

## **Debra Gerson Website Terms of Use**

Last Updated: July 10, 2017

### **1. Your Acceptance**

Welcome to the Terms of Use for the Debra Gerson website ([www.debragerson.com](http://www.debragerson.com)). This is an agreement (“Agreement”) between Debra Gerson (“DG”), the owner and operator of [www.debragerson.com](http://www.debragerson.com) and any services offered via the website (collectively the “Site”) and you (“you”, “your” or “user(s)”), a user of the Site.

Throughout this Agreement, the words “DG,” “us,” “we,” and “our,” refer to our company, Debra Gerson, as is appropriate in the context of the use of the words.

By clicking “I agree” or accessing the Site you agree to be bound by this Agreement and the Privacy Policy. We may amend this Agreement at any time and may notify you if we do so. Please be aware that there are ARBITRATION AND CLASS ACTION PROVISIONS contained in this Agreement.

### **2. Accounts**

Portions of the Site may require you to create a login or sign-up for an account. You must fully complete the registration process by providing us with your current, complete, truthful, and accurate information as prompted by the applicable registration form. Where required, DG may also assign you a username and password. You are entirely responsible for maintaining the confidentiality of your password and account and for any and all activities that occur under your account. You agree to notify DG immediately of any unauthorized use of your account or any other breach of security. DG will not be liable for any losses you incur as a result of someone else using your password or account, either with or without your knowledge. However, you could be held liable for losses incurred by DG or another party due to someone else using your account or password. You may not use anyone else's account at any time, without the permission of the account holder. In order to view the Site or register for an account you must be 18 years or older or the age of majority in your local jurisdiction.

### **3. Disclaimer**

Please be aware that our Site and any information found within it are offered “as-is.” DG is offered only for informational and educational purposes only. Any methodologies or educational materials are provided merely to assist you in gaining a better understanding of the content provided. Although the methodologies may be helpful, we cannot guarantee the reliability of any methodologies and educational material found on the DG. Results achieved by our programs and/or users are neither implied nor

guaranteed. You agree to release us from any liability that we may incur for providing such materials to you. You agree that any content or any other information found on the Site may be inaccurate, unsubstantiated or possibly even incorrect. We cannot guarantee that using our Site will result in any benefits, profits, or positive results for you. You agree to release us from any liability that we may have to in relation to your use of our Site. By using the Site, you agree that any legal remedy or liability that you seek to obtain for actions or omissions of other users or other third parties will be limited to a claim against the particular users or other third parties who caused you harm and you agree not to attempt to impose liability on, or seek any legal remedy from DG with respect to such actions or omissions.

DG does not provide any medical advice or diagnosis, please see your doctor in person if you are looking for a personal medical evaluation, diagnosis, or prescription. If you are experiencing a medical emergency or believe that you have a medical issue your health care professional immediately. Do not delay receiving treatment for any health or medical issues due to any information found on our Site.

DG DOES NOT PROVIDE MEDICAL OPINIONS, CARE OR ADVICE AND DOES NOT PROVIDE FORMAL MEDICAL DIAGNOSIS, TREATMENT OR PRESCRIPTIONS. DG DOES NOT AND DOES NOT INTEND TO PROVIDE MEDICAL EVALUATION, MEDICAL SERVICES, OR MEDICAL OPINION OR ACT IN ANY MANNER AS A PHYSICIAN, OR MEDICAL CORPORATION. NO PATIENT-MEDICAL CAREGIVER RELATIONSHIP IS CREATED BY ANY INFORMATION OR CONSULTATION GIVEN THROUGH THE SITE. Please consult your physician or health care professional before making any decisions about your overall health, nutrition and lifestyle. Do not delay receiving treatment for any health or medical issues due to any information found on the website.

