

The Digging Deep Project Terms of Service

Effective Date: This document applies to content and Applications released October 21st, 2017, and later. Last updated on 31 July, 2022.

Please note that these Terms of Service do not affect or impact any of The Digging Deep Project's products released prior to the Effective Date.

By using our products and services, you consent to our Terms of Service. If you do not agree to these Terms, do not use the Site or The Digging Deep Project Services.

These Terms of Service explain the terms of use of all The Digging Deep related products, websites and social media sites. ("The Digging Deep Project," "we" or "us").

Preamble – Introduction to the Digging Deep Project and its products

The Digging Deep Project is the creator of both the book Digging Deep project was started by Sheri Sobrato Brisson with the publication of *Digging Deep: A Journal for Young People Facing Health Challenges*, a gorgeous 140-page guided journal, which she co-authored with Rose Offner, MFA. Shadow's Edge is the mobile game created by The Digging Deep Project. The Digging Deep Project also runs websites, blogs, and social media accounts.

1. Use and general terms.

Under these Terms, The Digging Deep Project offers users above the age of 13 (above the age of 16 in the European Union) the ability to (i) use the Sites; (ii) use the Applications; (iii) download and use the game; (iv) participate in social media; and (v) provide feedback and/or other material to The Digging Deep Project.

These Terms of Service applies to our Digging Deep and Shadow's Edge websites, the Shadow's Edge game, mobile Applications and website and other online products and services (collectively, the "Services"). By using the Services, creating an account and/or using the Services, as applicable, you agree to be bound by these Terms, which include but are not limited to, a limit on and exclusion of damages and remedies available to you, and the selection of California law and jurisdiction in San Francisco County, California or the Northern District of California over any disputes arising between you and The Digging Deep Project, and you further agree to the collection and use of your data in accordance with the terms of our Privacy and Data Collection Policy. The Digging Deep Project provides a clear statement to users in such Services that are specifically for users above 13 (in the European Union above 16), such as a notification when registering for the Application. However, the Digging Deep Project cannot be held accountable for checking if people using the Services adhere to the terms beyond best effort. By using the Services, you warrant that you are above 13 (in the European Union above 16) and use of the Services is at your own risk.

We may change our Terms of Service from time to time. If we make changes, we will notify you by revising the date at the top of the Terms of Service and, in some cases, we may provide you with additional notice (such as by adding a statement to our homepage or mobile games and Applications or by sending you an email notification). We encourage you to review the Terms of Service whenever you access the Services to stay informed about our information practices and the ways you can help protect your privacy.

2. Ownership.

The Digging Deep Project is fiscally sponsored by The Giving Back Fund. The Digging Deep Project is the publisher of Digging Deep and developer, distributor or Shadow's Edge and all related products and Applications.

The Sites and our mobile Applications, our online Applications, all content, services, and functionality associated with our mobile and online Applications, our game, and certain functionality on the Site (collectively, "Services") are the exclusive property of The Digging Deep Project and/or its suppliers. All rights not granted herein are reserved by The Digging Deep Project.

Any reference in these Terms to Site, Applications or social media include both the Digging Deep Project and Shadow's Edge.

3. Grant of License.

So long as you comply with these Terms, we grant you a non-exclusive, non-transferable, terminable license to view and use our Services. The licenses granted to you are conditioned upon your proper conduct and compliance with these Terms at all times, as judged by The Digging Deep Project in its sole discretion and judgment. We reserve the right to suspend or deny, in our sole discretion, your access to all or any portion of our Services.

