST THE OTHER PARTY OR ANY AFFILIATE OF SUCH OTHER PARTY, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. THE PARTIES AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. **EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED THE ADVICE OF COMPETENT COUNSEL.**

9. Class Action Waiver:

YOU ACKNOWLEDGE THAT YOU ARE AWARE OF YOUR RIGHT TO PURSUE A CLASS ACTION AGAINST THE FOUNDATION. YOU AND THE FOUNDATION KNOWINGLY AND WILLINGLY WAIVE ANY RIGHT TO ASSERT ANY CLAIMS AGAINST THE OTHER PARTY AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. TO THE EXTENT EITHER PARTY IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST THE OTHER, THE PARTIES AGREE THAT: (I) THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); AND (II) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

10. Attorney's Fees. In the event either Party takes any action or initiates any dispute, claim, or cause of action to enforce its rights hereunder, including for the collection of any payments owed to such Party hereunder (each, a "Claim") then the prevailing Party in such Claim shall be entitled to recover from the other Party the prevailing Party's cost, fees, and expenses, including reasonable attorney's fees, associated with the prosecution or defense of such Claim.

11. Amendment. Foundation shall have the right to amend this Agreement. However, if Foundation opts to make any amendments, Foundation shall give a notice describing the amendments on the email address provided by you as well at <http://alhudafoundation.org/wp-content/uploads/2023/04/Waiver-and-Release-Agreement.pdf> (“Notice of Amendments”), at least seven (7) days prior to the effective date of said amendments. The Notice of Amendment shall include the effective date of the proposed amendments as well as a description of the proposed amendments. You may opt to reject the proposed amendments in writing within seven (7) days following the receipt of the Notice of Amendment by sending a notice of rejection to the Foundation at Notices@alhudafoundation.com. If you reject the proposed amendments in compliance with this provision, the Agreement would not be modified and you would continue to be bound under the previous terms. If you chose to reject the proposed amendments the Foundation could opt to restrict you from further use of any Resources. You would be deemed to have accepted the amendments if you fail to reject the amendments in compliance with this provision and in a timely fashion. Except for as otherwise stated in this provision, there will be no modification to this Agreement unless it is in writing signed by duly authorized representatives of each Party. Any representations, promises, warranties or statements made by either Party that differ in any way from the terms of this Agreement will not be binding on either Party and will be void unless made in writing and signed by a duly authorized representative of each Party.

12. Waiver. No waiver by any Party of any provision of this Agreement or any default or breach of covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party against whom the waiver is to be effective nor shall such waiver be deemed to extend to any prior or subsequent default or breach of covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

13. Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation. “Person” means any natural person, corporation, general partnership, limited partnership, limited liability Foundation or partnership, proprietorship, other business organization, trust, union, association or governmental or regulatory entities, department, agency or authority. Section headings are provided for convenience purposes only and shall not affect the meaning or construction of the substantive provisions contained herein. The Recitals are hereby incorporated by reference as if fully set forth herein. Pronouns shall be construed to refer to the masculine, feminine, and neutral and to the singular or plural as context requires.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile and electronic mail (including portable document format (.PDF) and any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docuSign.com).

15. Entire Agreement. This Agreement, together with the Policy and any Rental Agreement executed in connection herewith, constitute the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they relate in any way to the subject matter hereof. Where this Agreement and the other documents referenced herein conflict, (i) first, the Waiver shall control, (ii) second, the Policy shall control, (iii) third, these Terms and Conditions shall control, and (iv) finally, the Rental Agreement shall control.