

# Delta Chase LLC

## Website Terms of Use

Last Revised: 27 June 2023 | 1 February 2023 (Original)

The website located at <https://DeltaChase.com>, (the “Website”) is published, owned, and operated by Delta Chase LLC and related entities (“DeltaChase”). These Terms of Use (the “Terms”) govern your access to and use of the Website.

By accessing, browsing, submitting information to and/or using the Website, you agree and acknowledge on your own behalf (referred to throughout the Terms as “you”) that you have read, understand and agree to be bound by these Terms and to comply with all applicable laws including, without limitation, all federal, state and local tax and tariff laws, regulations, and/or directives. **If you do not agree to these Terms, please do not use the Website.**

### 1. Purpose of the Website.

The Website is provided solely for informational purposes and the purposes of enabling communication between you and DeltaChase. The information provided is intended to be general in nature and does not necessarily address all the terms, exclusions, and conditions applicable to our products and services. **WHILE THE WEBSITE MAY CONTAIN MEDICAL INFORMATION, NOTHING CONTAINED WITHIN THE WEBSITE IS INTENDED TO TREAT OR DIAGNOSE ANY SPECIFIC AILMENT. BEFORE ADOPTING ANY OF THE RECOMMENDATIONS CONTAINED WITHIN THIS WEBSITE OR PRODUCTS SOLD THROUGH THE WEBSITE, PLEASE CONSULT YOUR PHYSICIAN OR MEDICAL CARE PROVIDER.**

DeltaChase does not warrant the accuracy, completeness, or usefulness of this information at any particular time. Any reliance you place on such information is strictly at your own risk. DeltaChase disclaims all liability and responsibility arising from any reliance placed on such content by you or any other visitor to the Website, or by anyone who may be informed of any of its contents. Any information you provide or that is collected by the DeltaChase through the Website shall be handled in accordance with the Website’s Privacy Policy, shown nearby and incorporated herein by reference.

### 2. Use of the Website.

DeltaChase grants you a non-exclusive right to access and use the Website and the data, material, content or information herein (collectively, the “Content”) solely for your personal use. Your right to access and use the Website shall be limited to non-commercial purposes unless you are otherwise expressly authorized by DeltaChase to use the Website for commercial purposes. You agree to use the Website only for lawful purposes, comply with all rules governing any transactions on and through the Website and comply with applicable laws.

### 3. Prohibited Uses. You agree that you will not:

- Use the Website in any manner that could damage, disable, overburden, or impair the Website or interfere with any other party’s use and enjoyment of them;
- Attempt to gain unauthorized access to any Website account, computer systems or networks associated with DeltaChase or the Website;
- Obtain or attempt to obtain any materials or information through the Website by any means not intentionally made available or provided by DeltaChase;

- Use any robot, spider, or other automatic device, process or means to access the Website for any purpose, including monitoring or copying any of the material on the Website;
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material which is malicious or technologically harmful;
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack; or
- Impersonate or attempt to impersonate DeltaChase, its Management, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).

#### **4. Third-party Websites.**

The Website may contain links to websites controlled or operated by persons and companies other than DeltaChase (“Linked Sites”). Linked Sites are not under the control of DeltaChase, and DeltaChase is not responsible for the contents of any Linked Site, including without limitation any link contained on a Linked Site, or any changes or updates to a Linked Site. DeltaChase is not responsible if the Linked Site is not working correctly or for any viruses, malware, or other harms resulting from your use of a Linked Site. DeltaChase is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by DeltaChase of the site or any association with its operators. You are responsible for viewing and abiding by the privacy policies and terms of use posted on the Linked Sites. You are solely responsible for any dealings with third parties who support DeltaChase or are identified in the Website, including any delivery of and payment for goods and services

#### **5. Linking to the Website and Social Media Features.**

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage DeltaChase’s reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval, or endorsement on our part without DeltaChase’s express written consent.