4. License Limitations; Prohibited Conduct.

While we believe in freedom of expression, we also believe it is very important to ensure people feel safe expressing themselves. We do not tolerate behavior that crosses the line into intolerance or abuse, including behavior that harasses, intimidates, or uses fear to silence another user's voice by posting art or tags directed offensively at other people. Any accounts and related accounts engaging in the activities specified below may be temporarily locked and/or subject to permanent suspension. The licenses granted to you may be revoked (with or without notice) and ineffective if you:

- (a) are under age 13 respectively 16 in the European Union, and have not obtained the consent of your parent or legal guardian;
- (b) use any robot, spider, bot or other automatic device or manual process to monitor or copy any portion of our Services without our prior written permission;
- 3. use any device, software or routine to damage, over-burden or impair our Services or any Applications, which includes the use of a jail-broken or rooted device or tool that enables the operation of the Site or an Application in a manner that is other than what we intended;
- 4. engage in any act that The Digging Deep Project deems to be in conflict with the spirit or intent of these Terms or any of our Services, including, but not limited to, circumventing or manipulating these Terms, our game rules, game mechanics or policies; or (e) fail to comply with any of the provisions of these Terms.

Our Services are not intended for use by children under age 13 (16 in the European Union). If you are a parent, legal guardian and other adult responsible for children in your care, you are fully responsible for any use our Services.

You agree that you will obey all federal, state and local laws, regulations and rules that apply to your activities when you access the Services, and you shall respect the rights of all other users of the Services. In furtherance of the foregoing, by way of example and not as a limitation, conduct that violates these Terms and which will result in the revocation (with or without notice) of the licenses granted to you to the Services includes but is not limited to:

- Creating a username (or multiple usernames), screen name or label, or uploading to, distributing through or otherwise publishing through the Services, any materials (as defined in Section 4 below) which are indecent, libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, abusive, illegal, harassing, or otherwise objectionable, or that would constitute or encourage a criminal offense, violate the rights of any party or violate any law.
- Uploading materials, creating a username, screen name, or materials that contain expressions of hatred, bigotry, racism or pornography or be otherwise objectionable.
- Uploading materials, creating a username, screen name, or labeling of materials that disparage in any manner The Digging Deep Project or the Services.
- Sharing materials that are commercial in nature or contain any solicitation of funds, promotion, advertising or solicitation for goods or services.
- Making threats, harassment or promotion of violence against or directly attack or threaten other people on the basis of race, ethnicity, national origin, sexual orientation, gender, gender identity, religious affiliation, age, disability, or disease.

- Publishing or posting other people's private and confidential information, such as credit card numbers, phone numbers, email, street address, or Social Security/National Identity numbers.

5. Your License to The Digging Deep Project Products.

You understand that all information, text, data, software, sounds, photographs, audiovisual material, artwork, graphics, messages, and other materials that are transmitted to or via the Services ("materials") are the sole responsibility of the person from whom the materials originated. "materials" also includes, but is not limited to, user-created artwork and visual representation, which are submitted by you or other users. This means you and other users, not The Digging Deep Project, are entirely responsible for the materials you transmit to or through the Services. The Digging Deep Project has no obligation to monitor materials submitted by users, and The Digging Deep Project assumes no responsibility for monitoring materials for illegal or offensive content. Further, you understand that by using the Services, you may be exposed to materials that are offensive, objectionable or indecent.

If you choose to submit materials to The Digging Deep Project, you agree that by submitting materials you grant to The Digging Deep Project (and its, affiliates, licensees and those acting with The Digging Deep Project's authority) an unrestricted, absolute, royalty-free, perpetual, worldwide, irrevocable right and license to sublicense, reproduce, copy, modify, create derivatives in whole or in part, or otherwise use such materials or any part thereof in combination with or as a composite of other matter, including, but not limited to, text, data, images, photographs, illustrations, animation and graphics, video or audio segments of any nature in any Game, Application, Site and in any of The Digging Deep Project's advertising and promotional materials (materials combined with any work created by The Digging Deep Project or another user are known as "Works"). The license you grant to The Digging Deep Project allows The Digging Deep Project to display, perform, exhibit, distribute, transmit or broadcast the materials and the Works by any media, technology or other means, including those currently known or become known at a later date, without notice to you, attribution or compensation of any kind to you or any third party, and to grant a sublicense to a third party to do any of the same actions with the Works and/or the materials. You also agree that by submitting materials you waive all rights to The Digging Deep Project and shall neither sue nor bring any proceeding against The Digging Deep Project for any claim or cause of action, for defamation, invasion of right to privacy, publicity or personality or any similar matter, or based upon or relating to the use and or exploitation of the materials or the Works. You warrant that all so-called "moral rights" in the materials have been waived. You also agree that The Digging Deep Project is not obligated to utilize the materials and understand that The Digging Deep Project may or may not use the materials in Works.

