

# CapriPool.com Website Terms of Use

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## I. INTRODUCTION

Welcome to the website for Contegra Pools, LLC, an Illinois Limited Liability Corporation (hereinafter “Company,” “we,” or “us”).

Please read these Terms of Use carefully. These Terms of Use set forth legally binding terms and conditions, and govern this website as well as any features, functionality, applications, content, products and services made available by us on or through this website. By accessing or using the website, you accept and agree to be bound by these Terms of Use.

*Privacy Policy; Additional Terms.* These Terms of Use include the terms and conditions set forth in this document as well as our Privacy Policy, located at <https://capripool.com/privacy-policy/>. Certain areas of the website and product and service offerings may be subject to additional terms and conditions posted by us on the website or otherwise made available by us to you. Your access to and use of the website is conditioned upon your acceptance of such additional terms and conditions.

*Changes to these Terms of Use.* We reserve the right to amend these Terms of Use from time to time. Any amendments shall be effective when posted by us on the website or otherwise made available to you. Your access to and use of the website after we have modified these Terms of Use shall signify your acceptance of the amended terms. It remains your responsibility to review these Terms of Use regularly to ensure that you are updated as to any changes.

*Contacting Us.* If you have questions about these Terms of Use, or any other questions or comments concerning the website, please contact us at <https://capripool.com/contact/>.

## II. WEBSITE USE

*Eligibility.* By accessing and using the website, you represent and warrant that: (a) you have read and understand, and agree to comply with and be bound by these Terms of Use; (b) any information that you submit to us is, and will be updated to remain, truthful, complete and accurate; and (c) your access to and use of the website does not and shall not violate any applicable laws of your local jurisdiction.

*Permitted and Prohibited Activities.* You may use the public areas of the website to learn more about our company, product and service offerings. You may not:

- use the website for advertising, promotional or other commercial purposes, except in those forums (if any) where such activities are expressly permitted;
- transmit “junk mail,” “chain letters,” “pyramid schemes,” “spam,” or other unsolicited mass mailings or communications;

- use automated means, including but not limited to scripts, spiders, robots, crawlers, or data mining tools, to post content to or download content from the website;
- attempt to gain unauthorized access to any private areas of the website;
- engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of the website;
- impersonate a representative of Company or another website user;
- “stalk” or otherwise harass anyone, or contact any user that has not specifically asked to be contacted;
- engage in or promote any activity, or post or transmit any content, that is illegal, threatening, abusive, offensive, obscene, harassing, defamatory, deceptive, false, misleading, inaccurate, unsafe, invasive of another's privacy, or endangering of minors in any way;
- promote discrimination based on race, ethnicity, religion, gender, sexual orientation, disability, age or marital status, or hatred or physical harm of any kind against any group or individual;
- infringe, misappropriate, or violate the copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, rights of privacy or publicity, or other rights of any third party, or violate any contractual, fiduciary or other legal duty or obligation.

*Termination.* We reserve the right to terminate your use of the website or take other action, with or without prior notice to you, if you violate any provision of these Terms of Use or use the website in a manner for which it is not intended to be used. You agree to indemnify, defend and hold Company, its directors, officers, employees, agents, affiliates and suppliers harmless from and against any and all claims, demands, actions, damages, liabilities, losses, fines, penalties, judgments, awards, settlements, costs and expenses (including reasonable attorneys’ fees and legal costs) arising out of or resulting in whole or in part from your violation of these Terms of Use, misuse of the website, or actual or alleged violation of any applicable law or the rights of another person or entity.

### **III. LINKS TO THIRD PARTY SITES**

This website may contain links to Internet or mobile sites not owned or operated by us, including to sites featuring companies, products, services or news that may be of interest or to pages that we maintain on YouTube, Facebook, Twitter or other social media sites. The inclusion of these links should not be construed as any sort of affiliation, sponsorship, endorsement, or approval. When you access a third party Internet or mobile site, you do so at your own risk. We assume no responsibility or liability for any information, products or services available on or through any third party Internet or mobile site, or for any actions taken by you or others in connection therewith.

### **IV. PROPRIETARY RIGHTS**

*Our Rights in this Website.* Company reserves all right, title and interest in and to the website, including but not limited to all products, services, materials, information, and compilations of information available on or through the website, as well as any and all domains and sub-

domains, the design, layout, graphics, programming code and “look and feel” of the website, the copyrights, trademarks, service marks, and trade dress appurtenant thereto, all goodwill arising therefrom, and all other intellectual property and proprietary rights of any nature throughout the world embodied therein. You may not modify, reproduce, distribute, sell, or create derivative works based upon the website, or post any content from the website to newsgroups, blogs, mailing lists or social networking sites, without our prior written consent.

*Rights in User Content.* All ownership rights to content is retained by the submitting user. By submitting or posting content (including comments or feedback), you hereby grant us a non-exclusive, worldwide, perpetual and irrevocable, freely transferable and sublicensable, royalty-free and fully paid-up license to perform, display, transmit, reproduce, distribute, prepare derivative works of, and otherwise access and use such content as part of the website and in any other format or medium, including but not limited to on any successor Internet sites, on any similar Internet sites controlled or operated by us, our affiliates, successors or assigns, in any electronic or print collections or compilations based on the website, and in marketing and advertising for each of the foregoing; provided, however, our use of any personal information submitted by you shall be consistent with our Privacy Policy.

