

Terms & Conditions



User Agreement with Newberger & Associates, LLC

Newberger & Associates, LLC is a limited liability company registered in the State of Virginia.

Last Updated on November 29, 2023

Introduction

This Agreement is between Newberger & Associates, LLC, and Users of the Conflict Analysis Tool and its accompanying Guide. For purposes of this document:

“User” or “Users” refer to those individuals who purchase access to or are otherwise permitted to take the Conflict Analysis Tool.

Newberger & Associates, LLC” is abbreviated “N&A.”

The “Conflict Analysis Tool” is abbreviated “CAT.”

“CAT report” refers to an individual’s printed or electronic CAT results.

The “Guide” refers to the free supplemental material accompanying the CAT report. It contains (1) discussion questions, (2) exercises & actions to be taken, (3) thoughts and ideas for your marital health, (4) illustrations, and (5) YouTube videos as they relate to the relationship topic under discussion in the CAT.

“Counselor” or “counselors” refer to individuals who can enter into a legally recognized confidential relationship with those seeking their help. This includes marriage counselors, marriage & family therapists, psychiatrists, psychologists, social workers, marital mediators, pastoral counselors, and clergy.

Terms and Conditions

1. Service Provided

N&A offers Users access to and use of the Conflict Analysis Tool and its accompanying Guide. The CAT reflects an individual’s thoughts about his or her relationship with his/her spouse or partner. The CAT does not assess mental health.

2. Intellectual Property / Copyright Protection

(a) The Conflict Analysis Tool is owned by Newberger and Associates, LLC, and is protected by United States copyright law. The same holds true with the copyrighted sections of the Guide. No person or entity is legally able to reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, or transmit any portion of the CAT in any form by any means without the prior written consent of N&A.

(b) **Exceptions:** Those who pay for or are given permission to take the CAT may share a **printed (not electronic)** copy of their report with their spouse or third-party counselor with whom they have a legally recognized confidential relationship. This permission does **not include** sharing the accompanying CAT “Guide” or any section of it.

3. Regarding Counselors

Users acknowledge that the CAT is not a substitute for professional couple’s counseling. The User is encouraged to seek counseling services from a qualified professional. Counselors who read and/or use the CAT with their clients are not sponsored by, licensed by, nor provide services on behalf of Newberger & Associates, LLC. N&A, therefore, makes no guarantees or warranties, express or implied, regarding the preparedness, compatibility, or effectiveness of any counselor who uses the CAT. Counselors are free to charge their clients a fee to read and/or interpret the results of the CAT report at an amount they deem appropriate, and you agree upon. Users should take it upon themselves to ensure that their counselors treat the results of the CAT in the same manner they treat their other confidential communications, notes, and disclosures.

4. Changes in the Service

N&A reserves the right to modify its services for any reason and without notice, including the right to terminate the services (or any portion thereof) or change fees for the use of the CAT. N&A also reserves the right to modify the CAT as it deems appropriate or to improve the tool’s usefulness. Constructive feedback by Users is welcome.

5. Limited Liability

(a) In no event shall N&A be liable for any incidental, special, consequential, or indirect damages arising out of or relating to the use or inability to use the CAT or the results obtained from using the CAT, including, without limitation, lost profits, damages for loss or corruption of data or programs, service interruptions and procurement of substitute services, even if the company knows or has been advised of the possibility of such damages. Under no circumstances will N&A’s aggregate liability,

on any form of action whatsoever in connection with this agreement, exceed the fees paid by the User for using the CAT.

(b) In no event shall the company be liable for any damages whatsoever, whether direct, indirect, general, special, compensatory, consequential, and/or incidental, arising out of or relating to the conduct of the counselor or anyone else in connection with the use of the CAT, including without limitation, bodily injury or damage to property, emotional distress, and/or any other damages resulting from communications or meetings with other Users of the CAT.

6. Disclaimer of Warranties

(a) N&A provides use of the CAT on an “as is” basis and grants no warranties of any kind, whether express, implied, statutory, or otherwise. N&A specifically disclaims any implied warranties of merchantability, fitness for a particular purpose, title, quiet enjoyment, or non-infringement. N&A disclaims any warranties for any information or advice obtained through the CAT to the fullest extent permitted by law.

(b) N&A does not warrant the competence or qualifications of any counselor or a counselor’s feedback or advice.

