

TERMS AND CONDITIONS

Last updated May 08, 2024

These Terms of Service (the “**Terms**”) apply to the products and services of BreathIn, Inc. (“**BreathIn**,” “**we**,” or “**us**”), including our website, social media pages, software applications, and other online services (collectively, the “**Services**”).

1. Agreement to our Legal Terms

Please read these Terms carefully. By accessing or using the Services, you acknowledge that you have read these Terms, that these Terms govern your use of the Services, and that you agree to them.

Supplemental terms and conditions or documents that may be posted on the Services from time to time are hereby expressly incorporated herein by reference. We reserve the right, in our sole discretion, to make changes or modifications to these Legal Terms from time to time. We will alert you about any changes by updating the "Last updated" date of these Legal Terms, and you waive any right to receive specific notice of each such change. It is your responsibility to periodically review these Legal Terms to stay informed of updates. You will be subject to, and will be deemed to have been made aware of and to have accepted, the changes in any revised Legal Terms by your continued use of the Services after the date such revised Legal Terms are posted.

The Services are intended for users who are at least 16 years of age. All users who are minors in the jurisdiction in which they reside (generally under the age of 18) must have the permission of, and be directly supervised by, their parent or guardian to use the Services. If you are a minor, you must have your parent or guardian read and agree to these Legal Terms prior to you using the Services.

2. Service Use

We grant you a non-exclusive, non-transferable, revocable license solely for your personal, non-commercial use or internal business purpose.

Except as set out in this section or elsewhere in our Legal Terms, no part of the Services and no Content or Marks may be copied, reproduced, aggregated, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, distributed, sold, licensed, or otherwise exploited for any commercial purpose whatsoever, without our express prior written permission.

If you wish to make any use of the Services, Content, or Marks other than as set out in this section or elsewhere in our Legal Terms, please address your request to: support@breathin.ai. If we ever grant you the permission to post, reproduce, or publicly display any part of our Services or Content, you must identify us as the owners or licensors of the Services, Content, or Marks and ensure that any copyright or proprietary notice appears or is visible on posting, reproducing, or displaying our Content.

We reserve all rights not expressly granted to you in and to the Services, Content, and Marks.

Any breach of these Intellectual Property Rights will constitute a material breach of our Legal Terms and your right to use our Services will terminate immediately.

3. User Representations

By using the Services, you represent and warrant that: (1) all registration information you submit will be true, accurate, current, and complete; (2) you will maintain the accuracy of such information and promptly update such registration information as necessary; (3) you have the legal capacity and you agree to comply with these Legal Terms; (4) you are not under the age of 16; (5) you are not a minor in the jurisdiction in which you reside, or if a minor, you have received parental permission to use the Services; (6) you will not access the Services through automated or non-human means, whether through a bot, script or otherwise; (7) you will not use the Services for any illegal or unauthorized purpose; and (8) your use of the Services will not violate any applicable law or regulation.

If you provide any information that is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

4. User Registration

To use many of the Services, you must register for an account. You must provide accurate account information, keep this information updated, and maintain the security of your account. You agree to keep your password confidential and will be responsible for all use of your account and password. We reserve the right to remove, reclaim, or change a username you select if we determine, in our sole discretion, that such username is inappropriate, obscene, or otherwise objectionable. You agree not to create an account if we have previously removed you or your account from any of the Services without our permission.

Notify us immediately by email at support@breathin.ai of any unauthorized use of your account or any other breach of security.

5. Purchases and Payment

We accept the following forms of payment:

- Visa
- Mastercard
- American Express
- Discover
- Apple Pay

You agree to provide current, complete, and accurate purchase and account information for all purchases made via the Services. You further agree to promptly update account and payment information, including email address, payment method, and payment card expiration date, so that we can complete your transactions and contact you as needed. We may change prices at any time.

You agree to pay all charges at the prices then in effect for your purchases, and you authorize us to charge your chosen payment provider for any such amounts upon placing your order. If your order is subject to recurring charges, then you consent to our charging your payment method on a recurring basis without requiring your prior approval for each recurring charge, until such time as you cancel the applicable order. We reserve the right to correct any errors or mistakes in pricing, even if we have already requested or received payment. If we are not able to charge your payment method for your Recurring Subscription, you remain responsible for any uncollected amounts.

6. Subscriptions and Promotion Offers

This section provides terms related to the Services that are only available with a paid subscription (“**BreathIn Monk**”).

