

tru® STRENGTH REALIZATION PLATFORM

TERMS OF USE

Last Updated: March 1, 2026

AGREEMENT TO TERMS

We are Breakthrough Performance Systems, Inc. (“BPS,” “we,” “us,” or “our”), a company registered in the State of Delaware. We operate the website, www.tru-sr.com (the “Website”) and mobile application located at <https://www.tru-sr.app> (the “Application”), which house the tru® Strength Realization Platform through which we provide you our services, including the AI enabled coaching agent “trudy” (collectively, the “Services”).

These Terms (“Terms”) constitute a legally binding agreement made between you (whether personally or on behalf of an entity) (“you”). By accessing the Website and Services, you agree to be bound by these Terms, including all provisions relating to AI-powered coaching, user data ownership, data portability and role-based access controls.

You agree that by accessing the Services, you have read, understood, and agree to be bound by all of these Terms.

IF YOU DO NOT AGREE WITH THESE TERMS, INCLUDING THOSE GOVERNING AI-POWERED COACHING, DATA PORTABILITY, USER DATA OWNERSHIP AND PRIVACY RIGHTS, YOU MUST DISCONTINUE USE OF THE SERVICES IMMEDIATELY.

Supplemental terms and conditions or documents that may be posted on the Website 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 Terms from time to time. We will alert you about any changes by updating the “**Last Updated**” date of these Terms, and you waive any right to receive specific notice of each such change. It is your responsibility to periodically review these Terms to stay informed as each time you access the Services, you will be subject to, and will be deemed to have been made aware of and to have accepted, the then applicable Terms.

The Services are intended for business or individual users who are at least 18 years old. Persons under the age of 18 are not permitted to use or register for the Services.

1. OUR WEBSITE AND SERVICES

We provide you a software as a service platform (the “Software”), accessible via the Website or the Application, supporting human capital development, performance optimization, individual career development and self-actualization, organizational insights and culture development using information entered into the Software by you related to you, your experiences, your business or organization.

Certain features of the Services are powered by an AI-enabled coaching agent known as “trudy”. trudy provides insights, recommendations and agentic reactions based on your inputs, Achievement DNA, and coaching memory. All AI-generated outputs are advisory only and not a substitute for professional, legal or employment advice.

2. INTELLECTUAL PROPERTY RIGHTS

- A. Defined.** As used herein, “Intellectual Property” means recognized protectable rights and interests such as patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, Confidential Information (defined below), trade secrets, trade dress, domain names, logos, insignia, color combinations, slogans, moral rights, right of publicity, author’s rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices business processes, developments, innovations, graphics, user interfaces, databases, functionality, software, website designs, audio, video, text, photographs, graphics reproduced through the Website and the Application, good will, AI models, coaching flows, memory architecture, prompts and reasoning engines powering any of Services (including trudy) and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and

