

Complaint

IN THE MATTER OF

PROGRESSIVE GAITWAYS LLCCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4271; File No. 092 3141**Complaint, November 9, 2009 - Decision, November 9, 2009*

This consent order addresses respondent Progressive Gaitways LLC, providers of software and consulting services to businesses with employees residing outside of origin. Respondent manages tax and payroll issues for employees that work outside their country of residence. The complaint alleges the respondent violated Section 5 of the FTC Act by making false and misleading representations concerning Progressive Gaitways, LLC's participation in the Safe Harbor privacy framework. Safe Harbor is an international program for international data transfer between the U.S. and the European Union. Respondent advertised an incorrect status as to its compliance with the program. The order prohibits Progressive Gaitways, LLC from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Participants

For the *Commission*: Molly Crawford and Katie Ratté

For the *Respondent*: Sheila Heidmiller, Macheledt Bales & Heidmiller LLP.

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The Federal Trade Commission, having reason to believe that Progressive Gaitways LLC ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Progressive Gaitways LLC ("Progressive Gaitways") is a Colorado company with its principal office or place of business at 305 Society Drive, #C-3, Telluride, Colorado 81435.

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2. Respondent is in the business of selling medical equipment, including through two websites (www.theratogs.com and www.gaitways.com).

3. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

4. Since at least December 2008, respondent has set forth on its website, www.theratogs.com, privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union (“U.S.-EU Safe Harbor Framework” or “Safe Harbor”). Since at least June 2007, respondent has set forth on its website, www.gaitways.com, the same privacy policies and statements, including the statements related to participation in the Safe Harbor.

U.S.-EU SAFE HARBOR FRAMEWORK

5. The U.S.-EU Safe Harbor Framework provides a method for U.S. companies to transfer personal data outside of Europe that is consistent with the requirements of the European Union Directive on Data Protection (“Directive”). Enacted in 1995, the Directive sets forth European Union (“EU”) requirements for privacy and the protection of personal data. Among other things, it requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. See Directive 95/46/EC of the European Parliament and of the Council (Oct. 24, 1995), *available at* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML>. This determination is commonly referred to as meeting the EU’s “adequacy” standard.

6. To satisfy the EU adequacy standard for certain commercial transfers, the U.S. Department of Commerce (“Commerce”) and the EC negotiated the U.S.-EU Safe Harbor Framework, which went into effect in 2000. The Safe Harbor allows U.S. companies to transfer personal data lawfully from the EU. To join the Safe Harbor, a company must self-certify to

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Commerce that it complies with seven principles and related requirements that have been deemed to meet the EU's adequacy standard.

7. Companies under the jurisdiction of the U.S. Federal Trade Commission ("FTC"), as well as the U.S. Department of Transportation, are eligible to join the Safe Harbor. A company under the FTC's jurisdiction that self-certifies to the Safe Harbor principles but fails to implement them may be subject to an enforcement action based on the FTC's deception authority under Section 5 of the Federal Trade Commission Act.

8. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is "current" or "not current." Companies are required to re-certify every year in order to retain their status as "current" members of the Safe Harbor framework. According to the Safe Harbor website, "Organizations should notify the Department of Commerce if their representation to the Department is no longer valid. Failure to do so could constitute a misrepresentation." See Safe Harbor List, available at <http://web.ita.doc.gov/safeharbor/shlist.nsf/webPages/safe+harbor+list>.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

9. In November 2004, respondent submitted to Commerce a self-certification to the Safe Harbor on behalf of its www.theratogs.com website. Respondent renewed that self-certification in November 2005.

10. In November 2006, respondent did not renew its self-certification to the Safe Harbor for the www.theratogs.com website, and Commerce updated respondent's status to "not current" on its public website. To date, respondent has not renewed its self-certification to the Safe Harbor and remains in "not current" status on Commerce's website. (Exhibit A, Declaration of Damon C. Greer).

11. From at least December 2008 until June 2009, respondent has disseminated or caused to be disseminated privacy policies

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and statements on the www.theratogs.com website, including, but not limited to, the following statements:

TheraTogs is a participant in the Safe Harbor program developed by the U.S. Department of Commerce and the European Union. We have certified that we adhere to the Safe Harbor Privacy Principles agreed upon by the U.S. and the European Union. For more information about the Safe Harbor and to view our certification, visit the U.S. Department of Commerce's Safe Harbor website at <http://www.export.gov/safeharbor>.

Exhibit B, December 2008 Privacy Policy

12. Through the means described in Paragraph 11, respondent represented, expressly or by implication, that it is a current participant in the Safe Harbor.

13. In truth and in fact, since November 2006, respondent has not been a current participant in the Safe Harbor. Therefore, the representations set forth in Paragraph 11 were, and are, false or misleading.

14. From at least June 2007 until June 2009, respondent has disseminated or caused to be disseminated privacy policies and statements on the www.gaitways.com website, including, but not limited to, the following statements:

PGW [Progressive Gaitways] is a participant in the Safe Harbor program developed by the U.S. Department of Commerce and the European Union. We have certified that we adhere to the Safe Harbor Privacy Principles agreed upon by the U.S. and the European Union. For more information about the Safe Harbor and to view our certification, visit the U.S. Department of Commerce's Safe Harbor website at <http://www.export.gov/safeharbor>.

Exhibit C, December 2008 Privacy Policy.

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2. Respondent has never submitted a self-certification to the Safe Harbor on behalf of its www.gaitways.com website. (Exhibit A, Declaration of Damon C. Greer).

3. Through the means described in Paragraph 14, respondent represented, expressly or by implication, that it is a current participant in the Safe Harbor.

4. In truth and in fact, respondent has never self-certified to the Safe Harbor for its www.gaitways.com website. Therefore, the representations set forth in Paragraph 14 were, and are, false or misleading.

5. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this ninth day of November, 2009, has issued this complaint against respondent.

By the Commission.

