

Terms of Service Page

Happy Lungs Project Inc. Website Terms and Conditions

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY.

By using and/or visiting the Happy Lungs Project Inc. websites, located at www.happylungsproject.org or any other site operated by Happy Lungs Project Inc. and/or its affiliates, collectively referred to as the "Websites", YOU SIGNIFY YOUR ASSENT TO THESE TERMS AND CONDITIONS (the "Terms") AND THE MANNER IN WHICH WE COLLECT, USE, AND DISCLOSE YOUR PERSONAL INFORMATION AS SET OUT IN Happy Lungs Project Inc.'s Privacy Policy (the "Privacy Policy"). Terms may be changed or updated at any time. You can always read the current, complete version of the Terms on our website. Specific Web pages of the Happy Lungs Project Inc.'s Websites may set out additional terms and conditions, all of which are incorporated by reference into these Terms.

In the case of inconsistencies between these Terms and information included in off-line materials, these Terms will always control. By visiting, entering, or using the Websites and/or the services located at the Websites, (collectively, the "Services"), you indicate that you accept the current version of these Terms and that you agree to be bound by them. Acceptance of the Terms creates a binding contract ("Agreement") between you and Happy Lungs Project Inc. that you will use the Websites and the Services only in a manner consistent with these Terms. If you do not agree to any of these Terms, then please do not access or use the Websites or Services.

I. Your Use of the Websites and Services

Happy Lungs Project Inc. grants you a limited, non-transferable license to use the Websites in accordance with the Terms. You may only use the Websites to view information presented at the Websites and to make legitimate inquiries. You may not use the Websites for any other purposes, including without limitation, to make any false or fraudulent inquiries. The Websites and the content provided on the Websites, including any text, graphics, button icons, audio and video clips, digital downloads, data compilations and software (collectively, "Content"), may not be copied, reproduced, republished, framed, mirrored, uploaded, posted, transmitted, modified, sold, transferred, sub-licensed, distributed, disassembled, decompiled, or reverse engineered without the written permission of Happy Lungs Project Inc., and/or its third party partners, except that you may download, display and print the materials presented on the Websites for your personal, non-commercial use only.

II. Monitoring by Happy Lungs Project Inc.

Your use of the products and services on the Websites may be monitored by Happy Lungs Project Inc., and that the resultant information may be used by Happy Lungs Project Inc. for its internal business purposes or in accordance with the rules of any applicable regulatory or self-regulatory organization.

III. Information Made Available Through this Service

You are permitted to store, display, analyze, modify, reformat, and print the information made available to you via these services only for your own use. You are not permitted to publish, transmit, or otherwise reproduce this information, in whole or in part, in any format to any third party without the express written consent of Happy Lungs Project Inc. In addition, you are not permitted to alter, obscure, or remove any copyright, trademark or any other notices that are provided to you in connection with the information. Happy Lungs Project Inc. reserves the right, at any time and from time to time, in the interests of its own editorial discretion and business judgment to add, modify, or remove any of the information. These Terms and Conditions of Use are not intended to, and will not, transfer or grant any rights in or to the information other than those which are specifically described herein, and all rights not expressly granted herein are reserved by Happy Lungs Project Inc. or the third party providers from whom Happy Lungs Project Inc. has obtained the information. You are required to read and abide by any additional terms and conditions that may be posted on this service from time to time concerning information obtained from specific third party providers. Such third party providers shall have no liability to you for monetary damages on account of the information provided to you via this service.

IV. System Outages, Slowdowns, and Capacity Limitations/Delays in Order Routing, Executions, and Reports.

As a result of high Internet traffic, transmission problems, systems capacity limitations, and other problems, you may, at times, experience difficulty accessing the Website or communicating with Happy Lungs Project Inc. through the Internet or other electronic and wireless services. Any computer system or other electronic device, whether, it is yours, an Internet service provider's or Happy Lungs Project Inc.'s, can experience unanticipated outages or slowdowns, or have capacity limitations.