To the extent any materials are accessible, visible or usable by other users, you also grant all other users the right and license to use, copy, reproduce, modify, adapt, publish, edit, translate, create derivative works from, publicly display and publicly perform such materials, or any portion thereof, on the Site or in the Applications without any notice, attribution or compensation of any kind to you or any third party; provided, however that the materials are not derivative works of The Digging Deep Project's intellectual property. You acknowledge that your postings and other communications in the community within the Game or on the Site are public and not private communications and that you have no expectation of privacy for or concerning your use of these communication features of the Services. Further, you acknowledge that it is possible for you to transmit information that would identify you personally in the Services and The Digging Deep Project bears no responsibility to you in the event that you do share such information with other users.

6. Use Limitations and monitoring; No Endorsement.

You must be at least age 13 to use the Sites and the Applications (or 16 years of age in the European Union). If you are below the age of 13 (or 16 in the European Union) you must first obtain the consent of your parent or legal guardian to use the Services and send us proof of parental consent via email to: privacy@diggingdeep.org.

You may use the Services only for their intended purposes. While The Digging Deep Project has no obligation to monitor the Site, the Game or Applications and is not responsible for the content of any materials on or through the Services, The Digging Deep Project reserves the right to delete, move, edit, refuse to post or take other appropriate action with respect to such materials, which The Digging Deep Project, in its sole discretion, deems objectionable or otherwise in violation of these Terms, including denying access to the Services to anyone at any time. You are hereby notified that your use of the Site and/or the Game and/or the Applications constitutes consent to such actions, monitoring and auditing. The Digging Deep Project does not endorse any communications made by others through the Applications or any other communications on the Site.

7. Copyrights and Trademarks.

The Services are protected by intellectual property laws and you agree to respect them. The Services (including but not limited to the Game Shadow's Edge and the Sites) and all design, development, text, graphics, interfaces, web- and social media sites and the selection and arrangements thereof are copyrighted by The Digging Deep Project. All rights are reserved. Any use of materials on the Site, including reproduction, modification, distribution, or republication, without prior permission of The Digging Deep Project is strictly prohibited.

Shadow's Edge Contains some co-authored text from the book Digging Deep: A Journal for Young People Facing Health Challenges (The Digging Deep Project, 2014) by Rose Offner, M.F.A. and Sheri Brisson, M.A.

The Digging Deep Project is the sole owner of the Trademarks for The Digging Deep Project and Shadow's Edge.

You own the content you post on our Services, but you grant us the right to portray images you share in our Services such as in the Game in Shadowgram on our Digging Deep or Shadow's Edge social media and Sites to illustrate what is possible to create in the game. You also acknowledge that others may take screenshots or screen recordings of your art and can mix it with what they create in accordance with section 4 of these Terms.

8. Community participation and communication from us.

Where the Services utilize the account management of a social networking web site (such as Facebook, Twitter, or iTunes' Game Center) or a third-party payment provider, you are responsible for maintaining the confidentiality of your applicable web site passwords and account information; you are entirely responsible for all activities that occur under such accounts and compliance with such site's terms of use and other policies.

By registering for or subscribing to our game and our social networking outlets, such as our Twitter feed or Facebook pages, you understand that you may receive periodic information, by e-mail or other medium, regarding current and future Applications or changes to the Services. We may also contact you to ask you to participate in research. Such participation is strictly voluntary, and you can request to not be contacted again.