Exhibit A

In the Matter of)
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)
 PROGRESSIVE GAITWAYS LLC,) DOCKET NO.
 a limited liability company.)
)
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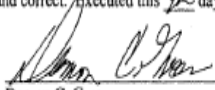
I, Damon C. Greer, based upon my personal knowledge concerning matters to which I am competent to testify, hereby declare as follows:

1. I am the Associate Director for Electronic Commerce in the Office of Technology and Electronic Commerce at the U.S. Department of Commerce ("Commerce"), and I am the lead administrator of the U.S.-E.U. Safe Harbor Framework.
2. Commerce is not a party to the captioned matter.
3. Commerce is responsible for developing and overseeing the U.S.-EU Safe Harbor Framework ("Safe Harbor"), a voluntary program that provides U.S. companies with a method for receiving personal data lawfully from the European Union. To join the Safe Harbor, a company must self-certify to Commerce that it complies with a set of principles that have been deemed to meet the EU's adequacy standard.
4. As Associate Director, I am responsible for maintaining an accurate list of those companies that self-certify to Commerce that they comply with the Safe Harbor principles. As part of my responsibilities, I oversee a public website, www.export.gov/safeharbor, where I post the names of companies that have self-certified. The listing of companies indicates, among other things, whether their self-certification is "current" or "not current." Companies are required to re-certify every year on the anniversary of the date they first self-certified in order to retain their status as "current" members of the Safe Harbor framework.
5. In November 2004, Progressive Gaitways LLC ("PGW") submitted a self-certification to Commerce on behalf of its www.theratogs.com website, which it renewed in November 2005. PGW's next self-certification was due in November 2006.

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6. PGW did not submit a self-certification by the November 2006 deadline, and as a result I updated PGW's status to "not current" on Commerce's public website. To date, I have not received any documents or information from PGW to renew its self-certification. PGW is still in "not current" status on the Commerce website.
7. PGW has never submitted a self-certification to the Safe Harbor on behalf of its www.gaitways.com website.

I declare under penalty of perjury under the Laws of the United States of America that the foregoing is true and correct. Executed this 26 day of June, 2009, in Washington, D.C.



Damon C. Greer
Associate Director for Electronic Commerce
Office of Technology and Electronic Commerce
U.S. Department of Commerce

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Exhibit B

Privacy Policy and Terms and Conditions of Use
for TheraTogs, Inc.
<www.theratogs.com>

Welcome and thank you for visiting the TheraTogs™ product website owned by TheraTogs, Inc. (hereafter the "TheraTogs" website). As used herein, the words "you" and "your" refer to any person or entity accessing the TheraTogs website. The words "we," "us," and "our" refer to the TheraTogs website. The following describes how we handle information we may learn about you from your visit to our website or through other voluntary means and provides the rules that govern your use of our site.

I. These Terms and Conditions Govern Your Use of Our Site

A. *Use of our site constitutes contractual agreement.* AS A CONDITION TO AND IN CONSIDERATION OF ACCESSING AND USING OUR SITE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS OF USE AND BY OUR PRIVACY POLICY (COLLECTIVELY OUR "TERMS AND CONDITIONS"). USING THIS SITE CONSTITUTES YOUR ACCEPTANCE OF AND AGREEMENT TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU SHOULD NOT USE/VISIT OUR SITE.

B. *Amendments to these Terms and Conditions.* We reserve the right to modify, alter, or otherwise update these Terms and Conditions at any time. Any changes will apply prospectively only, as of the effective date found at the bottom of these Terms and Conditions. It is your responsibility to review these Terms and Conditions before accepting them. We may of course change, move, or delete portions of our site, or add to our site from time to time.

II. How to Contact Us

If you have questions about our Terms and Conditions, your dealings with our website, or technical problems with the operation of our website, you may contact us as provided below:

By phone at: 888-634-0495 (toll free) or 970-728-7078

By email at: admin@theratogs.com

III. Exceptions to Our Privacy Policy

There are exceptions to our Privacy Policy in that, if required or allowed by law, it may be necessary for TheraTogs to release or use Personally Identifiable Information we in good faith believe is appropriate in connection with legal proceedings, or in response to a subpoena, warrant, court order, levy, attachment, order of a court-appointed receiver, or other comparable legal process, including subpoenas from private parties in a civil action.

IV. No Medical Advice

Any health or health-related material provided on this site is for information purposes only. It is intended to be general in nature and does not constitute medical advice. TheraTogs is not a health care professional, and any health or health-related material contained on this site should not be used as a substitute for medical advice from a health care professional. THERATOGS ASSUMES NO RESPONSIBILITY FOR HOW YOU USE OR MISUSE THE INFORMATION YOU OBTAIN FROM THIS SITE, AND THERATOGS EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.

V. Policies for Children (Individuals Under the Age of 13)

Our site is not directed to children under the age of 13. If you are under the age of 13, you may not disclose or provide Personally Identifiable Information on our site. Parents and guardians should supervise children's access to the Internet. In the event we discover that a child under the age of 13 has provided Personally Identifiable

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Information to us, in accordance with the Children's Online Privacy Protection Act of 1998, we will delete the child's Personally Identifiable Information from our files to the extent possible.

VI. Safe Harbor

TheraTogs is located in the U.S. If you are located outside the U.S., any information you provide to us will be transferred to the U.S. If you do not wish to have your Personally Identifiable Information leave your country, do not provide the information to us. TheraTogs is a participant in the Safe Harbor program developed by the U.S. Department of Commerce and the European Union. We have certified that we adhere to the Safe Harbor Privacy Principles agreed upon by the U.S. and the European Union. For more information about the Safe Harbor and to view our certification, visit the U.S. Department of Commerce's Safe Harbor website at <http://www.export.gov/safeharbor>. You may also contact us directly (see Section II above) regarding our participation in the Safe Harbor.

VII. Notice

A. The TheraTogs™ product is a Class I medical device intended to be issued by and applied under the supervision of a licensed healthcare practitioner. This website exists for the purpose of fulfilling our mission, which is to improve the mobility and stability of people with lower extremity deformities and movement disorders related to neuromotor dysfunction and pathomechanics. In pursuit of that mission, we design and develop the TheraTogs™ product and other products, provide professional education and development to healthcare practitioners, and provide professional consultation to practitioners and facilities. We may collect, process, and store Personally Identifiable Information electronically and/or in hard copy form. The primary purpose for collecting such data is to further our mission. TheraTogs does not collect sensitive personal data (racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health, sexual orientation, or criminal records).

B. Types of information. Information you may provide in visiting our site falls into two broad categories: personally identifiable information, and aggregate information. "Personally Identifiable Information" is information that can be used to identify or contact you, such as your name, email address, or mailing address. "Aggregate Information" is information that does not identify you, and may include, for example, statistical information concerning the Web pages on our site that users most frequent, or anonymized medical data provided by clinicians. Our Privacy Policy governs both categories of Information. The information we receive depends upon what you do when you visit our site, as detailed below.