#### **4. Supplements**

You understand and agree that the statements published on the Site or any materials related to any product sold on the Site have not been evaluated by the FDA (U.S. Food and Drug Administration) and are not intended to diagnose, treat, cure or prevent any disease. Neither any products listed nor DG Content (defined below) are intended or to be used to treat any disease or medical condition. The products are not intended for use by any individual under 18 years of age and/or pregnant or lactating women. People with the following conditions: high blood pressure, heart, liver, kidney or thyroid disease, diabetes, anemia, depression, anxiety, other psychiatric conditions, having family history of these or other medical conditions, or if taking any prescription, OTC and/or other herbal medications/products, or any other health condition, should consult with a their own healthcare provider or physician before consuming any products sold.

## **5. Confidentiality**

Please be aware that the DG Content (defined below) that is not publicly accessible, must be purchased, or is only available via account login is considered "Confidential Information". In order to protect our intellectual property, it is important that none of our Confidential Information be disclosed. You agree for the duration of this Agreement and after the termination of this Agreement, you will not disclose any Confidential Information to any person or entity except as we may approve in writing. Additionally, you agree to use your best efforts in safeguarding our Confidential Information. In the event of any violation of this provision of the Agreement, you agree that a breach will cause irreparable damage to DG. Therefore, if you breach this provisions we will be entitled to injunctive relief, without being required to post any bond, thus restraining you from violating or continuing to violate this Agreement.

## **6. Ownership**

The Site and any related services provided are owned and operated by DG including all text, data, graphics, photographs, images, audio, video, trademarks, service marks, trade names and other information, visual or other digital material, software (including source and object codes) and all other content or any description available on the Site or available via a link from Site to a page created by DG on another website (collectively, the "DG Content"). The DG Content is the sole property of DG and/or its licensors. All DG Content is protected by US and international copyright, trade-mark, service marks, patents, trade secrets and other proprietary rights and laws.

Use of the DG Content t for any purpose not expressly permitted in this Agreement or otherwise consented to by DG is prohibited. Where you have properly paid for or are allowed to access the DG Content, we grant you a non-transferable, non-exclusive, fully revocable license to the DG Content so that you may download or print one copy of the DG Content to any single device and use one copy of the DG Content in connection with a cloud-based service provided by us. In each case the licensed copy of the DG Content is for your personal, private, non-commercial, informational and educational use only and you must keep intact all copyright and other proprietary notices contained within any DG Content. You may not otherwise copy, reproduce, perform, distribute, display or create derivative works of the DG Content. Reproduction of multiple copies of the DG Content, in whole or in part, for resale or distribution is strictly prohibited except with the prior written permission of the Company. To obtain written consent for such reproduction, please contact us. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AND EXCEPT AS PROVIDED IN THESE TERMS, DOWNLOADING, COPYING OR REPRODUCING ANY DG CONTENT PROVIDED BY DG TO ANY OTHER ELECTRONIC DATABASE, HARD DRIVE OR LOCATION FOR THE

PURPOSE OF RESALE, REPRODUCTION, OR REDISTRIBUTION IS EXPRESSLY PROHIBITED UNLESS AUTHORIZED IN WRITING BY DG.

## **7. Privacy**

Please read DG's Privacy Policy for more information regarding our collection and use of your information. The DG Privacy Policy is integrated into this Agreement, as one in the same. You will not be required to create a user account when you use or access the Site. However, we may collect information from you when you decide to order any products via the Site.

## **8. Site Availability and Modification**

Although we will attempt to provide continuous Site availability to you, we do not guarantee that the Site will always be available, work, or be accessible at any particular time. We reserve the right to alter, modify, update, or remove our Site at any time. We may conduct such modifications to our Site for security reasons, intellectual property, legal reasons, or various other reasons at our discretion, and we are not required to explain such modifications. For example, we may provide updates to fix security flaws, or to respond to legal demands. Please note that this is a non-binding illustration of how we might exercise our rights under this section, and nothing in this section obligates us to take measures to update the Site for security, legal, or other reasons.

## **9. Third Party Links**

The Site may contain links to third party websites that are not owned or controlled by DG. DG has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, DG will not and cannot censor or edit the content of any third-party site. By using the Site, you expressly relieve DG from any and all liability arising from your use of any third-party website.