This Website may provide certain social media features that enable you to:

- Link from your own or certain third-party websites to certain Content on this Website;
- Send emails or other communications with certain Content, or links to certain Content, on this Website;
- Cause portions of Content on this Website to be displayed or appear to be displayed on your own or certain third-party websites.

You may use the feature solely as they are provided by the Website and solely with respect to the content they are displayed with and otherwise in accordance with any additional terms and conditions DeltaChase provides with respect to such features, Subject to the foregoing, you must not:

- Establish a link from any website that is not owned by you
- Cause our Website or any portion of it to be displayed, or appear to be displayed on any other website;
- Link to any part of the Website other than the homepage;
- Otherwise take any action with respect to the Content on this Website that is inconsistent with any other provision of these Terms.

You agree to cooperate with DeltaChase in causing any unauthorized framing or linking immediately to cease. DeltaChase reserves the right to withdraw linking permission without notice. DeltaChase may, in his sole discretion, request that you remove any link to the Website, and upon receipt of such request, you shall immediately remove

such link. DeltaChase may also disable all or any social media features and any link at any time without notice in his sole discretion.

## **6. Third-party Applications.**

You acknowledge that your access and use of any third-party applications or software on our Website and Content (the “Third-party Applications”) is at your discretion and risk, and DeltaChase has no liability to you arising from your use of the Third-party Applications. DeltaChase hereby disclaims any representation, warranty, or guaranty regarding the Third-party Applications, whether expressed, implied or statutory, including, without limitation, the implied warranties of merchantability or fitness for a particular purpose, and any representation, warranty, or guaranty regarding the availability, quality, reliability, features, appropriateness, accuracy, completeness, or legality of the Third-party Applications, and you agree to indemnify and hold DeltaChase harmless for any direct, indirect, punitive, incidental, special, or consequential damages, or any damages whatsoever including, without limitation, damages for loss of use, arising out of or in any way connected with the use or performance of the Third-party Applications.

## **7. Intellectual Property Notices.**

The Website and Content are protected by copyrights, trademarks, or are subject to other proprietary rights. Accordingly, you are not permitted to use the Website or Content in any manner, except as expressly permitted by DeltaChase in these Terms. The Website or Content may not be copied, reproduced, modified, published, uploaded, posted, transmitted, performed, or distributed in any way, and you agree not to modify, rent, lease, loan, sell, distribute, transmit, broadcast, or create derivatives without the express written consent of DeltaChase or applicable owner.

Your computer may temporarily store copies of Content incidental to your accessing and viewing those Content. You may store files that are automatically cached by your web browser for display enhancement purposes. You may print or download one copy of a reasonable number of pages of the Website for your own personal, non-commercial use related to shopping or placing and order on this Website, if applicable, and not for further reproduction, publication or distribution.

**Copyright.** You should assume that everything you see or read on the Website is copyrighted unless otherwise noted and may not be used without the written permission of DeltaChase. Further, DeltaChase neither warrants nor represents that your use of materials displayed on the Website will not infringe the rights of third parties. Content, images, photographs, or illustrations displayed on the Website is either property of, or used with permission by, DeltaChase. The use of these materials by you, or anyone else authorized by you, is prohibited unless specifically permitted by these Terms or specific permission provided elsewhere on the Website. Any unauthorized use of any content, images, photographs, or illustrations may violate copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations and statutes.

**Trademarks.** “DeltaChase” and “SAGE Rebreather” are registered trademarks owned by DeltaChase. Nothing contained on the Website should be construed as granting or conveying, by implication, or otherwise, any license or right to use any trademark displayed on the Website without the written permission of DeltaChase or such third party that may own a trademark displayed on the Website. Your misuse of DeltaChase’s trademark(s) displayed on the Website, or any other Content on the Website, except as provided herein, is strictly prohibited.

