



# THE NEW YORK CITY BAR ASSOCIATION INSURANCE PROGRAM WEBSITE TERMS OF USE

Effective

Date:

11/02/2016

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**Important: Please read all of the following Terms of Use carefully, and ensure you understand them before using this Website. This Terms of Use Agreement is a legally binding agreement between you and Lockton Affinity, LLC. If you do not agree to these Terms of Use, please refrain from using this website.**

Welcome to the <http://nycbarinsurance.com> Site ("our Site" or "this Site"). This Site is operated by Lockton Affinity, LLC ("Lockton Affinity"/ "Affinity"/ "we"/ "us"/ "our"). We prepared this Terms of Use Agreement ("Agreement") to explain the terms that apply to your use of this Website.

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## 1. Legally Binding Agreement

This Agreement has been prepared as a legally binding license agreement that conditions your use of this Site. This Agreement is for the purpose of protecting our rights in order to provide you with access to the free Content and other features available on our Site. **If you do not want to be bound by all terms of this Agreement, you should immediately exit this Site and discontinue all use of our Site. If you remain on our Site or return at any point in the future, you agree to be bound by this Agreement.**

Additional terms may be placed upon your purchase of the services and/or policies contained on our Site, and on your use of certain features on our Site (e.g., posting blog comments). These additional terms will be specifically set forth in connection with such purchases and/or usage of features. **By making such purchases and/or using such features, you agree to be bound by all additional terms connected to such purchases and/or features. If you do not want to be bound by such additional terms in connection with the purchase of services and/or policies addressed on our Site or in connection with your use of any features on our Site, you should not make such purchases or use such features.**

## 2. Revisions to Agreement

This Agreement may be modified only by our posting of a revised Agreement on our Site homepage. Neither you nor individual Affinity Associates are allowed to change the terms of this Agreement. **You agree that Affinity may revise this Agreement by posting a revised Agreement on our Site homepage at any time without advance notice to you.** Your right to access and use this Site at any point in time is conditioned upon your agreement to, and compliance with, the Terms of Use Agreement that is current at the time of such access. Thus, you should return to our Site and review these Terms of Use from time to time. **Any amendments to this Agreement will be effective and deemed to apply beginning from the time that the revised Agreement is posted on homepage of our Site. Any such amendments will not apply retroactively to events that occurred prior to such amendments. Your continued use of our Site will constitute your agreement to any new provisions within the revised Agreement.**



### 3. Your Rights

On the condition that you comply with all your obligations under this Agreement, Affinity grants you a limited, revocable, non-exclusive, non-assignable, non-sublicenseable right to access, through a generally available web browser or mobile device or application (but not through scraping, spidering, crawling, or other technology or software used to access data without the express written consent of Affinity), view information and use any and all services that we provide on our web pages. Any use of this Site in excess of these rights is strictly prohibited and constitutes a violation of this Agreement, which may result in the termination of your right to access and use this Site.

### 4. Site Access Privileges

Your access to our Site is permitted on a temporary basis. We reserve the right to withdraw or amend the service we provide on our Site without notice. We affirmatively disclaim any liability for any occasions on which our Site may be unavailable for your use.

Your access privileges are conditioned upon your adherence to the terms of this Agreement. If you violate any of the terms of this Agreement, you agree that we may deny you access to the Site.

### 5. Assignment and Delegation

You agree not to assign or delegate any rights or obligations under the Agreement. Any purported assignment and delegation shall be ineffective. Affinity may assign or delegate all rights and obligations under the Agreement, fully or partially, without notice to you. We may also substitute, by way of unilateral novation (replacement), effective upon notice to you, Affinity for any third party that assumes our rights and obligations under this Agreement.

### 6. Policy and Service Information on Our Site

6.1. We take reasonable efforts to provide up-to-date information on our Site about the insurance policies and services we offer. However, in order to ensure that you have the most accurate information concerning any policies or services that you are contemplating purchasing, you should always confirm the current terms and conditions with Affinity.

6.2. The information provided on our Site ("Site Content" or "Content") is not intended as professional advice on which reliance should be placed. A product or service shown on our Site may not necessarily be suitable for you—this is for you to decide (and, if in doubt, you should seek appropriate independent advice).

6.3. If you are eligible and decide to purchase a policy of insurance through our Site, by doing so you confirm that all answers given by you in your policy application are true and correct, that you have read and understood the relevant policy terms and conditions, and that you are satisfied the policy meets your needs.

