

SMILEFAST WEBSITE TERMS & CONDITIONS

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Welcome to the Smilefast website. These are the terms that govern your use of this website, all of the content featured or displayed on this website, including, but not limited to text, graphics, photographs, moving images, sound, illustrations and software ("**Content**") and your use of our orthodontic or dental products or services, online portal, hosted or cloud-based solutions, applications and any related support or maintenance services provided by us (collectively, the **Services** or **Service**) including but not limited to delivery via our website or otherwise.

These terms and conditions constitute a legal agreement between you and Smilefast Pty Ltd. Please read this agreement ("**Agreement**") fully before you continue to use this website. You must agree to these terms in their entirety, without additions, changes, or deletions in order to use and view our Content and Services.

For the purposes of this Agreement, Smilefast Pty Ltd ACN 131 549 730 and its subsidiaries are referred to as "**Smilefast**".

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Clients, Registered Dentists and Patients

You may access and utilise this website, together with the Services, and you may explicitly permit a third party to access and utilise this website or any Service, however in doing so, you take complete responsibility for your use and any third party use of said website or Service.

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You must not download and use the Content or Services without the explicit authority of the Smilefast clients who are authorising access and content. Participants and authorised users of the Services (in particular the Smilefast online portal) are also bound by separate terms in accordance with their accreditation arrangement with Smilefast.

Trademarks

All trademarks are owned by their respective owners and all rights are reserved. Your usage of any trademark signifies you are authorised to use such trademark(s). Downloading or using trademarked property from this site DOES NOT constitute permission to use such content and Smilefast DOES NOT grant any rights or licenses for such use. You must have permission or obtain permission from Smilefast

Licence

Subject to this Agreement, Smilefast gives you a non-exclusive, non-sublicensable and non-transferable licence to use and access the Content and Service in the manner permitted by Smilefast.

The term of the licence granted to you will end upon any termination of this Agreement, even if it is identified as 'perpetual' or if no expiration date is specified.

This licence is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Smilefast, in the manner permitted by this Agreement. You may not copy, modify, distribute, sell, lease, rent, or sublicense any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software, unless you have our written permission or laws prohibit those restrictions.

The use of our Services does not grant you any right to, licence to, or ownership of any intellectual property rights in either our Services, or in any Content you access. You may not use or access Content from or through our Services other than as permitted by us or as otherwise permitted by law. This Agreement does not grant you the right to use any branding or logos used in our Services, whether for commercial or non-commercial use. You agree not to remove, obscure, or alter any legal notices displayed in or along with our Services.

This licence is revocable at any time without notice and with or without cause, but in the case of any prevailing agreement between you and us: subject to the terms applying to that agreement.

User content

Where our Services allow you to submit content, you retain ownership of any rights, including intellectual property rights, which you hold in that content. You also remain responsible for protecting those rights.

When you upload or otherwise submit content to our Services, you grant us a non-exclusive, transferable, sub-licensable, royalty-free, worldwide licence to use, host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations or other changes we make so that your content works better with our Services), communicate, publish, publicly display and distribute such content. This license continues even if you cease using our Services and/or terminate your account.

Where our Services display or provide access to content that is not provided by us, that content remains the sole responsibility of the party or entity that makes it available. We reserve the right to review content, in order to determine whether it violates our policies and/or applicable law, and to remove or refuse to display content we reasonably believe to violate our policies or the law, with or without notice.

We do not assume any responsibility to monitor, review, or edit user or third party content.

We do not make any representations as to the accuracy, completeness, reliability or timeliness of any content, nor any representations as to the nature or quality of third party products or Services obtained through the use of our Services. You use our Services at your own risk.

Acceptable use policy

You agree not to use our Services to post, upload, email, transmit, display, or make available any content or material that:

- violates any third party proprietary or intellectual property right, including but not limited to patent, trademark, trade secret, copyright, privacy, publicity or other rights of any other person or entity;
- is unlawful, false, fraudulent, intentionally misleading, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, trade libelous,

pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual, constitutes or encourages conduct that would constitute a criminal offense, or is otherwise objectionable;

- you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- is harmful to minors in any way;
- contains, discloses, or intends to solicit personal data of a third party;
- contains any virus, Trojan horse, worm, time bomb, or any other computer code, files, or programs designed to damage, interfere with, intercept, misappropriate, gain control over or limit the functionality of any computer, computer network, communications device, communications system, data or personal information.

You agree not to engage in any activity using our Services which:

- is illegal in any way;
- comprises unsolicited or unauthorised advertising, such as spam, junk mail, chain letters, etc.;
- attempts to hack the Service, or defeat or overcome encryption measures or security technology used by the Service, including attempts to gain unauthorised access to the Service;
- uses data mining, robots, web scraping, data scraping, or other data gathering devices or activities for the purpose of obtaining content, data, or other information from the Service for a use not expressly permitted by this Agreement;
- attempts to disrupt, interfere with, gain unauthorised access to, reverse engineer, overload, or otherwise harm the Service;
- infringes, or facilitates the infringement of any proprietary or intellectual property right or rights.

Software updates

When a Service requires or includes downloadable software, this software may automatically download and install updates designed to improve, enhance and further develop the Services, and may take the form of enhanced functions, bug fixes, new software modules and completely new versions.