all registrations, renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- B. BPS' Rights.** BPS owns or has rights to use the Intellectual Property, inclusive of the Services and the Website, and may acquire or develop more intellectual property in the future. Also, from time to time in the course of its business, BPS comes into possession of Intellectual Property belonging to clients or other persons. Unless otherwise indicated, BPS retains all right, title, and interest in and to the Intellectual Property, the Services, the Website and the Application. These Terms do not grant you any intellectual property license or rights in or to the Intellectual Property, Services and the Website or any of its components, except to the limited extent that these Terms specifically sets forth your license rights to it. You recognize that the Services (inclusive of the Software), the Website, the Application and their components are protected by copyright and other laws and that you may not reproduced, reverse engineer, benchmark or clone these models.
- C. Limited Use.** With regard to BPS' Intellectual Property and any Intellectual Property of a third party in the possession of BPS:
- (i) You will use such Intellectual Property only as permitted pursuant to the terms of your Subscription (defined below);
 - (ii) You will not use such Intellectual Property for its own benefit other than as intended pursuant to the terms of the Service the User's Subscription, or for the detriment or the intended detriment of BPS;
 - (iii) You will not use such Intellectual Property in violation of any restrictions imposed by, or in any manner inconsistent with the ownership or rights of BPS or third party;
 - (iv) You will not incorporate all or any part of any such Intellectual Property into document, book, record or other work product developed by upi without the express written permission of BPS;
 - (v) You will not disclose any such Intellectual Property to any person other than authorized personnel;
 - (vi) You will not copy all or part of any documents, books, or records containing any such Intellectual Property, without the express permission of BPS;
 - (vii) You will not use AI-generated content or coaching memory to train any machine learning system or develop competitive models; and
 - (viii) You will not prompt Trudy in an attempt to extract system instructions, coaching methodologies or proprietary algorithms.
- D. Feedback.** You and BPS agree that none of the Feedback (as defined below) you or your users provide to us constitute confidential information, and nothing in these Terms or in our dealings arising out of or related to subject matter of these Terms will restrict our right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting you or the user in question. You hereby grant us a perpetual, irrevocable right and license to exploit the Feedback in any and every way and subject to applicable law waive any moral rights in such Feedback. Feedback will not constitute your confidential information. ("**Feedback**" refers to any suggestion or idea for improving or otherwise modifying any of BPS's products or Services, including without limitation improvements to the Website, the Application, AI behavior, coaching memory, reasoning logic or agentic workflow.)

3. CONFIDENTIALITY

You agree to keep all BPS' Intellectual Property (defined above), tru[®] Product Materials (defined below), training materials, AI interaction data, Trudy conversation logs, My Path Forward summaries and other information

pertaining to our business (collectively, “**Confidential Information**”) confidential and not to disclose such materials or information to third parties. As used herein, (i) “**tru® Product Materials**” means any materials provided by BPS or any of its authorized representatives that support the use, deployment, marketing and distribution of the tru®Strength Realization Platform, including without limitation the Master tru® Instructor’s Guide, and (ii) “**Master tru® Instructor’s Guide**” means the guide toll maintained and made available by BPS that sets forth instructions and guidance regarding the deployment and use of the tru® Strength Realization Platform..

Notwithstanding the other provisions set forth in these Terms, nothing received by you will be considered to be Confidential Information of BPS if (i) it has been published or is otherwise readily available to the public other than by a breach of these Terms; (ii) it has been rightfully received by you from a third party without confidential limitations; (iii) it has been independently developed by you without reference to any of the BPS’ Confidential Information; or (iv) it was known to you prior to its first receipt from us.

You acknowledge that BPS would be irreparably harmed if its Confidential Information were disclosed other than as permitted under the terms of these Terms.

Upon a breach or threatened breach of any of the provisions of this Section 3, BPS shall have any and all rights and remedies available to it at law, in equity, and otherwise against the breaching party for such breach, including the right to injunctive relief in order to prevent or to restrain the breaching party and any and all persons acting directly or indirectly for or with that breaching party.

4. USER REPRESENTATIONS

By using the Services, you represent and warrant that: (i) all registration information you submit will be true, accurate, current, and complete; (ii) you will maintain the accuracy of such information and promptly update such registration information as necessary; (iii) you have the legal capacity and you agree to comply with these Terms; (iv) you are not a minor in the jurisdiction in which you reside; (v) you will not access the Services through automated or non-human means, whether through a bot, script or otherwise; (vi) you will not use the Services for any illegal or unauthorized purpose; (vii) your use of the Services will not violate any applicable law or regulation, (viii) you agree not to rely on trudy’s outputs as the sole basis for employment decisions or actions, and (ix) you will not attempt to manipulate, jailbreak or subvert trudy’s behavior and (x) you will understand that trudy provides advisory guidance only.

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).

5. USER REGISTRATION

You are required to establish a user account (“**User Account**”) (complete with an unique username and user password) to register to use the Services. You agree to keep your user password confidential and will be responsible for all use of your User Account and user password. By registering you acknowledge that trudy maintains a persistent coaching memory tied to your account and that you may access, reset, or delete the is memory as permitted under the Privacy Notice.