C. Personally Identifiable Information. We do not share with unrelated third parties any Personally Identifiable Information you provide to us. By "unrelated third parties" we mean anyone who is not directly involved in the maintenance, hosting, or running of our site, or not involved in fulfilling requests you make at our site. We use Personally Identifiable Information you provide to us only for the purposes for which you have provided it. For example, if you request information about our products, submit feedback and comments, register for an Interservice Kit, order a product, fill out a product/customer registration form, or send us an email, you may provide us with Personally Identifiable Information. We will use any such Personally Identifiable Information only to respond to and/or fulfill your requests. Please note that, if you register for an upcoming event and the event is co-sponsored with another entity (which will be stated), you may also be providing Personally Identifiable Information to the co-sponsor (as well as to us). In any such situation, we will request that any such co-sponsor use the Personally Identifiable Information only for purposes related to registration of the event. If, at any time, you decide you no longer wish to have us contact you and/or provide you with the information/goods/services you requested, simply notify us (see Section II above) to that effect.

D. Aggregate Information. We may collect Aggregate Information about your use of our site through cookies and similar computer/Internet technologies. "Cookies" are small pieces of information that a website transfers to your hard drive, where it is stored by your browser on your computer's hard drive for record-keeping purposes (such as storing user preferences). For instance, if you visit our site to browse or to read or download information, we may collect and store one or more of the following: the name of the domain name and host from which you access the Internet (for example, aol.com); the Internet Protocol (IP) address of the computer you are using; the browser software you use and your operating system; the date and time you access our site, and other activity on our site; and the

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Internet address of the website from which you linked to our site. If we use cookies or other similar computer/Internet technologies, we use the Aggregate Information collected for system administration, to measure the number of visitors to our site, to improve site performance, to help us make our site more useful, to gather broad Aggregate Information, etc. If we use cookies or other similar computer/Internet technologies, they do not collect or retain Personally Identifiable Information, nor do we link Aggregate Information to Personally Identifiable Information. Additionally, we do not authorize any third parties to use cookies we may create at our site for their own purposes. Please be advised, however, that sites you link to from our site may use cookies or other similar computer/Internet technologies in other ways and for other purposes. You should read and understand the privacy policy of the site(s) you link to in order to determine whether and how a particular site uses such technologies. Please note that most browsers are initially set up to accept cookies. You can reset your browser to refuse all cookies or indicate when a cookie is being sent. You should consult the help section of your Web browser software to learn how to do this. Be advised, however, that disabling cookies may prevent you from viewing or using certain Web pages.

E. Third-Party Payment Processing. We use a third party to process online orders. This third party is currently Verisign. Please be advised that Verisign's privacy policy (rather than TheraTogs' Privacy Policy) applies to the processing of your payment and associated handling of your Personally Identifiable Information by Verisign. The privacy policy of Verisign is available on the Web pages where you make an online purchase. You should read the Verisign privacy policy before making an online purchase. If you do not wish to purchase our products online, please contact us (see Section II above) to make other arrangements.

VIII. Choice

You have the opportunity to choose whether your Personally Identifiable Information is disclosed to a third party or used for a purpose that is incompatible with the purpose for which it was originally collected. Currently, TheraTogs does not disclose Personally Identifiable Information to third parties (other than parties that perform functions on behalf of TheraTogs), and we do not use Personally Identifiable Information for any purpose that is incompatible with the purposes for which it was originally collected.

IX. Onward Transfer and Limitations of Use, Disclosure

A. Onward Transfer, Limitations of Use, Disclosure. TheraTogs will only disclose or share Personally Identifiable Information with an outside entity or third party administrator if consistent with the principles of notice and choice, as specified above. By submitting Personally Identifiable Information to us, you authorize certain transfers of such information. For instance, if you request information about a product in a country in which we have a distributor located, we may forward your query to the distributor in that territory. The country in which the distributor is located may or may not be a country the European Union has deemed to have "adequate" data protection laws. However, we will request that the distributor or other party safeguard Personally Identifiable Information consistent with the principles of notice and choice in this Privacy Policy. Additionally, where TheraTogs has knowledge that an agent is using or disclosing Personally Identifiable in a manner contrary to this Privacy Policy, we will take reasonable steps to prevent or stop the use or disclosure.

X. Security

A. Access and security. Each of our employees abides by our Privacy Policy, and only authorized individuals have access to your Personally Identifiable Information. We have in place security control systems designed to help prevent loss or theft and unauthorized access, disclosure, copying, use, or modification of your Personally Identifiable Information. **DUE TO THE NATURE OF THE INTERNET AND DEVELOPING TECHNOLOGIES, HOWEVER, THERATOGS CANNOT GUARANTEE OR WARRANT THE SECURITY OF YOUR INFORMATION, AND THERATOGS EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.**

B. Do not use or access this website via a wireless network. Do not provide Personally Identifiable Information to us using a wireless network, computer, or other device. Even if your machine is running wireless encryption protocols, there is a high security risk inherent in wireless networks. It is impossible for us to make any assurances as to the security of any such transmissions.

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C. Email. If you communicate with us via email, we will share your correspondence with employees, representatives, or agents most capable of addressing your correspondence. We will retain your communication until we have done our very best to provide you with a complete and satisfactory response and may subsequently retain your communication for our records. Please be advised that email does not provide a means for completely secure and private communications. Although reasonable efforts will be made to keep your information confidential, from a technical standpoint, there is still a risk and it is impossible for us to guarantee the security of such transmissions.

D. Password protected areas. TheraTogs does not warrant or represent that the information you submit to password protected areas of our website will be protected against loss, misuse, or alteration by third parties. You are solely responsible for taking all steps to ensure that no other person has access to password protected areas of our site accessed through your password or account. It is your sole responsibility to (1) control the dissemination and use of your password; (2) authorize, monitor, and control access to and use of your password and password protected areas of our site accessed through your password or account; and (3) promptly inform TheraTogs of any need to deactivate a password. You permit TheraTogs and all other persons or entities involved in the operation of our site to transmit, monitor, retrieve, store, and use your Personally Identifiable Information in connection with the operation of password protected areas of our site.