6.4. Affinity cannot, and does not, guarantee that you will be issued a policy if you apply for one.

6.5. The information and statements you give, together with the policy terms and conditions, will form the basis of your contract of insurance if, in fact, any such contract of insurance is issued. Failure to provide true and complete information could result in any insurance policy that may be issued to you being rescinded or voided.

### 7. Intellectual Property Rights of Affinity

All original Content created and posted by Affinity on our Site (hereinafter referred to as the "Materials," which include, but are not limited to, written Content prepared and posted by Affinity, and the Site design, layout, look, appearance, and graphics), as well as the trademarks, service marks, and logos contained on our Site are owned by or licensed to Affinity and are subject to copyright, trademark, and other intellectual property rights under the United States and foreign laws and international conventions. Affinity reserves all rights not expressly granted in, and to, our Site and the Materials on our Site.



Your use of the trademarks, service marks, and/or logos displayed on our Site, or any other original Content on our Site, except as specifically permitted within this Agreement, is prohibited without the prior, written permission of Affinity, which may be requested by contacting Lockton Affinity's Compliance Counsel via e-mail at [compliance@lockton.com](mailto:compliance@lockton.com) or by mail to Lockton Affinity's Compliance Counsel, 444 W. 47th St., Suite 900, Kansas City, MO 64112. Any unauthorized use of the Materials, trademarks, service marks, and/or logos on our Site may violate copyright laws, trademark laws, the laws of privacy and publicity, and/or communications regulations and statutes.

## 8. Permissible and Prohibited Uses of Site and Site Materials

8.1. You may download or print a copy of any of the Materials on our Site for your personal reference and non-commercial use. However, if you download or print a copy of any of the Materials for your own personal reference and non-commercial use, you agree to retain all copyright and other proprietary notices contained in and on the Materials.

8.2. Affinity and/or its licensors (individuals or entities which have licensed Content to Affinity) may, on occasion, provide individuals or entities with a written license permitting the use of certain Materials on our Site for commercial purposes. However, you agree that you will not use any part of the Materials for any commercial purposes **without first obtaining a written license from** Affinity or its licensors specifically permitting the use of such Materials for commercial purposes.

8.3. You agree not to offer for sale or sell or distribute over any medium any part of our Site, Materials, or any part of the Site's Content whatsoever. You further agree not to use any of our trademarks as metatags on other websites. You agree not to make any part of our Site available as part of another website, whether by hyperlink framing on the Internet or otherwise, without our prior written approval. To apply for such authorization, you must either contact Lockton Affinity's Compliance Counsel via e-mail at [compliance@lockton.com](mailto:compliance@lockton.com), or by mail to Lockton Affinity's Compliance Counsel, 444 W. 47th St., Suite 900, Kansas City, MO 64112, with the following details:

- Your name or the name of the technical contact responsible for the link(s);
- The name of your company;
- Your e-mail address and telephone number; and
- The purpose or use you would like to make of the Materials.

8.4. If you print off, copy, download, or otherwise use any part of our Site in breach of this Agreement, you agree that your right to use our Site will cease immediately and you further agree to return or destroy any copies of the Materials you have made if we so request.

8.5. You agree that you will not circumvent, disable, or otherwise interfere with security-related features of our Site or features that prevent or restrict use or copying of any Materials or enforce limitations on use of our Site or the Materials on our Site. You specifically agree that you will not misuse our Site by knowingly introducing viruses, Trojans, worms, logic bombs, or other material that is malicious or technologically harmful. You further agree not to attempt to gain unauthorized access to our Site, the server on which our Site is stored, or any server, computer, or database connected to our Site. You also agree not to attack our Site via a denial-of-service attack or a distributed denial-of-service attack. Unauthorized use and misuse of our Site is strictly prohibited, and, depending on the circumstances, may subject you to a civil claim for damages and/or criminal prosecution. If you commit any breach of this provision, you could be committing a civil and/or criminal offense, and we reserve the right to report any such breach of this provision to the relevant law enforcement authorities. In the event of such a breach, your right to use our Site will cease immediately.

