

# Terms of Use

*Last updated: February 26, 2026*

PLEASE CAREFULLY REVIEW THESE TERMS AND CONDITIONS OF USE BEFORE USING THIS SITE. ANY USE OF THIS SITE CREATES A BINDING AGREEMENT TO COMPLY WITH THESE TERMS AND CONDITIONS. If you do not want to agree to these Terms of Use including the agreements incorporated by reference herein, you must not access or use the Site.

## User Agreement

These Terms of Use constitute a legally binding agreement made between you, whether personally or on behalf of an entity (“you”) and Sungage Financial, LLC, its successors and/or assigns, partners, service providers (“Sungage”, “we,” “us” or “our”), concerning your access to and use of the [sungage.com](https://www.sungage.com), [homeowners.sungage.com](https://www.homeowners.sungage.com), and [partners.sungage.com](https://www.partners.sungage.com) websites as well as any other media form, media channel, mobile website or mobile application related, linked, or otherwise connected thereto (collectively, the “Site”). The Site is operated by Sungage and is being provided to you expressly subject to this Agreement. By accessing, browsing and/or using the Site, you acknowledge that you are 18 years of age and able to form a binding contract with the Company, have read, understood and agree to be bound by the terms of these Terms of Use, and will comply with all applicable laws and regulations. The Site is not intended for children under the age of 13. Sungage does not target its Site to children under 13 or knowingly collect personally identifiable information from children under the age of 13. If we become aware that we have collected personal information from a child under age 13, we will delete that information as quickly as possible.

Supplemental Terms of Use or documents that may be posted on the Site from time to time are hereby expressly incorporated herein by reference. We reserve the right, in our sole discretion, to make changes or modifications to these Terms of Use at any time and for any reason. All changes shall be effective upon posting to the Site. It is your responsibility to periodically review these Terms of Use to stay informed of updates. Your continued use of the Site after any change to these Terms of Use constitutes your agreement to be bound by any such changes. Additionally, the Site may enable access to and use of third party services, which may require that you agree to additional terms and conditions of such third party service provider. You will be subject to and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms of Use by your continued use of the Site after the date such revised terms are posted.

The information provided on the Site is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject us to any registration requirement

within such jurisdiction or country. Sungage makes no claims concerning whether the Content may be downloaded or is appropriate for use outside of the United States. Accordingly, those persons who choose to access the Site from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.

## **User Representations**

By using the Site, you represent and warrant that: (1) all registration information you submit will be true, accurate, current, and complete; (2) you will maintain the accuracy of such information and promptly update such registration information as necessary; (3) you are age 18 or over, able to form a legally binding contract, and these Terms of Use constitute legal, valid and binding obligations on you; (4) you have the legal capacity and you agree to comply with these Terms of Use; (5) you will not use the Site for any illegal or unauthorized purpose.

You agree not to post, upload, publish, display, transmit, share, store or otherwise make or attempt to make publicly available on the Site or on any other website, or in any email, blog, forum, medium or other communication of any kind, any private or personally identifiable information of any Sungage member or other third party, including, without limitation, names, addresses, phone numbers, email addresses, Social Security numbers, driver's license numbers or bank account or credit card numbers, whether or not such private or personally identifiable information is displayed on or ascertainable from the Site, or obtained or obtainable from sources unrelated to the Site (such as from a "Google® search" or other online research).

You agree to not to use the Site or any Content to upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes" or any other form of commercial or non-commercial solicitation or bulk communications of any kind to any Sungage user or other third party. In order to protect Sungage users from such advertising or solicitation, Sungage reserves the right to restrict communications between its users.

In addition to the forgoing, you shall not: (i) use the Site for any purpose that is prohibited by any law or regulation, or to facilitate the violation of any law or regulation; (ii) infringe any patent, trademark, trade secret, copyright, right of publicity or other right of any party; (iii) defame, abuse, harass or stalk any individual, or disrupt or interfere with the security or use of the Site or any websites linked to them; (iv) interfere with or damage the Site, including, without limitation, through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial of service attacks, packet or IP spoofing, forged routing or electronic mail address information or similar methods or technology; (v) attempt to use another's account, impersonate another person or entity, misrepresent your affiliation with a person or entity, including (without limitation) Sungage, or create or use a false identity; (vi) take or attempt any action that, in the