With respect to the third-party social networking outlets, you understand that you can use the settings of the applicable social network to stop or limit the communications we send through such social network outlets. We may provide, chat areas, bulletin boards, or e-mail functions in or through the Services and periodic newsletters and blogs. If you subscribe to our newsletters or blogs, you understand that you may receive period information by email or other medium from us regarding current and future Applications or changes to the Services, and that you may unsubscribe from receiving newsletters or blogs at any time by following the procedures made available through the newsletters of the blogs.

9. Use Charges.

Neither The Digging Deep Project nor any of its associates and contractors shall have any liability to you for use charges related to any device or service that you use to access the Services, including, without limitation, usage or data charges for mobile telephones, tablet devices, Internet service providers, car navigation systems, pagers, and other devices, whether wireless, wireline, requiring cradle synchronization or otherwise.

10. Agreement to Conduct Transactions Electronically.

You agree that all of your transactions with or through the Services may, at our option, be conducted electronically. You also agree that we may provide all agreements, disclosures and notices electronically, including any that we are otherwise required to provide in "writing."

11. Privacy and Data Collection Policy.

Our Privacy and Data Collection Policy is part of these Terms. You can find it at <https://www.shadowsedge.com/privacy> and <https://www.diggingdeep.org/privacy> respectively.

12. Community Guidelines.

Our Community Guidelines are part of and incorporated into these Terms. Please take a moment to review them on our website at www.diggingdeep.org/terms or www.shadowsedge.com/terms. Violating these Community Guidelines may result in deleted content, disabled accounts, or other restrictions.

13. License to user's work.

When user generate data or art and make it publicly available through our in-game community or online communities, they assign us the right to use this work and artwork in all media now known or hereafter devised in all types of publishable materials, audiovisual works, and all ancillary and allied rights therein.

14. Suspension, Termination or Cancellation.

The Digging Deep Project may suspend, cancel or terminate your registration and/or account; block your use of the Services, or direct you to cease using the Services, with or without notices, if we believe in good faith that (a) you or a related person has engaged in any of the prohibited content covered by Section 3 of these Terms or otherwise breached or may breach these Terms or (b) your account, use of the Services has been inactive for more than 180 days.

The Digging Deep Project reserves the right to stop making any one or more of the Services available, at any time, whether on a temporary or permanent basis and without any liability, compensation, refunds or other compensatory benefits to you. Your license to the applicable Site, the Application, the Game automatically ends when The Digging Deep Project terminates access to such Service. If we stop any service for other than force majeure or maintenance, we will announce the termination 30 days before the termination via our Site.

You have the ability to terminate these Terms by uninstalling, unfollowing or discontinuing your use of the Services. You have the ability to cancel your account by writing an email to:

privacy@diggingdeep.org with the subject "TERMINATION OF ACCOUNT."

To the extent that you violate these Terms and The Digging Deep Project revokes the licenses granted to you to the Services, you will lose all benefits and privileges associated with the Services. The Digging Deep Project is under no obligation to compensate you for any such losses or results.

15. Your Representations and Warranties.

You represent and warrant for the benefit of The Digging Deep Project, its affiliates and any third parties mentioned on the Site or in the Game or the Applications that: (a) you possess the legal right and ability to enter into and make the representations and warranties contained in these Terms; (b) all information submitted by you to the Site or the Applications is true and accurate; (c) you will not use the Site or any Application for any purpose that is unlawful or prohibited by these Terms; (d) you will make and maintain back-up copies of any materials which you upload or otherwise distribute through the Site; and (e) you possess all legal rights in and to the materials which you post, upload or distribute through the Site and such materials are (i) not in violation of any applicable laws, contractual restrictions or other third party rights, (ii) free of viruses, adware, spyware, worms or other malicious code, and (iii) do not otherwise violate these Terms.

16. No Warranties; "As Is."

The Services are provided to you "as is" without warranty of any kind. The Digging Deep Project hereby disclaims all warranties, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, title and non-infringement; availability of the services and site; lack of viruses, worms, trojan horses, or other code that manifests contaminating or destructive properties; accuracy, completeness, reliability, timeliness, currency, or usefulness of any information on the site; and any duties of reasonable care, workmanlike effort or lack of negligence in connection with the site, content and materials on the site, and Applications. The entire risk as to satisfactory quality, performance, accuracy and effort in connection with the Sites, Game content, materials and Applications is borne by you. The Digging Deep Project shall not be responsible for any loss of data, private information or other material whether through loss or hacking. Some jurisdictions do not allow the exclusion of or limitations on implied warranties, so the above exclusions and limitations may not apply to you.