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.

6. SUBSCRIPTION PLANS AND FEES; BILLING; PAYMENT; TAXES; CANCELLATION

- A. Subscription Plans.** Each User Account will require the User to sign up and pay for one of BPS’ subscription plans (“**Subscription Plans**” and each a “**Subscription**”). You can find information about our pricing options and available Subscription Plans on the following page(s): [Individual](#), [Coach](#), and [Enterprise](#) (the “**Subscription Plan Page(s)**”).

B. Fees for Subscriptions. Fees for Subscriptions (“**Subscription Fees**”) shall be based on the type and length of your Subscription (“**Subscription Period**”) as provided on the Subscription Plan Page. No Subscription Plan shall be activated or renewed prior to full payment of the applicable Services Fee. The Subscription Period shall commence on the date full payment for your Subscription Plan is received or as otherwise agreed by and between us and you and shall continue for the period associated with the Subscription Plan. All Subscriptions will auto-renew at the end of the applicable Subscription Period for your Subscription.

C. Billing. We bill you for all initial and recurring Subscription Fees through an online billing account and you agree to provide (and keep updated) current, complete, and accurate purchase and account information including email address, payment method, and payment card expiration date, so that we can process your payments and contact you as needed.

Our prices may be updated from time to time so please make sure that you check our current Subscription Fees before placing your order. All payments shall be in USD.

D. Accepted Forms of Payment. We accept the following forms of payment: (i) major credit cards (visa, Mastercard, Discover and American Express), (ii) ACH, and (iii) other Stripe supported card brand.

You agree to pay all charges or fees at the prices then in effect for your Subscription, and you authorize us to charge your chosen payment provider for any such amounts upon placing your order. If your Subscription 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 you notify us of your cancellation in accordance with the cancellation information described in this section below.

E. Corrections. We reserve the right to correct any errors or mistakes in pricing, even if we have already requested or received payment. We also reserve the right to refuse any Subscription request. In such case we will notify you by email and refund you any Subscription Fees that you have paid.

F. Sales Tax. Sales tax will be added to the price of purchases as deemed required by us. Amounts due under these Terms are payable to us without deduction and are net of any tax, tariff, duty, or assessment imposed by any government authority (national, state, provincial, or local), including without limitation any sales, use, excise, ad valorem, property, withholding, or value-added tax, whether or not withheld at the source (collectively, “**Sales Tax**”). Except as forbidden by applicable law, we may require that you submit applicable Sales Taxes to us. However, the preceding sentence does not apply to the extent that you are tax exempt, provided you give us a valid tax exemption certificate within thirty (30) days of the start of your Subscription. Our failure to include any applicable tax in an invoice will not waive or dismiss the parties’ rights or obligations pursuant to this Section. If applicable law requires withholding or deduction of Sales Taxes or any other tax or duty, you shall separately pay us the withheld or deducted amount, over and above fees due. For the avoidance of doubt, this Section does not govern taxes based on our net income.

G. Subscription Plan Cancellation.

(i) **Cancellation.** You can cancel your Subscription Plan at any time by logging into your account or contacting us using the contact information provided below. Your cancellation will take effect at the end of your current Subscription Period.

(ii) **Refunds.** Except as stated in this Section or as required by law, all Subscription Fees are non-refundable once charged and will not be prorated or refunded for unused time within a Subscription Period. We will not be required to refund Subscription Fees under any circumstances. BPS, may, at its sole discretion, issue refunds or credits in exceptional circumstances. The issuance of any refund or credit does not create an obligation for BPS to provide refunds or credits in the future. If a cancellation request is submitted within seven (7) days following an automatic renewal change, BPS,

may, in its sole discretion issue a refund or credit for the renewal amount, less any non-recoverable payment processing fees or transaction costs incurred by BPS.