## 9. Links to Other Sites

From time to time, our Site may include links to other websites and resources provided by third parties. These links are provided solely for your convenience. Links are not intended to imply sponsorship, affiliation, or endorsement. We have no control over the Contents of those sites or resources, do not endorse their Content, and have no responsibility for any such sites or for any loss or damage that may arise from your use of them. Use or reliance on any external links provided and the Content thereon is at your own risk. If you believe that we have provided a link to a site that contains infringing or illegal Content, or which makes available "hacker" tools or other circumvention devices, we ask that you notify us so that we may evaluate whether, in our sole discretion, to disable it. You should review any available website terms of use and/or privacy policies on third-party sites before using such sites or sharing any information with such sites, because, under such third-party sites' agreements and policies, you may be agreeing to terms and conditions that are different in scope and substance than those set forth in this Agreement.



## 10. Your Personal Information and Our Website Privacy Policy

You should carefully read our Website Privacy Policy, which is available on the homepage of this Site, before deciding to use this Site because it addresses our treatment of personal information you submit to us, including our use of cookies. By using this Site and submitting your Personal Information, you agree with, and consent to, the processing, transfer, usage, and/or storage of your Personal Information in accordance with our Website Privacy Policy. If you do not so agree and consent, then you should immediately exit this Site and discontinue all use of our Site. If you remain on our Site, or return at any point in the future, then you agree to the processing, transfer, usage and/or storage of your Personal Information in accordance with our Website Privacy Policy.

## 11. Content You Post on Our Site: Your Responsibilities; Your Grant of Non-Exclusive License to Affinity; Attribution; and Removal Rights

Our Site provides blogs and other features for user communication. You are entirely responsible for the Content of, and any harm resulting from, any Content you post to our Site (collectively, "Your Contributions" or "Contributions").

**11.1. License, Representation, and Warranty.** By posting Your Contributions on this Site, you grant Affinity a perpetual, non-exclusive (meaning you are free to license Your Contributions to anyone else in addition to Affinity), fully-paid and royalty-free (meaning that Affinity is not required to pay you for any of Your Contributions), sublicensable (meaning Affinity can sublicense its rights to third parties), and worldwide (because the Internet and our Site are global in nature and reach) license to use, modify, create derivative works of, publicly display, reproduce, and/or otherwise distribute Your Contributions. You further represent and warrant that you own all rights to Your Contributions.

**11.2. Attribution of User-Generated Content.** You agree that Affinity may publicly identify you, without prior notification or consent, as the source of any User-Generated Content provided by you, and that such right shall survive the termination of your Site privileges, as well as the termination of this Agreement.

**11.3. Removal Right.** You expressly agree that we may remove, disable, or restrict access to, or the availability of, any of Your Contributions from this Site (including, but not limited to, Contributions that you have posted or stored) that we believe, in good faith and in our sole discretion, to violate the terms of this Agreement (whether or not we are in fact correct in our assessment), or which is the subject of a Notification duly sent to us pursuant to the Digital Millennium Copyright Act ("DMCA"). As addressed in detail in Section 15 herein, if you believe that we have acted mistakenly with respect to certain Contributions, you may contact Lockton Affinity's Compliance Counsel via e-mail at [compliance@lockton.com](mailto:compliance@lockton.com) or by mail to Lockton's Affinity's Compliance Counsel, 444 W. 47th St., Suite 900, Kansas City, MO 64112, in which case we may investigate the matter further. We reserve the right, however, to take no further action.

## 12. Your Affirmative Representations about Yourself and Your Contributions

When you post Contributions on our Site, you affirmatively represent and promise that:

- You are thirteen (13) years of age or older;
- Any information you submit is truthful and accurate;
- You own or have sufficient legal rights to post Your Contributions on or through the Site;
- Your Contributions do not violate the privacy rights, publicity rights, intellectual property rights, contract rights, or any other rights of Affinity or any other person or entity;
- You have obtained and fully complied with any requisite third-party licenses relating to Your Contributions, and agree to pay for royalties, fees, and any other monies owing any person by reason of the Contributions that you post to or through our Site;
- Your Contributions: (i) Are not defamatory, damaging, disruptive, unlawful, inaccurate, pornographic, vulgar, indecent, profane, hateful, racially or ethnically offensive, obscene, lewd, lascivious, filthy, threatening, excessively violent, harassing, or otherwise objectionable or incite, encourage, or threaten immediate physical harm against another, including but not limited to, Contributions that promote racism, bigotry, sexism, religious intolerance, or harm against any group or individual; (ii) Do not contain material that solicits Personal Information from anyone under the age of thirteen (13); (iii) Do not exploit anyone in a sexual or violent manner; and (iii) Do not otherwise violate any applicable laws or regulations;