E. Assignment or Transfer of Personally Identifiable Information. TheraTogs might at any time sell certain assets or the company, or parts of it, may be sold, merged, or otherwise transferred. If such a transaction occurs, Personally Identifiable Information may be one of the transferred assets. TheraTogs may assign its rights and duties under these Terms and Conditions to any party at any time without notice to you. In the event TheraTogs assigns or transfers your Personally Identifiable Information and its rights hereunder to a third party, you agree that TheraTogs may do so, on the condition that any such third party agrees to abide by our Privacy Policy as it applies to any Personally Identifiable Information the third party may receive in the course of such assignment or transfer. **THERATOGS, HOWEVER, CANNOT GUARANTEE OR WARRANT THAT SUCH THIRD PARTY WILL IN FACT ABIDE BY OUR PRIVACY POLICY, AND THERATOGS EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.**

XI. Data Integrity

TheraTogs will only collect Personally Identifiable Information relevant to its proposed use. Reasonable measures will be taken to ensure that the information is reliable for its intended use, accurate, complete, and current.

XII. Access

You will generally have access through us to your Personally Identifiable Information, except where such access would impose a disproportionate burden or expense on TheraTogs, or would interfere with the privacy rights of third parties. You may also request, in certain circumstances, that we correct, amend, or delete your Personally Identifiable Information in accordance with local laws. Please understand that it may be impossible to remove information completely, due to backups and records of deletions. We reserve the right to limit the number of requests made under this Section, and to charge a fee for requests exceeding a certain number or if the process is abused or misused. Requests under this Section should be made using the contact information provided above in Section II.

XIII. Enforcement and Accountability

TheraTogs will have compliance reviews conducted as part of the self-audit process, and provide appropriate training to those who have access to Personally Identifiable Information. Anyone who violates our Privacy Policy is subject to disciplinary action, up to and including termination where appropriate and permitted by applicable law.

XIV. Dispute Resolution

Anyone who submits Personally Identifiable Information to TheraTogs who feels we have mishandled the Personally Identifiable Information in violation of the Safe Harbor requirements should contact us (see Section II

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above) with a written description of the complaint. After receiving any such complaint, we will contact you to set up a time and manner to discuss the complaint. If these good faith efforts to resolve the complaint fail, you may contact an independent dispute resolution body. TheraTogs agrees to submit to mediation and/or arbitration through the American Arbitration Association for any such unresolved complaints. Any complaint shall be resolved in a manner consistent with the Safe Harbor principles in a manner necessary to remedy the effects of noncompliance and to assure that future processing of personal data will be in conformity with the Safe Harbor principles.

XV. Links to Other Websites

Our site may contain links to other sites ("Third Party Sites"). We do not necessarily endorse, sanction, or verify any of these Third Party Sites or anything posted on these sites, and we provide such links merely for the convenience of our users. Once you access a Third Party Site through a link on our site, you are subject to the privacy policy and terms and conditions of use of the Third Party Site. We have no control and bear no responsibility for any action or policy associated with any Third Party Site. Concerns regarding these sites should be directed to the Third Party Sites.

XVI. Ownership of Site Contents; Downloading

Unless otherwise noted, all text, images, illustrations, designs, icons, photographs, video clips, and other materials that are part of our site (collectively the "Materials") are copyrighted works, trademarks, trade dress, or other intellectual properties owned, controlled, or licensed by TheraTogs or used under principles of "fair use." The Materials of our site and the site as a whole are intended solely for your personal use. You may download or copy the Materials for such personal use, provided that you do not remove any copyright or other proprietary notices contained on the Materials. By allowing you to download these Materials for personal use, we expressly do not transfer to you any right, title, or interest in the Materials.

XVII. User Comments

All comments, feedback, postcards, suggestions, ideas, and other submissions disclosed, submitted, or offered to TheraTogs through our site or otherwise disclosed, submitted, or offered in connection with your use of our site (collectively "User Comments") shall be and remain the property of TheraTogs. You agree that TheraTogs may use or disclose User Comments in any manner consistent with our Privacy Policy. TheraTogs shall be free to use, without restriction and without compensation to you, any ideas, concepts, know-how, suggestions, or techniques contained in any User Comments you send to us for any purpose whatsoever. TheraTogs has no obligation to respond to any User Comments, and we reserve the right, but undertake no duty, to review, edit, move, or delete any User Comments, in our sole discretion and without notice.

XVIII. Content of User-Posted Information; Other Use of Our Site

You are prohibited from posting or transmitting any advertising "spam," unlawful material, or other material we deem otherwise inappropriate for our site. **THERATOGS DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY ARISING FROM, CONNECTED TO, OR ASSOCIATED WITH THE CONTENT OF ANY USER POSTINGS.** You agree to refrain from undertaking any activity that imposes an unreasonable or disproportionate burden on our site. TheraTogs reserves the sole discretion to deny, revoke, or otherwise restrict the access privileges of any user who at any time fails to comply with these Terms and Conditions.

XIX. Complaints Regarding Perceived Infringement

TheraTogs respects intellectual property rights, and will deny access to our site to anyone who, in our discretion, repeatedly infringes the intellectual property rights of others. In addition, we will use reasonable efforts, in light of our resources, to accommodate generally accepted technical measures used by copyright owners to identify and protect their copyrighted works. If you believe materials posted on our site infringe rights you enjoy under copyright law in specific materials (collectively a "Work"), we request that you direct your concerns to our "Designated Agent" provided below, pursuant to the Digital Millennium Copyright Act (17 U.S.C. §512) (hereafter the "DMCA"). Your notice to our Designated Agent should follow the notice provisions set out in the DMCA.

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Additional information about the DMCA can be obtained from the website of the Copyright Office located at <http://www.loc.gov>. Upon receiving your notice, we agree to respond to it and, if appropriate, remove or disable access to material you believe infringes your Work.

Designated Agent: Sheila M. Heidmiller, Esq.
 Macheledt Bales & Heidmiller LLP
 Las Sendas Suites
 7248 E. Tasman Street
 Mesa, AZ 85207
 Phone: 480-773-7807
 Email: sheilah@mbh-law.com

XX. Disclaimer and Limitation of Liability

A. Disclaimer. While we use reasonable efforts to include accurate and up-to-date information on our site, we make no warranties or representations as to its accuracy. TheraTogs assumes no liability or responsibility for any errors or omissions in the content on our site. OUR SITE AND ALL CONTENTS OF OUR SITE ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU ACKNOWLEDGE THAT YOUR USE OF OUR SITE IS AT YOUR SOLE RISK, THAT YOU ASSUME FULL RESPONSIBILITY FOR ALL COSTS ASSOCIATED WITH ALL NECESSARY SERVICING OR REPAIRS OF ANY EQUIPMENT YOU USE IN CONNECTION WITH YOUR USE OF OUR SITE, AND THAT THERATOGS SHALL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND RELATED TO YOUR USE OF OUR SITE. 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.