(iii) *Post-Cancellation System Access.*

(a) *Remaining Subscription Period.*

(I) Upon cancellation and unless a refund is issued to you as provided above, you will no longer have access to the Services and any certifications, as applicable, associated with your Subscription Plan (collectively, “**Associated Certifications**”) shall be deemed to have expired; provided, however, you will continue to have access to the Services and use of any Associated Certifications pursuant to the terms of the Subscription Plan for the remainder of the Subscription Period.

(II) In the event BPS issues a refund, your access to the Services and any Associated Certifications shall be deemed to have immediately expired.

(ii) *Post Subscription Period.* At the end of your Subscription Period, at your request we will provide you with an export of the data and information resulting from your use of the Services during the Subscription Period. If you are unsatisfied with our services, please email us at trudyAtyourservice@bp-systems.com.

H. Data Portability at Subscription Termination. Upon cancellation or expiration of your Subscription, you may request a complete port of your Personal Data, Achievement DNA, tru Self Portrait history, purpose statement versions, My PathForward goals, trudy coaching memory and trend data. If you transition from an employer sponsored Subscription to an individual Subscription, you may port your entire account (employers and coaches lose access to your personally data upon porting).

7. PROHIBITED ACTIVITIES

A. No Inconsistent Use of Services. You may not access or use the Services for any purpose other than that for which we make the Services available. The Services may not be used in connection with any commercial endeavors except those that are specifically endorsed or approved by us.

B. User Agreements. As a user of the Services, you agree not to:

- (i) Systematically retrieve data from the Services to create or compile, directly or indirectly, a collection, compilation, database, or directory without written permission from us;
- (ii) 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;
- (iii) Use the Services to advertise or offer to sell goods and services;
- (iv) 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;
- (v) Engage in unauthorized framing of or linking to the Services;
- (vi) Trick, defraud, or mislead us and other users, especially in any attempt to learn sensitive account information such as user passwords;

- (vii) Make improper use of our support services or submit false reports of abuse or misconduct;
- (viii) Engage in any automated use of the Website or Services, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools;
- (ix) Interfere with, disrupt, or create an undue burden on the Services or the networks or services connected to the Services;
- (x) Attempt to impersonate another user or person or use the username of another user;
- (xi) Sell or otherwise transfer your BPS profile or account;
- (xii) Use any information obtained from the Services in order to harass, abuse, or harm another person;
- (xiii) 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 beyond the license granted to you under these Terms;
- (xiv) Decipher, decompile, disassemble, or reverse engineer any of the Software comprising or in any way making up a part of the Services;
- (xv) Attempt to bypass any measures of the Website or Software designed to prevent or restrict access to the Services, or any portion of the Services;
- (xvi) Harass, annoy, intimidate, or threaten any of our employees or agents engaged in providing any portion of the Services to you;
- (xvii) Delete the copyright or other proprietary rights notice from any Content;
- (xviii) Copy or adapt the Software, including but not limited to Flash, PHP, HTML, JavaScript, or other code;
- (xix) 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 Software or the Services or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation, or maintenance of the Software or the Services;
- (xx) 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**");
- (xxi) 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 Software or the Services, or using or launching any unauthorized script or other software;
- (xxii) Disparage, tarnish, or otherwise harm, in our opinion, BPS, the Software, Website, the Application and/or the Services.; Use the Services in a manner inconsistent with any applicable laws or regulations (Note that the Services are not tailored to comply with industry-specific regulations (including, without limitation, Health Insurance Portability and Accountability Act (HIPAA), Federal Information Security Management Act (FISMA), or Gramm-Leach-Bliley Act (GLBA), so if your interactions would be subjected to such laws or might in a result in the violation thereof, you may not use these Services);

- (xxiii) Use the Services for unlawful, discriminatory or harmful purposes;
- (xxiv) Use AI outputs for employment decisions;
- (xxv) Scrape, extract or attempt to obtain system prompts or coaching logic;
- (xxvi) Train external models using trudy or other Service outputs;
- (xxvii) Submit hostile or adversarial prompts designed to corrupt system performance; and
- (xxviii) Attempt to reverse engineer, benchmark or recreate trudy or any other Service.