## **10. Your Conduct While Using The Site**

When accessing or using our Site, you are solely responsible for your use and for any use of the DG Site made using your account. You agree to abide by the following rules of conduct:

- You will not copy, distribute or disclose any part of the Site in any medium, including without limitation by any automated or non-automated "scraping";
- You will not attempt to interfere with, compromise the system integrity or security, or decipher any transmissions to or from the servers running the Site;

- You will not use any robot, spider, crawler, scraper or other automated means or interface not provided by us to access the Site or to extract or export data collected through the Site;
- You will not take any action that imposes, or may impose at our sole discretion, an unreasonable or disproportionately large load on our infrastructure;
- You agree not to use the Site to stalk, harass, bully or harm another individual;
- You agree that you will not hold DG responsible for your use of the Site;
- You agree not to violate any requirements, procedures, policies or regulations of networks connected to DG;
- You agree not to interfere with or disrupt the Site;
- You agree to not violate any US federal laws, state laws, or local laws while using the Site; and
- You agree not to use the Site in any way that is: misleading, unlawful, defamatory, obscene, invasive, threatening, or harassing.

If you are discovered to be undertaking any of the aforementioned actions your privileges to use our Site may at our discretion be terminated or suspended. Generally, we will provide an explanation for any suspension or termination of your use of any of our Site, but DG reserves the right to suspend or terminate any account at any time without notice or explanation.

## **11. Intellectual Property**

The name "Debra Gerson," the design of the DG Site along with DG created text, writings, images, templates, scripts, graphics, interactive features and the trademarks, marks and logos contained therein ("Marks"), are owned by or licensed to DG. The Marks are subject to copyright and other intellectual property rights under US laws and international conventions. DG reserves all rights not expressly granted in and to the Site. You agree to not engage in the use, copying, or distribution anything contained within the Site unless we have given you express written permission.

## **12. License Grant**

If you wish to access DG Content offered on the Site, we grant you a personal, non-exclusive, fully revocable, non-commercial, non-assignable, non-transferable, limited license to use and access our DG Content as permitted by us. Please be aware that such license grant is contingent on all proper payments. As a user, you do not receive any ownership interest in the DG Content; you merely receive the aforementioned

license listed above. All rights not explicitly granted in any DG Content are expressly reserved by DG. This license shall immediately terminate upon the termination of this Agreement or any failure by you to pay. Additionally, you agree to abide by the following licensing restrictions listed below:

- You may not decompile, reverse engineer, disassemble, upload, modify, rent, sell, lease, loan, distribute, or create derivative works or improvements to the DG Content or any portion of it.
- You may not share your license with any other parties unless permitted by us in writing.
- You may not violate any laws, rules or procedures of the United States.
- You may not violate any of our additional policies.
- You may not use or access the DG Content except through specific channels provided by us.
- You may not sell, lease, loan, distribute, transfer, or sublicense your access to the DG Content.

Please be aware that this is not an all-encompassing list of restrictions, if you breach any of these restrictions or if we believe that your actions may harm our company, we may revoke your license to use the DG Content, at our discretion. Additionally, we may revoke or restrict your access to our Site. Failure by us to revoke your license does not act as a waiver of your conduct.

### **13. User Content**

A user's ability to submit or transmit any information through the Site, including but not limited to text, audio messages, videos, photos, images or any other information will be referred to as "User Content" throughout this Agreement. All User Content you submit to the Site will be owned by you, the user. Please be aware that we are not required to host, display, migrate, or distribute any of your User Content and we may refuse to accept or transmit any User Content. You agree that you are solely responsible for any User Content submitted and you release us from any liability associated with any User Content submitted. You understand that we cannot guarantee the absolute safety and security of any such User Content. Any User Content found to be in violation of this Agreement or that we determine to be harmful to the Site may be modified, edited, or removed at our discretion. DG does not endorse and may not verify, monitor, or restrict any of its users or any User Content submitted. You agree that any User Content or any other information may be inaccurate, unsubstantiated or possibly even incorrect.

When submitting any User Content to our Site you represent and warrant that you own all rights to the User Content and you have paid for or otherwise have permission to use any User Content submitted.

