

## **Terms of Use**

Thank you for visiting our website. Lenox Hill Pharmacy d/b/a New Drug Loft is a brand of LHP (“LHP” or “we” or “our” or “us”). Please read the following information in its entirety since they represent a binding agreement between you and LHP.

Your access and use of the website (the “Website” or “Site”), including your use of any ratings and review service that we may make available, is subject to the following terms and conditions (interchangeably referred to herein as the “Terms and Conditions” or the “Terms” or “Terms of Use” or “ToU” or “Terms of Service” or “Agreement”) and all applicable laws. By accessing and browsing the website, you accept, without limitation or qualification, the Terms and Conditions below. If you do not agree with any of these terms, you are prohibited from using or accessing this site. The materials contained in this website are protected by applicable copyright and trademark law.

Please review our Privacy Policy, which also governs your visit to our website, to understand our information practices.

### **1. About the Services and Website.**

1.1 Introduction. Through the Services, we aim to provide general principles of pharmaceutical information that should not in any event be construed as specific instructions for individual patients. We are committed to maintaining our leadership role as the industry innovator within the growing health care markets.

1.2 The Site Does Not Provide Medical Advice. Any medical and health-related information presented on this website is general in nature. The content of this website is not intended to provide specific medical or non-medical advice, and should not be relied upon in that regard. You should not act or rely on the content of the Website without seeking the advice of your own physician and/or other health care professional, if necessary. Therefore, the information presented on this website is not a substitute for professional medical advice, diagnosis or treatment, nor is it intended to provide you with a specific diagnosis or treatment for a specific ailment.

1.3 Mobile Charges. To the extent you access the website through a mobile or wireless device, your carrier’s standard charges, data rates and other charges may apply.

1.4 Modification of the Services or the Terms. LHP may modify these Terms or modify, suspend, or discontinue the website at any time for any reason. However, we will use commercially reasonable efforts to notify you of material changes to these Terms by posting a notice on the website and/or sending an email to the address you provided to us upon registration.

1.5 Privacy. To learn more about our privacy practices, please read our Privacy Policy, which is available at [newdrugloft.com](http://newdrugloft.com) (the “Privacy Policy”).

## **2. Order Acceptance.**

2.1 The receipt of an order number or an email order confirmation does not constitute the acceptance of an order or a confirmation of an offer to sell. We reserve the right, without prior notification, to limit the order quantity on any item and/or to refuse service to any customer. Verification of information may be required prior to the acceptance of any order. Prices and availability of products on the websites are subject to change without notice. Errors will be corrected when discovered and we reserve the right to revoke any stated offer and to correct any error, inaccuracy, or omission (including after an order has been submitted). Certain orders constitute improper use of the website. We reserve the right, at our sole discretion, to refuse or cancel any order for any reason. Your account may also be restricted or terminated for any reason, at our sole discretion.

## **3. License and Website Access.**

3.1 We grant you a limited license to access and make personal use of this website and not to download (other than page caching) or modify it, or any portion of it, except with the express written consent of LHP. This license does not include any resale or commercial use of this website or its contents; any collection and use of any product listings, descriptions, or prices; any derivative use of this website or its contents; any downloading or copying of account information for the benefit of another merchant; or any use of data mining, robots, or similar data gathering and extraction tools. This website or any portion of this website may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose without the express written consent of LHP. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including, but not

limited to images, text, page layout, or form) without our express written consent. You may not use any meta tags or any other “hidden text” utilizing our name or trademarks without the express written consent of LHP. Any unauthorized use terminates the permission or license granted by LHP.

3.2 You are granted a limited, revocable, and nonexclusive right to create a hyperlink to the homepage of this website so long as the link does not portray LHP, its affiliates, or their products or services in a false, misleading, derogatory, or otherwise offensive manner. You may not use any LHP logo or other proprietary graphic or trademark as part of the link without the express written permission of LHP.

#### **4. Copyright and Trademarks.**

4.1 All content included on this site, including but not limited to, text, graphics, logos, button icons, images, audio and video clips, digital downloads, data compilations, and software is the property of LHP or its content suppliers and protected by United States and international Copyright laws. All software used on this site is the property of LHP or its software suppliers and is protected by United States and international Copyright laws.