V. Content not to be construed as a solicitation or recommendation

This material has been prepared for informational purposes only, without regard to any particular user's objectives, financial situation, or means, and Happy Lungs Project Inc. is not soliciting any action based upon it. This material is not to be construed as a recommendation. Although this material is based upon information that Happy Lungs Project Inc. considers reliable and endeavors to keep current, Happy Lungs Project Inc.

has not verified this information and does not represent that this material is accurate, current, or complete and it should not be relied upon as such.

VI. Member Conduct Guidelines

(a) In consideration of your use of the Websites and Services, you represent that you are of legal age to form a binding contract and are not a person barred from receiving services under the laws of the United States or other applicable jurisdiction. You agree to provide true, accurate, current and complete information about yourself upon registration and thereafter. You agree that you are responsible for maintaining the confidentiality of any usernames, passwords, account, or any other tools or data that afford you access to restricted areas of the Websites or Services and are fully responsible for all activities that occur under your password or account. If you are sharing such usernames, passwords, etc. with others for the purpose of shared viewing of the Websites, you are also responsible for all users of such information, whether or not actually or expressly authorized by you. You agree to immediately notify Happy Lungs Project Inc. of any unauthorized use of your password or account or any other breach of security. Happy Lungs Project Inc. cannot and will not be liable for any loss or damage arising from your failure to comply with the Terms. You agree to comply with all local rules regarding online conduct and acceptable Content, including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

(b) You agree not to use the Websites or the Services to:

1. upload, post, email, transmit or otherwise make available ("Post") any Content:

- that is unlawful, harmful, threatening, indecent, inflammatory, pornographic, profane, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, false or inaccurate, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or that would otherwise violate any law, or violate any contractual or fiduciary relationship (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment virus, bug or other harmful item; or

- that contains any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation.

2. Harm minors in any way;

3. Impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;

4. Violate any applicable local, state, national or international law, intentionally or unintentionally;

5. "Stalk" or otherwise harass another;

6. Collect or store personal data about other users;

7. Transmit or otherwise transfer any Web pages, data or content found on the Websites to any other computer, server, Web site, or other medium for mass distribution or for use in any commercial enterprise; or

8. Supply material support or resources to organizations designated by the United States government as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act.

While utilizing or accessing the Websites, the Services, or information or other Content available on the Websites, you also agree not to:

1. Use any device, software or routine to interfere or attempt to interfere with the proper working of the Websites or interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service in any way;

2. Use any "robot," "spider" or other automatic device, or a program, algorithm or methodology having similar processes or functionality, or any manual process, to monitor or copy any of the Web pages, data or content found on the Websites without the prior written permission of Happy Lungs Project Inc.; or

3. Impose a burden or load on our infrastructure that Happy Lungs Project Inc. deems in its sole discretion to be unreasonable or disproportionate to the benefits Happy Lungs Project Inc. obtains from your use of the Websites.

Content that violates these guidelines may be removed at the discretion of Happy Lungs Project Inc. We have no obligation to remove content that you personally find objectionable or offensive, though we will investigate complaints referring to inappropriate use of the Websites.

(c) You agree to be fully responsible for your own Content and the consequences of posting or publishing them. Under no circumstances will Happy Lungs Project Inc. be liable in any way for any Content (other than for Content developed by us), including, but not limited to, any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed or otherwise transmitted to or through the Websites. In the event that you have a dispute with a user of Happy Lungs Project Inc. and its Services, you release Happy Lungs Project Inc. and its officers, members and employees from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.

(d) In order to provide the Services, you hereby grant Happy Lungs Project Inc. the royalty-free, non-exclusive, worldwide, and sublicensable right to use, modify, distribute, publish, copy, publicly display and publicly perform, in any format or medium now known or later developed, with or without attribution, any Content submitted by you on the Websites or Services, in connection with the Websites and Services, except as otherwise prohibited by the Privacy Policy.