Recurring Subscriptions. If you purchase a recurring subscription to use BreathIn Monk (“**Recurring Subscriptions**”), the subscription will be continuous for the subscription period you select and will automatically renew for another subscription period until canceled. You authorize BreathIn to automatically charge your designated payment method at the beginning of each subscription period for the then-current price of your Recurring Subscription, along with any applicable taxes and fees specified, unless canceled in accordance with the cancellation policy. If we are not able to charge your payment method for your Recurring Subscription, you remain responsible for any uncollected amounts.

Promotional Offers Converting to Recurring Subscriptions. You may be offered a promotional offer in connection with a Recurring Subscription, such as a trial period or initial discount (each a “**Promotional Offer**”). Additional terms specific to each Promotional Offer we offer will be as described in the particular offer. You must meet all eligibility requirements stated in these Terms and the Offer Terms to enroll in a Promotional Offer. Unless stated otherwise in the Offer Terms, Promotional Offers are only for new customers who have not previously subscribed to BreathIn Monk or enrolled in a Promotional Offer. If the Offer Terms state that an offer is available only to past subscribers, you must have been a subscriber to BreathIn Monk and allowed your subscription to expire before the date stated in the Offer Terms. BreathIn reserves the right, in its discretion, to determine your Promotional Offer eligibility, and to modify or cancel a Promotional Offer at any time. Promotional Offers may only be claimed through breathin.ai by any advertised expiration date.

You must provide a valid payment method accepted by us to enroll in a Promotional Offer unless otherwise stated in the Offer Terms. Once your promotional period ends, you authorize BreathIn to begin billing your designated payment method on a recurring basis at the then-current price for the relevant subscription plus any applicable taxes unless it is canceled in accordance with section 7 prior to the end of the promotional period.

Referral Program. The referral program ("Program") is open to all users of our platform who comply with these Terms and Conditions. Participants may be provided with unique referral codes that they can share with friends, family, or other individuals ("Referrals") who may be interested in our Services. Participants will be eligible to receive a free month of Monk subscription for each referral who successfully subscribes to our BreathIn Monk service using their code. The free month will be credited to the participant's account after the referral's subscription is confirmed. To qualify for the referral reward, the referral must use the participant's code during the subscription process. Additionally, the referral must maintain an active Monk subscription for at least one billing cycle. The free month of premium subscription earned through the referral program will be automatically applied to the participant's account following the successful subscription of the referral. Participants can earn up to three free months of premium subscription through successful referrals. Referral rewards are non-transferable and may not be redeemed for cash or any other form of compensation. Participants agree to comply with all applicable laws and regulations when participating in the program. Participants shall not engage in any fraudulent or deceptive practices, including but not limited to creating multiple accounts or using fake or misleading information to refer individuals. We reserve the right to modify, suspend, or terminate the referral program at any time for any reason without prior notice. All decisions regarding the eligibility of referrals and the allocation of referral rewards shall be made by us in our sole discretion and are final and binding. Participation in the program constitutes acceptance of these terms. Participants who do not agree to these Terms should not participate in the program.

BreathIn Business Subscription: We may also offer you the ability to access BreathIn through a business subscription, which may be provided as part of an agreement between BreathIn and your employer, health plan, or another entity. To receive access to BreathIn through a business subscription, you must follow the instructions provided by your organization pursuant to the terms of its agreement with BreathIn. Your ability to access and use BreathIn through a business subscription may be subject to additional terms between you and your organization. Once your eligibility under the BreathIn business subscription expires, your right to use BreathIn as part of that subscription will automatically terminate.

7. Cancellation

You can cancel your subscription at any time by logging into your account. Your cancellation will take effect at the end of the current paid term.

8. Prohibited Activities

As a user of the Services, you agree not to:

- Systematically retrieve data or other content from the Services to create or compile, directly or indirectly, a collection, compilation, database, or directory without written permission from us.
- Trick, defraud, or mislead us and other users, especially in any attempt to learn sensitive account information such as user passwords.
- Circumvent, disable, or otherwise interfere with security-related features of the Services, including features that prevent or restrict the use or copying of any Content or enforce limitations on the use of the Services and/or the Content contained therein.
- Disparage, tarnish, or otherwise harm, in our opinion, us and/or the Services.
- Use any information obtained from the Services in order to harass, abuse, or harm another person.
- Make improper use of our support services or submit false reports of abuse or misconduct.
- Use the Services in a manner inconsistent with any applicable laws or regulations.
- Engage in unauthorized framing of or linking to the Services.
- Upload or transmit (or attempt to upload or to transmit) viruses, Trojan horses, or other material, including excessive use of capital letters and spamming (continuous posting of repetitive text), that interferes with any party's uninterrupted use and enjoyment of the Services or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation, or maintenance of the Services.
- Engage in any automated use of the system, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools.
- Delete the copyright or other proprietary rights notice from any Content.