When you submit any User Content to us, you grant DG, its partners, affiliates, users, representatives and assigns a non-exclusive, fully-paid, royalty-free, irrevocable, world-wide, universal, transferable, assignable license to display, publicly perform, distribute, store, broadcast, transmit, reproduce, modify, prepare derivative works and otherwise use and reuse all or part of your User Content. It is important for you to grant us this license so that we may transmit your User Content to other users through our Site. Additionally, although you own all User Content submitted by you, we own all layouts, arrangement, metadata and images that are used to render your User Content through our Site.

#### **14. User Content Rules**

When accessing and using our Site, you are responsible for your use of the Site and any User Content posted on the Site or via a third party social media website. In addition, without limiting the foregoing, you agree not to use the Site, including using the Site to share any User Content that:

- infringes or violates the rights of any other party (including but not limited to trademark, patent, copyright, publicity or other proprietary rights);
- is unlawful, fraudulent or deceptive, or harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, racially, ethnically or otherwise misleading or objectionable;
- constitutes unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- for the purpose of misleading others, causes the creation of a false identity of the sender or the origin of a message, forge headers or otherwise manipulate identifiers in order to disguise the origin of any material transmitted through the Site;
- is misleading and inaccurate, including providing reviews or comments on DG Care Providers that are not based on your experience with that Care Provider or that are not based on your own genuine opinion;
- impersonates any person or entity, including, but not limited to, a DG employee, or falsely state or otherwise misrepresent your affiliation with a person or entity;

- causes the upload of any content that contains any form of destructive software;
- attempts to libel, defame, stalk, harass, bully or harm another individual who uses our Site; or
- violates any requirements, procedures, policies or regulations of networks connected to DG.

DG may terminate or suspend your use of the Site if you have violated any of the above restrictions or if DG determines that any of your behavior may harm its Site or any Services offered.

### **15. Orders and Payment**

DG may allow you to purchase products or purchase access to portions of our Site. When making a purchase you will be prompted to input your credit card information or pay through a third party payment portal. You agree that we may charge full amount listed at checkout to your credit card including taxes and other fees. Your credit card information will be shared with our third party payment processor. By purchasing anything from our Site you also agree to the terms and conditions of our third party payment processor. Please be aware that all payment information will be stored and secured by the payment processor and not us. Please be aware that an order contract is not created until we process your payment and send you an order confirmation notice.

### **16. Termination**

You may terminate this Agreement by notifying us at [info@debragerson.com](mailto:info@debragerson.com). Upon termination you will not be entitled to any refunds or proration of payments made except as stated in this Agreement. We may terminate your access to the Site if we determine that: (1) you have violated any applicable laws while using our Site; (2) If you have violated this Agreement or any other of our Site policies; or (3) if we believe that any of your actions may harm the DG Site or our business interests, at our sole decision or discretion. In the event of termination, we will strive to provide you with a timely explanation; however, we are not required to do so.

### **17. Returns and Refunds**

At DG we want you to be satisfied with our products. Please contact us within fourteen (14) days if you wish to have any products refunded. We only accept refunds for non-opened and unused products. Refunds will be exchanged for store credit only. If you require a refund for anything purchased from our Site please contact us at and include the reason why you are requesting a refund. For any purchases you must contact us



before a refund may be issued, DO NOT SHIP anything before we respond to your refund request. All refunds are determined on a case-by- case basis and user shall be responsible for any return shipping fees. Please be aware that while we may attempt to honor all refund requests, we reserve the right to deny you a refund at our sole discretion. Specifically, we may deny your refund request if we believe you have misused our Site, behaved in a way that harms our company, disseminated any Confidential Information, or if you have violated this Agreement. Although refunds may be processed upon request, it may take some time before your refund is credited to your billing account.

## **18. Chargebacks**

If we believe that you have participated in a fraudulent chargeback we will pursue our claims against you to the fullest extent allowed by law. We will forward your information to the applicable law enforcement agency and your fraudulent chargeback may result in either a civil fine or jail time.