(c) N&A does not warrant that the CAT will be secure, uninterrupted, always available, and error-free. Nor does N&A warrant that the CAT will meet the user’s needs or that any defects found in the CAT will be corrected. N&A disclaims liability for, and no warranty is made concerning, the online connectivity to and availability of the CAT.

7. Indemnification

Users shall, at no expense to N&A, indemnify, defend, and hold harmless N&A, its officers, directors, employees, agents, and third parties for any losses, costs, liabilities, and expenses (including reasonable attorneys’ fees) relating to or arising from N&A’s service, the results obtained from the CAT, a counselor’s use of the CAT, actions taken based on the CAT’s individual or counselor’s report, or any breach by a User of the terms and conditions of this Agreement. Users hereby agree to waive all laws that may limit the efficacy of general releases.

8. No Duty to Warn

Apart from administrative or technical support activities, N&A does not read nor is expected to read through a User’s submission of the CAT. Therefore, a “duty to warn” individuals or legal authorities regarding threatening comments made within a User’s report does not arise under the terms and conditions of this agreement. This agreement indemnifies

and releases N&A, its officers, directors, employees, agents, and third parties for the absence of any such warning.

9. Dispute Resolution

(a) When a controversy or claim arising out of or relating to the terms and conditions of this document or N&A's service to a User, N&A and the User agree first to try to resolve the issue on their own.

(b) If this effort fails, at the discretion of N&A, a second attempt to find resolution will be made through mediation. The mediation will be conducted by a mutually agreed upon member of the National Academy of Distinguished Neutrals, whose office is located within a 100-mile radius of Reston, VA. If such an individual is unavailable, the mediator will be selected from those available to mediate online. The mediator must be willing to adhere to the "Model Standards of Conflict for Mediators" endorsed in 2005 by the American Bar Association, the American Arbitration Association, and the Association of Conflict Resolution. Joint mediation costs will be split.

(c) If mediation is not undertaken or is undertaken but fails to resolve the dispute, the matter shall be settled by a court of law. Virginia's state and federal courts shall be the exclusive forum and venue to resolve all disputes arising from or relating to this document's Terms and Conditions or a User's usage of the CAT. By using the CAT or any service offered by N&A, the User consents to personal jurisdiction and venue in Virginia state and federal courts with respect to all such disputes. Any party seeking temporary or preliminary injunctive relief may do so in any state or federal court in Virginia having jurisdiction thereof. N&A may seek injunctive relief for violating or infringing its intellectual property right in any U.S. court with appropriate jurisdiction.

10. Choice of Law

The laws of the State of Virginia (regardless of conflicts of law principles) shall govern this Agreement, and any dispute arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the federal and state courts of Virginia, other than actions to enforce any order or judgment entered by such courts.

11. Entire Agreement

This agreement, which the User accepts upon registering to use the CAT, contains the entire agreement between N&A and Users. Unless otherwise explicitly stated, the herein shall survive termination of the User's usage of the CAT.

12. Severability

If any provision of this agreement is held invalid, the remainder of this Agreement shall continue in full force and effect.

13. Waiver

No provision hereof and no breach of any provision hereof shall be deemed waived by any previous waiver of such provision or any breach thereof, by any previous custom, practice, or course of dealing, or by N&A's failure to object to provisions contained in any communication or order from the user.

14. Modifying This Document

Newberger & Associates, LLC reserves the right to modify the terms and conditions of this document at any time by posting the changes & date of the changes on this page: www.MarriageCounselingAlt.com/PDF/terms-and-conditions.pdf and/or by email notification. It is the User's responsibility to review this document from time to time to learn of any revisions. A User's continued use of the CAT following the posting of this document's updated terms and conditions shall constitute the User's acceptance of such changes.

15. Termination

If a User or potential User does not agree with all the terms and conditions of this document, that person must not access or utilize the CAT or Guide in any manner. User or N&A reserves the right to immediately suspend or terminate their relationship at any time, for any reason, or no reason without explanation.

16. Miscellaneous

The use or absence of highlighted text, the absence of words in all capital letters, or the use or absence or presence of other textual formatting in no way limits, impacts, or defines how this agreement is to be interpreted.

17. Agreement

I understand this document's "Terms and Conditions" and agree to abide by them should I use the Conflict Analysis Tool and Guide.