VII. No determination of suitability has been made; not all risks are disclosed; private advisors should be consulted

The fact that Happy Lungs Project Inc. has made the data and services provided on their Websites available to you constitutes neither a recommendation that you enter into a particular transaction nor a representation that any product described on their Websites are suitable or appropriate for you. Any discussion of the risks contained should not be considered to be a disclosure of all risks or complete discussion of the risks which are mentioned. You should neither construe any of the material contained herein as business, financial, investment, legal, regulatory, tax, health care, treatment, research or personal advice. Perform independent diligence and seek advice from your health care providers as to the best course of action for you.

VIII. No representations made as to other sites or links

This service may provide links to certain Internet sites (the "Sites") sponsored and maintained by third parties. Happy Lungs Project Inc. is providing such links solely as a convenience to you. Accordingly, Happy Lungs Project Inc. makes no representations concerning the content of the Sites. The fact that Happy Lungs Project Inc. has provided a link to the Site does not constitute an endorsement, authorization, sponsorship, or affiliation by Happy Lungs Project Inc. with respect to the Site, its owners, or its providers. Happy Lungs Project Inc. has not tested any information, software, or products found on any of the Sites and therefore does not make any representations with respect thereto, including any representations regarding the content or sponsors of the Site, or the suitability or appropriateness of the products or transactions described therein

IX. Intellectual Property Rights

Except for any Content submitted by users, the content on the Happy Lungs Project Inc. Websites, including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like, the trademarks, service marks and logos contained therein ("Marks"), and any other proprietary rights related thereto or appearing on the Websites are owned by or licensed to Happy Lungs Project Inc., subject to trademark, copyright and other intellectual property rights under United States and foreign laws and international conventions. Content on the Websites is provided to you AS IS for your information and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Happy Lungs Project Inc. reserves all rights not expressly granted in and to the Websites and the Content. You agree to not engage in the use, copying, or distribution of any of the Content other than expressly permitted herein, including any use, copying, or distribution of content submitted by third parties obtained through the Websites for any commercial purposes. If you download or print a copy of the Content for personal use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security related features of the Happy Lungs Project Inc. Websites or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Happy Lungs Project Inc. Websites or the Content therein. You agree to be liable for any damages resulting from any infringement of copyright, trademark, or other proprietary right, or any other harm resulting from your use of the Websites.

X. Third Party Links

The Websites contain links to other websites that are provided solely as a convenience to you and not as an endorsement by Happy Lungs Project Inc. of the contents or operation of such other websites. Happy Lungs Project Inc. shall not be responsible for the content of any other websites and makes no representation or warranty regarding any other websites or the contents or materials on such websites. If you decide to access other websites, you do so at your own risk. You agree not to hold Happy Lungs Project Inc. responsible for the content or operation of such websites.

XI. Termination

Happy Lungs Project Inc. may immediately change or terminate your access to the Services, the Websites, or any online membership(s) with Happy Lungs Project Inc., with or without notice, at any time, without liability to you, any other user or any third party. Happy Lungs Project Inc. reserves the right to terminate your online membership(s) if , without limitation, you have: (1) provided Happy Lungs Project Inc. with false or misleading registration information; (2) interfered with other users or the administration of Happy Lungs Project Inc. Services or Websites; (3) upon a request by

law enforcement or other governmental authorities; or (4) otherwise violated these Terms.

XII. Disclaimer of Warranties

ALL PRODUCTS, OFFERINGS, CONTENT, AND MATERIALS ON THE WEBSITE ARE PROVIDED “AS IS” AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. EXCEPT AS OTHERWISE REQUIRED BY LAW, HAPPY LUNGS PROJECT INC. DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, HAPPY LUNGS PROJECT INC. DOES NOT WARRANT THAT ACCESS TO THE WEBSITES WILL BE TIMELY, SECURE, AND/OR ERROR-FREE OR UNINTERRUPTED. HAPPY LUNGS PROJECT INC. DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION, RESULTS, OR CONTENT PROVIDED ON THE WEBSITES OR IN ANY EMAIL COMMUNICATION SENT BY OR ON BEHALF OF HAPPY LUNGS PROJECT INC.

