

Terms and Conditions

Effective as of November 12, 2021.

This agreement constitutes a binding legal contract between Touca, Inc. ("**Touca**") (sometimes referred to as "we", "us" or "our") and you, with respect to your use of <https://touca.io> and all websites, applications and communications that post a link to this agreement (collectively, the "**Site**") ("**Terms and Conditions**").

We reserve our right to change these Terms and Conditions in the future. Except as explicitly stated otherwise, your continued use of the Site will constitute deemed acceptance of our updated Terms and Conditions.

1. **Site**

- (a) We may from time to time, at our sole and absolute discretion and without notice to you, update the Site (or any part of it). We will not be liable to you or any third party for any modification, variation, interruption, suspension or discontinuation of the Site.
- (b) The Site may provide links to third party websites that are not owned, managed or controlled by us. You expressly acknowledge and agree that we are not responsible for the content of those third party websites. You are encouraged to read that third party's terms and conditions, privacy policy and any other document that governs your relationship with that third party.
- (c) The Site uses cookies in accordance with our Cookies Policy, which can be found here: <https://docs.touca.io/legal/privacy>.

2. **Account**

- (a) To access certain features on the Site, you may be required to create an account with us in the form provided by us.
- (b) You agree that by registering an account with us that: all information you provide to us during the registration process is true and accurate to the best of your belief; you are at least 18 years of age; and you have capacity to enter into contractual arrangements.
- (c) You agree that you are solely responsible for your account and all activities conducted on your account. You must keep your password and any other login information private and secure. Your account is registered to you, and you may

not assign, transfer or otherwise dispose of your interest in your account without our express written permission.

- (d) We may, from time to time, provide rules that govern your activities whilst using your account ("**Account Rules**"). You expressly acknowledge and agree that you will abide by these Rules. Should you be in breach of the Account Rules, we may (at our absolute and sole discretion) restrict, prohibit, suspend or terminate your account. Should your account be terminated in accordance with this clause, we are not liable to you, or any third party, for any loss or damage suffered.
- (e) You may terminate your account, for any reason, by notifying us. You agree, however, that by terminating your account, your experience on the Site may be limited. We are not liable to you, or any third party, for any loss or damage suffered because of this.

3. Communications

- (a) By using the Site and providing your e-mail address, you agree to subscribe to newsletters, marketing or promotional materials and other information we may send. You may unsubscribe from these emails at any time.

4. User Submitted Content

- (a) The Site may allow you to publish, share, store and otherwise make available certain information, text, graphics, videos, or other content ("**Content**").
- (b) We cannot guarantee the accuracy, integrity or quality of Content posted by users of the Site.
- (c) We are not liable for any statements, representations, or Content provided by Site users. Any opinions, advice or recommendations expressed therein are those of the users providing such Content and not those of Touca.
- (d) You represent and warrant that you own or otherwise control the Content you post on the Site, and that the sharing of your Content on or through the Site does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person or entity.
- (e) We take no responsibility and assume no liability for Content you or any third party posts on or through the Site. However, by posting Content you grant us a perpetual, worldwide, irrevocable, unrestrictive, non-exclusive royalty-free licence to use any Content in any manner whatsoever without compensation or attribution to you.

5. **Prohibited Uses**

Unless explicitly agreed by us, you acknowledge and agree that you may not use our Site for the following purposes:

- use the Site in any way that violates any applicable local, national or international law or regulation
- impersonate or attempt to impersonate any person or entity
- engage in any conduct that restricts or inhibits anyone's use or enjoyment of the Site
- monitor or copy any of the material on the Site for any unauthorized purpose without our prior written consent
- attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Site
- use the Site in any manner that could disable, overburden, damage, or impair the Site
- attempt to interfere with the proper working of the Site in any way whatsoever

6. **Fees and Payment**

- (a) You may be required to purchase or pay a fee to access some features of the Site. You agree to pay all fees due and payable to us (including all applicable taxes) at the prices then in effect for your purchases.
- (b) You represent and warrant that the information you provide to us is true, correct and complete.
- (c) Where payments are processed through our Site using third party payment processors, you also agree to any terms and conditions set by those payment processors.

7. **Free Trial**

Where we provide you with a free trial to use the Site, for the duration of the free trial period, we may at our sole discretion: (i) limit your ability to access certain features; (ii) limit any technical support to you that may usually be available to paying users; (iii) without notice to you, stop your free trial.