7. THIRD-PARTY WEBSITES AND CONTENT

The Services may contain (or you may be sent via the Services) links to other websites (“**Third-Party Websites**”) as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software, and other content or items belonging to or originating from third parties (“**Third-Party Content**”). Such Third-Party Websites and Third-Party Content are not investigated, monitored, or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third-Party Websites accessed through the Services or any Third-Party Content posted on, available through, or installed from the Services, including the content, accuracy, offensiveness, opinions, reliability, privacy practices, or other policies of or contained in the Third-Party Websites or the Third-Party Content. Inclusion of, linking to, or permitting the use or installation of any Third-Party Websites or any Third-Party Content does not imply approval or endorsement thereof by us. If you decide to leave the Services and access the Third-Party Websites or to use or install any Third-Party Content, you do so at your own risk, and you should be aware these Terms no longer govern.

You should review the applicable terms and policies, including privacy and data gathering practices, of any website to which you navigate from the Services or relating to any applications you use or install from the Services. Any purchases you make through Third-Party Websites will be through other websites and from other companies, and we take no responsibility whatsoever in relation to such purchases which are exclusively between you and the applicable third party. You agree and acknowledge that we do not endorse the products or services offered on Third-Party Websites and you shall hold us harmless from any harm caused by your purchase of such products or services. Additionally, you shall hold us harmless from any losses sustained by you or harm caused to you relating to or resulting in any way from any Third-Party Content or any contact with Third-Party Websites.

8. MANAGEMENT OF SERVICES

We reserve the right, but not the obligation, to: (1) monitor the Services for violations of these Terms; (2) take appropriate legal action against anyone who, in our sole discretion, violates the law or these 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; (5) review AI Interaction Data solely to maintain system integrity, quality and safety (note We will not review trudy conversations for employer monitoring or employment related purposes) and (6) otherwise manage the Services in a manner designed to protect our rights and property and to facilitate the proper functioning of the Services.

9. PRIVACY NOTICE

We care about data privacy and security. Please review our [Privacy Notice](#) to understand our use of your personal information. You agree to review and comply with our Privacy Notice and your use of the Services represents your acknowledgement that you have reviewed and understand our Privacy Notice.

Please be advised the Services are hosted in the United States. If you access the Services from any other region of the world with laws or other requirements governing personal data collection, use, or disclosure that differ from

applicable laws in the United States, then through your continued use of the Services, you are transferring your data to the United States, and you agree to have your data transferred to and processed in the United States.

10. ARTIFICIAL INTELLIGENCE DISCLOSURE

- A. **Purpose of AI.** trudy provides personalized coaching insights based on your data inputs. These insights are advisory only.
- B. **No Automated Decision-Making.** trudy does not use AI to make decisions with legal or similar significant effects. Those decisions are solely yours to make.
- C. **Persistent Coaching Memory.** trudy maintains a persistent coaching memory that can be accessed, exported, reset or deleted upon request.
- D. **Explainability Rights.** You may request an explanatory summary of AI at any time.
- E. **Consent to AI Processing.** By using trudy, you consent to AI processing as contemplated or described in the trudy model. You may disable trudy at any time.

11. ROLE BASED ACCESS CONTROLS

- A. **Individual Subscribers.** The Individual has full access and control over all personal and AI generated data.
- B. **Enterprise Subscribers.** Employers may access only aggregated insights. Employers shall not have access to trudy conversations, coaching memory or purpose drafts.
- C. **Coaches.** Access will be limited to active clients. Access to a client's data will cease automatically when an engagement ends.
- D. **Administrators.** Administrators shall not have access to private coaching data. Administrator's access will be limited to administrative metadata.
- E. **Firewalls.** Strict data separation will be maintained and enforced between employers, coaches, individuals, and administrators.