sole discretion of Sungage, poses or may impose an unreasonable or disproportionately large load or burden on the Sites or the infrastructure of the Site; (vii) attempt to obtain unauthorized access to data, materials, information, computer systems or networks connected to any server associated with the Site, through hacking, password mining or any other means to the Sites or portions thereof that are restricted from general access; (viii) engage, directly or indirectly, in transmission of "spam," mass e-mailings, chain letters, junk mail or any other type of unsolicited solicitation, whether electronic or otherwise; (ix) collect, manually or through an automatic process, information about other users without their express consent or other information relating to the Site; (x) forge headers or otherwise manipulate identifiers in order to disguise the origin of any other content; (xi) use any meta tags or any other "hidden text" utilizing the Sungage name, trademarks, or product names; (xii) advertise, offer to sell, or sell any goods or services, except as expressly permitted by Sungage; (xiii) use or attempt to use any "deep-link," "scraper," "robot," "bot," "spider," "data mining," "computer code" or any other automated device, program, tool, algorithm, process or methodology or manual process having similar processes or functionality, to access, acquire, copy, or monitor any portion of the Site, any data or content found on or accessed through the Site, or any other information from the Site without prior express written consent of Sungage; (xiv) interfere with, attempt to interfere with or otherwise disrupt the proper working of the Site, any activities conducted on or through the Site or any servers or networks connected to the Site, including accessing any data, content or other information prior to the time that it is intended to be available to the public on the Site; (xv) disobey any requirements, procedures, policies or regulations of networks connected to the Site; (xvi) engage in any activity that interferes with any third party's ability to use or enjoy the Site; or (xvii) assist any third party in engaging in any activity prohibited by these Terms of Use.

## **Limitations of Use and Copyright**

The copyright in all material on this Site, including without limitation, the text, data, articles, design, source code, software, photos, images and other information (collectively the "Content"), is held by Sungage or by the original creator of the material and is protected by U.S. and International copyright laws and treaties. You agree that the Content may not be copied, reproduced, distributed, republished, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording or otherwise, without the express prior written consent of Sungage. You acknowledge that the Content is and shall remain the property of Sungage. You may not modify, participate in the sale or transfer of or create derivative works based on any Content, in whole or in part. The use of the Content on any other Site, including by linking or framing, or in any networked computer environment for any purpose, is prohibited without Sungage's prior written approval. Any unauthorized use of any Content on this Site may violate copyright laws, trademark laws, the laws of privacy and publicity and communications statutes and regulations. You agree to use the Content and Site only for lawful purposes. You are prohibited from any use of the Content or Site that would constitute a violation of any applicable law,

regulation, rule or ordinance of any nationality, state or locality or of any international law or treaty, or that could give rise to any civil or criminal liability. Sungage makes no claims concerning whether the Content may be downloaded or is appropriate for use outside of the United States.

## **Trademarks**

Sungage (including the Sungage logo), sungage.com and all related logos (collectively the “Sungage Trademarks”) are trademarks or service marks of Sungage. Other company, product and service names and logos used and displayed on this Site may be trademarks or service marks owned by Sungage or others. Nothing on this Site should be construed as granting, by implication, estoppel or otherwise, any license or right to use any of the Sungage Trademarks, without our prior written permission in each instance. You may not use, copy, display, distribute, modify or reproduce any of the trademarks found on the Site unless in accordance with written authorization from us. Sungage prohibits use of any of the Sungage Trademarks as part of a link to or from any site unless establishment of such a link is approved in writing by us in advance. Any questions concerning any Sungage Trademarks, or whether any mark or logo is a Sungage Trademark, should be referred to Sungage.

## **Registrations**

You may create your own account on the Site by completing the online registration process on the Site, and you must do so if you would like to receive certain content and materials provided by Sungage. As part of the registration process, you must select a user name and password and provide Sungage with accurate, complete, and updated information. Failure to do so constitutes a breach of these Terms of Use, which may result in immediate termination of your access. It is particularly important to keep the e-mail address associated with your account current because although you may be able to log into the Site’s account using an old e-mail address, you will not be able to receive messages from us. If you provide any information that is untrue, inaccurate, incomplete or not current, or Sungage has grounds to suspect that such information is untrue, inaccurate, incomplete or not current, Sungage has the right to suspend or terminate any issued password and refuse any and all current or future use of the Site. You will be subject to additional guidelines or rules applicable to such access and use. Any such additional guidelines or rules are hereby incorporated in these Terms of Use by reference. Sungage reserves the right to change, suspend or discontinue any Site feature at any time, or to limit or restrict your access to certain Site features at any time, without notice to you and in its sole discretion.