You acknowledge and agree that you are solely responsible for complying with the applicable restrictions on use of all Content, copyrighted materials and trademarks that you see, hear, and use on the Website. You understand that any unauthorized use of such intellectual property would result in irreparable injury for which money damages would be inadequate. You further acknowledge that, in the event of any such unauthorized use, DeltaChase or the applicable intellectual property owner will have the right, in addition to other remedies available at law and in equity, to

immediate injunctive relief to prevent any such unauthorized use.

Questions regarding the use of any intellectual property provided on the Website should be directed to <https://davidsmithmd.com/contact-us/>

## **8. United States Only.**

DeltaChase is based in the state of Ohio in the United States. DeltaChase provides this Website for use only by persons located in the United States. DeltaChase makes no claims that the Website or any of its contents are accessible or appropriate outside of the United States. Access to the Website may not be legal by certain persons or in certain countries.

## **9. Disclaimer.**

ALL INFORMATION OR SERVICES PROVIDED BY DELTACHASE TO YOU VIA THE WEBSITE, INCLUDING, WITHOUT LIMITATION, ALL CONTENT, ARE PROVIDED "AS IS" AND "WHERE IS" AND WITHOUT ANY WARRANTIES OF ANY KIND. DELTACHASE AND DELTACHASE'S THIRD-PARTY LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. NOTWITHSTANDING ANY PROVISION CONTAINED HEREIN TO THE CONTRARY, DELTACHASE AND DELTACHASE'S THIRD-PARTY LICENSORS MAKE NO REPRESENTATION, WARRANTY OR COVENANT CONCERNING THE ACCURACY, QUALITY, SUITABILITY, COMPLETENESS, SEQUENCE, TIMELINESS, SECURITY OR AVAILABILITY OF THE WEBSITE OR ANY CONTENT POSTED ON OR OTHERWISE ACCESSIBLE VIA THE WEBSITE. YOU SPECIFICALLY ACKNOWLEDGE THAT DELTACHASE AND DELTACHASE'S THIRD-PARTY LICENSORS ARE NOT LIABLE FOR THE DEFAMATORY, OBSCENE OR UNLAWFUL CONDUCT OF OTHER THIRD PARTIES OR USERS OF THE WEBSITE AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU. NEITHER DELTACHASE NOR ANY OF DELTACHASE'S THIRD-PARTY LICENSORS REPRESENT, WARRANT OR COVENANT THAT THE WEBSITE WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE. DELTACHASE FURTHER MAKES NO WARRANTY THAT THE WEBSITE WILL BE FREE OF VIRUSES, WORMS OR TROJAN HORSES OR THAT IT WILL FUNCTION OR OPERATE IN CONJUNCTION WITH ANY OTHER PRODUCT OR SOFTWARE. YOU EXPRESSLY AGREE THAT USE OF THE WEBSITE IS AT YOUR SOLE RISK AND THAT DELTACHASE, AND DELTACHASE'S THIRD-PARTY LICENSORS SHALL NOT BE RESPONSIBLE FOR ANY TERMINATION, INTERRUPTION OF SERVICES, DELAYS, ERRORS, FAILURES OF PERFORMANCE, DEFECTS, LINE FAILURES, OR OMISSIONS ASSOCIATED WITH THE WEBSITE OR YOUR USE THEREOF. YOUR SOLE REMEDY AGAINST DELTACHASE FOR DISSATISFACTION WITH THE WEBSITE OR THE CONTENT IS TO CEASE YOUR USE OF THE WEBSITE AND/OR THE CONTENT. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. YOU MAY HAVE OTHER RIGHTS, WHICH VARY BY JURISDICTION. WHEN THE IMPLIED WARRANTIES ARE NOT ALLOWED TO BE EXCLUDED IN THEIR ENTIRETY, YOU AGREE THAT THEY WILL BE LIMITED TO THE GREATEST EXTENT AND SHORTEST DURATION PERMITTED BY LAW.