## **V. DISCLAIMERS**

THE WEBSITE, IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND ALL USE OF THE WEBSITE IS “AT YOUR OWN RISK.” COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE WEBSITE OR THE PRODUCTS, SERVICES OR INFORMATION MADE AVAILABLE ON OR THROUGH THE WEBSITE, AND EXPRESSLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. COMPANY DOES NOT REPRESENT OR WARRANT THAT YOUR USE OF THE WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY PRODUCTS, SERVICES OR INFORMATION AVAILABLE ON OR THROUGH THE WEBSITE WILL BE TRUE, ACCURATE, COMPLETE, UP-TO-DATE, OR FREE FROM VIRUSES, MALICIOUS CODE, TYPOGRAPHICAL ERRORS OR ALTERATION BY THIRD PARTIES.

## **VIII. LIMITATIONS ON LIABILITY**

IN NO EVENT SHALL COMPANY OR ITS SUPPLIERS BE LIABLE TO YOU OR ANYONE ELSE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR SIMILAR DAMAGES (INCLUDING WITHOUT LIMITATION LOST BUSINESS, LOST PROFITS, DAMAGE TO OR LOSS OF DATA, OR OTHER PECUNIARY LOSS) ARISING OUT OF OR RELATED TO THESE TERMS OF USE, THE WEBSITE, THE PRODUCTS, SERVICES OR INFORMATION AVAILABLE OR ADVERTISED ON THE WEBSITE, ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE THEREON, OR ANY FORCE MAJEURE EVENT OR OTHER OCCURRENCE OUTSIDE OF OUR REASONABLE CONTROL. THE TOTAL CUMULATIVE LIABILITY OF COMPANY AND ITS SUPPLIERS ARISING OUT OF OR RELATED TO THESE TERMS OF USE, THE WEBSITE, AND THE PRODUCTS,

SERVICES AND INFORMATION AVAILABLE OR ADVERTISED ON THE WEBSITE SHALL NOT EXCEED THE FEES (IF ANY) PAID BY YOU TO COMPANY FOR ACCESS TO THE WEBSITE IN THE TWELVE (12) MONTHS PRIOR TO THE ACCRUAL OF THE FIRST SUCH CLAIM OR TEN DOLLARS (\$10), WHICHEVER IS GREATER. THE LIMITATIONS ON LIABILITY IN THIS SECTION SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE EXISTENCE OF MORE THAN ONE CLAIM OR SUIT WILL NOT EXPAND THIS LIMITATION. THESE LIMITATIONS ON LIABILITY ARE AN ESSENTIAL PART OF THESE TERMS OF USE, AND SHALL BE VALID AND BINDING EVEN IF ANY REMEDY IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE. CERTAIN STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN WARRANTIES OR TYPES OF DAMAGES, AND SO SUCH DISCLAIMERS MAY NOT APPLY TO YOU.

## **IX. MISCELLANEOUS**

*Governing Law.* The website is hosted and operated in the United States of America. These Terms of Use and the relationship between you and us relating to your access to and use of the website shall be governed by and interpreted for all purposes in accordance with the laws of the State of Illinois, USA, without regard to any conflict of laws principles that would require the application of the laws of a different jurisdiction.

*Jurisdiction and Venue.* Any dispute, action or proceeding arising out of or related to these Terms of Use, your access to or use of the website, or the products, services, or information made available to you through the website shall be commenced in the state courts of Madison County, Illinois or, if proper subject matter jurisdiction exists, the U.S. District Court of the Southern District of Illinois. You hereby consent to the exclusive personal jurisdiction and venue of such courts and waive any objections thereto, including without limitation any objection based on *forum non conveniens*; provided, however, the foregoing shall not prevent us from seeking temporary or permanent injunctive or other equitable relief against you or compelling your indemnification obligations in any court of competent jurisdiction.

*Assignments.* You may not assign these Terms of Use or assign or delegate any right or duty under these Terms of Use, in whole or in part, without our prior written consent. Any attempted assignment or delegation shall be null and void from the beginning and without effect. We may assign these Terms of Use or any right or duty under these Terms of Use, with or without notice to you, including to any affiliate or successor in interest. Subject to the foregoing, these Terms of Use shall be binding on and inure to the benefit of you and us, and each of our respective heirs, administrators, successors and permitted assigns.

*Third Party Beneficiaries.* Nothing contained in these Terms of Use, express or implied, is intended or shall be construed to give any third party any rights or remedies under or by reason of these Terms of Use. Notwithstanding the foregoing, the disclaimers and limitations on liability under these Terms of Use shall extend to Company, its directors, officers, employees,

agents, affiliates, and suppliers. All references to Company in connection therewith shall be deemed to include such persons and entities as third party beneficiaries entitled to accept all benefits afforded thereby.

*Amendment; Waiver.* Any amendment by you or waiver by us of these Terms of Use must be in writing and signed by a duly authorized representative of Company. No provision shall be waived by any act, omission or knowledge of a party. Any waiver on one occasion shall not constitute a waiver of any other or subsequent duty or breach.

*Severability.* If any provision of these Terms of Use is determined to be invalid or unenforceable under applicable law, the provision shall be amended by a court of competent jurisdiction to accomplish the objectives of such provision to the greatest extent possible under applicable law, or severed from these Terms of Use if such amendment is not possible, and the remaining provisions of these Terms of Use shall continue in full force and effect.

*Construction.* The captions in these Terms of Use are for reference purposes only and shall not affect the meaning or interpretation of these Terms of Use. The term “including” as used herein means “including without limitation.” The terms “hereunder,” “herein,” “hereof” and similar variations mean these Terms of Use as a whole, and not any particular section.

*Entire Agreement.* These Terms of Use, including the Privacy Policy and additional terms referenced herein, set forth the entire agreement of the parties with regard to the subject matter hereof, and supersede all prior and contemporaneous negotiations and agreements, written or oral.