B. Limitation of Liability. NEITHER THERATOGS NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, HOSTING, OR DEVELOPING OUR SITE SHALL BE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES ARISING OUT OF YOUR ACCESS TO OR USE OF OUR SITE. THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER USE OF ANY MATERIALS THROUGH OUR SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, LOSS OF DATA, OR OTHER HARM THAT RESULTS FROM SUCH ACTIVITIES. THERATOGS ASSUMES NO LIABILITY FOR ANY COMPUTER VIRUS, WORM, OR OTHER SIMILAR SOFTWARE CODE THAT MAY BE DOWNLOADED TO YOUR COMPUTER FROM OUR SITE OR IN CONNECTION WITH ANY SERVICES OR MATERIALS OFFERED THROUGH OUR SITE. THERATOGS WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF OUR SITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION OF CONTRACT OR NEGLIGENCE OR OTHER TORTIOUS ACTION. Some jurisdictions prohibit the exclusion or limitation of liability for consequential or incidental damages. Accordingly, some of the limitations and exclusions set forth above may not apply to you.

XXI. Indemnification

You agree to defend, indemnify and hold TheraTogs harmless from and against any and all claims, damages, costs, and expenses, including attorney's fees, arising from or in any way related to your failure to comply with these Terms and Conditions of your use of our site.

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XXII. Choice of Law and Jurisdiction

Unless otherwise specified, our site and the Contents thereof are displayed solely for the purpose of promoting the mission of TheraTogs. Subject to Section XIV, these Terms and Conditions shall be construed in accordance with the laws of the State of Colorado, without regard to any conflict of law provisions. Subject to Section XIV, any dispute arising under these Terms and Conditions shall be resolved exclusively by the state or federal courts sitting in Colorado.

XXIII. Headings

The headings in these Terms and Conditions are included solely for convenience and will not limit or otherwise affect this Privacy Policy or any interpretation thereof.

XXIV. Severability

If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions, or any portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms & Conditions, and the remainder of these Terms and Conditions shall continue in full force and effect.

XXV. Non-Transferability

Your right to use our site and your duties and obligations under these Terms and Conditions are NOT transferable.

© 2006 TheraTogs, Inc. All rights reserved.

Effective Date: January 10, 2006

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Exhibit C

Privacy Policy and Terms and Conditions of Use
for Progressive GaitWays, LLC.
<www.gaitways.com>

Welcome and thank you for visiting the PGW product website owned by Progressive GaitWays, LLC, thereafter the "PGW" website). As used herein, the words "you" and "your" refer to any person or entity accessing the PGW website. The words "we," "us," and "our" refer to the PGW website. The following describes how we handle information we may learn about you from your visit to our website or through other voluntary means and provides the rules that govern your use of our site.

I. These Terms and Conditions Govern Your Use of Our Site

A. *Use of our site constitutes contractual agreement.* AS A CONDITION TO AND IN CONSIDERATION OF ACCESSING AND USING OUR SITE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS OF USE AND BY OUR PRIVACY POLICY (COLLECTIVELY OUR "TERMS AND CONDITIONS"). USING THIS SITE CONSTITUTES YOUR ACCEPTANCE OF AND AGREEMENT TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU SHOULD NOT USE/VISIT OUR SITE.

B. *Amendments to these Terms and Conditions.* We reserve the right to modify, alter, or otherwise update these Terms and Conditions at any time. Any changes will apply prospectively only, as of the effective date found at the bottom of these Terms and Conditions. It is your responsibility to review these Terms and Conditions before accepting them. We may of course change, move, or delete portions of our site, or add to our site from time to time.

II. How to Contact Us

If you have questions about our Terms and Conditions, your dealings with our website, or technical problems with the operation of our website, you may contact us as provided below:

By phone at: (888) 396-7241

By email at: admin@gaitways.com

III. Exceptions to Our Privacy Policy

There are exceptions to our Privacy Policy in that, if required or allowed by law, it may be necessary for PGW to release or use Personally Identifiable Information we in good faith believe is appropriate in connection with legal proceedings, or in response to a subpoena, warrant, court order, levy, attachment, order of a court-appointed receiver, or other comparable legal process, including subpoenas from private parties in a civil action.

IV. No Medical Advice

Any health or health-related material provided on this site is for information purposes only. It is intended to be general in nature and does not constitute medical advice. PGW is not a health care professional, and any health or health-related material contained on this site should not be used as a substitute for medical advice from a health care professional. PGW ASSUMES NO RESPONSIBILITY FOR HOW YOU USE OR MISUSE THE INFORMATION YOU OBTAIN FROM THIS SITE, AND PGW EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.

V. Policies for Children (Individuals Under the Age of 13)

Our site is not directed to children under the age of 13. If you are under the age of 13, you may not disclose or provide Personally Identifiable Information on our site. Parents and guardians should supervise children's access to the Internet. In the event we discover that a child under the age of 13 has provided Personally Identifiable

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Information to us, in accordance with the Children's Online Privacy Protection Act of 1998, we will delete the child's Personally Identifiable Information from our files to the extent possible.

VI. Safe Harbor

PGW is located in the U.S. If you are located outside the U.S., any information you provide to us will be transferred to the U.S. If you do not wish to have your Personally Identifiable Information leave your country, do not provide the information to us. PGW is a participant in the Safe Harbor program developed by the U.S. Department of Commerce and the European Union. We have certified that we adhere to the Safe Harbor Privacy Principles agreed upon by the U.S. and the European Union. For more information about the Safe Harbor and to view our certification, visit the U.S. Department of Commerce's Safe Harbor website at <http://www.export.gov/safeharbor>. You may also contact us directly (see Section II above) regarding our participation in the Safe Harbor.

VII. Notice

A. Types of information. Information you may provide in visiting our site falls into two broad categories: personally identifiable information, and aggregate information. "Personally Identifiable Information" is information that can be used to identify or contact you, such as your name, email address, or mailing address. "Aggregate Information" is information that does not identify you, and may include, for example, statistical information concerning the Web pages on our site that users most frequent, or anonymized medical data provided by clinicians. Our Privacy Policy governs both categories of information. The information we receive depends upon what you do when you visit our site, as detailed below.