4.2 Trademarks (commonly referred to as marks) indicated on our website are either registered, pending or common law trademarks of LHP or its affiliates, in the United States and other countries. All other trademarks not owned by LHP or its subsidiaries that appear on this site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by LHP or its subsidiaries.

#### **5. Use of Website and User Submissions.**

5.1 If you use this website, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password.

5.2 If you are under the age of 18, you may use this website only with the involvement of a parent or guardian. LHP and its affiliates reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders in their sole discretion.

5.3 LHP does not wish to receive any product, marketing, advertising or other ideas that are not covered by issued United States patents or copyrights. If you send, submit, or post any communications or materials to the website by electronic mail or otherwise, including any data, questions, comments, suggestions, or the like, all such communications are, and will be treated as, non-confidential and non-proprietary. For any content that you submit, you grant LHP and its affiliates a nonexclusive, perpetual, irrevocable, royalty-free, transferable right and license to use, copy, modify, delete in its entirety, adapt, publish, translate, create derivative works from and/or sell and/or distribute and/or display such content, ideas, concepts, know-how, or techniques, and/or incorporate such content, ideas, concepts, know-how, or techniques into any form, medium or technology throughout the world without compensation to you. You grant us and our affiliates and sublicensees the right to use the name that you submit in connection with such content, if they choose.

5.4 All content that you submit may be used at LHP sole discretion. LHP reserves the right to change, condense or delete any content on LHP website that LHP deems, in its sole discretion, to violate the guidelines contained herein or any other provision of these Terms of Use. LHP does not guarantee that you will have any recourse through LHP to edit or delete any ratings or written comments you have submitted.

5.5 LHP reserves the right to remove or to refuse to post any submission for any reason. You acknowledge that you, not LHP, are responsible for the contents of your submission. None of the content that you submit shall be subject to any obligation of confidence on the part of LHP, its agents, subsidiaries, affiliates, partners or third party service providers and their respective directors, officers and employees.

5.6 You are prohibited from posting or transmitting any unlawful, threatening, defamatory, libelous, obscene, pornographic or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense or give rise to civil liability, or otherwise violate any law. You may not use a false email address, impersonate any person or entity, or otherwise mislead as to the origin of any content. LHP will fully cooperate with any law enforcement authorities or court order requesting or directing LHP to disclose the identity of anyone posting such materials or content.

5.7 Although LHP may from time to time monitor or review discussions, chats, postings, transmissions, bulletin boards and the like on the website, LHP is under no obligation to do so and assumes no responsibility or liability arising from the contents of any such communications nor for any error, defamation, libel, obscenity, profanity, or inaccuracy contained in any such communication.

5.8 You agree to indemnify and hold LHP and its officers, directors, agents, subsidiaries, joint ventures, employees and third-party service providers harmless from all claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown including reasonable attorney's fees, arising out of a breach of your representations and warranties set forth herein, or your violation of any law or the rights of a third party.

## **6. Third Party Sites and Other Users.**

6.1 The website may contain links to, or advertisements for, third party websites (collectively referred to, "Third Party Sites" or "TPS") (for example, social media sites such as Facebook, Twitter, or Pinterest). Such TPS are not under the control of LHP and LHP is not responsible for any TPS. LHP provides links to these TPS only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to TPS. You agree that you use all TPS at your own risk. When you link to a TPS, the applicable service provider's terms and policies, including privacy and data gathering practices govern. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any TPS.

6.2 Each user is solely responsible for any and all of its User Content. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content and we make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content, and we assume no responsibility for any User Content. Your interactions with other site users are solely between you and such user. You agree that LHP will not be responsible for any loss or damage incurred as the result of any such interactions. If there is a dispute between you and any site user, we are under no obligation to become involved.

6.3 You hereby release us, our officers, employees, agents, affiliates, subsidiaries, parents, joint ventures, successors and any other companies under common control with us from

claims, demands, any and all losses, damages, rights, claims, and actions of any kind including personal injuries, death, and property damage, that are either directly or indirectly related to or arise out of any interactions with or conduct of other website users or TPS.