8. **Specifications**

- (a) We may, from time to time, set certain minimum specifications required to access our Site to ensure all users have the best possible experience. You are

solely responsible to obtain, keep and maintain all equipment and other software that meets our minimum specifications to enable you to have the best possible experience of our Site.

- (b) We may from time to time, at our sole discretion and without notice to you, make variations, modifications, alterations or updates to our Site ("**Enhancements**"). These Enhancements may be made to improve our Site to you or to comply with relevant legal requirements.
- (c) We will use reasonable endeavors to notify you of any scheduled disruptions to our Site, including those due to any Enhancements. However, regardless of whether a disruption is scheduled or not, we are not liable to you or any third party for any loss or damage caused by any disruption to our Site.

9. **Copyrights and Trademarks**

- (a) Except as expressly stated otherwise, you acknowledge and agree that the original content on the Site, and the software, features and functionality comprising the Site are the exclusive property of Touca (the "**Materials**") and its licensors.
- (b) You agree you will not copy, reproduce, create derivative works from, transmit or distribute the Materials in any way without our prior written consent.

10. **Limitation of Liability, Indemnities and Warranties**

- (a) Except as expressly provided by law, we shall not be liable to you or any third parties for any loss, damage, expenses or any other liability arising directly or indirectly from the performance of our services to you. To the fullest extent permitted by law, all warranties or conditions implied by statute, at law, by trade, custom or otherwise are excluded.
- (b) You acknowledge and agree that you assume sole and entire responsibility for, and indemnify and hold us harmless from, any and all claims, liabilities, losses, expenses, responsibilities and damages by reason of any claim, proceedings, action, liability or injury arising out of or as a result of (i) your conduct in relation to these Terms and Conditions; (ii) your use of any material, advice or other results of the services provided to you; (iii) your relations with your clients and/or other third parties; or (iv) any breach of these Terms and Conditions by you.

11. **Term and Termination**

- (a) These Terms and Conditions will remain in full force and effect while you use the Site.
- (b) We may, without notice to you, immediately stop providing any services to you at our sole discretion for any reason whatsoever.
- (c) Where these Terms and Conditions are terminated in accordance with these Terms and Conditions, they will terminate without prejudice to any rights either party may have had against the other prior to termination. Further, all provisions of which by their nature should survive termination shall survive termination, including, without limitation: (i) all intellectual property you have granted us under these Terms and Conditions; and (ii) your obligation to pay any fees due to us at the time of termination; and (iii) warranty disclaimers, indemnity and limitations of liability.

12. **Assignment**

- (a) These Terms and Conditions will bind and inure for the benefit of the parties, including their respective successors, permitted assigns and legal representatives.
- (b) We may, without notice to you, immediately stop providing any services to you at our sole discretion for any reason whatsoever.
- (c) Provided your rights are not affected under these Terms and Conditions, we will be permitted to assign our interest in these Terms and Conditions without prior notice to you. However, you may not assign, transfer, novate or other dispose of your rights and obligations under these Terms and Conditions without our express written approval (which we may withhold in our sole discretion).

13. **Privacy**

You acknowledge that you have read and understood the terms of Touca's Privacy Policy, which can be found here: <https://docs.touca.io/legal/privacy>. You agree that we may use your information (including disclosure to third parties) in accordance with the terms of our Privacy Policy.

14. **Non-Waiver**

Our failure to exercise, or delay in exercising, our rights under these Terms and Conditions does not operate as a waiver of that right.

15. Exclusion of Implied Relationships

Nothing in these Terms and Conditions shall be deemed or construed to constitute any party a partner, agent, representative, employer or employee of another party or to create any trust or commercial partnership unless specifically otherwise provided. We do not owe you any duty of good faith under these Terms and Conditions.

16. Severability

If any part of these Terms and Conditions are held to be illegal, invalid, or unenforceable, then that part shall be deemed deleted and shall not affect the validity and enforceability of the remaining provisions of these Terms and Conditions.

17. Entire Agreement

These Terms and Conditions constitute the entire agreement between the parties with respect to the Company's services and supersede all previous versions of the Terms and Conditions, understandings, arrangements, agreements, and communications, whether verbal or written, between the parties.

18. Applicable Law and Jurisdiction

These Terms and Conditions shall be governed by and construed in accordance with Minnesota law. Both parties agree to submit to the jurisdiction of the courts of Minnesota with respect to any claim or dispute arising out of these Terms and Conditions.