- Attempt to impersonate another user or person or use the username of another user.
- Upload or transmit (or attempt to upload or to transmit) any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics interchange formats ("gifs"), 1×1 pixels, web bugs, cookies, or other similar devices (sometimes referred to as "spyware" or "passive collection mechanisms" or "pcms").
- Interfere with, disrupt, or create an undue burden on the Services or the networks or services connected to the Services.
- Harass, annoy, intimidate, or threaten any of our employees or agents engaged in providing any portion of the Services to you.
- Attempt to bypass any measures of the Services designed to prevent or restrict access to the Services, or any portion of the Services.
- Copy or adapt the Services' software, including but not limited to Flash, PHP, HTML, JavaScript, or other code.
- Except as permitted by applicable law, decipher, decompile, disassemble, or reverse engineer any of the software comprising or in any way making up a part of the Services.
- Except as may be the result of standard search engine or Internet browser usage, use, launch, develop, or distribute any automated system, including without limitation, any spider, robot, cheat utility, scraper, or offline reader that accesses the Services, or use or launch any unauthorized script or other software.
- Use a buying agent or purchasing agent to make purchases on the Services.
- Make any unauthorized use of the Services, including collecting usernames and/or email addresses of users by electronic or other means for the purpose of sending unsolicited email, or creating user accounts by automated means or under false pretenses.
- Use the Services as part of any effort to compete with us or otherwise use the Services and/or the Content for any revenue-generating endeavor or commercial enterprise.
- Use the Services to advertise or offer to sell goods and services.
- Sell or otherwise transfer your profile.

9. Trademarks

BreathIn's trademarks and BreathIn's logos, product and service names, slogans, and the look and feel of the Services may not be copied, imitated or used, in whole or in part, without BreathIn's prior written permission. The absence of a trademark from this list does not constitute a waiver of BreathIn's trademark or other intellectual property rights concerning that trademark. All third-party trademarks mentioned on the Services are the property of their respective owners. Reference to any products, services, processes, or other information by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation by BreathIn.

10. Services Management

We reserve the right, but not the obligation, to: (1) monitor the Services for violations of these Legal Terms; (2) take appropriate legal action against anyone who, in our sole discretion, violates the law or these Legal Terms, including without limitation, reporting such user to law enforcement authorities; (3) in our sole discretion and without limitation, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of your Contributions or any portion thereof; (4) in our sole discretion and without limitation, notice, or liability, to remove from the Services or otherwise disable all files and content that are excessive in size or are in any way burdensome to our systems; and (5) otherwise manage the Services in a manner designed to protect our rights and property and to facilitate the proper functioning of the Services.

11. Privacy Policy

We care about data privacy and security. By using the Services, you agree to be bound by our Privacy Policy posted on the Services, which is incorporated into these Legal Terms. If you access the Services from any region of the world with laws or other requirements governing personal data collection, use, or disclosure that differ from applicable laws in the service hosting country, then through your continued use of the Services, you expressly consent to have your data transferred to and processed in service hosting country. Further, we do not knowingly accept, request, or solicit information from children or knowingly market to children. Therefore, if we receive actual knowledge that anyone under the age of 16 has provided personal information to us without the requisite and verifiable parental consent, we will delete that information from the Services as quickly as is reasonably practical.

12. Term and Termination

These Legal Terms shall remain in full force and effect while you use the Services. Without limiting any other provision of these legal terms, we reserve the right to, in our sole discretion and without notice or liability, deny access to and use of the services (including blocking certain IP addresses), to any person for any reason or for no reason, including without limitation for breach of any representation, warranty, or covenant contained in these legal terms or of any applicable law or regulation. We may terminate your use or participation in the services or delete your account and any content or information that you posted at any time, without warning, in our sole discretion.

If we terminate or suspend your account for any reason, you are prohibited from registering and creating a new account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party. In addition to terminating or suspending your account, we reserve the right to take appropriate legal action, including without limitation pursuing civil, criminal, and injunctive redress.

13. Modifications and Interruptions

We reserve the right to change, modify, or remove the contents of the Services at any time or for any reason at our sole discretion without notice. However, we have no obligation to update any information on our Services. We will not be liable to you or any third party for any modification, price change, suspension, or discontinuance of the Services.

We cannot guarantee the Services will be available at all times. We may experience hardware, software, or other problems or need to perform maintenance related to the Services, resulting in interruptions, delays, or errors. We reserve the right to change, revise, update, suspend, discontinue, or otherwise modify the Services at any time or for any reason without notice to you. You agree that we have no liability whatsoever for any loss, damage, or inconvenience caused by your inability to access or use the Services during any downtime or discontinuance of the Services. Nothing in these Legal Terms will be construed to obligate us to maintain and support the Services or to supply any corrections, updates, or releases in connection therewith.

