



Toothapps®

Terms of Service

Ver. April 24, 2024

We are **Talentship, LLC, d/b/a Toothapps**. **Toothapps** is a Minnesota limited liability company based in Minnesota ("Company", "We" or "Us"). Your use of the Toothapps website(s) ("Sites"), and any information provided through our website(s) ("Content") is subject to these Terms of Service ("Terms"). If you are a dental practice customer ("Customer"), your use of Toothapps platform and related software and services ("App") hosted and maintained by Toothapps and any information provided through the App is governed by the Master Subscription Agreement found at: <https://www.toothapps.com/Site/Legal/MasterSubscriptionAgreement.pdf>. If you are an individual user of our App ("User"), your use of the App is governed by the Toothapps End User License Agreement (EULA) found at . <https://www.toothapps.com/Site/Legal/EULA.pdf>.

These Terms, the Master Subscription Agreement and the EULA are all also subject to our Privacy Policy (incorporated herein by this reference). By using our Sites or App, you agree to these Terms, or the Master Subscription Agreement or EULA as applicable. If you do not agree to all of these Terms, do not use our Sites or App. Subject to your compliance with these Terms, we hereby grant you a limited right to use the Sites for your own personal use.

We may modify these Terms at any time, and such modifications shall be effective immediately upon posting of the modified Terms. Your continued use of the Sites or App will mean you accept these modified Terms.

NEITHER THE SITES OR APP NOR THE CONTENT IS INTENDED TO CONSTITUTE MEDICAL OR PROFESSIONAL ADVICE. PLEASE CONTACT YOUR MEDICAL PROFESSIONAL IF YOU HAVE A QUESTION ABOUT YOUR HEALTH OR THE APPROPRIATE CARE FOR YOUR MEDICAL CONDITION. THE CONTENT PROVIDED THROUGH OUR SITES AND THE APP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO PROVIDE MEDICAL INFORMATION OR RECOMMENDATIONS. IN THE EVENT THAT WE PERMIT YOU TO COMMUNICATE WITH YOUR HEALTH CARE PROVIDER THROUGH OUR APP, NEITHER OUR COMPANY NOR ANY OF OUR DIRECTORS, SHAREHOLDERS, OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES, LICENSORS OR SUPPLIERS SHALL BE LIABLE FOR ANY INFORMATION OR ADVICE PROVIDED BY SUCH HEALTH CARE PROVIDER. IF YOU ARE CONCERNED WITH THE USE OF OR DISSATISFIED WITH THE SITES OR APP, PLEASE CONTACT US OR IMMEDIATELY DISCONTINUE YOUR USE OF THE SITES OR APP.

Your Obligations

Ownership, IP. The Sites and App, and all Content provided through it, and all derivatives shall be and remain the property of our Company or our licensors. Information includes all information such as the "look and feel" of the Sites or App, the data files, graphics, text, photographs, drawings, logos, images, sounds, music, video or audio files part of the Sites or App. You shall have no rights or interests therein except as set forth in these Terms. You agree to notify our Company immediately in writing of any claim made regarding the Sites or App and to cooperate as reasonably necessary, at our expense, in the defense and settlement of such claim.

You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to or contained within the Sites or App or the Content provided

therein. The Sites and App are owned by our Company and/or licensed from its licensors and are provided in conformance to our obligations under any such license terms.

Privacy. Any information you provide through any of our website's chat, blog or comments feature (if any) should be public and non-confidential. We will protect the privacy of information provided through our Sites and App and any related user account in accordance with our Privacy Policy.

Rights. Toothapps is the owner, or an authorized reseller or licensee, of the Sites and App. The Sites and App are provided on an "AS IS" and "AS AVAILABLE" basis.

Restrictions. You agree not to use our Sites or App for any unlawful purpose or in any way that could damage, disable, overburden, or impair our Sites or App. Except as otherwise permitted under these Terms, you shall not (nor assist any third party to):

- i. Send spam or any other form of duplicative and unsolicited messages, other than marketing and promotional messages, to any third party or other users using through the Sites or App;
- ii. Harvest, collect, gather or assemble information or data regarding other users of the Sites or App without their consent;
- iii. Transmit through or post on the Sites or App unlawful, libelous, tortious, infringing, defamatory, threatening, vulgar, or obscene material or material that may be harmful to minors;
- iv. Knowingly transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs;
- v. Knowingly interfere with or disrupt the integrity or performance of the Sites or App or the Content contained therein or attempt to gain unauthorized access to the Sites or App, computer systems or networks related to the Sites or App;
- vi. Decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or derive any source code (or underlying ideas, algorithms, structure or organization) from the Sites or App or from any other information by any means whatsoever;
- vii. Distribute, disclose or allow use of any of the Sites or App in any format through any timesharing device, service bureau, network or by any other means, to or by any third party;
- viii. Violate the license grant provided pursuant to these Terms;
- ix. Create Internet "links" to or from the Sites or App, or "frame" or "mirror" any of our content which forms part of the Sites or App; or
- x. Modify or create a derivative work of the Sites or App or any portion thereof.

