

## **TOPO TEMPS TERMS OF USE**

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The website [topotemps.com](http://topotemps.com) (the "Site") and the Topo Temps application (the "App," the Site and App are collectively referred to herein as the "Application") are owned and operated by Topo Temps, LLC (collectively, "Topo Temps," "we," or "us"). The Application provides content and services listed on topotemps.com, (the "Services").

This Terms and Conditions of Use Agreement ("Terms of Use") constitute a binding agreement between you and Topo Temps. Please read carefully through all sections of these Terms of Use. Your access to and use of the Services are subject to these Terms of Use and all applicable laws and Topo Temps reserves the right to terminate your access to the Application if you violate these Terms of Use. If you do not agree to these Terms of Use, then you may not use the Application.

These Terms of Use may be changed by us from time to time without notice to you and the governing version will be posted on the Site. Please review the posted terms on a regular basis as your use of the Services will be governed by the then-current Terms of Use and Privacy Policy (defined below).

### **License Grant and Our Proprietary Rights**

In exchange for your agreement to these terms and other good and valuable consideration, Topo Temps hereby grants you a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to access and use the Application solely to obtain the Services. All rights not expressly granted to you are reserved by Topo Temps and its licensors.

You may not use the contents of the Application in any manner or for any purpose that would constitute infringement of the intellectual property rights of Topo Temps, its licensors, or the Application's other users. Topo Temps may provide images of the products, Services, and videos ("Product Information") on the Application. Except as otherwise provided herein, you may not copy, distribute or publicly display Product Information for any other purpose or in any other public forum without the written consent of Topo Temps or the respective owner, including public forums such as other websites, web services, or print publications. Topo Temps or its licensors own all trademarks and service marks appearing on the Application. The unauthorized use or misuse of these trademarks and service marks is prohibited.

### **Use of Personal Data**

You acknowledge and agree to Topo Temps' collection and use of your Personal Information as described in the "Privacy Policy."

### **Your Communications to the Application**

Except to the extent your content or communications to Topo Temps include Personal Information (as defined in the Privacy Policy), by forwarding any content or communications to Topo Temps through the Application, or by other electronic means, you thereby grant Topo Temps a perpetual, royalty-free, worldwide, irrevocable, sub-licensable and non-exclusive license to use, reproduce, modify, adapt, publish, translate, create derivative works from, redistribute, and display such content and communications in any form for the purposes of providing the Services and any purpose tangentially related to the Services. No compensation will be paid to you with respect to Topo Temps' or its sublicensees' use of your communications. By providing or submitting content, you represent and warrant that you own or otherwise control all of the rights to your submitted content and communications as described in this

section including, without limitation, all the rights necessary for you to submit the content and communications and grant the license above.

### **Prohibited Activities**

The following activities are expressly prohibited from the Application:

- Using or submitting any offensive content including, but not limited to, obscene language, obscene references, obscene images, threatening or harassing messages, discriminatory actions, messages, or images, and defamatory statements.
- Posting false, misleading, or fraudulent statements or content.
- Engaging in activity that is unauthorized advertisements or promotions, including unauthorized solicitation of other users of the Application.
- Collecting personal information of other users of the Application without that user's consent.
- Engaging in activity that compromises the Application. Such activity may include, but is not limited to hacking, IP attacks, worms, viruses, spamming, phishing, cancel bots, Trojan horses, mail bombing or crashing, or introducing malware.
- Engaging in any activity designed to impede the use of the Application by other users, including overloading and flooding.
- Framing or deep linking into the Application.
- Accessing the Application by means of automated process, spiders, bots or similar device.

### **Federal and State Laws**

The Application is operated from the United States and not intended for use outside the United States. When using or on the Application, or when using any content provided by Topo Temps, you must obey all applicable U.S.-based federal, state and local laws.

### **Minimum Age**

You must be 18 years of age, or the age of majority in your province, territory or country, to sign up as a registered user of the Services. Individuals under the age of 18, or the applicable age of majority, may utilize the Services only with the involvement and consent of a parent or legal guardian, under such person's account and otherwise subject to these Terms. By using the Application, you represent and warrant that you are eighteen (18) years of age or over.

### **Disclaimer of Warranties**

TO THE FULLEST EXTENT PROVIDED BY LAW AND EXCEPT AS OTHERWISE PROVIDED HEREIN OR ON THE APPLICATION, THE INFORMATION AND SERVICES OFFERED ON OR THROUGH THE APPLICATION AND ANY REFERENCED THIRD-PARTY SITES ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. ANY THIRD-PARTY GOODS OR SERVICE PROVIDERS ARE SUPPLIED AS A CONVENIENCE TO YOU AND LISTING DOES NOT CONSTITUTE SPONSORSHIP, AFFILIATION, PARTNERSHIP, OR ENDORSEMENT. TO THE FULLEST EXTENT ALLOWED BY LAW, TOPO TEMPS DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

TO THE FULLEST EXTENT ALLOWED BY LAW, TOPO TEMPS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF

THE APPLICATION, CONTENT, OR OTHER POSTED MATERIAL ON THE APPLICATION IN TERMS OF ITS CORRECTNESS, ACCURACY, TIMELINESS, RELIABILITY OR OTHERWISE.

BY PROVIDING THE SERVICES ON THE APPLICATION, TOPO TEMPS DOES NOT IN ANY WAY PROMISE THAT THE SERVICES WILL REMAIN AVAILABLE TO YOU. TOPO TEMPS IS ENTITLED TO TERMINATE ALL OR PART OF ANY OF THE APPLICATION AT ANY TIME, IN ITS SOLE DISCRETION WITHOUT NOTICE TO YOU.