B. Personally Identifiable Information. We do not share with unrelated third parties any Personally Identifiable Information you provide to us. By "unrelated third parties" we mean anyone who is not directly involved in the maintenance, hosting, or running of our site, or not involved in fulfilling requests you make at our site. We use Personally Identifiable Information you provide to us only for the purposes for which you have provided it. For example, if you request information about our products, submit feedback and comments, register for an Inservice Kit, order a product, fill out a product/customer registration form, or send us an email, you may provide us with Personally Identifiable Information. We will use any such Personally Identifiable Information only to respond to and/or fulfill your requests. Please note that, if you register for an upcoming event and the event is co-sponsored with another entity (which will be stated), you may also be providing Personally Identifiable Information to the co-sponsor (as well as to us). In any such situation, we will request that any such co-sponsor use the Personally Identifiable Information only for purposes related to registration of the event. If, at any time, you decide you no longer wish to have us contact you and/or provide you with the information/goods/services you requested, simply notify us (see Section II above) to that effect.

C. Aggregate Information. We may collect Aggregate Information about your use of our site through cookies and similar computer/Internet technologies. "Cookies" are small pieces of information that a website transfers to your hard drive, where it is stored by your browser on your computer's hard drive for record-keeping purposes (such as storing user preferences). For instance, if you visit our site to browse or to read or download information, we may collect and store one or more of the following: the name of the domain name and host from which you access the Internet (for example, aol.com); the Internet Protocol (IP) address of the computer you are using; the browser software you use and your operating system; the date and time you access our site, and other activity on our site; and the Internet address of the website from which you linked to our site. If we use cookies or other similar computer/Internet technologies, we use the Aggregate Information collected for system administration, to measure the number of visitors to our site, to improve site performance, to help us make our site more useful, to gather broad Aggregate Information, etc. If we use cookies or other similar computer/Internet technologies, they do not collect or retain Personally Identifiable Information, nor do we link Aggregate Information to Personally Identifiable Information. Additionally, we do not authorize any third parties to use cookies we may create at our site for their own purposes. Please be advised, however, that sites you link to from our site may use cookies or other similar computer/Internet technologies in other ways and for other purposes. You should read and understand the privacy policy of the site(s) you link to in order to determine whether and how a particular site uses such technologies. Please note that most browsers are initially set up to accept cookies. You can reset your browser to refuse all cookies or indicate when a cookie is being

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sent. You should consult the help section of your Web browser software to learn how to do this. Be advised, however, that disabling cookies may prevent you from viewing or using certain Web pages.

D. Third-Party Payment Processing. We use a third party to process online orders. This third party is currently ECommerce Exchange. Please be advised that ECommerce Exchange's privacy policy (rather than PGW's Privacy Policy) applies to the processing of your payment and associated handling of your Personally Identifiable Information by ECommerce Exchange. The privacy policy of ECommerce Exchange is available on the Web pages where you make an online purchase. You should read the ECommerce Exchange privacy policy before making an online purchase. If you do not wish to purchase our products online, please contact us (see Section II above) to make other arrangements.

VIII. Choice

You have the opportunity to choose whether your Personally Identifiable Information is disclosed to a third party or used for a purpose that is incompatible with the purpose for which it was originally collected. Currently, PGW does not disclose Personally Identifiable Information to third parties (other than parties that perform functions on behalf of PGW), and we do not use Personally Identifiable Information for any purpose that is incompatible with the purposes for which it was originally collected.

IX. Onward Transfer and Limitations of Use, Disclosure

A. Onward Transfer, Limitations of Use, Disclosure. PGW will only disclose or share Personally Identifiable Information with an outside entity or third party administrator if consistent with the principles of notice and choice, as specified above. By submitting Personally Identifiable Information to us, you authorize certain transfers of such information. For instance, if you request information about a product in a country in which we have a distributor located, we may forward your query to the distributor in that territory. The country in which the distributor is located may or may not be a country the European Union has deemed to have "adequate" data protection laws. However, we will request that the distributor or other party safeguard Personally Identifiable Information consistent with the principles of notice and choice in this Privacy Policy. Additionally, where PGW has knowledge that an agent is using or disclosing Personally Identifiable Information in a manner contrary to this Privacy Policy, we will take reasonable steps to prevent or stop the use or disclosure.

X. Security

A. Access and security. Each of our employees abides by our Privacy Policy, and only authorized individuals have access to your Personally Identifiable Information. We have in place security control systems designed to help prevent loss or theft and unauthorized access, disclosure, copying, use, or modification of your Personally Identifiable Information. **DUE TO THE NATURE OF THE INTERNET AND DEVELOPING TECHNOLOGIES, HOWEVER, PGW CANNOT GUARANTEE OR WARRANT THE SECURITY OF YOUR INFORMATION, AND PGW EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.**

B. Do not use or access this website via a wireless network. Do not provide Personally Identifiable Information to us using a wireless network, computer, or other device. Even if your machine is running wireless encryption protocols, there is a high security risk inherent in wireless networks. It is impossible for us to make any assurances as to the security of any such transmissions.

C. Email. If you communicate with us via email, we will share your correspondence with employees, representatives, or agents most capable of addressing your correspondence. We will retain your communication until we have done our very best to provide you with a complete and satisfactory response and may subsequently retain your communication for our records. Please be advised that email does not provide a means for completely secure and private communications. Although reasonable efforts will be made to keep your information confidential, from a technical standpoint, there is still a risk and it is impossible for us to guarantee the security of such transmissions.

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D. Password protected areas. PGW does not warrant or represent that the information you submit to password protected areas of our website will be protected against loss, misuse, or alteration by third parties. You are solely responsible for taking all steps to ensure that no other person has access to password protected areas of our site accessed through your password or account. It is your sole responsibility to (1) control the dissemination and use of your password; (2) authorize, monitor, and control access to and use of your password and password protected areas of our site accessed through your password or account; and (3) promptly inform PGW of any need to deactivate a password. You permit PGW and all other persons or entities involved in the operation of our site to transmit, monitor, retrieve, store, and use your Personally Identifiable Information in connection with the operation of password protected areas of our site.

E. Assignment or Transfer of Personally Identifiable Information. PGW might at any time sell certain assets or the company, or parts of it, may be sold, merged, or otherwise transferred. If such a transaction occurs, Personally Identifiable Information may be one of the transferred assets. PGW may assign its rights and duties under these Terms and Conditions to any party at any time without notice to you. In the event PGW assigns or transfers your Personally Identifiable Information and its rights hereunder to a third party, you agree that PGW may do so, on the condition that any such third party agrees to abide by our Privacy Policy as it applies to any Personally Identifiable Information the third party may receive in the course of such assignment or transfer. **PGW, HOWEVER, CANNOT GUARANTEE OR WARRANT THAT SUCH THIRD PARTY WILL IN FACT ABIDE BY OUR PRIVACY POLICY, AND PGW EXPRESSLY DISCLAIMS ANY SUCH OBLIGATIONS.**

XI. Data Integrity

PGW will only collect Personally Identifiable Information relevant to its proposed use. Reasonable measures will be taken to ensure that the information is reliable for its intended use, accurate, complete, and current.