- Your Contributions do not contain advertisements or solicit any person to buy or sell products or services (other than Affinity's products and services);
- You will not use our Site for any unauthorized purpose, including collecting user names and/or e-mail addresses of other users by electronic or other means for the purpose of sending unsolicited e-mail or other electronic communications or engaging in the unauthorized framing of, or linking to, the Site without the express written consent of the Company;
- You will not post Contributions that constitute, contain, install, or attempt to install or promote spyware, malware, or other computer code, whether on Affinity's or others' computers or equipment, designed to enable you or others to gather information about, or monitor the online or other activities of, any individual or entity;
- You will not transmit chain letters, bulk, or junk e-mail or interfere with, disrupt, or create undue burden on the Site or the networks or services connected to our Site, or use the system to send unsolicited or commercial e-mails, bulletins, comments, or other communications; and
- You will not impersonate any other person or entity; sell or let others use your profile or password (to the extent applicable); provide false or misleading identification or address information; or invade the privacy, or violate the personal or proprietary right, of any person or entity.

### 13. Updating Your Contact Information

If you choose to provide us with contact information, you agree to update your contact information if it changes so we can contact you if necessary. You acknowledge and agree that, if you fail to timely update your contact information, we shall have no liability associated with, or arising from, your failure to provide us with accurate contact or other information.

### 14. Good Samaritan Third-Party Content Policy and Complaint Procedures

14.1. **Policy.** It is our policy not to allow any Content on this Site that may constitute intellectual property infringement; violation of U.S. federal, state or local laws; child pornography; or obscene, defamatory or otherwise objectionable material. Upon learning of the existence of any such Content, we will do our best, in good faith, to edit, remove, disable, change or restrict access to, or the availability of, Content that, in our subjective view and in our sole discretion, is infringing, racist, obscene, obscene as to minors, child pornography, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable. The provisions of this Section are intended to implement this policy but are not intended to impose a contractual obligation on us to undertake, or refrain from undertaking, any particular course of conduct.

14.2. **Complaint Procedures.** If you believe that another Affinity Site user or third party has posted Content that violates this policy (other than in cases of copyright infringement, which is addressed in Section 15 herein), we ask you to promptly notify Lockton Affinity's Compliance Counsel via e-mail at [compliance@lockton.com](mailto:compliance@lockton.com) or by mail to Lockton Affinity's Compliance Counsel, 444 W. 47th St., Suite 900, Kansas City, MO 64112. In order to allow us to respond effectively, please provide us with as much detail as possible, including: (a) The nature of the right infringed or violated (including the registration numbers of any registered trademarks or patents allegedly infringed) or the unacceptable or inappropriate Content; (b) All facts which lead you to believe that a right has been violated or infringed, if applicable; (c) The precise location where the offending Content is located; (d) Any grounds to believe that the party or user who posted the Content was not authorized to do so or did not have a valid defense (including the defense of fair use), if applicable; and (e) If known, the identity of the person or persons who posted the infringing or offending Content; and (f) In the case of alleged copyright claims, information sufficient to identify the work and your claims to ownership.

14.3. **Indemnification/Waiver of Certain Rights.** By contacting us and complaining of an alleged violation, you agree that the substance of your complaint shall be deemed to constitute a representation made under penalty of perjury under the laws of the State of Kansas. In addition, you agree, at your own expense, to defend and indemnify us and hold us harmless against all claims which may be asserted against us, and all losses incurred, as a result of your complaint and/or our response to it.

14.4. **Waiver of Claims and Remedies.** We expect our Site visitors to take responsibility for their own actions and cannot assume liability for any acts of third parties that take place at this Site. **By taking advantage of the Good Samaritan procedures set forth herein, you waive any and all claims or remedies which you might otherwise be able to assert against us under any theory of law (including, but not limited to, intellectual property laws) that arise out of, or relate in any way to, the Content on this Site or our response, or failure to respond, to a complaint.**



14.5. **Investigation/Liability Limitation.** You agree that we have the right (but not the obligation) to investigate any complaint received. By reserving this right, we do not undertake any responsibility to investigate complaints or to remove, disable, or restrict access to, or the availability of, Content. We support free speech on the Internet, and therefore will not act on complaints that we believe, in our subjective judgment, to be deficient or incomplete. **If you believe that Content remains on this Site that violates your rights, your sole and exclusive remedy shall be against the user or other party responsible for posting such Content, not against us. Your sole and exclusive remedy against us will be to terminate your use of this Site and service.**