17. Dangerous Activities.

The Digging Deep Project does not recommend use of its Games, Applications, or other Services during certain activities, such as driving, where there exists a significant risk of accident. You agree not to use The Digging Deep Project's Applications or other services during such activities and acknowledge that any such use would be a violation of these terms. You further acknowledge and agree that such use is at your sole risk and The Digging Deep Project will not be responsible for any damages of any nature resulting from such use.

18. Assumption of Risk.

You assume all risks that the Services are suitable or accurate for your needs and will be uninterrupted, timely, secure or error-free. Your use of the Services is at your own discretion and risk and you are solely responsible for any damage to your computer or loss of data resulting there from. Similarly, you agree that by participating in the Services, you may be exposed to rude, crude, indecent or other offensive language or references.

19. Limitation of Liability and Damages.

To the fullest extent allowed by law, you agree that neither we, nor any of our affiliates or agents, will be liable to you and/or any other person for any consequential or incidental damages (including but not limited to loss of data, loss of privacy or for failure to meet any duty including but not limited to any duty of good faith, lack of negligence or of workmanlike effort) or any other indirect, special, or punitive damages whatsoever that arise out of or are related to the site, its content, or Applications, or to any breach of these terms, even if we have been advised of the possibility of such damages and even in the event of fault, tort (including negligence) or strict or product liability. You further specifically acknowledge that The Digging Deep Project is not liable, and you agree not to seek to hold The Digging Deep Project liable, for the conduct of third parties, including other users of the Services and operators of external sites and services. You hereby release us and our affiliates from any and all obligations, liabilities and claims in excess of this limitation. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

20. Exclusive Remedies.

You agree that your exclusive remedy for any breach of these Terms by us or any of our affiliates or agents or for any dispute with The Digging Deep Project shall be substitution or replacement of all or part of the particular Services that gives rise to damages incurred by you in reasonable reliance on us. You agree that the damage exclusions in the Agreement and this limitation of liability shall apply even if any remedy fails of its essential purpose.

21. Linked Sites.

Links may appear on the Sites or in Applications, that may be used to visit other web sites. The Digging Deep Project does not sell or otherwise distribute your data to any third-party sites. These links are provided as a courtesy to our Site visitors and

Application Users. The Digging Deep Project has no control over the linked web sites or the materials, information, goods, or services available or contained on these linked web sites or how your data and/or personal information is used by these linked third parties. The Digging Deep Project is not responsible for, does not endorse, represent or warrant in any way any third-party's content, goods and/or services even if they are linked to our Sites and/or Applications. If you decide to access any of the linked web sites, you do so entirely at your own risk. Please see our Privacy and Data Collection Policy for more information about how The Digging Deep Project may use your information in connection with the Applications and the Sites. The Digging Deep Project reserves the right to terminate any link at any time.

22. Amendments; Complete Agreement.

You agree that we may from time to time amend or add to these Terms. Notice of such amendments will be posted on the Sites. In addition, we may, at our discretion, provide you with additional notice of amendments within the Game or Applications. Your use of the any of the Services after the effective date of any amendments shall be your consent to these Terms as amended. If you do not want to be bound by these Terms, you will need to terminate your registration, if any, uninstall the Applications you have downloaded and/or refrain from using the Sites or The Digging Deep Project Game or Applications after that date. These Terms and any Amendments, your registration and any consents provided by you and the disclosures provided by us on the Sites and/or the Applications constitute the entire agreement between you and us and supersede any prior written or oral agreements between the parties.

23. No Waiver of Contractual Rights.

The failure of either party to enforce any provision of these Terms shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of these Terms.