12. LICENSE TO USE AI-GENERATED CONTENT.

You are granted a non-exclusive, non-transferable license to use AI-generated insights for personal development only. You may not commercially exploit, reproduce, publish or sublicense AI-generated content.

13. DIGITAL MILLENIUM COPYRIGHT ACT (DMCA) NOTICE AND POLICY

- A. **Notifications.** We respect the intellectual property rights of others. If you believe that any material available on or through the Services infringes upon any copyright you own or control, please immediately notify our Designated Copyright Agent using the contact information provided below (a "**Notification**"). Please be advised that pursuant to federal law you may be held liable for damages if you make material misrepresentations in a Notification. Thus, if you are not sure that material located on or linked to by the Services infringes your copyright, you should consider first contacting an attorney.

All Notifications should meet the requirements of DMCA 17 U.S.C. § 512(c)(3) and include the following information: (1) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (2) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Services are covered by the Notification, a representative list of such works on the Services; (3) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material; (4) information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an email address at which the complaining party may be contacted; (5) a statement that the complaining party has a good faith belief that use of the material in the manner

complained of is not authorized by the copyright owner, its agent, or the law; and (6) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed upon.

B. Designated Copyright Agent.

Breakthrough Performance Systems, Inc.

Attn: Copyright Agent

748 St Johns Circle

Pleasanton, CA 94566

trudyAtyourservice@bp-systems.com

14. TERM AND TERMINATION

These Terms shall remain in full force and effect while you use the Services. WITHOUT LIMITING ANY OTHER PROVISION OF THESE 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 IF WE REASONABLY CONSIDER THAT SUCH PERSON IS IN BREACH OF THESE TERMS, OUR ACCEPTABLE USE POLICY, OR OF ANY APPLICABLE LAW OR REGULATION, INCLUDING WITHOUT LIMITATION BREACHES OF ANY REPRESENTATION, WARRANTY, OR COVENANT CONTAINED IN THESE TERMS.

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 CONSIDER THAT YOU HAVE BREACHED, OR ARE LIKELY TO BREACH, ANY OF THE ABOVE.

Upon termination, you may request a full export of your account data within thirty (30) days. If you were an user under an Enterprise Subscription, you may port your data to an Individual Subscription account.

If we terminate or suspend your account for any reason, you are prohibited from registering and creating a new User 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.

15. MODIFICATIONS AND INTERRUPTIONS

We reserve the right to change, modify, or remove the Content or the Services (including, without limitation, AI models, coaching logic, memory architecture or recommendation flows) from time to time to comply with new laws or regulations, to update our offerings or to improve the safety or performance of the Services. We also reserve the right to modify or discontinue all or part of the Services if BPS were to close down or if we decide to change BPS's business offering. 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 from time to time and will endeavor to give you notice of such changes. 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 Terms will be construed to obligate us to maintain and support the Services or to supply any corrections, updates, or releases in connection therewith.

16. GOVERNING LAW

These Terms and your use of the Services are governed by and construed in accordance with the laws of the State of Delaware applicable to agreements made and to be entirely performed within the State of Delaware, without regard to its conflict of law principles.