14. Corrections

There may be information on the Services that contains typographical errors, inaccuracies, or omissions, including descriptions, pricing, availability, and various other information. We reserve the right to correct any errors, inaccuracies, or omissions and to change or update the information on the Services at any time, without prior notice.

15. Disclaimer

The services are provided on an as-is and as-available basis. You agree that your use of the services will be at your sole risk. To the fullest extent permitted by law, we disclaim all warranties, express or implied, in connection with the services and your use thereof, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. We make no warranties or representations about the accuracy or completeness of the services' content or the content of any websites or mobile applications linked to the services and we will assume no liability or responsibility for any (1) errors, mistakes, or inaccuracies of content and materials, (2) personal injury or property damage, of any nature whatsoever, resulting from your access to and use of the services, (3) any unauthorized access to or use of our secure servers and/or any and all personal information and/or financial information stored therein, (4) any interruption or cessation of transmission to or from the services, (5) any bugs, viruses, trojan horses, or the like which may be transmitted to or through the services by any third party, and/or (6) any errors or omissions in any content and materials or for any loss or damage of any kind incurred as a result of the use of any content posted, transmitted, or otherwise made available via the services. We do not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party through the services, any hyperlinked website, or any website or mobile application featured in any banner or other advertising, and we will not be a party to or in any way be responsible for monitoring any transaction between you and any third-party providers of products or services. As with the purchase of a product or service through any medium or in any environment, you should use your best judgment and exercise caution where appropriate.

16. Limitations of Liability

In no event will we or our directors, employees, or agents be liable to you or any third party for any direct, indirect, consequential, exemplary, incidental, special, or punitive damages, including lost profit, lost revenue, loss of data, or other damages arising from your use of the services, even if we have been advised of the possibility of such damages. Notwithstanding anything to the contrary contained herein, our liability to you for any cause whatsoever and regardless of the form of the action, will at all times be limited to the amount paid, if any, by you to us during the six (6) month period prior to any cause of action arising.

17. Indemnification

You agree to defend, indemnify, and hold us harmless, including our subsidiaries, affiliates, and all of our respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of: (1) your Contributions; (2) use of the Services; (3) breach of these Legal Terms; (4) any breach of your representations and warranties set forth in these Legal Terms; (5) your violation of the rights of a third party, including but not limited to intellectual property rights; or (6) any overt harmful act toward any other user of the Services with whom you connected via the Services. Notwithstanding the foregoing, we reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate, at your expense, with our defense of such claims. We will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

18. User Data

We will maintain certain data that you transmit to the Services for the purpose of managing the performance of the Services, as well as data relating to your use of the Services. Although we perform regular routine backups of data, you are solely responsible for all data that you transmit or that relates to any activity you have undertaken using the Services. You agree that we shall have no liability to you for any loss or corruption of any such data, and you hereby waive any right of action against us arising from any such loss or corruption of such data.

19. Electronic communications, transactions, and signatures

Visiting the Services, sending us emails, and completing online forms constitute electronic communications. You consent to receive electronic communications, and you agree that all agreements, notices, disclosures, and other communications we provide to you electronically, via email and on the Services, satisfy any legal requirement that such communication be in writing. You hereby agree to the use of electronic signatures, contracts, orders, and other records, and to electronic delivery of notices, policies, and records of transactions initiated or completed by us or via the services. You hereby waive any rights or requirements under any statutes, regulations, rules, ordinances, or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by any means other than electronic means.

20. Miscellaneous

These Legal Terms and any policies or operating rules posted by us on the Services or in respect to the Services constitute the entire agreement and understanding between you and us. Our failure to exercise or enforce any right or provision of these Legal Terms shall not operate as a waiver of such right or provision. These Legal Terms operate to the fullest extent permissible by law. We may assign any or all of our rights and obligations to others at any time. We shall not be responsible or liable for any loss, damage, delay, or failure to act caused by any cause beyond our reasonable control. If any provision or part of a provision of these Legal Terms is determined to be unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from these Legal Terms and does not affect the validity and enforceability of any remaining provisions. There is no joint venture, partnership, employment or agency relationship created between you and us as a result of these Legal Terms or use of the Services. You agree that these Legal Terms will not be construed against us by virtue of having drafted them. You hereby waive any and all defenses you may have based on the electronic form of these Legal Terms and the lack of signing by the parties hereto to execute these Legal Terms.

Contact Us

In order to resolve a complaint regarding the Services or to receive further information regarding use of the Services, please contact us at: support@breathin.ai