Access Limitations. You shall be solely responsible for providing, maintaining and ensuring compatibility with the Sites or App access requirements, all hardware, software, electrical or other physical requirements for your use of the Sites or App, including without limitation, telecommunications and Internet service provider access, connections, links, web browsers or other equipment, programs and services required to access the internet or to use the Sites or App.

You acknowledge and agree that from time to time the Sites or App may be inaccessible or inoperable for any reason, including without limitation: (i) equipment malfunctions, (ii) periodic maintenance or repairs; or (iii) other causes beyond our control.

Additionally, because the Sites and App are accessed via the Internet or a mobile carrier, you may have connection issues due solely to your own Internet or telecommunications service provider or other

technological access requirements. We are not responsible for any third-party access requirements (e.g. your ISP).

Location Information. The Sites or App may include technology to use the location of the device for certain features. By accepting these Terms, you consent to the use of this location information as further specified in our Privacy Policy.

Third Party Providers

Third Party Service Providers. You acknowledge that our Company contracts with third party development, application and data hosting, wireless network services, payment processing, and other technology services providers such as mobile app store providers to provide the Sites or App functionality ("Third Party Providers"). We are responsible for ensuring that the Third Party Providers abide by these Terms. We are solely responsible for monitoring and supervising all necessary work of the Third Party Providers.

Disclaimers; Limitations on Liability

No Warranty. The Content provided through the Sites or App is believed to be accurate, but neither we nor our licensors nor our Third Party Providers warrant or guarantee such accuracy. In the event that Sites or App does not function or if you have any concerns about the Sites or App, you should contact us as specified in our Privacy Policy.

The Sites and App and Content, including without limitation all documentation for the App, are subject to change without notice.

The Content provided through the Sites or App is provided on an "AS IS" and "AS AVAILABLE" basis at your own risk. YOU ACKNOWLEDGE AND AGREE THAT WE HAVE NO OBLIGATION FOR ANY ERRORS IN SUCH INFORMATION OR ANY WARRANTY, EXPRESS OR IMPLIED OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO THE SITES OR APP OR THE CONTENT PROVIDED THROUGH THE APP. Notwithstanding the foregoing, we will work to correct any bugs and provide you with updates and upgrades to the App as completed.

YOU FURTHER ACKNOWLEDGE AND AGREE THAT OUR COMPANY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DISCLAIMS AND SHALL HAVE NO OTHER LIABILITY OR WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE SITES OR APP OR CONTENT, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY UNDER THESE TERMS WILL BE SOLELY AS PERMITTED UNDER THESE TERMS.

WE DO NOT WARRANT OR REPRESENT THAT THE SITES OR APP, OR ANY CONTENT ARE ACCURATE, ERROR-FREE OR RELIABLE OR THAT YOUR USE OF THE SITES OR APP, OR THE CONTENT WILL NOT INFRINGE RIGHTS OF THIRD PARTIES. WE ARE NOT RESPONSIBLE FOR COSTS OR ANY DAMAGES THAT RESULT FROM RELIANCE ON OR USE OF THE SITES OR THE APP OR THE CONTENT. Some jurisdictions do not allow the exclusion of implied warranties, so this exclusion may not apply.

Limitations on Liability for Third Party Providers. You expressly understand and agree that you have no contractual relationship with any of the Third Party Providers and their affiliates and that you are not a third-

party beneficiary of any agreement between our Company and any Third Party Provider. In addition, you acknowledge that all Third Party Providers shall have no legal, equitable, or other liability of any kind to you as a user, and you hereby waive and disclaim any and all claims or demands of such nature. YOU ACKNOWLEDGE AND AGREE THAT ANY THIRD PARTY PROVIDERS HAVE NO OBLIGATION FOR ANY WARRANTY, EXPRESS OR IMPLIED OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO THE SITES, APP AND/OR CONTENT PROVIDED UNDER THESE TERMS. You further acknowledge and agree that while such Third Party Providers may agree to refund the fees, if any, paid for the App provided under these Terms, such Third Party Providers, to the maximum extent permitted by applicable law, shall have no warranty obligation whatsoever with respect to the App and/or information provided, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty under these Terms will be solely as permitted hereunder. Please contact us as specified in our Privacy Policy if you have any concerns or questions.