17. DISPUTE RESOLUTION

- A. Informal Negotiations.** To expedite resolution and control the cost of any dispute, controversy, or claim related to these Terms (each a “**Dispute**” and collectively, the “**Disputes**”) brought by either you or us (individually, a “**Party**” and collectively, the “**Parties**”), the Parties agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least thirty (30) days before initiating arbitration or litigation (as applicable per below). Such informal negotiations commence upon written notice from one Party to the other Party. For Disputes related to Trudy, AI recommendations or coaching memory, such Disputes will first undergo an internal review and explanatory assessment to serve as the basis for any further informal negotiations.
- B. Binding Arbitration.**
- (i) If the Parties are unable to resolve a Dispute through informal negotiations, the Dispute (except those Disputes expressly excepted in Section 17 (D) below under the heading “*Exceptions to Informal Negotiations and Arbitration*”) will be finally and exclusively resolved by binding arbitration. YOU UNDERSTAND THAT WITHOUT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (“**AAA**”) and, where appropriate, the AAA’s Supplementary Procedures for Consumer Related Disputes (“**AAA Consumer Rules**”), both of which are available at www.adr.org. Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Consumer Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined by the arbitrator to be excessive, we will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone, or online. The arbitrator will make a decision in writing but need not provide a statement of reasons unless requested by either Party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except where otherwise required by the applicable AAA rules or applicable law, the arbitration will take place in Kent County, Delaware. Except as otherwise provided herein, the Parties may litigate in court to compel arbitration, stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.
 - (ii) If for any reason, a Dispute proceeds in court rather than arbitration, the Dispute shall be commenced or prosecuted in the state and federal courts located in Kent County, Delaware, and the Parties hereby consent to, and waive all defenses of lack of personal jurisdiction, and forum non conveniens with respect to venue and jurisdiction in such state and federal courts. Application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act (UCITA) are excluded from these Terms.
 - (iii) In no event shall any Dispute brought by either Party related in any way to the Services be commenced more than one (1) year after the cause of action arose. If this provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.
- C. Restrictions.** The Parties agree that any arbitration shall be limited to the Dispute between the Parties individually. To the full extent permitted by law, (a) no arbitration shall be joined with any other

proceeding; (b) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (c) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

D. Exceptions to Informal Negotiations and Arbitration.

- (i) The Parties agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (a) any Disputes seeking to enforce or protect, or concerning the validity of, any of the intellectual property rights of a Party; (b) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy, or unauthorized use; (c) any Dispute or claim involving unauthorized scraping, model extraction or AI misuse; and (d) any claim for injunctive relief. If this provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.
- (ii) If a customer is domiciled outside of the United States and the Parties are unable to resolve a Dispute through informal negotiations as set out in Section 17(A) under the heading “*Informal Negotiations*”, you hereby agree to the exclusive jurisdiction of the courts of Kent County, DE, in relation to any dispute which may arise in connection with these Terms and/or your use and receipt of the Services.

18. 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.

19. DISCLAIMER

THE SERVICES ARE PROVIDED ON AN “**AS-IS**” AND “**AS-AVAILABLE**” BASIS. YOU AGREE THAT YOUR USE OF OUR 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 SOFTWARE OR 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 (INCLUDING WITHOUT LIMITATION AI-GENERATED INSIGHTS), THE CONTENT OR ANY THIRD-PARTY CONTENT 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 WEBSITE 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.

20. LIMITATIONS OF LIABILITY

IN NO EVENT WILL WE OR BPS'S DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, OR ANY (DIRECT OR INDIRECT): (A) LOSS OF DATA, (B) LOST PROFIT, OR (C) LOST REVENUE OR OTHER DAMAGES ARISING FROM YOUR USE OF THE SERVICES OR ANY DECISION YOU MAKE BASED ON TRUDY'S RECOMMENDATIONS (INCLUDING CAREER CHOICES, INTERPERSONAL ACTIONS OR RELIANCE ON ADVISORY INSIGHTS), 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 LESSER OF (A) THE AMOUNT PAID, IF ANY, BY YOU TO US DURING THE SIX (6) MONTH PERIOD PRIOR TO ANY CAUSE OF ACTION ARISING AND (B) THE SUM OF US\$100.

CERTAIN STATE LAWS AND COUNTRIES' LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

21. 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 or misuse of the Services (including use or misuse of trudy (i.e., prompt extraction, generation of harmful content, use of AI outputs in making employment decisions)); (3) breach of these Terms; (4) any breach of your representations and warranties set forth in these 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.