### **Limitation of Liability**

THE LIABILITY OF TOPO TEMPS AND ITS AFFILIATES, EMPLOYEES, AGENTS, REPRESENTATIVES AND THIRD-PARTY SERVICE PROVIDERS WITH RESPECT TO ANY AND ALL CLAIMS ARISING OUT OF YOUR USE OF THE APPLICATION, THE PRODUCTS, THE CONTENT OR SERVICES OBTAINED THROUGH THE APPLICATION, WHETHER BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED, IN THE AGGREGATE, THE GREATER OF THE PRICE OF THE PRODUCTS PURCHASED BY YOU OR FIFTY DOLLARS (\$50).

IN NO EVENT WILL TOPO TEMPS BE LIABLE TO YOU OR ANY PARTY FOR ANY DIRECT, INDIRECT, SPECIAL OR OTHER CONSEQUENTIAL DAMAGES FOR ANY USE OF THE APPLICATION, OR ON ANY OTHER HYPERLINKED WEBSITE, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA OR OTHERWISE, EVEN IF TOPO TEMPS IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ANY TRIPS YOU TAKE IN THE OUTDOORS ARE AT YOUR OWN RISK, AND YOU ASSUME FULL LIABILITY FOR YOUR ACTIONS AND CHOICES IN THE OUTDOORS REGARDLESS OF ANY USE OF OUR APPLICATION BEFORE, DURING, OR AFTER AN OUTDOOR EXPERIENCE. WE DO NOT ADVISE ANY USERS ON SPECIFIC TRAILS TO FOLLOW OR LOCATIONS TO PURSUE. YOU ARE USING THE APPLICATION AND EXPERIENCING THE OUTDOORS AT YOUR OWN RISK.

### **Indemnification**

You agree to indemnify, defend and hold harmless Topo Temps and its affiliates, employees, agents, representatives and third-party service providers, for any and all claims, demands, actions, liability, fines, penalties and expenses that may arise from any of your acts through the use of the Application. Such acts may include but are not limited to: providing content to or communicating with Topo Temps or its Affiliates, unauthorized use of material obtained through the Application, engaging in a prohibited activity, or any other action that breaches these Terms of Use.

### **Third-Party Links**

The Application may contain links to other third-party websites. Such third-party websites are maintained by persons or organizations over which Topo Temps exercises no control. Your use of these third-party websites is governed by the terms of use and privacy policy of such websites. Topo Temps expressly disclaims any responsibility for the content or results from your use of such third-party websites.

### **Copyright Complaints**

Topo Temps respects the intellectual property of others. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide Topo Temps' copyright agent with the following information:

- An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- Description of the copyrighted work that you claim has been infringed;
- The location on the Application of the material that you claim is infringing;
- Your address, telephone number and e-mail address;
- A statement that your claim of infringement is based on a good faith belief; and
- A statement made under penalty of perjury that the information you have provided is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Topo Temps' agent for notice of claims of copyright infringement on the Application can be reached as follows:

Topo Temps LLC  
Attn: Owner  
holly@topotemps.com  
720-600-4432

### **Miscellaneous Provisions**

**Assignment.** Topo Temps may freely assign its obligations and rights under these Terms of Use, including all Personal Information in its possession which it has collected during your use of the Application.

**Severability.** If any term or provision in these Terms of Use is found to be void, against public policy, or unenforceable by a court of competent jurisdiction and such finding or order becomes final with all appeals exhausted, then the offending provision shall be deemed modified to the extent necessary to make it valid and enforceable. If the offending provision cannot be so modified, then the same shall be deemed stricken from these Terms of Use in its entirety and the remainder of these Terms of Use shall survive with the said offending provision eliminated.

**Application Availability.** TOPO TEMPS CANNOT GUARANTEE THE APPLICATION WILL BE AVAILABLE 100% OF THE TIME BECAUSE PUBLIC NETWORKS, SUCH AS THE INTERNET, OCCASIONALLY EXPERIENCE DISRUPTIONS. ALTHOUGH TOPO TEMPS STRIVES TO PROVIDE THE MOST RELIABLE WEBSITE REASONABLY POSSIBLE, INTERRUPTIONS AND DELAYS IN ACCESSING THE APPLICATION ARE UNAVOIDABLE AND TOPO TEMPS DISCLAIMS ANY LIABILITY FOR DAMAGES RESULTING FROM SUCH PROBLEMS.

**Typographical Errors.** Information on the Application may contain technical inaccuracies or typographical errors. We attempt to make the Application's postings as accurate as possible, but Topo Temps does not warrant the content of the Application is accurate, complete, reliable, current, or error-free.

**Headings.** Condition and section headings are for convenience of reference only and shall not affect the interpretation of these Terms of Use.

**Controlling Law and Venue.** It is understood and agreed that all the construction and interpretation of these Terms of Use and the relationship between the parties shall at all times and in all respects be governed by the internal laws of the State of Colorado, without giving effect to the conflict of laws

provisions thereof. Venue of any action brought to enforce or relating to these Terms of Use or arising out of the relationship between the parties shall be brought exclusively in the courts of Denver, Colorado.

**Questions**

If you have any questions or comments about these Terms of Use or this Application, please contact us by email at [holly@topotemps.com](mailto:holly@topotemps.com) or by phone at 720-600-4432.