## **19. Shipping**

At checkout you may be able to select from multiple shipping options. Shipping is generally available in the United States and other countries as listed at the time of checkout. Where applicable you may qualify for free shipping of our products. Prices for each location may vary. Standard shipping times will apply. As we do not transport the products we cannot guarantee shipping times. Where items are shipped you may be issued a tracking number that allows you to check the status of your package; however, not all shipments may have tracking numbers issued. Before we can ship your order, DG must prepare your product and ensure quality control. We recommend you check all shipments immediately once you have received them. If you have any issues with your shipment, please contact us immediately.

### Risk of Loss

All items purchased through the Site are made pursuant to a shipment contract. This means that the risk of loss and title for such items pass to you and the carrier upon tender of the item to the third party shipping carrier.

## **20. Taxes**

Depending on the laws of your jurisdiction you may be taxed for any payments or purchases. In the event that we do not collect the applicable taxes, you agree that you are still responsible for any applicable taxes.

## **21. Product Issues, Availability, and Pricing**

As our Site contains a number of products, it is possible that some of the products listed on our Site may be incorrectly priced, improperly labeled, or may be unavailable. Additionally, other errors may be displayed on the product page. Where an error exists we will attempt to remedy such error, but we cannot guarantee the accuracy of our product listings at all times. Although we try to keep all products on our Site available and on hand, there may be times where such products are unavailable.

We attempt to have updated pricing on our Site. However, as many products are listed and as prices may consistently change, we cannot guarantee that any price displayed is the correct price for any of the products listed on our Site. In the event that any prices are mis-labeled we reserve the right to cancel your order or to notify you of our updated price. You must then agree to our updated pricing before your order shall be fulfilled.

## **22. Product Photos and Sizing**

Please be aware that all photos of any products on the Site are for illustrative purposes only. Although we use reasonable best efforts to ensure that our products are almost entirely similar to the photos offered on our Site, it is possible that some photos shown on our Site may not be entirely representative of the actual product. The final products received by you may vary slightly in color, size, look, finish, or style. Additionally, you should be aware that all sizing is approximate and not exact.

## **23. Limitation of Liability; Representations and Warranties**

USE OF THIS SITE, ANY SERVICES PROVIDED, THE DG CONTENT, AND ALL PRODUCTS AND ITEMS, ARE AT YOUR EXCLUSIVE RISK, AND THE RISK OF INJURY FROM THE FOREGOING RESTS EXCLUSIVELY WITH YOU.

- A. EXCEPT FOR ANY WARRANTIES AS EXPRESSLY PROVIDED HEREIN THE SITE, ANY SERVICES, ALL PRODUCTS AND ITEMS SOLD ON DG ARE PROVIDED "AS IS", "WITH ALL FAULTS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.
- B. DG DOES NOT WARRANT THAT: (1) THIS SITE, ANY SERVICES, AND PRODUCTS OR ITEMS OFFERED FOR SALE ON THE SITE, WILL BE UNINTERRUPTED OR ERROR FREE; (2) DEFECTS OR ERRORS IN THIS SITE, ANY SERVICES, AND PRODUCTS OR ITEMS OFFERED FOR SALE ON THE SITE, WILL BE CORRECTED; (3) THIS SITE, ANY SERVICES, AND PRODUCTS OR ITEMS OFFERED FOR SALE ON THE SITE, WILL BE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS; OR (4) ANY INFORMATION CONTAINED IN THIS SITE, DG CONTENT AND PRODUCTS

