



Blink Development LLC - Terms of Service

This Terms of Service ("Agreement") is entered into between Blink Development LLC ("Blink," "we," or "us") and the client or subscriber ("Client," "you," or "your").

This Agreement governs all professional services, software-as-a-service (SaaS) offerings, platforms, tools, and solutions provided by Blink, including but not limited to products branded as FlexKit, Swarm, or any other Blink-developed or Blink-operated service (collectively, the "Services"). In the event of any conflict between this Agreement and a written Scope of Work, Order Form, or Subscription Agreement, the applicable Scope of Work or Order Form shall control only with respect to the specific services described therein, and this Agreement shall otherwise remain in full force and effect.

1. Entire Agreement

This Agreement, along with any attached exhibits or addenda, constitutes the entire and exclusive agreement between Blink and the Client concerning the subject matter hereof. It supersedes all prior agreements, representations, or warranties, whether written or oral, between the parties. No waiver, alteration, or modification of the Agreement shall be binding unless in writing and signed by both parties.

2. Scope and Understanding

This Agreement is based on the understanding of the project scope as developed through written documentation and discussions. Any changes to the scope that deviate from the original agreement will be considered out-of-scope and subject to additional fees and timelines. Blink commits to communicating these implications promptly.

3. Service and Product Roadmap Disclaimer

Blink may provide access to consulting services, hosted software platforms, APIs, automation tools, dashboards, and other digital products, including beta features or previews of future functionality. Any references to product roadmaps, future releases, or beta features are provided for informational purposes only and do not constitute a commitment or guarantee of delivery, functionality, or timeline. The Client acknowledges that reliance on such features or timelines is at the Client's sole discretion and risk.

4. Scope Changes

Blink is committed to delivering the solution within the defined scope. However, any additional requirements or changes outside of the initial scope will be considered out-of-scope, with the full financial responsibility of the Client. All scope changes must be agreed upon in writing, including an estimate of additional costs and time required to complete the requested changes.

5. Ownership and Intellectual Property Rights

All software, platforms, tools, configurations, code, methodologies, and intellectual property provided by Blink under this Agreement remain the exclusive property of Blink. The Client is granted a non-exclusive, limited, non-transferable, revocable license to access and use the Services solely for its internal business purposes during the term of this Agreement.

The Client may not copy, reverse engineer, decompile, sublicense, rent, resell, or create derivative works from the Services except as expressly authorized in writing by Blink. Any feedback, ideas, enhancements, or suggestions provided by the Client may be freely used by Blink without restriction or compensation.

6. Data Ownership and Privacy

The Client retains ownership of all data they upload or provide through Blink's services. Blink will not access or use Client data for any purpose other than providing the agreed services. Blink will follow industry-standard data protection practices to ensure the security and confidentiality of Client data in compliance with applicable data privacy laws (e.g., GDPR, CCPA).

7. Service Availability and Uptime

Blink will use commercially reasonable efforts to maintain service availability but does not guarantee uninterrupted, timely, secure, or error-free operation. Blink is not responsible for service interruptions caused by scheduled maintenance, third-party services, internet outages, force majeure events, or factors outside of Blink's reasonable control.

8. Liability Limitation

Blink's liability under this Agreement shall not exceed the total fees paid by the Client. Blink is not liable for indirect, special, incidental, or consequential damages (e.g., loss of profits, data, or business opportunity), even if advised of the possibility of such damages. The Client assumes full responsibility for decisions made based on the services provided by Blink.

However, this provision shall not excuse or limit either party's obligations under Section 7.2

9. Delivery and Warranties

All delivery dates provided by Blink are intended as forecasts or best estimates based on the current project scope and available information. The Client acknowledges that these dates are not guaranteed and are subject to change due to factors outside Blink's control, including but not limited to third-party dependencies, Client responsiveness, changes in project scope, or unforeseen technical challenges. Additionally, the Client agrees that neither they nor any third party can influence or impose changes to these delivery dates. As such, any delivery date communicated is a projection, not a fixed commitment, and should be viewed as an estimated timeline rather than a contractual deadline. Blink warrants that the services will perform substantially in accordance with the agreed specifications for 14 days following the implementation date. Any defects discovered during this period will be corrected

at Blink's expense. Blink does not warrant that the services will be error-free or uninterrupted and disclaims any warranties related to third-party integrations, availability of future updates, or non-infringement.

10. Payments and Fees

All fees paid to Blink, including service fees, subscription fees, setup fees, and integration fees, are non-refundable and fully earned upon receipt. Fees are charged in advance unless otherwise stated. The Client agrees to maintain valid automatic payment methods. If any payment is not received within fifteen (15) days of its due date, Blink may suspend Services and charge late fees or reactivation fees. If the Client defaults on any payment obligation and fails to cure such default within fifteen (15) days of written notice, all remaining fees and charges for the remainder of the contract term shall immediately become due and payable, and Blink may suspend or terminate Services without further obligation.

