

# Terms of Use - David Pearson Communities, Inc.

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## Introduction

Welcome to [www.davidpearsoncommunities.com](http://www.davidpearsoncommunities.com).

PLEASE READ THESE TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING THIS SITE.

By using this site (and pages within this site's domain name), you signify your agreement to all of these Terms of Use and DPC's Privacy Policy in full and local, state, and federal laws. If you do not agree to these Terms of Use, please do not use this site. David Pearson Communities, Inc. (DPC) reserves the right, at its discretion, to change, add, remove or otherwise modify portions of these Terms of Use any time. Please check these Terms of Use periodically for changes. Your continued use of this site following the posting of changes to these Terms of Use means you accept those changes and waive any objections to those changes.

If you access this Web site from any non-U.S. territory, please note you do so at your own risk and are responsible for compliance with any local laws. Users with "robots," "spiders," or other automated programs are prohibited from resending or redirecting information without DPC's written permission.

## Definitions

In this Agreement, "you" and "your" refer to the user of the Web site. "Account" refers to the bank account or the credit card or debit card account you designate as the payment account. "Financial Institution" refers to the bank or card issuer, which holds or issues your Account. "Agreement" refers to the terms and conditions stated below, or as amended by us from time to time.

## Privacy of Information

By agreeing to these terms and conditions, you acknowledge that DPC will receive certain personal information when you pay with your credit card, debit card, electronic check or by way of an Automated Clearing House (A.C.H.) transaction, and that you are voluntarily providing this information to us.

## Limits on Use

You must be of legal age to use this Web site. Payment must be made in U.S. dollars. You agree not to make a payment on this site that exceeds the funds or available credit line in your Account. If you do, DPC has no obligation to complete the transaction and you agree that DPC may debit your Account for any returned item fee or other similar fee incurred under any agreement you have with your Financial Institution. Other limitations may apply and can be found on the Web site. Your use of your Account may be limited by your agreement with your Financial Institution and by applicable law. DPC is not responsible for not completing a transaction as a result of any such limit on your Account, and DPC is not responsible if your Financial Institution fails to honor any debit against your Account. At our sole discretion, DPC may refuse to complete any transaction. You may not authorize DPC in advance to make future payments, or payments that are expected to recur at regular intervals.

## Liability

You shall remain liable for all transactions you initiated through this Web site, and the payment of all amounts you owe. You agree to pay all costs and expenses that DPC may incur in order to collect any amounts you owe under these Terms and Conditions.

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## **Your Account**

If you use this site, you are responsible for maintaining the confidentiality of membership and account information, credit card information, usernames, passwords and I.D.s that may be required to use the site from time to time ("Account Information") and for restricting access to your computer or other devices, and you agree that you are responsible for all activity that occurs under or with the use of your Account Information (including, without limitation, usernames and password) and hereby release DPC from liability arising from the use of your Account Information. DPC reserves the right in its sole discretion to refuse access to the site or service provided through it, terminate accounts and usage rights, edit or remove content or Submissions (as defined below) and cancel orders or request for materials made through the site.

## **Submissions**

Any information or materials you transmit, upload or otherwise submit to any DPC site (including, without limitation, comments, reviews, postings to chat, email messages or materials directed to any Forum, as the term is defined below) shall be collectively referred to as "Submissions." If you transmit or otherwise deliver Submissions to DPC, you grant DPC a nonexclusive, royalty-free, perpetual, irrevocable license (with the right to sublicense and assign) to use, reproduce, modify, adapt, publish, translate, publicly perform and display, transmit, make, sell, create derivative works from and distribute such Submissions or incorporate such Submission into other works in any form or medium and through any means or modes of distribution or technology now known or hereafter developed. You hereby agree and represent to DPC that you own or have been granted the necessary intellectual property and other rights in the Submissions (including, without limitation, a waiver of any applicable moral rights) to grant such license to DPC, that no such Submissions are, or shall be, subject to any obligation of confidence on the part of DPC and that DPC shall not be liable for any use or disclosure of any Submissions. Without limitation of the foregoing, DPC shall be entitled to unrestricted use of the Submissions for any purpose whatsoever, commercial or otherwise, without compensation to the provider of the Submissions.