Modifying and terminating services

As we are constantly improving and changing our Services, we may from time to time add or remove features or functionalities. We may also suspend or stop a Service altogether. You understand and agree that we do not have any obligation to maintain, support, upgrade, or update our Services, or to provide all or any specific content through our Services.

Privacy

For information about how we treat your personal information, and protect your privacy when you use our Services, please consult our Privacy Policy.

Our Privacy Policy is incorporated into this Agreement.

Disclaimers

This website and its content are provided "as is" and Smilefast excludes to the fullest extent permitted by applicable law any warranty, express or implied, including, without limitation, any implied warranties of merchantability, satisfactory quality or fitness for a particular purpose. Smilefast will not be liable for any damages of any kind arising from the use of this site, including, but not limited to direct, indirect, incidental, punitive and consequential damages. The functions embodied on, or in the materials of, this website are not warranted to be uninterrupted or without error. You, not Smilefast, assume the entire cost of all necessary servicing, repair or correction due to your use of this website.

We do not promise that the Content or your access to the website will be uninterrupted or error-free, that any defects will be corrected, or that the website or Content are free of viruses or any other harmful components.

Except as specifically stated in this Agreement or elsewhere on this website, or as otherwise required by applicable law, neither Smilefast nor its directors, employees, licensors, content providers, affiliates or other representatives will be liable for damages of any kind (including, without limitation, lost profits, direct, indirect, compensatory, consequential, exemplary, special, incidental, or punitive damages) arising out of your use of, your inability to use, or the performance of this website or the Content whether or not we have been advised of the possibility of such damages.

You are liable and solely responsible for your:

- use of the Content or the Service;
- breach of any intellectual property rights belonging to others;
- breach of this Agreement;
- breach of any additional terms; and
- breach of any industry code, regulation or law that applies.

We have no responsibility to you or to any another person for all claims, liabilities, costs, expenses (including legal fees) and loss arising in any way from any of the matters set out herein ("claims") and you agree to indemnify us, our directors, officers, employees and agents from all claims.

We reserve the right, at our own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defence of such claim.

Smilefast uses reasonable efforts to ensure the accuracy, correctness and reliability of the Content, but we make no representations or warranties as to the Content's accuracy, timeliness, completeness, correctness or reliability. We are not liable to you for any loss claimed or incurred by you or others as a result of any lack of availability.

There may be links to other websites from the Smilefast website; however, these other websites are not controlled by Smilefast and we are not responsible for any content contained on any such website or any loss suffered by you in relation to your use of such websites. You waive any and all claims against Smilefast regarding the inclusion of links to outside websites or your use of those websites.

Some jurisdictions may not permit the exclusion or limitation of implied warranties or liability for certain categories of damages such as consumer and fair trading laws ("non-excludable law"). Therefore, some or all of the limitations above may not apply to you to the extent they are prohibited or superseded by state or national provisions. We do not exclude or modify any non-excludable law. Except as provided in a non-excludable law, we are bound only by the express promises made in this Agreement and we are not bound by implied terms.

Our liability for any loss, cost, liability or damage suffered or incurred by you under or in connection with this Agreement or the Content (whether based in contract, tort (including negligence), statute or otherwise) is reduced to the extent that your acts or omissions (or the acts or omissions of a third person) caused or contributed to that loss, cost, liability or damage.

Except as provided in a non-excludable law, we are not liable for indirect, incidental, special or consequential damages, loss of revenue or loss of profits which result or arise from your using or accessing our Content, or any inability to use or access our Content.

Governing Law

This Agreement will be interpreted, construed and governed by the laws of the State of Victoria, Australia. The jurisdiction for all disputes arising under this Agreement lies

exclusively in the courts of the State of Victoria. Users of this website agree that any and all disputes arising from the use of this website or the participating in games and training programs arising from this website, will be settled by binding arbitration. Notwithstanding the foregoing, however, Smilefast has the right to commence and prosecute any legal or equitable action or proceeding before any court of competent jurisdiction to obtain injunctive or other relief in the event that, in the opinion of Smilefast, such action is necessary or desirable.

No Waiver or Severability

No action of Smilefast, other than an express written waiver or amendment, may be construed as a waiver or amendment of any of the terms of this Agreement. Should any clause of this Agreement be found un-enforceable, wherever possible this will not affect any other clause and each will remain in full force and effect. We reserve the right to change this Agreement, information and available contractual license terms featured on this website without notice. These conditions set out the entire agreement between Smilefast and you relating to your use of this website.

General

We may make changes to the terms of this Agreement from time to time, for example, to reflect changes to the law or changes to our Content. You understand and agree that should you use or view our Content after the date on which the terms have changed, we will treat your use of our Content as acceptance of the updated terms. If you do not agree to the modified terms, you should discontinue your use of our website.

Should there be a conflict between this Agreement and any additional terms that we publish, the additional terms will prevail to the extent of the conflict.

You agree that if we do not exercise or enforce any legal right or remedy which is contained in these terms, this will not be taken to be a formal waiver of our rights, and that those rights or remedies will still be available to us.

Should a particular term or provision be found invalid or not enforceable for any reason or to any extent, this will not affect the validity or enforceability of any other terms. The application of any such provision will be enforced to the extent that it remains valid.

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