

ERGOCEPT, INC. WEBSITE TERMS OF USE

Effective: July 25, 2016

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3. Links

As a service to you and our other users, we may provide information about other resources that may be of interest. However, we are not responsible or liable for any content, advertising, products or other materials on or available from these sites or resources, and our presentation of any third-party links or content is not intended to be an endorsement, sponsorship or recommendation by us. Please be aware that when you exit the Site, you are subject to the policies of the new third party site. You agree that we will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused in connection with your use of or your reliance on any of these third-party presentations, content, goods or services made available through the third-party site or resource.

4. Our Privacy Policy

We collect, store and use data obtained from you in accordance with our Privacy Policy, located at <https://www.ergocept.com/assets/docs/Privacy_Policy.pdf>. The terms and conditions of the Privacy Policy are hereby expressly incorporated into these Terms of Use.

We may disclose information to trusted affiliates, independent contractors and partners who will use the information for certain business purposes deemed to be aligned with our goals and business objectives. In addition, we may transfer information collected from you and other users in connection with a sale or restructuring of our company.

5. User Representations

You hereby represent and warrant to us that you (i) are over the age of majority in your jurisdiction or otherwise have the power and authority to enter into and perform your obligations under these Terms of Use, including, if you are below the age of 18, but between 13 and 18 years of age, you may access the Site only with the consent of a parent or guardian; (ii) all information provided by you is truthful, accurate and complete; and (iii) you will comply with the terms and conditions of these Terms of Use and any other agreement to which you are subject that is related to your use of the Site or any part thereof. For any User Content that you post via the Site, you also hereby represent and warrant that: (a) you are owner of all User Content or otherwise have the right to grant us the licenses stated above; (b) you have secured all consents or permissions necessary to post the User Content and to grant the licenses stated above; (c) the User Content does not violate the rights of any third party, including, without limitation, the intellectual property, privacy or publicity rights of any third party, and the User Content does not contain any personally identifiable information about third parties in violation of such parties' rights; and (d) the use of any User Content will not result in harm or personal injury to any third party.

6. Prohibited Uses

You agree not to: (a) use the Site to post material or information that is, or to a reasonable person may be, unlawful, harmful, tortious, abusive, obscene, pornographic, defamatory, libelous, harassing, invasive of another's privacy, offensive, vulgar, threatening, malicious, hateful or racially, ethnically or otherwise objectionable; (b) use the Site

to post content, files, graphics, software or other material or information that actually or potentially infringes the rights of any person, including, without limitation, the copyright, trademark, patent, trade secret or other intellectual property rights, or privacy, moral or publicity rights, of any person; (c) use the Site to interfere, disrupt or attempt to gain unauthorized access to other accounts on the Site or any other computer network; (d) use the Site to post viruses, trojan horses or any other malicious code or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware, system or telecommunications equipment; (e) use the Site to post any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes or other fraudulent schemes, or any other form of solicitation; or (f) use the Site to engage in any activity that, as determined by us, may intentionally or unintentionally violate these Terms of Use, violate any applicable laws or regulations or conflict with the spirit or intent of these Terms of Use.

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8. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT WE SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SITE; (II) THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS AND SERVICE RESULTING FROM THE INABILITY TO ACCESS OR UTILIZE ANY PRODUCTS, DATA, INFORMATION OR SERVICE PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SITE; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; OR (IV) ANY OTHER MATTER RELATING TO THE SITE. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE EXCEED THE AMOUNT PAID BY YOU, IF ANY, FOR ACCESSING THE SITE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

9. Release / Indemnification

You agree to release us and our members, managers, officers, employees and agents, from any and all liability and obligations whatsoever in connection with or arising from your use of the Site and the Content. If at any time you are not happy with the Site or the Content or object to any material within the Site or the Content, your sole remedy is to cease using them.

You agree to defend, indemnify and hold harmless us and our its officers, members, directors, employees and agents from and against any and all claims, liabilities, damages, losses or expenses, including attorneys' fees and costs and expenses, arising out of or in any way connected with (a) your access to or use of the Site or any part thereof, (b) any User Content you post via the Site, (c) a breach or alleged breach by you of any of your representations, warranties, covenants or obligations under these Terms of Use, (d) infringement or misappropriation of any intellectual property or other rights by you of ours or any third parties, or (e) any negligence or willful misconduct by you.

10. Governing Law, Injunctive Relief, and Venue

The validity and effect of these Terms of Use shall be governed by and construed and enforced in accordance with the laws of the State of Missouri, without regard to its conflicts or choice of laws principles.

You agree that breach of the terms of these Terms of Use would cause irreparable harm and significant injury to us which would be both difficult to ascertain and which would not be compensable by damages alone. As such, you agree that we have the right to enforce the provisions or terms of these Terms of Use by injunction (without necessity of posting bond), specific performance or other equitable relief without limitation to any other rights and remedies we may have. The prevailing party will be entitled to reasonable fees of attorneys, accountants and other professionals, and costs and expenses in addition to any other relief to which such prevailing party may be entitled in any action at law or in equity.

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11. Copyright and Copyright Notices

We respect the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide our Copyright Agent the following information:

- an electronic or physical signature of the owner or person authorized to act on behalf of the owner of the copyright interest;
- a description of the copyrighted work that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the Site sufficient to

- allow us to locate the allegedly infringing material;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Please contact our Copyright Agent for Notice of Claims of Copyright Infringement at: customerservice@ergocept.com. Copyright owners and agents acknowledge that failure to comply with all of the requirements of the foregoing may result in an invalidity of the DMCA notice.

12. Changes to Terms of Use

We reserve the right to, in our sole discretion, change, modify, add or remove portions of these Terms of Use at any time without prior notice. Changes in these Terms of Use will be effective when notice of such change(s) is posted. In the event of a conflict between these Terms of Use and any changes, modifications, or additions in policies, procedures, disclaimers, guidelines, rules, terms or conditions of specific application, the additional policies, procedures, disclaimers, guidelines, rules, terms or conditions of specific application shall control. Your continued use of the Site and Content after any changes to these Terms of Use are posted will be considered your binding acceptance of those changes.

13. Miscellaneous

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In the event that you purport to be the agent of, represent, or otherwise act on behalf of an entity or any other person, references to "you," "your" or Users shall include such entity or person in addition to you, you represent and warrant that you are in fact an authorized representative of such entity or other person and have the authority to bind such entity or other person to these Terms of Use, and your acceptance of these Terms of Use shall constitute acceptance on behalf of such entity or person.

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