OR ITEMS OFFERED FOR SALE ON THE SITE, WILL BE ACCURATE OR RELIABLE.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE (INCLUDING OUR OFFICERS, DIRECTORS, AGENTS, AFFILIATES AND EMPLOYEES) ARE NOT LIABLE, AND YOU AGREE NOT TO HOLD US RESPONSIBLE, FOR ANY DAMAGES OR LOSSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF MONEY, GOODWILL OR REPUTATION, PROFITS, OR OTHER INTANGIBLE LOSSES OR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES) RESULTING DIRECTLY OR INDIRECTLY FROM YOUR USE OF THE SITE OR ANY OF ITS RELATED SERVICES WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES, SO SUCH DISCLAIMERS AND EXCLUSIONS MAY NOT APPLY TO YOU. IN THE EVENT THAT YOUR JURISDICTION DOES NOT ALLOW US TO EXCLUDE ALL LIABILITY, YOU AGREE THAT OUR TOTAL LIABILITY TO YOU WILL NOT EXCEED THE TOTAL AMOUNT YOU HAVE SPENT ON YOUR PURCHASES VIA THE SITE OR \$100 USD WHICHEVER IS GREATER. THIS LIMITATION OF LIABILITY DOES NOT APPLY TO NEW JERSEY USERS, OUR LIABILITY TO NEW JERSEY USERS IS THE MINIMUM AMOUNT REQUIRED UNDER NEW JERSEY STATE LAW. Specifically, in those jurisdictions not allowed, we do not disclaim liability for: (a) death or personal injury caused by DG's negligence or that of any of its officers, employees or agents; (b) fraudulent misrepresentation; or (c) any liability which it is not lawful to exclude either now or in the future.

#### **24. Release**

IF YOU ARE A RESIDENT OF A JURISDICTION THAT REQUIRES A SPECIFIC STATEMENT REGARDING RELEASE THEN THE FOLLOWING APPLIES. FOR EXAMPLE, CALIFORNIA RESIDENTS MUST, AS A CONDITION OF THIS AGREEMENT, WAIVE THE APPLICABILITY OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." YOU HEREBY WAIVE THIS SECTION OF THE CALIFORNIA CIVIL CODE. YOU HEREBY WAIVE ANY SIMILAR PROVISION IN LAW, REGULATION, OR CODE THAT HAS THE SAME INTENT OR EFFECT AS THE AFOREMENTIONED RELEASE. YOU RELEASE US FROM ANY LIABILITY RELATING TO ANY DG CONTENT, PRODUCTS SOLD, INFORMATION, OR DATA OF THIRD PARTIES, AND

YOU RELEASE US, OUR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST US OR ANY SUCH THIRD PARTIES. THIS RELEASE DOES NOT APPLY TO NEW JERSEY USERS.

## **25. Indemnity**

You agree to defend, indemnify and hold harmless Debra Gerson , its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from:

- your use of and access to the DG Site;
- your violation of any term of this Agreement; and
- any claim that your actions while using our Site harmed a third party

This defense and indemnification obligation will survive this Agreement and your use of the DG Site. You also agree that you have a duty to defend us against such claims and we may require you to pay for an attorney(s) of our choice in such cases. You agree that this indemnity extends to requiring you to pay for our reasonable attorneys' fees, court costs, and disbursements. In the event of a claim such as one described in this paragraph, we may elect to settle with the party/parties making the claim and you shall be liable for the damages as though we had proceeded with a trial.

## **26. Copyrights**

We take copyright infringement very seriously, and we shall comply with the Digital Millennium Copyright Act. If you live within the US or own any copyrighted material within the US and believe that your copyright has been infringed, please send us a message which contains:

- Your name.
- The name of the party whose copyright has been infringed, if different from your name.
- The name and description of the work that is being infringed.
- The location on our website of the infringing copy.
- A statement that you have a good faith belief that use of the copyrighted work described above is not authorized by the copyright owner (or by a third party who

is legally entitled to do so on behalf of the copyright owner) and is not otherwise permitted by law.

- A statement that you swear, under penalty of perjury, that the information contained in this notification is accurate and that you are the copyright owner or have an exclusive right in law to bring infringement proceedings with respect to its use.

You must sign this notification and send it to our Copyright Agent: Copyright Agent of DG, info@debrageron.com.

## **27. Choice of Law**

This Agreement shall be governed by the laws in force in the state of Colorado. The offer and acceptance of this contract is deemed to have occurred in the state of Colorado.