XIII. Limitation of Liability

HAPPY LUNGS PROJECT INC. ASSUMES NO RESPONSIBILITY, AND SHALL NOT BE LIABLE FOR, ANY DAMAGES TO, OR VIRUSES THAT MAY INFECT YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO, USE OF, OR BROWSING THE WEBSITES OR YOUR DOWNLOADING OF ANY MATERIALS, DATA, TEXT, IMAGES, VIDEO OR AUDIO FROM THE WEBSITES. IN NO EVENT SHALL HAPPY LUNGS PROJECT INC. BE LIABLE FOR ANY INJURY, LOSS, CLAIM, DAMAGE, OR ANY SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO LOST PROFITS OR LOST SAVINGS), WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, WHICH ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH (I) ANY USE OF THIS SITE OR CONTENT FOUND HEREIN, (II) ANY FAILURE OR DELAY (INCLUDING, BUT NOT LIMITED TO THE USE OF OR INABILITY TO USE ANY COMPONENT OF THIS SITE), (III) OTHER MATTER RELATING TO THE WEBSITES AND/OR SERVICES.

If, notwithstanding the foregoing, Happy Lungs Project Inc. or any third party provider or distributor should be found liable for any loss or damage, which arises out of or is in any way connected with any of the above described functions or uses of the Websites, the Content, and/or the Services, the liability of Happy Lungs Project Inc. and the third party providers and distributors shall in no event exceed US\$100.00. In its sole discretion, in addition to any other rights or remedies available to Happy Lungs Project Inc. and without any liability whatsoever, Happy Lungs Project Inc., at any time and without notice, may terminate or restrict your access to any component of the Websites or its

Services. Some states do not allow certain limitations of liability, so the foregoing limitation may not apply to you.

XIV. Indemnity and Hold Harmless

You agree to indemnify, defend and hold harmless Happy Lungs Project Inc., its affiliates, officers, directors, employees, consultants and agents from any and all third party claims, liabilities, damages, losses, debt, expenses, obligations, and/or costs (including, but not limited to, attorney's fees) arising from: (i) your use and access to the Websites or of Happy Lungs Project Inc. Services; (ii) your violation of the Terms; (iii) your violation of any third party right, including without limitation any trademark, copyright, property, proprietary, privacy, or other right or your infringement or infringement by any other user of your account, of any intellectual property or other right of any person or entity; and (iv) any of your Content, including, without limitation, any Content posted or otherwise provided by you that infringes any copyright, trademark, intellectual property right of any person or defames any person or violates any person's rights of publicity or privacy, or otherwise violates these Terms. The Terms will inure to the benefit of successors, assigns, and licensees. This defense and indemnification obligation will survive these Terms and your use of the Websites and/or Services.

XV. Claims of Intellectual Property Infringement and Agent

If you believe your copyright, or other intellectual property rights have been infringed by the Websites, Content or Services, we ask that you please provide to Happy Lungs Project Inc.'s Agent the following information required by the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act, 17 U.S.C. 512:

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 copyright work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
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;
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.

Send such notice as directed above to:

Happy Lungs Project Inc.
Attn: Legal
5345 Towne Square Drive
Suite 140
Plano, TX 75024
Email: info@happylungsproject.org

XVI. Governing Law

This Agreement and its performance shall be governed by the laws of the State of Texas, United States of America, without regard to its conflict of laws provisions. You consent and submit to the exclusive jurisdiction of the state and federal courts located in the State of Texas, United States of America, in all questions and controversies arising out of your use of the Websites, the Services, and/or the Terms. To the extent allowed by applicable law, any claim or cause of action arising from or relating to your access or use of the Websites must be brought within two (2) years from the date on which such claim or action arose or accrued. Happy Lungs Project Inc. controls and operates the Websites from its headquarters in the United States of America, and the Websites may not be appropriate or available for use in other locations. If you use the Websites outside the United States of America, you are responsible for following applicable local laws.