XII. Access

You will generally have access through us to your Personally Identifiable Information, except where such access would impose a disproportionate burden or expense on PGW, or would interfere with the privacy rights of third parties. You may also request, in certain circumstances, that we correct, amend, or delete your Personally Identifiable Information in accordance with local laws. Please understand that it may be impossible to remove information completely, due to backups and records of deletions. We reserve the right to limit the number of requests made under this Section, and to charge a fee for requests exceeding a certain number or if the process is abused or misused. Requests under this Section should be made using the contact information provided above in Section II.

XIII. Enforcement and Accountability

PGW will have compliance reviews conducted as part of the self-audit process, and provide appropriate training to those who have access to Personally Identifiable Information. Anyone who violates our Privacy Policy is subject to disciplinary action, up to and including termination where appropriate and permitted by applicable law.

XIV. Dispute Resolution

Anyone who submits Personally Identifiable Information to PGW who feels we have mishandled the Personally Identifiable Information in violation of the Safe Harbor requirements should contact us (see Section II above) with a written description of the complaint. After receiving any such complaint, we will contact you to set up a time and manner to discuss the complaint. If these good faith efforts to resolve the complaint fail, you may contact an independent dispute resolution body. PGW agrees to submit to mediation and/or arbitration through the American Arbitration Association for any such unresolved complaints. Any complaint shall be resolved in a manner consistent with the Safe Harbor principles in a manner necessary to remedy the effects of noncompliance and to assure that future processing of personal data will be in conformity with the Safe Harbor principles.

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XV. Links to Other Websites

Our site may contain links to other sites ("Third Party Sites"). We do not necessarily endorse, sanction, or verify any of these Third Party Sites or anything posted on these sites, and we provide such links merely for the convenience of our users. Once you access a Third Party Site through a link on our site, you are subject to the privacy policy and terms and conditions of use of the Third Party Site. We have no control and bear no responsibility for any action or policy associated with any Third Party Site. Concerns regarding these sites should be directed to the Third Party Sites.

XVI. Ownership of Site Contents; Downloading

Unless otherwise noted, all text, images, illustrations, designs, icons, photographs, video clips, and other materials that are part of our site (collectively the "Materials") are copyrighted works, trademarks, trade dress, or other intellectual properties owned, controlled, or licensed by PGW or used under principles of "fair use." The Materials of our site and the site as a whole are intended solely for your personal use. You may download or copy the Materials for such personal use, provided that you do not remove any copyright or other proprietary notices contained on the Materials. By allowing you to download these Materials for personal use, we expressly do not transfer to you any right, title, or interest in the Materials.

XVII. User Comments

All comments, feedback, postcards, suggestions, ideas, and other submissions disclosed, submitted, or offered to PGW through our site or otherwise disclosed, submitted, or offered in connection with your use of our site (collectively "User Comments") shall be and remain the property of PGW. You agree that PGW may use or disclose User Comments in any manner consistent with our Privacy Policy. PGW shall be free to use, without restriction and without compensation to you, any ideas, concepts, know-how, suggestions, or techniques contained in any User Comments you send to us for any purpose whatsoever. PGW has no obligation to respond to any User Comments, and we reserve the right, but undertake no duty, to review, edit, move, or delete any User Comments, in our sole discretion and without notice.

XVIII. Content of User-Posted Information; Other Use of Our Site

You are prohibited from posting or transmitting any advertising, "spam," unlawful material, or other material we deem otherwise inappropriate for our site. **PGW DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY ARISING FROM, CONNECTED TO, OR ASSOCIATED WITH THE CONTENT OF ANY USER POSTINGS.** You agree to refrain from undertaking any activity that imposes an unreasonable or disproportionate burden on our site. PGW reserves the sole discretion to deny, revoke, or otherwise restrict the access privileges of any user who at any time fails to comply with these Terms and Conditions.

XIX. Complaints Regarding Perceived Infringement

PGW respects intellectual property rights, and will deny access to our site to anyone who, in our discretion, repeatedly infringes the intellectual property rights of others. In addition, we will use reasonable efforts, in light of our resources, to accommodate generally accepted technical measures used by copyright owners to identify and protect their copyrighted works. If you believe materials posted on our site infringe rights you enjoy under copyright law in specific materials (collectively a "Work"), we request that you direct your concerns to our "Designated Agent" provided below, pursuant to the Digital Millennium Copyright Act (17 U.S.C. §312) (hereafter the "DMCA"). Your notice to our Designated Agent should follow the notice provisions set out in the DMCA. Additional information about the DMCA can be obtained from the website of the Copyright Office located at www.copyright.gov. Upon receiving your notice, we agree to respond to it and, if appropriate, remove or disable access to material you believe infringes your Work.

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Designated Agent: Sheila M. Heidmiller, Esq.
Machelski Bates & Heidmiller LLP
Las Sendas Suites
7248 E. Tasman Street
Mesa, AZ 85207
Phone: 480-773-7807
Email: sheilah@mbh-law.com

XX. Disclaimer and Limitation of Liability

A. Disclaimer. While we use reasonable efforts to include accurate and up-to-date information on our site, we make no warranties or representations as to its accuracy. PGW assumes no liability or responsibility for any errors or omissions in the content on our site. **OUR SITE AND ALL CONTENTS OF OUR SITE ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU ACKNOWLEDGE THAT YOUR USE OF OUR SITE IS AT YOUR SOLE RISK, THAT YOU ASSUME FULL RESPONSIBILITY FOR ALL COSTS ASSOCIATED WITH ALL NECESSARY SERVICING OR REPAIRS OF ANY EQUIPMENT YOU USE IN CONNECTION WITH YOUR USE OF OUR SITE, AND THAT PGW SHALL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND RELATED TO YOUR USE OF OUR SITE.** 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.