## 15. Digital Millennium Copyright Act Policy and Infringement Notification Procedures

15.1. **Policy.** Affinity's policy is to respond expeditiously to clear notices of alleged copyright infringement that comply with the United States DMCA. This section describes Affinity's process for infringement notification and counter notification; Affinity's policy of terminating user rights for repeat copyright infringers; and Affinity's accommodation of standard technical measures used by copyright owners to identify or protect copyrighted works. The information contained herein is intended to comply with Affinity's obligations under the DMCA and does not constitute legal advice. Upon receipt of proper notification of claimed infringement, Affinity will follow the procedures outlined herein and in the DMCA.

15.2. **Contact Information for Affinity's Designated Agent.** Affinity's Designated Agent to receive notification of alleged infringement, as well as any counter notifications, under the DMCA is:

### **Lockton Affinity's Compliance Counsel**

E-mail: [compliance@lockton.com](mailto:compliance@lockton.com)

Physical Mail: Lockton Affinity's Compliance Counsel/Designated Agent, 444 W. 47th St., Suite 900, Kansas City, MO 64112

15.3. **Notice and Takedown Procedure.** This section addresses the information required for infringement notices. It is designed to make submitted notices of alleged infringement to Affinity as straightforward as possible. The form of notice specified below is consistent with the form suggested by the DMCA (the text of which can be found at the U.S. Copyright Office Website, <http://www.copyright.gov>), but Affinity will respond to other appropriate forms of notice as well.

It is anticipated that all users of any part of Affinity's Site will comply with all applicable copyright laws. However, if Affinity receives proper notification of claimed copyright infringement, Affinity's response to these notices will include removing or disabling access to material claimed to be the subject of infringing activity and, as appropriate, terminating user rights to post further Content on Affinity's Site, regardless of whether Affinity could be liable for such infringement under the laws of the United States or another jurisdiction.

If Affinity removes or disables access in response to such a notice, Affinity will make a good faith attempt to contact the owner or administrator of the affected Site or Content so that they may make a counter-notification pursuant to the DMCA. Affinity also may document notices of alleged infringement upon which Affinity acts.

15.4. **Copyright Infringement Notification.** If you believe that Content available on or through this Site infringes one or more of your copyrights, or that your intellectual property rights have otherwise been violated through Content posted on this Site, please send Affinity's Designated Agent, whose name and contact information is provided above, a written Copyright Infringement Notification ("Notification"), preferably through e-mail, that complies with the DMCA and provides all of the information described below:

- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online Site are covered by a single notification, a representative list of such works at that Site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Affinity to locate the material;
- Information reasonably sufficient to permit Affinity to contact the complaining party, such as an address, telephone number, and, if available, an e-mail address at which the complaining party may be contacted;
- A statement 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;
- A statement 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; and
- A physical or electronic signature of the owner or a person authorized to act on behalf of the owner of an exclusive right that is allegedly being infringed.



**Please Note:** Pursuant to federal law, you may be liable for damages and attorneys' fees if you make any material misrepresentations in a Notification. Thus, if you are not sure whether Content available on Affinity's Website infringes your copyright, we suggest that you first contact your personal attorney for the purpose of obtaining independent legal advice with respect to the Notification.

**Acknowledgement.** You acknowledge and agree that if you fail to comply with all of the requirements of this Notification, your Notification may not be valid.

**15.5. Counter Notification.** If you believe that material that you posted to the Site has been wrongfully removed in response to a Copyright Infringement Notification submitted by a copyright owner pursuant to the DMCA, you may send us a Counter Notification ("Counter Notification") asking that the material be restored (if you are eligible to have the material restored, as outlined below). To file a Counter Notification, please provide Affinity's Designated Agent, whose name and contact information is provided above, a written Counter Notification, preferably through e-mail, that complies with the DMCA and provides all of the information described below:

- Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
- Your name, address, and telephone number;
- A statement that you consent to the jurisdiction of United States District Court for the [insert name of federal judicial district where you live] (or, if you are located outside of the United States, in the United States District Court for the District of Kansas);
- A statement that you will accept service of process from the person who submitted the Notification or his/her agent; and
- Your signature, in physical or electronic form.