## **Forums and Public Communication**

"Forum" means a chat area, message board, email function or other function which allows you to transmit or submit material to DPC site for display, storage or distribution, Where the Forum is provided on a site other than DPC's site, you will be bound by the terms of service and privacy policy of the site you have linked to. If you participate in any Forum within a DPC site, you must not and agree that you will not through the use of any Submission or otherwise:

- defame, abuse, harass or threaten others;
- make any bigoted, hateful or racially offensive statements;
- advocate illegal activity or discuss illegal activities with the intent to commit them;
- post or distribute any material that infringes and/or violates any right of a third party or any law;
- post or distribute any vulgar, obscene, discourteous or indecent language or images;
- advertise or sell to, or solicit, others;
- use the Forum for commercial purposes of any kind;
- post or distribute any software or other materials which contain a virus or other harmful component; or

- post material or make statements that do not generally pertain to the designated topic or theme of any chat room or bulletin board.

In addition, you agree that you will not use a false email address, impersonate any person or entity or otherwise mislead others as to the source of origin of a Submission.

DPC reserves the right to remove or edit content from any DPC Forum at any time and for any reason but does not regularly review posted Submissions.

Any material transmitted, submitted or otherwise delivered to a Forum shall constitute a Submission and is hereby governed by the terms applicable to Submissions as described herein.

Information obtained in a Forum may not be reliable, and DPC is not responsible for the content or accuracy of any information.

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## **Indemnification**

You are entirely responsible for maintaining the confidentiality and security of your Account Information and for all activities that occur under your account. You agree to indemnify, defend and hold DPC and the DPC Parties harmless from and against any third-party claims, demands, actions, suits, proceedings, liabilities, damages, losses, judgments and expenses (including, but not limited to, the costs of collection, reasonable attorney's fees and other reasonable costs of defense or enforcing your obligations hereunder) resulting from or arising out your use of DPC's site. You shall use your best efforts to cooperate with us in the defense of any claim.

## **Limitation of Liability**

UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL DPC PARTIES (AS DEFINED IN THE DISCLAIMER SECTION ABOVE) BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, ANY DPC SITE OR MATERIALS OR FUNCTIONS ON ANY SUCH SITE, EVEN IF DPC PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **Jurisdictional Issues**

Those who choose to access DPC's sites do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable.

By visiting this site, you agree that the Terms of Use, Privacy Policy, and Secured Payment Disclaimer shall be governed by and construed in accordance with the laws of the State of Georgia, and that any action at law or in equity arising out of or relating to these Terms of Use and the Privacy Policy shall be filed only in the state of superior courts located in Cobb County, Georgia and you hereby consent and submit to the venue and personal jurisdiction of such courts for the purposes of any action.

## **Termination**

These Terms of Use are effective until terminated by DPC. Your access to any and all DPC sites may be terminated immediately without notice from DPC if, in DPC's sole discretion, you fail to comply with any term of these Terms of Use. Upon such termination, you must cease use of DPC's site and destroy all materials obtained from such site and all copies thereof, whether made under the terms of these Terms of Use or otherwise. You may terminate at any time by discontinuing use of all David Pearson Communities, Inc. and all related documentation and all copies and installations thereof, whether made under the terms of this Terms of Use or otherwise.

## **Notice and Procedure for Making Claims of Copyright Infringement**

Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement should be sent to the following Designated Agent:

David Pearson Communities, Inc.  
2000 First Drive, Suite 400  
Marietta, GA 30062

To be effective, the notification must be a written communication that includes the following:

1. A physical or electronic signature of the person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
2. Identification of the copyrighted work claimed to have been infringed or multiple copyrighted works at a single online site are covered by a single notification, and a representative list of such works at that site;
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;
4. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, a telephone number and, if available, an electronic mail address at which the complaining party may be contacted;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law;
6. A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

## **General Provisions**

If any provision of these Terms of Use shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining

provisions. These Terms of Use, the Privacy Policy, and the Secure Payment Disclaimer constitute the entire agreement between you and DPC relating to the subject matter herein and use of this site and shall not be modified except in writing, signed by both parties.