## **7. Descriptions of Products and Services.**

7.1 The website refers to products and/or services that are generally available for purchase in the continental United States, but may not be available in your particular locality. The reference to any such products or services in this website does not imply or warrant that these products or services will be available at any time in your particular locality. You should therefore check with our customer service representatives at [info@newdrugloft.com](mailto:info@newdrugloft.com) for specific product/service availability in your locality.

7.2 We do not warrant that the descriptions or other content of this site are accurate, complete, reliable, current or error-free. Features and specifications of products described or depicted on the website are subject to change at any time without notice.

## **8. Disclaimer of Warranties.**

8.1 Your use of the website is at your own risk. LHP makes no warranties or representations as to its accuracy and LHP specifically disclaims any liability or responsibility for any errors or omissions in the content on the website. Neither LHP nor any other party involved in creating, producing, or delivering the website is liable for any direct, incidental, consequential, indirect, or punitive damages arising out of your access to, or use of, or inability to use or access, the website. Without limiting the foregoing, everything on the website is provided to you "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. Please note that some jurisdictions may not allow the exclusion of implied warranties, so some of the above exclusions may not apply to you. Check your local laws for any restrictions or limitations regarding the exclusion of implied warranties.

8.2 LHP assumes no responsibility, and shall not be liable for, any damages to, or viruses that may infect, your computer equipment or other property on account of your access to,

use of, or browsing on the website or your downloading of any materials, data, text, images, video, or audio from the website.

**9. Limitation on Liability.**

9.1 IN NO EVENT SHALL LHP, OUR OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, SUBSIDIARIES, PARENTS, JOINT VENTURES, SUCCESSORS AND ANY OTHER COMPANIES UNDER COMMON CONTROL WITH US BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR IN ANY WAY RELATED TO YOUR RELATIONSHIP WITH LHP, YOUR USE OF THE WEBSITE, PRODUCTS, OR THIRD PARTY SITES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE WEBSITE, PRODUCTS AND THIRD PARTY SITES ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA RESULTING THEREFROM.

9.2 SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OF CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

**10. Indemnity.**

10.1 You agree to indemnify and hold LHP, our officers, employees, agents, affiliates, subsidiaries, parents, joint ventures, successors and any other companies under common control with us harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (i) your use of the Website or Products, (ii) your User Content, or (iii) your violation of this Agreement. LHP reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without

the prior written consent of LHP. LHP will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

## **11. Applicable Law.**

11.1 These Terms and Conditions are to be governed by and construed in accordance with the laws of the State of New York, United States of America, without reference to its conflicts of law rules.

## **12. Arbitration.**

YOU AND LHP AGREE TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT, SUCH AS ACCESS TO DISCOVERY, ALSO MAY BE UNAVAILABLE OR LIMITED IN ARBITRATION.

12.1 Any dispute between you and LHP, its agents, employees, officers, directors, principals, successors, assigns, subsidiaries or affiliates (collectively for purposes of this section, 'LHP') arising from or relating to these Terms of Use and their interpretation or the breach, termination or validity thereof, the relationships which result from these Terms of Use, including disputes about the validity, scope or enforceability of this arbitration provision (collectively, "Covered Disputes") will be settled by binding arbitration administered by the JAMS, Inc. under its rules applicable to consumer disputes, in effect on the date thereof. Information on JAMS and how to start arbitration can be found at [www.jamsadr.com](http://www.jamsadr.com) or by calling 800-352-5267. For purposes of this section, these Terms of Use and related transactions will be subject to and governed by the Federal Arbitration Act, 9 U.S.C. sec. 1-16 (FAA).

12.2 Prior to initiating any arbitration, the initiating party will give the other party at least 60-days' advanced written notice of its intent to file for arbitration. LHP will provide such notice by e-mail to your e-mail address on file with LHP and you must provide such notice by e-mail to [info@newdrugloft.com](mailto:info@newdrugloft.com). During such 60-day notice period, the parties will endeavor to settle amicably by mutual discussions any Covered Disputes. Failing such amicable settlement and expiration of the notice period, either party may initiate arbitration. The arbitrator will have the power to grant whatever individual relief would be available in court under law or in equity



and any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction.

