

**TIKALBAYTEK**  
**TERMS OF SERVICE**

**ACCEPTANCE OF TERMS OF SERVICE**

The following sets forth the agreement (this “Agreement”) between you and TikaBayTek, Inc., a California corporation (with its affiliates, “TikalBayTek,” “we” or “us”) under which you may access the TikaBayTek website located at [www.tikalbaytek.com](http://www.tikalbaytek.com) (the “Website”) and download and use a TikaBayTek mobile application (the “Software” and together with the Website, the “Service”), including, without limitation, all or any part of any content, visual interfaces, images, information, graphics, design, compilation, computer code, products, software, services, and all other elements of the Service and other materials that are provided by or in connection with the Service (“Materials”). YOU ACKNOWLEDGE THAT, PRIOR TO DOWNLOADING AND USING THE SOFTWARE, YOU HAVE READ AND UNDERSTOOD THE TERMS OF THIS AGREEMENT, WITHOUT MODIFICATION. BY USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND TO COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SOFTWARE.

You can review the most current version of this Agreement by visiting [www.tikalbaytek.com](http://www.tikalbaytek.com). The most current version will supersede all previous versions. By continuing to use the Service after changes are made, you agree to be bound by such changes.

**ELIGIBILITY**

You must be at least 18 years old to download and use the Service, or, if you are not at least 18, you must be at least 13 years old and may download and/or use the Service only in conjunction with, and under the supervision of, your parent or guardian. If you do not qualify, you may not download or use the Service.

**USE OF THE SOFTWARE GENERALLY**

Provided that you otherwise fully comply with the terms and conditions of this Agreement, and upon your payment of the applicable fees (if any), we grant to you a limited, personal, non-exclusive, non-transferable and non-sublicensable license to use the Software on one mobile device solely as set forth herein.

**NO MEDICAL OR MENTAL HEALTH ADVICE**

The Materials are for informational purposes only. The Materials are not intended to be a substitute for professional medical or mental health advice, diagnosis, or treatment. Always seek the advice of your physician, psychologist or other qualified health provider with any questions you may have regarding your mental health or medical condition. Never disregard professional medical or mental health advice or delay in seeking it because of something you have read from this Service.

If you think you may have a medical or mental health emergency, call your doctor or 911 immediately.

TikalBayTek does not recommend or endorse any specific tests, physicians, psychologists, products, procedures, opinions, or other information that may be mentioned in the Service. Reliance on any information provided by TikalBayTek, or our employees or affiliates, or other visitors to the Service is solely at your own risk.

The Service may contain mental health- or medical-related materials that are sexually explicit. If you find these materials offensive, you may not want to use our Service.

## **RESTRICTIONS**

Except as expressly authorized herein, you agree to the following restrictions:

(a) You may not use, copy, modify, translate, publicly perform or display, transmit, publish, edit, adapt, reproduce, or transfer the right to use the Software except as expressly provided in this Agreement.

(b) You may not distribute, sell, resell, sublicense, rent, lease, share, or lend the Software.

(c) You may not reverse engineer, reverse compile, disassemble, or otherwise attempt to discover the source code of the Software or create derivative works based on the Software.

(d) You agree that you shall only use the Service in a manner that complies with all applicable laws in the jurisdiction in which you use the Service, including, but not limited to, applicable restrictions concerning privacy, copyright and other intellectual property rights.

(e) You agree not to upload, post, e-mail or otherwise send or transmit any material that contains viruses or any other computer code, files or programs designed to interrupt, destroy, usurp, modify or limit the functionality of the Service or any computer software, hardware, telecommunications equipment or other equipment or devices associated with the Service. You also agree not to interfere with the servers, networks or other devices or equipment connected to or used in connection with the Service or to violate any of the procedures, policies or regulations of such networks, devices or equipment, or of any service providers associated with or connected to the Service.

(f) We do not promote, recommend or condone use of the Service during other activities, such as the operation of machinery, where there is any risk of accident. You agree not to use the Service during such activities.

(g) You may not use the Software, or any portion thereof, on any other device or computer, other than on the mobile device which the software was first installed, and you may not transfer it for use on another device or use it, or any portion of it, over a network. You may only use the Software on one mobile device.

## **OTHER CHARGES**

In connection with your use of the Service, you may be subject to charges imposed by your wireless or other applicable carrier. Payment of such charges is solely your responsibility.