Following registration, we will create an account for you and assign you a password. You must keep your password confidential and not disclose your password to any person. You will be responsible for all use of your password, including, without limitation,

any use by any unauthorized third party. You must notify us immediately if you believe your password may be used or may have been used by any unauthorized person or entity. For security purposes, we recommend you change your password often. Under no circumstance should you respond to a request for your password. Our employees will never ask for your password. You must notify us immediately if you receive such a request. We reserve the right to suspend or terminate your use of the Site if we believe that your password is being used without permission or otherwise in a manner that may disrupt the Site.

## **Modifications and Interruptions**

We reserve the right to change, modify, or remove the contents of the Site at any time or for any reason at our sole discretion without notice. However, we have no obligation to update any information on our Site. We also reserve the right to modify or discontinue all or part of the Site without notice at any time. We will not be liable to you or any third party for any modification, price change, suspension, or discontinuance of the Site. We cannot guarantee the Site will be available at all times. We reserve the right to change, revise, update, suspend, discontinue, or otherwise modify the Site at any time or for any reason without notice to you. You agree that we have no liability whatsoever for any loss, damage, or inconvenience caused by your inability to access or use the Site during any downtime or discontinuance of the Site. Nothing in these Terms of Use will be construed to obligate us to provide any maintenance or support services for the Site or to supply any corrections, updates, or releases in connection therewith.

## **Links to Third-party Sites**

This Site may contain links to websites controlled, owned and operated by third parties (the "Third-Party Sites"). Sungage cannot control and has no responsibility for the accuracy or availability of information provided on the Third-Party Sites. You acknowledge that use of any Third-Party Sites is governed by the terms of use for those websites, and not by these Terms of Use. Links to Third-Party Sites do not constitute an endorsement or recommendation by Sungage of such sites or the content, products, advertising or other materials presented on such sites, but are only for your convenience and you access them at your own risk. Such Third-Party Sites may have a privacy policy different from that of Sungage and the Third-Party Site may provide less security than this Site. Sungage is not responsible for the content of any Third-Party Sites, nor does Sungage make any warranties or representations, express or implied, regarding the content (or the accuracy of such content) on any Third-Party Sites, and Sungage shall have no liability of any nature whatsoever for any failure of products or services offered or advertised at such sites or otherwise.

## Privacy Notice

We care about data privacy and security. Please review the [Sungage Privacy Policy](#). By using the Site, you agree to be bound by the Sungage Privacy Policy, which is incorporated into these Terms of Use.

## Consent to Doing Business Electronically

Visiting the Site, sending us emails, and completing online forms constitute electronic communications. You consent to receive electronic communications, and you agree that all agreements, notices, disclosures, and other communications we provide to you electronically (“Communications”), via email and on the Site, satisfy any legal requirement that such communication be in writing. YOU HEREBY AGREE TO THE USE OF ELECTRONIC SIGNATURES, CONTRACTS, ORDERS, AND OTHER RECORDS, AND TO ELECTRONIC DELIVERY OF NOTICES, POLICIES, AND RECORDS OF TRANSACTIONS INITIATED OR COMPLETED BY US OR VIA THE SITE. You hereby waive any rights or requirements under any statutes, regulations, rules, ordinances, or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by any means other than electronic means.

**Electronic Communications.** You agree that all Communications from Sungage and its respective agents relating to your use of the Site may be provided or made available to you electronically by email or at our Site. You still have the ability to request a paper copy of any Communication, for a fee of up to \$5 per request, by contacting us in the manner described below. Sungage may discontinue the electronic provision of Communications at any time in its sole discretion.

**Text Message Policy For Consumers.** By providing us with your mobile number and opting in, you permit Sungage to send you account-related text messages, like reminders and notifications in conjunction with the services you have requested.

- Number of messages will vary by account.
- By providing us with your mobile number and opting in, you agree you have ownership rights or permission to use the number given to us.
- Message and data rates may apply.
- To opt out, text “stop”, “cancel” or “unsubscribe” to any text message we send you. An opt-out confirmation message will be sent back to you.
- If your handset does not support MMS, any MMS messages sent may be delivered as SMS messages.
- Wireless carriers are not liable for undelivered or delayed messages.