12.3 LHP and you agree that any Covered Dispute hereunder will be submitted to arbitration on an individual basis only. Neither LHP nor you are entitled to arbitrate any Covered Dispute as a class, representative or private attorney action and the arbitrator(s) will have no authority to proceed on a class, representative or private attorney general basis. If any provision of the agreement to arbitrate in this section is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced (but in no case will there be a class, representative or private attorney general arbitration).

12.4 Notwithstanding any provision in these terms to the contrary, we agree that if LHP makes any future material change to this dispute resolution provision, it will not apply to any individual claim(s) that you had already provided notice to LHP. In the event that this arbitration agreement does not apply to a given dispute, then the parties agree to the exclusive jurisdiction of the state and federal courts in Westchester County, New York to resolve such claims.

### **13. Term and Termination.**

13.1 Subject to this Section, this Agreement will remain in full force and effect while you use the Site. We may (a) suspend your rights to use the Site (as well as your LHP Account) or (b) terminate this Agreement, at any time for any reason at our sole discretion, including for any use of the Site in violation of this Agreement or if we believe you are younger than 18. Upon termination of this Agreement, your LHP Account and right to access and use the Site will terminate immediately. You understand that any termination of your LHP Account may involve deletion of any User Content you may have posted. LHP will not have any liability whatsoever to you for any termination of this Agreement, including for termination of your LHP Account or deletion of your User Content.

13.2 The provisions herein related to our intellectual property rights, user content, acceptable use, disclaimer of warranties, indemnity, limitation and liability, and arbitration together with any other rights and obligations which by their nature are reasonably intended to survive such termination, will survive any termination of these Terms of Use.

#### **14. Copyright Policy - Notice and Take Down Procedures; Copyright Agent.**

14.1 If you believe any LHP content infringes your copyright, you may request removal of those materials (or access thereto) by contacting LHP's copyright agent (identified below). LHP will process notices of alleged infringement which it receives and will take appropriate action as required by the Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws. The DMCA requires that notifications of claimed copyright infringement should be sent to this website's Designated Agent who is:

Gordon & Rees LLP  
Attn: Gregory N. Brescia  
500 Mamaroneck Ave, Suite 204  
Harrison, New York 10528  
gbrescia@gordonrees.com

14.2 To be effective, the notification must be in writing and contain the following information (DMCA, 17 U.S.C. 512(c)(3)): (i) identification of the copyrighted work that you believe to be infringed, including a description of the work, and where possible a copy or the location (*e.g.*, URL) of an authorized version of the work; (ii) identification of the material that you believe to be infringing and its location, including a description of the material and its URL or any other pertinent information that will allow us to locate the material; (iii) your name, address, telephone number and email address; a statement that you have a good faith belief that the complained of use of the materials is not authorized by the copyright owner, its agent, or the law; (iv) a statement that the information that you have supplied is accurate, and indicating that "under penalty of perjury," you are the copyright owner or are authorized to act on the copyright owner's behalf; and (v) a signature or the electronic equivalent from the copyright holder or authorized representative.

14.3 In an effort to protect the right of copyright owners, LHP maintains a policy for the termination, in appropriate circumstances, of subscribers and account holders of the Terms of Service who are repeat infringers.

#### **15. Entire Agreement.**

15.1 This Agreement, and any terms incorporated or referred to herein, constitute the entire agreement between LHP and you relating to your use of the Website and the subject matter therein, and supersede any prior understandings or agreements (whether electronic, oral or

written) regarding the subject matter, and may not be amended or modified except in writing, or by LHP making such amendments or modifications in accordance with this Agreement.

**16. Headings.**

16.1 The section headings contained in these Terms are for convenience only, do not form a part of the Terms, and no construction or inference may be derived therefrom.

**17. Severability.**

17.1 If any of these conditions shall be deemed invalid, void, or for any reason unenforceable, that condition shall be deemed severable and shall not affect the validity and enforceability of any remaining condition.