B. Limitation of Liability. **NEITHER PGW NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, HOSTING, OR DEVELOPING OUR SITE SHALL BE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES ARISING OUT OF YOUR ACCESS TO OR USE OF OUR SITE. THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER USE OF ANY MATERIALS THROUGH OUR SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, LOSS OF DATA, OR OTHER HARM THAT RESULTS FROM SUCH ACTIVITIES. PGW ASSUMES NO LIABILITY FOR ANY COMPUTER VIRUS, WORM, OR OTHER SIMILAR SOFTWARE CODE THAT MAY BE DOWNLOADED TO YOUR COMPUTER FROM OUR SITE OR IN CONNECTION WITH ANY SERVICES OR MATERIALS OFFERED THROUGH OUR SITE. PGW WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF OUR SITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION OF CONTRACT OR NEGLIGENCE OR OTHER TORTIOUS ACTION. Some jurisdictions prohibit the exclusion or limitation of liability for consequential or incidental damages. Accordingly, some of the limitations and exclusions set forth above may not apply to you.**

XXI. Indemnification

You agree to defend, indemnify and hold PGW harmless from and against any and all claims, damages, costs, and expenses, including attorney's fees, arising from or in any way related to your failure to comply with these Terms and Conditions or your use of our site.

XXII. Choice of Law and Jurisdiction

Unless otherwise specified, our site and the Contents thereof are displayed solely for the purpose of promoting the mission of PGW. Subject to Section XIV, these Terms and Conditions shall be construed in accordance with the laws of the State of Colorado, without regard to any conflict of law provisions. Subject to Section XIV, any dispute

Complaint

arising under these Terms and Conditions shall be resolved exclusively by the state or federal courts sitting in Colorado.

XXIII. Headings

The headings in these Terms and Conditions are included solely for convenience and will not limit or otherwise affect this Privacy Policy or any interpretation thereof.

XXIV. Severability

If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions, or any portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms & Conditions, and the remainder of these Terms and Conditions shall continue in full force and effect.

XXV. Non-Transferability

Your right to use our site and your duties and obligations under these Terms and Conditions are NOT transferable.

© 2007 Progressive GaitWays, LLC. All rights reserved.

Effective Date: May 1, 2007

Decision and Order

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of a draft of Complaint, which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the Respondent with violation of the Federal Trade Commission Act; and

The Respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the Respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by the Respondent that the law has been violated as alleged in such complaint, or that any of the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Progressive Gaitways LLC is a Colorado company with its principal office or place of business at 305 Society Drive, #C-3, Telluride, Colorado 81435.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

Decision and Order

ORDER

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

- A. Unless otherwise specified, “respondent” shall mean Progressive Gaitways LLC and its subsidiaries, divisions, affiliates, successors and assigns.
- B. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, website, or other device, in connection with the advertising, marketing, promotion, offering for sale, or sale of any product or service, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication, the extent to which respondent is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy, security, or any other compliance program sponsored by the government or any other third party.

II.

IT IS FURTHER ORDERED that respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, a print or electronic copy of, for a period of five (5) years from the date of preparation or dissemination, whichever is later, all documents relating to compliance with this order, including but not limited to:

- A. all advertisements, promotional materials, and any other statements containing any representations covered by this order, with all materials relied upon in disseminating the representation; and

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- B. any documents, whether prepared by or on behalf of respondent, that calls into question respondent's compliance with this order.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to such current personnel within thirty (30) days after service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including, but not limited to: a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation(s) about which respondent learns fewer than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after service of this order, and at such other times as the Commission may require, file with the Commission a

Decision and Order

report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VI.

This order will terminate on November 9, 2029, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. any Part in this order that terminates in fewer than twenty (20) years;
- B. this order's application to any respondent that is not named as a defendant in such complaint; and
- C. this order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, a consent agreement from Progressive Gaitways, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter concerns alleged false or misleading representations that Progressive Gaitways made to consumers concerning its participation in the Safe Harbor privacy framework (“Safe Harbor”) agreed upon by the U.S. and the European Union (“EU”). It is among the Commission’s first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (“Commerce”) that it complies with seven principles and related requirements. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is “current” or “not current.” Companies are required to re-certify every year in order to retain their status as “current” members of the Safe Harbor framework.

Progressive Gaitways sells medical equipment, including through two websites (www.theratogs.com and www.gaitways.com). According to the Commission’s complaint, from at least December 2008 until June 2009, Progressive Gaitways’ www.theratogs.com website set forth privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor. From at least June 2007 until June 2009, respondent has set forth on its website, www.gaitways.com, the same privacy policies and statements,

Analysis to Aid Public Comment

including the statements related to participation in the Safe Harbor.

The Commission's complaint alleges that until June 2009, Progressive Gaitways falsely represented that it was a current participant in the Safe Harbor when, in fact, Progressive Gaitways has not been a current participant in the Safe Harbor since November 2006 for its www.theratogs.com website, and had never been a participant in the Safe Harbor for its www.gaitways.com website. The Commission's complaint alleges that Progressive Gaitways submitted a Safe Harbor self-certification on behalf of its www.theratogs.com website in November 2004 and renewed it in November 2005. It did not renew the self-certification in November 2006, at which point Commerce updated its status to "not current" on the Commerce public website. To date, Progressive Gaitways has not renewed its self-certification to the Safe Harbor on behalf of www.theratogs.com. The Commission's proposed complaint also alleges that Progressive Gaitways has never filed a Safe Harbor self-certification on behalf of its www.gaitways.com website.

The proposed order applies to Progressive Gaitways's representations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party. It contains provisions designed to prevent Progressive Gaitways from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits Progressive Gaitways from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Progressive Gaitways to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Progressive Gaitways submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI

Analysis to Aid Public Comment

is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

COLLECTIFY LLCCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4272; File No. 092 3142**Complaint, November 9, 2009 - Decision, November 9, 2009*

This consent order addresses respondent Collectify, LLC, providers of software and consulting services to businesses with employees residing outside of origin. Respondent manages tax and payroll issues for employees that work outside their country of residence. The complaint alleges the respondent violated Section 5 of the FTC Act by making false and misleading representations concerning Collectify, LLC's participation in the Safe Harbor privacy framework. Safe Harbor is an international program for international data transfer between the U.S. and the European Union. Respondent advertised an incorrect status as to its compliance with the program. The order prohibits Collectify, LLC from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Participants

For the *Commission*: Molly Crawford and Katie Ratté

For the *Respondents*: Karl M. Zielaznicki, Troutman Sanders, LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that Collectify LLC ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Collectify LLC ("Collectify") is a Delaware corporation with its principal office or place of business at 235 East 73rd Street, Suite 3C, New York, New York 10012.
2. Respondent is in the business of selling comprehensive cataloguing software to consumers over the internet, including through a website (www.collectify.com).