## **ELECTRONIC COMMUNICATIONS**

By downloading and/or using the Service, you consent to receiving electronic communications and notices from TikalBayTek. You agree that any notice, agreement, disclosure or other communications that we send to you electronically will satisfy any applicable legal communication requirements, including that such communications be in writing.

## **INFORMATION RECEIVED**

The Software may store and provide to TikalBayTek data about your interaction with the Service, including without limitation, data related to the content accessed while using the Service. Such information will be used only for the purposes of operating and improving the Service. Any information that you submit or we collect when you are using the Service is subject to the Privacy Policy found on [www.tikalbaytek.com](http://www.tikalbaytek.com), the terms of which are incorporated into this Agreement.

## **ADVERTISING/THIRD PARTY OFFERS**

In connection with your use of the Service, the Service may contain links to third party web sites, advertisements, or programs that are not controlled by or affiliated with TikalBayTek. TikalBayTek is not responsible for the content, offers or privacy policies of such third party advertising, sites and programs. Your dealings with third party sites are solely between you and the applicable third party.

## **INTELLECTUAL PROPERTY**

The Service, including all Materials, is owned by TikalBayTek and its affiliates and third-party licensors, as applicable, and is protected by applicable United States and foreign copyright, trade dress, patent, and trademark laws, international conventions, and other applicable intellectual property and proprietary rights and applicable laws. Materials do not include certain materials and content submitted by users of the Service or any website of TikalBayTek or any of its affiliates. All trademarks, service marks and trade names are proprietary to TikalBayTek and its affiliates and third-party licensors, as applicable.

## **DISCLAIMERS; NO WARRANTIES**

THE USE OF THE SERVICE AND THE MATERIALS IS AT YOUR OWN RISK.

THE SERVICE AND THE MATERIALS ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, TIKALBAYTEK AND ITS AFFILIATES, LICENSORS, SUPPLIERS AND PARTNERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS.

TIKALBAYTEK AND ITS AFFILIATES, SUPPLIERS AND PARTNERS DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES ABOUT THE SATISFACTION OF ANY GOVERNMENTAL REGULATIONS REQUIRING DISCLOSURE OF INFORMATION ON PRESCRIPTION DRUG PRODUCTS OR THE APPROVAL OR COMPLIANCE OF ANY SOFTWARE TOOLS WITH REGARD TO THE MATERIALS CONTAINED IN THE SERVICE.

TIKALBAYTEK AND ITS AFFILIATES, SUPPLIERS AND PARTNERS DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ANY DEFECTS WILL BE CORRECTED, OR THAT THE SERVICE OR THE SERVER THAT MAKES IT AVAILABLE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

TIKALBAYTEK, AND ITS LICENSORS, SUPPLIERS AND PARTNERS, DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICE IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. YOU (AND NEITHER TIKALBAYTEK NOR ITS SUPPLIERS AND PARTNERS) ASSUME THE COST OF ANY NECESSARY SERVICING, REPAIR, OR CORRECTION. YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD, PURCHASE, OR OTHERWISE OBTAIN MATERIALS AND OTHER DATA AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR WIRELESS DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH MATERIAL OR DATA.

CERTAIN STATE 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, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

**INDEMNIFICATION; HOLD HARMLESS; RELEASE**

You agree to indemnify, hold harmless and release TikalBayTek, its officers, directors, stockholders, affiliates, and its and their licensors, suppliers and partners, from any claims, losses, damages, liabilities, including attorney's fees, arising out of (i) your use or misuse of the Service, (ii) breach of any of this Agreement, or (iii) your violation of any applicable law or the rights of any other person or entity. TikalBayTek reserves the right, at our own expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims.

**LIMITATION OF LIABILITY AND DAMAGES**

IN NO EVENT WILL WE, OUR LICENSORS, OR OUR SUPPLIERS, OR ANY THIRD PARTIES MENTIONED WITH THE SERVICES BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, INCIDENTAL AND CONSEQUENTIAL DAMAGES, PERSONAL INJURY/WRONGFUL DEATH, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OF OR INABILITY TO USE THE SERVICES OR INFORMATION CONTAINED THEREIN, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT WE, OUR LICENSORS, OURS SUPPLIERS, OR ANY THIRD PARTIES MENTIONED WITH THE SERVICES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WE, OUR LICENSORS, OUR SUPPLIERS, OR ANY THIRD PARTIES MENTIONED WITHIN THE SERVICES SHALL BE LIABLE ONLY TO THE EXTENT OF ACTUAL DAMAGES INCURRED BY YOU, NOT TO EXCEED U.S. \$500.00. WE, OUR LICENSORS, OUR SUPPLIERS, OR ANY THIRD PARTIES MENTIONED WITHIN THE SERVICES ARE NOT LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, CAUSED BY YOUR USE OR MISUSE OF THE SERVICES OR ANY INFORMATION CONTAINED THEREIN. ANY CLAIMS ARISING IN CONNECTION WITH YOUR USE OF THE SERVICES MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE OF THE EVENT GIVING RISE TO SUCH ACTION OCCURRED.