**Scope of Consent.** Your consent to receive Communications and do business electronically and your agreement to do so applies to all of your interactions and transactions through the Site.

**TCPA Consent.** You expressly consent to receiving calls and messages, including auto-dialed and pre-recorded message calls, and SMS messages (including text messages) from Sungage, our affiliates, agents and others calling at our request or on our behalf, at any telephone numbers that you have provided or may provide in the future (including any cellular telephone numbers). Your cellular or mobile telephone provider will charge you according to the type of plan you carry.

**Withdrawing Consent.** You may withdraw your consent to receive Communications electronically by contacting us at the address below. However, once you have withdrawn your consent you will not be able to use or access the Site. If you have a pending loan application request on the Site, Sungage reserves the right to terminate it and remove it from its system. If you have already received a loan, all previously agreed to terms and conditions will remain in effect, and we will send Communications to your verified home address provided during registration.

**Copies.** If you wish to obtain a paper copy of any of your Communications, you may request a copy by writing to us at Sungage Financial, LLC, 38 Chauncy St. Floor 6, Boston MA 02111. Attn: Customer Service, or emailing [customerservice@sungagefinancial.com](mailto:customerservice@sungagefinancial.com).

**Assignment.** In addition, you further acknowledge that your consent to have all Communications provided or made available to you in electronic form and to do business on or through the Site is assignable to any entity, including Sungage's affiliates and representatives.

**Changes in Your Contact Information.** You must keep us informed of any changes in your email, phone number or mailing address so that you continue to receive all communications without interruption. You can contact us by email at [customerservice@sungagefinancial.com](mailto:customerservice@sungagefinancial.com), by phone at 844-786-4243, or by mail at Sungage Financial, LLC, 38 Chauncy St. Floor 6, Boston MA 02111 Attn: Compliance.

## Artificial Intelligence

Sungage Financial may employ artificial intelligence ("AI") and machine learning technologies in connection with the operation of the Site and our services. Such uses may include, but are not limited to improving Site functionality and user experience, detecting fraudulent activity, and optimizing business services.

We will not use AI technologies in a manner that violates your privacy rights. Any personal information processed through AI systems is subject to our Privacy Policy and handled in accordance with applicable privacy laws, including but not limited to

applicable state consumer privacy statutes. We do not sell your personal information to third parties for use in their AI training or profiling systems without your consent.

We reserve the right to update our use of AI technologies as such technologies evolve. Any material changes to our use of AI that affect how your personal data is processed will be reflected in an updated Privacy Policy, and where required by law, we will provide you with appropriate notice and, if applicable, the opportunity to opt out.

## **Terms Applicable to Installers**

In addition to the Terms of Use set forth herein the following terms shall apply specifically to Installers that have the right to access and use the password protected portion of the Site pursuant to a separately executed Installer Agreement. In the event of a conflict between these Terms of Use and the Installer Agreement, the Installer Agreement shall control.

Access to the Site (which for the purposes of these Terms of Use shall include any password protected portion of the Site) for users that are Installers or persons acting on behalf of such Installers is intended solely for authorized representatives of Installers that are in good standing in each jurisdiction in which they are registered to conduct business and persons otherwise authorized by such Installers to act in furtherance of the Installer's use of our Site.

### **Representations and Warranties**

By using the Site on behalf of an Installer or other entity, you represent and warrant that you are duly authorized in accordance with the foregoing by the Installer or other entity on behalf of which you are acting, that you have the power and authority to enter into binding agreements on behalf of the Installer or entity or in the capacity in which you are acting, and that the Installer is in good standing in each jurisdiction in which it is registered to conduct business. Furthermore, you confirm that you agree to all of the terms and conditions of the Site individually and on behalf of such Installer. If you, the Installer or any other person acting on behalf of the Installer violate these Terms of Use or the Installer Agreement, Sungage may terminate the Installer's user account, delete any associated profile and any content or information posted on the Site in connection with the Installer's user account and/or prohibit you, such Installer and any other person acting on the Installer's behalf from using or accessing the Site (or any portion, aspect or feature of the Site), at any time in Sungage's sole discretion, with or without notice.