XVII. Arbitration and Damages

Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Collin County, Texas before one (1) arbitrator to be agreed to by the Parties. In the event that the Parties cannot agree within ten (10) days of filing for arbitration, then each party shall select an arbitrator and the two arbitrators shall select a third one which will hear the dispute as a panel. The arbitration shall be administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. The parties shall maintain the confidential nature of the arbitration proceeding and the award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Judgment on the award may be entered in any court having jurisdiction. In any arbitration arising out of this Agreement, the arbitrator is not empowered to award

punitive, exemplary, incidental, consequential, indirect and/or loss profit damages and the parties waive any right to recover such damages, in any arbitration arising out of or related to this Agreement. This clause shall not preclude either Party from seeking provisional remedies in aid of arbitration as described in this Agreement. Each party shall bear their own costs to file and conduct the arbitration. However, at the conclusion of the arbitration, the arbitrator(s) have the authority to assess the full cost of arbitration including reasonable and necessary attorneys' fees and costs in favor of the prevailing party and against the non prevailing party.

XVIII. Class Action Waiver

ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR HAPPY LUNGS PROJECT INC. MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

XIX. Attorney's Fees

If Happy Lungs Project Inc. takes any action to enforce these Terms, such parties will be entitled to recover from you, and you agree to pay, all reasonable and necessary attorney's fees and any cost of litigation, in addition to any other relief, at law or in equity, to which such parties may be entitled.

XX. Injunctive Relief

You acknowledge that a violation or attempted violation of any provision of these Terms will cause such damage to Happy Lungs Project Inc. which will be irreparable, the exact amount of which would be difficult to ascertain and for which there will be no adequate remedy at law. Accordingly, you agree that Happy Lungs Project Inc. shall be entitled as a matter of right to an injunction issued by any court of competent jurisdiction, restraining such violation or attempted violation of the Terms by you, or your affiliates, partners, or agents, as well as recover from you any and all costs and expenses sustained or incurred by Happy Lungs Project Inc. in obtaining such an injunction, including, without limitation, reasonable attorneys' fees. You agree that no bond or other security shall be required in connection with such injunction.

XXI. Assignment

You may not assign, convey, subcontract or delegate your rights, duties or obligations hereunder.

XXII. Relationship

The relationship between Happy Lungs Project Inc. and you will be that of independent contractors, and neither of us nor any of our respective officers, agents or employees will be held or construed to be partners, joint ventures, fiduciaries, employees or agents of the other.

XXIII. Modification

Happy Lungs Project Inc. may make changes to the information and/or materials offered on or available from the Websites at any time without notice, and Happy Lungs Project Inc. may change these Terms at any time without notice by posting updated terms of use on the Websites. Your continued use of the Websites after such changes have been posted signifies your assent and agreement to the new Terms, even if you have not reviewed the changes. Therefore, you should check the Terms and Conditions posted on the Websites periodically for updates and changes.

XXIV. Additional Terms

Additional terms and conditions may apply to purchases of goods and services and other uses of portions of the Websites, and you agree to abide by such other terms and conditions.

XXV. Severability

This Agreement shall be deemed severable. In the event that any provision is determined to be unenforceable or invalid, such provision shall nonetheless be enforced to the fullest extent permitted by applicable law, and such determination shall not affect the validity and enforceability of any other remaining provisions.

XXVI. Headings

The headings used in this Agreement are included for convenience only and will not limit or otherwise affect the terms and conditions herein.

XXVII. Entire Agreement

This Agreement, together with any terms and conditions incorporated herein or referred to herein, constitute the entire agreement between us relating to the subject matter hereof, and supersedes any prior understandings or agreements (whether oral or written) regarding the subject matter, and may not be amended or modified except in writing or by making such amendments or modifications available on the Websites.

If you are aware of any violations of these Terms and Conditions, please report them.