11. Taxes

The Client agrees to pay any applicable taxes related to the services provided under this Agreement, which may be added to the invoiced amounts.

12. Third-Party Services

The Services may integrate with or rely on third-party platforms, infrastructure providers, or software services. Blink is not responsible for the availability, performance, uptime, or reliability of any third-party services, and any issues arising from such services must be addressed directly with the applicable third-party provider.

13. Termination and Project Continuation

The Client may terminate this Agreement for convenience at any time by providing written notice to Blink. Such termination shall not relieve the Client of its obligation to pay all fees due and payable under this Agreement.

For professional services, consulting, or project-based engagements, the Client shall remain responsible for the full project cost, including all remaining unpaid amounts, which shall become immediately due and payable upon termination.

For subscription-based or software-as-a-service (SaaS) offerings, termination by the Client prior to the end of the applicable contract term shall result in the immediate acceleration and payment of all remaining fees and charges for the remainder of the subscription term, which shall be immediately due and payable.

Blink may suspend or terminate this Agreement or any Services immediately upon written notice if the Client fails to make any payment when due, breaches this Agreement, or uses the Services in a manner that is unlawful or materially harmful to Blink, its systems, or other customers.

Upon any suspension or termination by Blink for the foregoing reasons, all remaining fees, subscription charges, and unpaid amounts for the remainder of the applicable contract term shall immediately accelerate and become due and payable, without limiting Blink's right to pursue any other remedies available at law or in equity.

14. Confidentiality

Both parties agree to maintain the confidentiality of any proprietary or sensitive information shared during the project. Confidential information will not be disclosed to any third party without prior written consent, except as required by law.

15. Support and Maintenance

Blink will provide ongoing support and maintenance as part of the monthly fee, which includes updates, patches, and technical support. The Client agrees to report any issues promptly and provide sufficient information for Blink to resolve them.



16. Dispute Resolution

Any disputes arising from this Agreement shall first be attempted to be resolved through negotiation. If a resolution is not reached, the parties will proceed to mediation and, if necessary, arbitration. Arbitration shall take place in the state of Florida under the applicable laws.

17. Non-Disparagement

The Client agrees not to make any negative statements or disparaging remarks, whether oral or written, that could harm Blink's reputation or business.

18. Indemnification

Each party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other party and its affiliates, officers, directors, employees, and agents (the "Indemnified Party") from and against any third-party claims, damages, losses, liabilities, costs, and expenses (including reasonable attorney fees)

19. Assumption of Standard Operations

This Agreement assumes the Client operates as a typical business within its industry. Any deviations from standard operations that result in additional costs will be the Client's responsibility.

20. Amendment of Terms

Blink reserves the right to amend the terms of this Agreement by providing the Client with at least 15 days' written notice before the changes take effect. Continued use of the services following such notice shall constitute acceptance of the revised terms. If the Client objects to the changes, its sole remedy shall be to terminate the Agreement in accordance with Section 13.

21. Beta Features and Future Releases

Any beta features, trial functionality, or pre-release SaaS services are provided on an "as-is" and "as-available" basis without warranties of any kind. Blink may modify, suspend, or discontinue beta features at any time without notice. Beta features and roadmap items are not guaranteed to be released into production.

22. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of law principles.

23. Feedback and Improvements

The Client grants Blink a royalty-free, worldwide, perpetual license to use and incorporate any feedback, suggestions, or enhancements provided during the project into Blink's future products or services.

24. Service Level Agreement (SLA)

While Blink strives for maximum uptime and service availability, the SLA does not guarantee 100% uptime. Any issues related to service disruptions will be addressed promptly, but Blink is not liable for external factors impacting availability (e.g., third-party outages, force majeure events).

25. Survival

The confidentiality, intellectual property, payment, indemnification, and liability provisions, as well as any other provisions which by their nature should survive, will survive termination of this Agreement.

26. Updates to Terms of Service

Blink may update these Terms from time to time, including on an annual basis, to reflect changes in applicable law, regulatory guidance, industry standards, or operational practices.

Any such updates shall apply prospectively only and shall not materially modify fees, payment obligations, or ownership rights for any then-active contract term unless expressly agreed in writing. Continued use of the Services after the effective date of the updated Terms constitutes acceptance of the revised Terms.

If the Client does not agree to the updated Terms, the Client's sole remedy is to terminate the Agreement in accordance with Section 13 prior to the effective date of the changes.