In addition to the representations set forth above, you further agree, both individually and on behalf of the Installer, not to use the Site to: (1) operate or otherwise utilize an account opened in the name of a Installer for the benefit of any persons other than that

Installer; (2) operate or otherwise utilize an account opened in the name of your organization for any purpose prohibited by law or regulation, any activity which that Installer is not duly authorized to conduct or for any purpose prohibited by any other agreement between the Installer and Sungage; and (3) operate a user account on behalf of any Installer with regard to which you are not an authorized.

Furthermore, you represent, warrant and agree, both individually and on behalf of the Installer, that: (1) use of the Site is contingent on acceptance of and compliance with these Terms of Use and the Installer Agreement by all persons acting on the Installer's behalf; (2) all email addresses provided on behalf of the Installer are and will be used by the Installer exclusively for business purposes; and (3) you will not represent or portray the Installer as being affiliated with Sungage other than as an independent contractor and authorized user of the Site.

### **Account Security**

In consideration of your use of the Site and in addition to the foregoing, on behalf of an Installer, you, individually and on behalf of such Installer or entity, agree to (a) provide such materials as we may request to establish and/or verify your or any other person's identity or authority to enter into binding agreements on behalf of the Installer or to establish and/or verify the Installer or entity's legal existence, good standing in any jurisdiction and eligibility to use the Site; (c) maintain the security of any password and identification issued for use by or on behalf of the Installer; (d) promptly notify us regarding any material changes to information or circumstances impacting the Installer's legal existence, good standing in any jurisdiction in which the Installer is authorized to conduct business or eligibility for continued use of the Site; and (f) be fully responsible for all use of any accounts opened on behalf of the Installer for any actions that take place using such account.

Scope of Access and Use. Any access to or use of the Site by persons who are not authorized representatives of the Installer shall constitute a violation of these Terms of Use and the Installer Agreement.

### **Disclaimer of Warranties**

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SITE IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SITE AND ANY SERVICES THAT ARE PERFORMED OR PROVIDED BY THE SITE ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND SUNGAGE AND ITS LICENSORS AND SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SITE AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT

LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. SUNGAGE, ITS LICENSORS, AND ITS SUPPLIERS DO NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SITE, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE SITE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SITE OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SITE OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SUNGAGE OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE SITE OR RELATED SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

USE OF THE SERVICES WIRELESSLY MAY INVOLVE THE ELECTRONIC TRANSMISSION OF PERSONAL INFORMATION ACROSS THE NETWORKS OF WIRELESS SERVICE PROVIDERS. BECAUSE WE DO NOT OPERATE OR CONTROL THE WIRELESS NETWORKS USED TO ACCESS THE SITE OR SERVICES, WE CANNOT GUARANTEE THE PRIVACY OR SECURITY OF WIRELESS DATA TRANSMISSIONS. ADDITIONALLY, THE WIRELESS DEVICE BROWSER IS GENERALLY PRE-CONFIGURED BY YOUR WIRELESS INTERNET SERVICE PROVIDER. CHECK WITH YOUR SERVICE PROVIDER FOR INFORMATION ABOUT THEIR PRIVACY AND SECURITY PRACTICES. FOR PERSONAL OR CONFIDENTIAL INFORMATION SENT TO OR FROM SUNGAGE OVER THE INTERNET FROM A MOBILE DEVICE. SUNGAGE RESERVES THE RIGHT TO LIMIT SUCH CONNECTIONS TO "SECURE SESSIONS" THAT HAVE BEEN ESTABLISHED USING TRANSPORTATION LAYER SECURITY ("TLS"). SUNGAGE AND ITS SERVICE PROVIDERS WILL TREAT YOUR DATA IN ACCORDANCE WITH THE PRIVACY NOTICE CONTROLLING THE SITE.

SUNGAGE DOES NOT CHARGE FOR USE OR ACCESS OF THE SITE. HOWEVER, YOUR WIRELESS SERVICE PROVIDER (INCLUDING WITHOUT LIMITATION ANY ROAMING WIRELESS SERVICE PROVIDER AND ANY WIFI HOT SPOTS) MAY LEVY FEES OR CHARGES FOR TRANSMISSION OR RECEIPT OF MESSAGES AND OTHER COMMUNICATIONS PERFORMED USING YOUR EQUIPMENT ON THE WIRELESS SERVICE PROVIDER NETWORK, AND YOU ARE SOLELY RESPONSIBLE FOR SUCH CHARGES.