Damage Limitation. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OUR COMPANY OR OUR LICENSORS OR THIRD PARTY PROVIDERS OR AGENTS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES WHATSOEVER, RESULTING FROM ANY LOSS OF USE, LITIGATION, OR ANY OTHER PECUNIARY LOSS, INCLUDING LOSS OF GOODWILL OR REPUTATION, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE SITES, APP OR CONTENT, WITH THE DELAY OR INABILITY TO USE OR WITH THE PROVISION OF OR FAILURE TO MAKE AVAILABLE THE SITES OR APP OR INFORMATION PROVIDED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT NEITHER OUR COMPANY NOR OUR LICENSORS, SUPPLIERS OR AGENTS ARE LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, CAUSED BY YOUR MISUSE OF THE SITES OR APP.

Any claims arising in connection with your use of the Sites, App or Content must be brought within one (1) year of the date of the event giving rise to such action occurred. If you are dissatisfied with the Sites or App, you should contact us as specified in our Privacy Policy or you may elect to discontinue to use the Sites or App.

Bargained for Basis. You acknowledge and agree that the limitations of liability set forth above are fundamental elements of these Terms and neither the Content nor the Sites nor App would be provided to you absent such limitations of liability.

Links. We may include hyperlinks on the Sites or App to other websites or resources operated by third parties, including advertisers. We have not reviewed all of the sites linked to the Sites or App and are not responsible for the content or accuracy of any off-site pages nor are we responsible for the availability of such external websites or resources, and do not endorse and are not responsible or liable, directly or indirectly, for the privacy practices or the content of such websites, including (without limitation) any advertising, products or other materials or services on or available from such websites or resources, nor for any damage, loss or offense caused or alleged to be caused by, or in connection with, the use of or reliance on any such content, products or services available on such external websites or resources.

Miscellaneous Provisions

Your Responsibility. You understand that you are solely responsible for (and that we have no responsibility to you or to any third party for) any breach of your obligations under these Terms and for the consequences (including any loss or damage which we may suffer) of any such breach.

Compliance with Law. You agree that you will not use the Sites, App or Content for activities prohibited by state, federal, or your country's law or other applicable rules or regulations. You represent and warrant that: (i) you are not located in a country that is subject to U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. We make no claims regarding the Sites or App outside of the United States. If you access the Sites or App from outside the United States, you do so at your own risk and are responsible for compliance with laws of your jurisdiction.

Agreement. These Terms, in addition to our Privacy Policy, constitute the entire agreement and understanding between you and us with respect to the Sites or App and supersede all prior agreements, understandings, inducements and conditions expressed or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof; provided that the Master Subscription Agreement or EULA will control in the event such agreement applies to you as a Customer or User and in the event of any conflict with these Terms. These Terms shall be binding upon and inure to the benefit of you and our Company, our affiliates, and any of our successors and assigns. These Terms and your user account may not be assigned with our express, prior written consent which may be withheld at our sole discretion. Notices under these Terms shall be in writing and shall be deemed given when: (i) delivered personally or by respected international carrier; (ii) three (3) business days after the date sent by certified mail, postage prepaid with return receipt requested. Notices to us shall be made through our website or the email provided in our Privacy Policy. We are headquartered in the State of Minnesota.

Governing Law. These Terms and the resolution of any dispute related to these Terms or the App shall be governed by and construed in accordance with the laws of the State of Minnesota, without giving effect to any principles of conflicts of law.

Arbitration; Collection; Venue. Except as provided below, any controversy or claim arising out of or relating to these Terms will be settled by arbitration in Hennepin County, Minnesota, at a time and location designated by the arbitrator. Arbitration will be conducted by the American Arbitration Association in accordance with its Rules of Commercial Arbitration, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator will be selected from a panel of persons having experience with and knowledge of the technology industry and mobile applications. **YOU AGREE THAT ANY CLAIM YOU BRING SHALL BE BROUGHT AS AN INDIVIDUAL AND YOU WAIVE ANY RIGHT TO BRING A CLAIM AS PART OF A CLASS ACTION.** Nothing herein contained will bar either party from seeking equitable remedies in a court of appropriate jurisdiction. If we successfully enforce these Terms under arbitration or court action, you must pay reasonable costs and expenses of the arbitration or other action, including reasonable attorney's fees and costs. Any legal action related to these Terms, the Sites or the App or any Content shall be brought in a state or federal court of competent jurisdiction sitting in Hennepin County, Minnesota.

No Waiver; Severability. Our failure to insist upon strict enforcement of any provision(s) of these Terms shall not be construed as a waiver of any provision or right. Should any provision of these Terms be held invalid or unenforceable, such invalidity will not invalidate the whole of these Terms, but rather that invalid provision will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of these Terms will remain in full force and effect.

Copyright © 2017-2024 Talentship, LLC, d/b/a Toothapps®. All rights reserved.