## **28. Forum**

By using this Site, you agree that: (1) any claim, dispute, or controversy you may have against us, Debra Gerson or the Site arising out of, relating to, or connected in any way with this Agreement shall be resolved exclusively by final and binding arbitration administered by the American Arbitration Association (“AAA”) and conducted before a single arbitrator pursuant to the applicable Rules and Procedures established by AAA (“Rules and Procedures”); (2) the claim or dispute must be brought within one (1) year of the first date of the event giving rise to such action (does not apply to New Jersey users) and the arbitration shall be held in Denver, Colorado., or at such other location as may be mutually agreed upon by you and Debra Gerson; (3) the arbitrator shall apply Colorado law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized at law; (4) there shall be no authority for any claims to be arbitrated on a class or representative basis; arbitration can decide only your and/or Debra Gerson’s individual claims; and the arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated (this does not apply to New Jersey users); (5) both parties will bear their own costs of representation and filing for the dispute; (6) where possible and allowed for under the AAA Rules and Procedures DG shall be entitled to appear electronically or telephonically for all proceedings; and (7) with the exception of subpart (4) above, if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Rules and Procedures established by AAA, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, subpart (4) is found to be invalid, unenforceable or illegal,

then the entirety of this Arbitration Provision shall be null and void, and neither you nor Debra Gerson shall be entitled to arbitrate their dispute. For more information on AAA and its Rules and Procedures, users may visit the AAA website at <http://www.adr.org>. In the event that any portion of this arbitration provision is found to be unenforceable or void, both parties agree to settle any disputes arising out of this Agreement in a court of competent jurisdiction located in Denver County, CO.

### **29. Class Action Waiver**

You and DG agree that any proceedings to resolve or litigate any dispute whether through a court of law or arbitration shall be solely conducted on an individual basis. You agree that you will not seek to have any dispute heard as a class action, representative action, collective action, or private attorney general action.

### **30. Force Majeure**

You agree that we are not responsible to you for anything that we may otherwise be responsible for, if it is the result of events beyond our control, including, but not limited to, acts of God, war, insurrection, riots, terrorism, crime, labor shortages (including lawful and unlawful strikes), embargoes, postal disruption, communication disruption, failure or shortage of infrastructure, shortage of materials, or any other event beyond our control.

### **31. Severability**

In the event that a provision of this Agreement is found to be unlawful, conflicting with another provision of the Agreement, or otherwise unenforceable, the Agreement will remain in force as though it had been entered into without that unenforceable provision being included in it.

If two or more provisions of this Agreement or any other agreement you may have with DG are deemed to conflict with each other's operation, you agree that DG shall have the sole right to elect which provision remains in force.

### **32. Non-Waiver**

We reserve all rights permitted to us under this Agreement as well as under the provisions of any applicable law. Our non-enforcement of any particular provision or provisions of this Agreement or any applicable law should not be construed as our waiver of the right to enforce that same provision under the same or different circumstances at any time in the future.

### **33. Survival**

All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability. You agree that we are not required to provide you with access to our Site and may terminate our Site at any time and for any reason.

### **34. Age**

All users who access the Site must be 18 years of age or older.

### **35. Assignment**

You may not assign your rights and/or obligations under this Agreement to any other party without our prior written consent. We may assign our rights and/or obligations under this Agreement to any other party at our discretion.

### **36. Amendments**

We may amend this Agreement from time to time. When we amend this Agreement, we will update this page and indicate the date that it was last modified or we may email you. You may refuse to agree to the amendments, but if you do, you must immediately cease using our Site.

### **37. Electronic Communications**

The communications between you and DG use electronic means, whether you visit the Site or send DG e-mails, or whether DG posts notices on the Site or communicates with you via e-mail. For contractual purposes, you (1) consent to receive communications from DG in an electronic form; and (2) agree that all terms, conditions, agreements, notices, disclosures, and other communications that DG provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.

### **38. California Users**

Pursuant to California Civil Code Section 1789.3, any questions about pricing, complaints, or inquiries about DG must be sent to our agent for notice to:  
info@debragerson.com

Lastly, California users are also entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.