## **Limitation of Liability**

IN NO EVENT SHALL SUNGAGE, ITS DIRECT OR INDIRECT SUBSIDIARIES, CONTROLLED AFFILIATES, AGENTS, EMPLOYEES, OR REPRESENTATIVES BE LIABLE FOR DEATH, PERSONAL INJURY, PROPERTY DAMAGE, OR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF OR DAMAGE TO DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL OR FINANCIAL DAMAGES, LOST REVENUES, OR OTHER LOSSES OF ANY KIND, IN CONNECTION WITH OR ARISING OUT OF THIS TERMS OF USE OR IN ANY WAY RELATED TO YOUR USE OR INABILITY TO USE THE SITE OR ANY SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL SUNGAGE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Sungage reserves the right to modify or correct the contents of its Site at any time, without notice. Sungage shall not be liable in the event of contamination of your computer equipment as a result of virus propagation or other computer "infections." You are responsible for taking all appropriate measures to protect your own data and software, including measures to protect your data and software from contamination by any viruses circulating via the internet.

## **Indemnification**

You agree to defend, indemnify, and hold Sungage harmless, including our subsidiaries, affiliates, and all of our respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of: (1) use of the Site; or (2) breach of these Terms of Use. Notwithstanding the foregoing, we reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate, at your expense, with our defense of such claims. You shall not in any event settle any such claim or matter without the written consent of Sungage. We will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

## **Monitoring of the Site**

Sungage has no obligation to monitor the Site; however, you acknowledge and agree that Sungage has the right to monitor the Site electronically from time to time and to

disclose any information as necessary or appropriate to satisfy any law, regulation or other governmental request, to operate the Site, or to protect itself or other users of the Site.

## **Termination**

This Agreement is effective until terminated by Sungage. Sungage may terminate this Agreement at any time without notice, or suspend or terminate your access and use of the Site at any time, with or without cause, in Sungage's absolute discretion and without notice. The following provisions of this Agreement shall survive termination of your use or access to the Site: the sections concerning Indemnification, Disclaimer of Warranties, Limitation of Liability, Waiver, Applicable Law and Dispute Resolution and General Provisions, and any other provision that by its terms survives termination of your use or access to the Site.

## **Waiver**

Failure by Sungage to enforce any of its rights under this Agreement shall not be construed as a waiver of those rights or any other rights in any way whatsoever.

## **Applicable Law and Dispute Resolution**

This Agreement and all other aspects of your use of the Site shall be governed by and construed in accordance with the laws of the United States and, to the extent applicable, to the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws rules. Any disputes arising out of, relating to, or connected with these Terms of Use or your use of the Site shall be brought exclusively before the federal or state courts serving the County of Suffolk, Commonwealth of Massachusetts. You agree that you will notify Sungage in writing of any claim or dispute concerning or relating to the Site and the information or services provided through it, and give Sungage a reasonable period of time to address it BEFORE bringing any legal action, either individually, as a class member or representative, or as a private attorney general, against Sungage. The use of the Site implies your express consent to the personal jurisdiction and venue of such courts.

You acknowledge and agree that, regardless of any statute or law to the contrary, any claim or cause of action you may have arising out of, relating to, or connected with your use of the Site must be filed within one calendar year after such claim or cause of action arises, or forever be barred.

**WAIVER OF CLASS ACTION RIGHTS; LIMITATION OF ACTIONS.**

By entering into these Terms of Use, you hereby irrevocably waive any right you may have to join claims with those of others in the form of a class action or similar procedural device. Any claims arising out of, relating to, or connected with these Terms of Use or your use of the Site must be asserted individually.

## **Severability**

If any provision of these Terms of Use are found to be invalid or unenforceable, the remaining provisions shall be enforced to the fullest extent possible, and the remaining provisions of these Terms of Use shall remain in full force and effect.

## **General Provisions**

The version of the Terms of Use published on the Site supersedes any previous Terms of Use to which you and Sungage may have been bound. These Terms of Use will be binding on, inure to the benefit of and be enforceable against the parties and their respective successors and assigns. We may assign any or all of our rights and obligations to others at any time. We shall not be responsible or liable for any loss, damage, delay, or failure to act caused by any cause beyond our reasonable control. Neither the course of conduct between parties nor trade practice shall act to modify any provision of these Terms of Use. All rights not expressly granted herein are hereby reserved. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.