22. USER DATA

We will maintain certain data that you transmit to the Website and/or the Application in connection with your use of the Services and data related to your use of the Services. Such data will be maintained and processed in accordance with our Privacy Notice, which can be accessed [here](#). By using the Services, Website and the Application, you agree to the terms of the Privacy Notice and consent to the collection and processing of your data as described herein.

Although we perform regular routine backups of data, you are solely responsible for all data that you transmit or that relates to or is generated from any activity (i.e., Achievement DNA, truSelf Portrait, My Path Forward goals, coaching memory, purpose versions and AI Interaction Data). you have undertaken using the Services. You agree that we shall have no liability for any loss or corruption of any such data, and you hereby agree that you shall independently back up all your data and waive any right of action against us arising from any such loss or corruption of such data.

You may port or export your data as described in the Privacy Notice.

23. ELECTRONIC COMMUNICATIONS; TRANSACTIONS; SIGNATURES

Visiting the Website or using the Services, sending us emails, and completing online forms constitute electronic communications. You consent to receive electronic communications (including, without limitation, AI-generated nudges, reminders, insights, and messages from trudy), 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.

24. CALIFORNIA USERS AND RESIDENTS

If any complaint with us is not satisfactorily resolved, you can contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 North Market Blvd., Suite N 112, Sacramento, California 95834 or by telephone at (800) 952-5210 or (916) 445-1254.

25. OTHER IMPORTANT INFORMATION

These Terms and any policies or operating rules posted by us on the Services or with respect to the Services constitute the entire agreement and understanding between you and BPS. You confirm that you have not relied on any prior or side statement, agreement, or representation, whether these were oral or written, to enter into this agreement with us.

Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. These 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.

If any provision or part of a provision of these Terms is determined to be unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions.

You and BPS are independent contractors and shall so represent ourselves in all regards. There is no joint venture, partnership, employment or agency relationship created between you and us as a result of these Terms or use of the Services.

Your obligations under these Terms shall extend to your director's officers, employees, consultants, and independent contractors and you shall be responsible for any breach thereof by such representatives.

You hereby waive any and all defenses you may have based on the electronic form of these Terms and the lack of signing by the parties hereto to execute these Terms.

You and BPS agree that these Terms will not be construed in favor of or against either party by reason of authorship.

You shall not (i) permit any third party to access or use the Services or Software in violation of any U.S. law or regulation; or ii) export any software provided by us or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, you shall not permit any third party to access or use the Services in, or export the Software to, a country subject to a United States embargo (as of the Effective Date, Cuba, Iran, North Korea, Sudan, and Syria).

We may send notices pursuant to these Terms to the email address you provided us, and such notices will be deemed received twenty-four (24) hours after they are sent. You may send notices pursuant to these Terms to trudyAtyourservice@bp-systems.com and such notices will be deemed received seventy-two (72) hours after they are sent.

No delay, failure, or default, other than a failure to pay any fees when due, will constitute a breach of these Terms to the extent such delay, failure, or default is caused by epidemics or pandemics, acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, any law or any action taken by a government or public authority, non-performance by suppliers or subcontractors, interruption or failure of utility service, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond our reasonable control.

26. DATA PORTABILITY & ACCOUNT TRANSFERS

Users may port their accounts between Enterprise, Individual or Coaching Subscription plans. Porting includes full transfer of Personal Data, AI Interaction Data, coaching memory and insights. Enterprises and Coaches lose access to an individual's data upon such individual taking action to port data away from the applicable Enterprise or Coach.

27. AI SAFETY & ACCOUNTABILITY.

You may report concerns regarding AI outputs to trudyAtyourservice@bp-systems.com. BPS may review AI interactions for safety and adjust models or coaching flows as needed in its discretion.

27. CONTACT US

You can contact us by email as follows:

General Support: trudyAtyourservice@bp-systems.com

Privacy and Data Rights: privacy@by-systems.com

AI governance and explainability: ai-governance@bp-systems.com

or by post to Breakthrough Performance Systems, Inc., 748 St Johns Circle, Pleasanton, CA 94566.