

## Website Terms of Use

Last Modified: 2019-07-24

### **Acceptance of the Terms of Use**

These terms of use are entered into by and between You and Mengis Capital Management, Inc. ("**Mengis Capital**," "**we**," or "**us**"). The following terms and conditions, together with any documents they expressly incorporate by reference] (collectively, "**Terms of Use**"), govern your access to and use of mengiscapital.com, including any content, functionality, and services offered on or through mengiscapital.com (the "**Website**").

Please read the Terms of Use carefully before you start to use the Website. By using the Website, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <http://mengiscapital.com/images/pdf/Website-Privacy-Policy-Mengis-Capital-2019-07-24.pdf> incorporated herein by reference. If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Website.

This Website is offered and available to users who are 18 years of age or older and reside in the United States or any of its territories or possessions. By using this Website, you represent and warrant that you are of legal age to form a binding contract with Mengis Capital and meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use the Website.

### **Changes to the Terms of Use**

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Website thereafter. However, any changes to the dispute resolution provisions set out in Governing Law and Jurisdiction will not apply to any disputes for which the parties have actual notice [on or] before the date the change is posted on the Website.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page frequently so you are aware of any changes, as they are binding on you.

### **Purpose and Scope of Website**

This Website is for informational purposes only and is not intended to be a solicitation, offering or recommendation by Mengis Capital of any product, transaction or service, including investment management or advisory services. The opinions expressed on this Website should not be considered investment, tax, legal or other advice and should not be relied on in making any investment or other decision. Mengis Capital does not represent that the securities, products, or services discussed on this Website are suitable or appropriate for any particular investor. Although the information and data provided to you on this Website is obtained or compiled from sources believed to be reliable, Mengis Capital cannot and does not guarantee the accuracy, validity, timeliness, or completeness of any of the information, data, or opinions made available to you for any particular purpose. Mengis Capital expressly disclaims any duty to update the information or opinions appearing on this Website.

### **Regulatory Disclosure**

Mengis Capital is registered with the U. S. Securities and Exchange Commission as an investment adviser pursuant to the Investment Advisers Act of 1940. Mengis Capital may only transact business in those states in which it files notices or qualifies for an exemption or exclusion from the notice-filing

requirements. Follow-up or individualized responses by Mengis Capital to residents of a particular state, which involve the rendering of personalized investment advice for compensation, will not be made without first complying with any applicable state investment adviser or investment adviser representative requirements. Mengis Capital does not, and will not, render personalized investment advice for compensation over the Internet. Advice may only be rendered after Mengis Capital delivers Part II of its Form ADV and a client and Mengis Capital execute an investment advisory agreement. For information concerning the licensure status or disciplinary history of Mengis Capital, you should contact your securities law administrator.

### **Accessing the Website and Account Security**

We reserve the right to withdraw or amend this Website, and any service or material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website, to users, including registered users.

You are responsible for both:

- Making all arrangements necessary for you to have access to the Website.
- Ensuring that all persons who access the Website through your internet connection are aware of these Terms of Use and comply with them.

### **Intellectual Property Rights**

The Website and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by Mengis Capital, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Website for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Website, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.

You must not access or use for any commercial purposes any part of the Website or any services or materials available through the Website.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Website in breach of the Terms of Use, your right to use the Website will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by Mengis Capital. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

### **Trademarks**

The Mengis Capital name, the Mengis Capital logo, and all related names, logos, product and service names, designs, and slogans are trademarks of Mengis Capital or its affiliates or licensors. You must not use such marks without the prior written permission of Mengis Capital. All other names, logos, product and service names, designs, and slogans on this Website are the trademarks of their respective owners.

### **Prohibited Uses**

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate Mengis Capital, a Mengis Capital employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm Mengis Capital or users of the Website, or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.
- 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.
- Use any manual process to monitor or copy any of the material on the Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Website.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

### **Reliance on Information Posted**

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

### **Changes to the Website**

We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

### **Information About You and Your Visits to the Website**

All information we collect on this Website is subject to our [Privacy Policy](#). By using the Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

### **Linking to the Website**

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage our 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.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to stop. We reserve the right to withdraw linking permission without notice.

### **Links from the Website**

If the Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **Geographic Restrictions**

The owner of the Website is based in the State of Oregon in the United States. We provide this Website for use only by persons located in the United States. We make no claims that the Website or any of its content is accessible or appropriate outside of the United States. Access to the Website may not be legal by certain persons or in certain countries. If you access the Website from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

### **Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE IS AT YOUR OWN RISK. THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER MENGIS CAPITAL NOR ANY PERSON ASSOCIATED WITH MENGIS CAPITAL MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER MENGIS CAPITAL NOR ANYONE ASSOCIATED WITH MENGIS CAPITAL REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, MENGIS CAPITAL HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **Limitation on Liability**

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL MENGIS CAPITAL, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **Indemnification**

You agree to defend, indemnify, and hold harmless Mengis Capital, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns 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 of Use or your use of the Website other than as expressly authorized in these Terms of Use, or your use of any information obtained from the Website.

#### **Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), will be governed by and construed in accordance with the internal laws of the State of Oregon without giving effect to any choice or conflict of law provision or rule (whether of the State of Oregon or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the Website will be instituted exclusively in the federal courts of the United States or the courts of the State of Oregon, in each case located in the City of Portland and County of Multnomah. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

**Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE 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.

**Waiver and Severability**

No waiver by Mengis Capital of any term or condition set out in these Terms of Use will be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Mengis Capital to assert a right or provision under these Terms of Use will not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision will be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

**Entire Agreement**

The Terms of Use, and our Privacy Policy, constitute the sole and entire agreement between you and Mengis Capital regarding the Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Website.

**Your Comments and Concerns**

All feedback, comments, requests for technical support, and other communications relating to the Website should be directed to: [jeff@mengiscapital.com](mailto:jeff@mengiscapital.com).