**Please Note:** Pursuant to federal law, you may be liable for damages and attorneys' fees if you make any material misrepresentations in a Counter Notification. If you have any questions as to your right to send a Counter Notification, we suggest that you contact your personal attorney for the purpose of obtaining independent legal advice with respect to the Notification.

Upon receipt of such Counter Notification, Affinity will promptly provide a copy of the Counter Notification to the person who submitted the original Copyright Infringement Notification, and will inform such person that Affinity will replace the removed material or will cease disabling access to it in 10 business days. In response to a Counter Notification, that person may file a lawsuit against you seeking a determination of his/her rights with respect to the material.

Affinity will replace the removed material and cease disabling access to it not less than 10, nor more than 14, business days following receipt of the Counter Notification, unless Affinity's Designated Agent first receives notice from the person who submitted the original infringement Notification that he/she has filed an action seeking a court order to restrain the alleged infringer from engaging in infringing activity relating to materials on Affinity's system or network.

**15.6. Termination of Rights for Repeated Infringement.** In accordance with the DMCA, Affinity's policy is to terminate, in appropriate circumstances, the rights of users who are repeat copyright infringers to access or use Affinity's Website.

**15.7. Accommodation of Standard Technical Measures.** It is Affinity's policy to accommodate and not interfere with standard technical measures (used by copyright owners to identify or protect copyrighted works) that Affinity determines are reasonable under the circumstances.

## 16. Disclaimer of Warranties

In order to provide you with access to and usage of the Content on our Site, we offer and make no warranties or representations about any benefits or opportunities that you can obtain at this Site.

**16.1.** Neither we nor any third parties provide any guarantees, representations, statements, or warranties of any kind, either expressed or implied, as to the accuracy, completeness, timeliness, correctness, and/or suitability of any information or materials displayed on our Site. You acknowledge that such information and materials may contain inaccuracies or errors.



16.2. We do not warrant that access to our site will be uninterrupted, available at any particular time or location, that the Content is error-free, that errors and/or defects will be corrected, that your use of Content displayed on our site will not infringe rights of third parties, or that this site or the server that makes it available are free of viruses or other harmful components.

16.3. We make no warranty or representation that the material on our Site is appropriate or available for use in any location or is compliant with all local laws. You acknowledge that access to our Site is at your own risk.

16.4. To the fullest extent permitted by applicable law, we hereby expressly disclaim all express and implied conditions, warranties, and other terms. This disclaimer includes, but is not limited to, implied warranties of merchantability and fitness for a particular purpose and any liability for direct, indirect, or consequential loss or damage incurred by any user in connection with our Site; or in connection with the use, inability to use, or results of the use of our Site, any websites linked to it, and any materials posted on it, whether caused by negligence, breach of contract, or otherwise, even if foreseeable. Further, this disclaimer applies to any damages or injury caused, or alleged to be caused, by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft, destruction, or unauthorized access to, alteration of, or use of record, whether for breach of contract, tortious behavior, negligence, or under any other cause of action.

16.5. In the event of any conflict between this Section and other Terms of Use set forth within this Agreement, this Section shall be deemed to take precedence.

## 17. Limitation and Release of Liability

**In order to provide you with access to, and usage of, the Content on our Site, to the fullest extent permitted by law, neither we, nor any other party involved in creating producing or delivering this Site will be liable for any direct, indirect, incidental, consequential, special, or punitive damages, however caused, arising out of your access to, use of, or reliance on any information or materials provided on the Site, including, without limitation, for any errors, inaccuracies, omissions, or other defects in, or lack of timeliness, or lack of authenticity of the information contained on the Site, or for any delay or interruption of access to the information contained on the Site or transmission of data with you or any user, or for any claims or losses arising therefrom or occasioned thereby, even if we have been advised of the possibility of such damages.**

**We will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses, or other technologically harmful material that may infect your computer equipment, computer programs, data, or other proprietary material due to your use of our site or to your downloading of any material posted on it, or on any website linked to it. Further, we cannot, and do not, guarantee continuous, uninterrupted, or secure access to the Site.**