## **10. Limitation of Liability.**

UNDER NO CIRCUMSTANCES SHALL DELTACHASE OR ANY OF DELTACHASE'S THIRD-PARTY LICENSORS BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE, LOSS OF DATA, LOSS OF INFORMATION OR PROGRAMS ON YOUR DATA HANDLING SYSTEM, TRANSACTION LOSSES, OPPORTUNITY COSTS, INTERRUPTION OF BUSINESS OR COSTS OF PROCURING SUBSTITUTE GOODS) RESULTING FROM, ARISING OUT OF OR IN ANY WAY RELATING TO THE WEBSITE, OR THE DATA, CONTENT OR INFORMATION ACCESSED VIA THE WEBSITE OR ANY HYPERLINKED WEBSITE, OR ANY DISRUPTION OR DELAY IN THE PERFORMANCE OF THE WEBSITE, REGARDLESS OF THE FORM OF THE CLAIM OR ACTION, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, STATUTE OR OTHERWISE, AND REGARDLESS OF WHETHER OR NOT SUCH DAMAGES WERE FORESEEN, UNFORESEEN OR FORESEEABLE, EVEN IF DELTACHASE OR DELTACHASE'S THIRD-PARTY LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BY ACCESSING THE WEBSITE SUBJECT TO THESE TERMS OF USE, YOU UNDERSTAND THAT YOU ARE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD, AND HEREBY EXPRESSLY WAIVE, THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA AND ANY SIMILAR LAW OF ANY STATE, COUNTRY OR TERRITORY, WHICH PROVIDES AS FOLLOWS: "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 MATERIALLY AFFECT HIS OR HER SETTLEMENT WITH THE DEBTOR."

## **11. Indemnity.**

You agree to defend, indemnify and hold harmless DeltaChase and DeltaChase's licensors and service providers from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms or your use of the Website, including, but not limited to, any use of the Website Content, services, or products other than as expressly authorized in these Terms or your use of any information obtained from the Website.

## **12. Termination and Restriction of Access.**

In his sole discretion, DeltaChase may terminate or suspend your access to the Website for breach of these Terms. DeltaChase shall not be liable for any losses or damages arising from any such termination of service.

## **13. Limitation on Time to File Claims.**

Any cause of action or claim you may have arising out of or relating to these Terms or the Website must be commenced within one (1) year after the cause of action accrues, otherwise, such cause of action or claim is permanently barred.

## **14. Governing Law & Jurisdiction.**

These Terms are governed by the laws of the State of Ohio, U.S.A. You hereby irrevocably consent to the exclusive jurisdiction and venue of the courts in Butler County, Ohio, U.S.A., in all disputes arising out of or relating to the use of the Website.

## **15. Changes to these Terms of Use.**

DeltaChase may update or change these Terms from time to time in order to reflect changes in any offered services, changes in the law, or for other reasons as deemed necessary by DeltaChase. The effective date of any Terms will be reflected in the "Last Revised" entry at the top of these Terms. Your continued use of the Website after any such change is communicated shall constitute your consent to such change(s).

## **16. General.**

You agree that no joint venture, partnership, employment, or agency relationship exists between you and DeltaChase as a result of these Terms or use of the Website. You may not assign these Terms without the prior written consent of DeltaChase in all instances. DeltaChase may assign these Terms, in whole or in part, at any time. DeltaChase's performance of this agreement is subject to existing laws and legal process, and nothing contained in these Terms is in derogation of DeltaChase's right to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Website or information provided to or gathered by DeltaChase with respect to such use.

If any part of these Terms are determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remainder of these Terms shall continue in effect.

These Terms, including the Privacy Policy and all other documents expressly incorporated herein by reference, constitute the entire agreement between you and DeltaChase with respect to the Website, and supersede all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between you and DeltaChase. A printed version of these Terms and of any notices given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## **17. DeltaChase Contact Information.**

Questions can be directed to DeltaChase at [neil@DeltaChase.com](mailto:neil@DeltaChase.com).