REMEDIES UNDER THESE TERMS OF SERVICE ARE EXCLUSIVE AND ARE LIMITED TO THOSE EXPRESSLY PROVIDED FOR IN THESE TERMS OF SERVICE.

**TECHNICAL SUPPORT**

TikalBayTek has no obligation to furnish you with technical support unless separately agreed in writing between you and TikalBayTek.

**GOVERNING LAW**

If any dispute arises regarding this Agreement or the Service, you agree that the dispute will be governed by the laws of the State of California without regard to its conflict of law provisions. You agree to personal jurisdiction and venue in the state and federal courts in Santa Clara, California.

**INTERNATIONAL**

TikalBayTek makes no claims that the Software may be lawfully accessed, used or downloaded outside of the United States. Any such use of the Software and/or the Materials may not be lawful by certain persons or in certain territories. If you access any of these from outside of the United States, you do so at your own risk and are responsible for compliance with the laws of whatever jurisdiction you are in at the time.

**EXPORT LAW COMPLIANCE**

You agree that to comply with all export restrictions and regulations of the Department of Commerce or other agency of the United States Government, and that you will not export or otherwise transfer the Software, directly or indirectly, to a prohibited country.

**NOT FOR EMERGENCY USE**

You acknowledge and agree that the Service is neither intended nor suitable for urgent emergency use, and that you will not use it for emergency purposes.

**WAIVER**

Any provision of this Agreement may be waived only by a written instrument executed by the party entitled to the benefit of such provision. The failure of any party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right at a later time to enforce the same. A waiver of any breach of any provision of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

**SEVERABILITY**

If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

**ASSIGNMENT**

We may assign our interest in this Agreement. You may not assign or transfer this Agreement. We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or other third parties.

## **RIGHT TO TERMINATE**

Your rights under this Agreement will automatically terminate without notice from TikalBayTek if you fail to comply with any term of this Agreement. In case of such termination, you must cease all use of the Software and TikalBayTek may immediately restrict your access to the Service.

## **HEADINGS**

The heading references herein are for convenience purposes only, do not constitute a part of these Terms of Service, and shall not be deemed to limit or affect any of the provisions hereof.

## **ENTIRE AGREEMENT**

This is the entire agreement between us relating to the subject matter herein and shall not be modified except in writing, signed by both parties, or by a change to this Agreement made by TikalBayTek as set forth above.

## **NOTICE AND TAKE DOWN PROCEDURES AND COPYRIGHT AGENT**

If you believe any materials accessible on or from the Services infringe your copyright, you may request removal of those materials (or access thereto) from the Services by contacting TikalBayTek, Inc. at the following email: [info@tikalbaytek.com](mailto:info@tikalbaytek.com) and providing the following information:

1. Identification of the copyrighted work that you believe to be infringed. Please describe the work, and where possible include a copy or the location (e.g., URL) of an authorized version of the work.
2. Identification of the material that you believe to be infringing and its location. Please describe the material, and provide us with its URL or any other pertinent information that will allow us to locate the material.
3. Your name, address, telephone number and (if available) e-mail address.
4. A statement that you have a good faith belief that the complained of use of the materials is not authorized by the copyright owner, its agent, or the law.
5. A statement that the information that you have supplied is accurate, and indicating that "under penalty of perjury," you are the copyright owner or are authorized to act on the copyright owner's behalf.
6. A signature or the electronic equivalent from the copyright holder or authorized representative.

In an effort to protect the rights of copyright owners, we maintain a policy for the termination, in appropriate circumstances, of subscribers and account holders who are repeat infringers.

## **CONTACT**

TikalBayTek, Inc. can be contacted via U.S. Mail at P.O. Box 20684, San Jose, CA 95160 and by email at [info@tikalbaytek.com](mailto:info@tikalbaytek.com).