17.1. **Release of Liability.** You expressly agree that your access to, and use of, our Site, any Content thereon, and any product or service purchased or obtained through our Site are at your sole risk and are further subject to any additional terms and conditions provided with respect to any purchase you make and/or any service you utilize on our site. You agree to release, discharge, and hold harmless Lockton Affinity, LLC and all subsidiaries, affiliated, and related companies, and each of its and their respective officers, directors, employees, representatives, contractors, and agents (collectively, the "Released Parties"), from and against any claims, damages, expenses, and liability arising from or related to any injuries, damages, or losses to any person or property of any kind resulting in whole or in part, directly or indirectly, from your use of, accessing, or participation in any feature of the Site, including, without limitation, your breach of this Agreement or the use by us or our designees of any rights granted by you. You further release the Released Parties from, and specifically acknowledge that the Released Parties are not liable for, any defamatory, offensive, or illegal conduct of other Site users or any third party, and that the risk of injury from the foregoing rests entirely with you.

## 18. Indemnification

You agree, at your own expense, to indemnify, defend, and hold harmless the Released Parties (defined above) against all losses, expenses, damages, and costs, including reasonable attorneys' fees, arising in any way from: (a) your use of the Site; (b) your unauthorized use of any Content and/or Affinity's products or services; (c) your breach or violation of this Agreement and any applicable laws; and/or (d) any allegation that any submissions or other materials you submit to us otherwise violate the copyright, trademark, trade secret, or other intellectual property or other rights of any third party. Affinity reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification, and in such case, you agree to cooperate with Affinity in the defense of any such claim.





## 19. Effect of User Violation of Agreement or Misuse of Site

19.1. **Restriction, Suspension, or Termination of Site Access.** Affinity may, in its sole discretion, restrict, suspend, or terminate your right to access this Site if you violate this Agreement or otherwise misuse the Site or your Site privileges. Affinity may block access to this Site, in whole or in part, from an IP address or range of IP addresses associated with any restricted, suspended, or terminated User.

19.2. **Survival.** The terms of this Agreement shall expressly survive any such suspension or termination.

## 20. Choice of Law/Agreement to Arbitrate in Overland Park, Kansas/Exception to Arbitration Agreement

20.1. **Choice of Law.** Except for any disputes relating to intellectual property rights, obligations or any infringement claims, which shall be governed by U.S. federal law, any disputes between you and Affinity arising out of, or relating to, the Agreement ("Disputes") shall be governed by Kansas law regardless of your country of origin or where you access <http://nppainsuranceadvantage.com>, and notwithstanding any conflicts of law principles. All such disputes shall be construed in accordance with the laws of the United States and of the State of Kansas as applied to transactions entered into, and to be performed by, wholly within Kansas between Kansas residents.

20.2. **Agreement to Arbitrate.** All Disputes arising out of, or relating to, this Agreement (including formation, performance, breach, enforceability, and validity of this Agreement) or our operation of this Site shall be resolved by final and binding arbitration to be held in the English language in the City of Overland Park, Kansas, pursuant to the rules of the American Arbitration Association. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Agreement, including, but not limited to, any claim that all or any part, of this Agreement is void or voidable.

20.3. **Exception to Arbitration Agreement.** Either party to this Agreement may obtain preliminary injunctive relief in the District Court of Johnson County, Kansas, located in Olathe, Kansas, for the purpose of enforcing any of the terms of this Agreement pending a final determination in arbitration or permanent relief for the purpose of enforcing arbitral awards.

## 21. Complete Agreement/No Additional Representations

This Agreement constitutes the entire agreement between you and Affinity relating to your access to, and use of, this Site and supersedes any prior or contemporaneous representations or agreements. This Agreement may not be modified, either expressly or by implication, except as set forth herein in Section 2.

## 22. Construction

If any portion of this Agreement is ruled invalid or otherwise unenforceable, it shall be deemed amended in order to achieve as closely as possible the same effect as originally drafted. Any invalid or unenforceable portion should be construed as narrowly as possible in order to give effect to as much of the Agreement as possible.

## 23. Company Information

Lockton Affinity, LLC is a private company registered in Kansas, USA, under Business Entity ID No. 1597335, and is registered through its agent Corporate Creations Network, Inc., 3615 SW 29th Street #201, Topeka, Kansas 66614.

## 24. Questions

If you have any questions or concerns relating to these Terms of Use, please contact Lockton Affinity's Compliance Counsel via e-mail at [compliance@lockton.com](mailto:compliance@lockton.com) or via mail to Lockton Affinity's Compliance Counsel, 444 W. 47th St., Suite 900, Kansas City, MO 64112.