24. Severability.

If any provision of these Terms shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of these Terms is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

25. Applicable Laws.

The Digging Deep Project is based in Los Angeles, California. Access to the Site or Applications from any territory where the content is illegal is prohibited. If you choose to access the Site or use the Applications from other locations, you do so at your own risk and are solely responsible for compliance with any and all applicable laws, rules and regulations. The display of the Site or use of an Application alone does not subject The Digging Deep Project to any specific jurisdiction. You may not use or export any of the Site content or Applications in violation of U.S. export laws and regulations. Any claim related to the use of the Site or the Applications shall be governed by, construed and enforced in accordance with the laws of the State of California as applied to agreements made and to be performed entirely therein.

Any action brought in connection with the Site or Applications or any other The Digging Deep Project content or services shall be brought in either the state or federal courts with jurisdiction in San Francisco County, California. The parties hereby waive any claim or defense that such forum is not convenient or proper and consent to service of process by any means authorized by California law. Translations of these Terms have been provided for your convenience only; the English-language version of these Terms shall control in all respects in any dispute.

26. Adherence to hipaa and coppa.

The Digging Deep Project has set forth the minimum, age of 13 (16 in the European Union) for its users and therefore is not legally bound to COPPA compliance, however, we do strongly believe in the regulations as set forth in COPPA and takes all reasonable actions to ensure that our users are at least 13 years (16 years in the European Union) of age. Information of our standards and protocols are available on www.shadowledge.com/terms.

The Digging Deep Project is not a healthcare nor a commercial organization, however, we take all reasonable efforts to comply as far as applicable to the HIPAA standards. Information of our standards and protocols are available on www.diggingdeep.org/terms.

27. General Notices.

All notices required by or allowed under these Terms, including notices of problems and/or inaccuracies in the Site or Applications should be addressed to:

The Digging Deep Project

c/o The Giving Back Fund

2208 Canyonback Road

Los Angeles, CA 90049-1177

USA

With respect to our notices to you, we may provide notice of any amendments to these Terms by posting them on the Site and you agree to check for changes.

28. Notice of Copyright Infringement.

The Digging Deep Project respects the intellectual property rights of others and requests that you do the same. Anyone who believes that his, her or its work has been reproduced on the Site in a way that constitutes copyright infringement may provide a notice to The Digging Deep Project containing the following:

- an electronic or physical signature of a person authorized to act on behalf of the owner of the copyright interest;
- identification of the copyrighted work claimed to have been infringed;
- identification of the material that is claimed to be infringing and information reasonably sufficient to permit The Digging Deep Project to locate the material;
- the address, telephone number, and, if available, an e-mail address at which the complaining party may be contacted;
- a representation 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; and
- a representation 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.

Copyright infringement claims and notices should be sent to the attention of legal department, by mail to:

The Digging Deep Project

c/o The Giving Back Fund

2208 Canyonback Road

Los Angeles, CA 90049-1177

USA

If The Digging Deep Project receives proper notification of infringement pursuant to the procedure set forth above, we will take reasonable steps to notify the party who originally posted it (the "posting party") and ask that the material has been removed. If such removal is not possible, The Digging Deep Project will take disable the account of the posting party.

29. Electronic Communications Privacy Act Notice (18.U.S.C 2701-2711).

We make no guaranty of confidentiality or privacy of any communication or information transmitted through the Applications or on the site or any web site linked to the site or through the Applications. We will not be liable for the privacy of e-mail addresses, registration and identification information, disk space, communications, confidential or trade-secret information, or any other content stored on our equipment, transmitted over networks accessed by the Sites, or otherwise connected with your use of the Sites or Applications.

LATER NOTIFICATIONS

Most of our Applications are capable of sending you notifications, known as pop-ups and push notifications and will send you such notifications to alert you to in-Application activity (completed tasks, missions and the like) as well as promotions and sales for in-Application content. You may choose to not receive or stop receiving such notifications by either playing in an off-line mode or a changing your device settings to decline or disable such notifications.

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