

## **NACS Website Terms of Use Agreement**

Last Updated: May 22, 2018

These Terms of Use (“Terms”) apply to the websites operated by the National Association of College Stores and its affiliates such as [www.nacs.org](http://www.nacs.org), [www.camex.org](http://www.camex.org), [www.nacsfoundation.org](http://www.nacsfoundation.org), [www.oncampusresearch.org](http://www.oncampusresearch.org), [www.money4textbooks.com](http://www.money4textbooks.com), [www.partnership.com](http://www.partnership.com), [www.textbookaid.org](http://www.textbookaid.org), [www.winoncampus.com](http://www.winoncampus.com), [www.thehub.nacs.org](http://www.thehub.nacs.org), and other websites on which these Terms are posted (the “Sites”). By utilizing the Sites, you (“User,” “Users,” or “you”) acknowledge that you have read, understood and agreed to comply with the terms and conditions stated within these Terms.

NACS may amend these terms and conditions at any time. User’s continued use of the Sites constitutes acceptance of the terms and conditions stated at the time of use.

PLEASE NOTE THE ARBITRATION PROVISION SET FORTH BELOW, WHICH MAY REQUIRE YOU TO ARBITRATE ANY CLAIMS YOU MAY HAVE AGAINST NACS ON AN INDIVIDUAL BASIS. EXCEPT WHERE AND TO THE EXTENT PROHIBITED BY LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, IF ANY, AND THAT YOU MAY NOT PROCEED IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE CAPACITY.

### **User Conduct**

User agrees that all the information posted or accessed will be used only for informational or educational purposes. There may be no commercial or other unauthorized use of interactive features. User may not conduct business, or actively solicit actions which are prohibited by law or which violate any federal, provincial/territorial, state or local laws. In addition, the Sites cannot be used to exchange information, services, materials or software in return for payment of any sort (trade of like items, special discounts, cash, etc.) without the prior written approval of NACS.

Users of the Sites must also agree not to distribute, post, publish or otherwise communicate any content which advertises or solicits others to engage in non-competitive activities. Anti-trust law forbids discussing or entering into an agreement or understanding concerning any matter which is inconsistent with the proposition that each company must exercise its independent business judgment in pricing its services or products, dealing with its customers and suppliers, and choosing the markets in which it will compete. Users of the Sites must not enter into any agreements, understandings, or discussions concerning:

- prices, discounts, and terms or conditions of sale;
- profits, profit margins, and cost data;
- market shares, sales territories, and markets;
- the allocation of customers or territories;

- selection, rejection or termination of customers or suppliers;
- restricting the territory or markets in which a company may sell;
- restricting the customers to whom a company may sell;
- refusal to deal with a corporation because of its pricing or distribution practices;
- whether or not the pricing practices of any industry member are unethical or constitute an unfair trade practice.

By using the Sites, you agree that you will not post any of the following material in site bulletin boards, interactive features or other forums ("Postings"):

- Material which defames, abuses or threatens others.
- Statements that are bigoted, hateful or racially offensive.
- Material that advocates illegal activity or discusses illegal activities with the intent to commit them.
- Unauthorized copyrighted material.
- Material that contains vulgar, obscene or indecent language or images.
- Advertising or any form of commercial solicitation.
- Material that does not pertain to the chat room or bulletin board's given topic.

Statements or Postings which violate the above terms will be deleted upon discovery. All interactive features are monitored, and NACS reserves the right to edit or remove any information posted to the Sites.

You shall not use the Sites in any manner that:

- is designed to interrupt, destroy or limit the functionality of, any computer software or hardware or telecommunications equipment (including by means of software viruses or any other computer code, files or programs);
- interferes with or disrupts the Sites, services connected to the Sites, or otherwise interferes with operations or services of the Sites in any way;
- infringes any copyright, trademark, trade secret, patent or other right of any party, or defames or invades the publicity rights or the privacy of any person, living or deceased (or impersonates any such person);
- consists of any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- causes NACS to lose (in whole or part) the services of our Internet service providers or other suppliers;
- links to materials or other content, directly or indirectly, to which you do not have a right to link;
- is false, misleading, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable, as determined by NACS in its sole discretion;
- copies, modifies, creates a derivative work of, reverse engineers, decompiles or otherwise attempts to extract the source code of the software underlying the Sites or any portion thereof;
- violates, or encourages anyone to violate these Terms, any ancillary terms and conditions listed on the Sites, or the Privacy Policy; or

- violates, or encourages anyone to violate, any applicable local, state, provincial/territorial, national, or international law, regulation or order.

### **Registration Obligations**

To access certain portions of the Sites, Users must become registered members of NACS. Users agree to provide truthful and accurate information during the registration process or when prompted to submit information through a form or e-mail request from authorized NACS staff. Users also agree to maintain the accuracy of any submitted data. If User provides any information that is untrue, inaccurate or incomplete, NACS reserves the right to terminate User's membership and suspend User's use of any and all services offered through the Sites.

### **Linking**

We welcome links to Sites. You are usually free to establish a hypertext link to any of the Sites so long as the link does not create a false implication of sponsorship or endorsement of your site by any of the Sites or by NACS.

### **No Framing**

Without the prior written permission of NACS, you may not frame, or make it appear that a third-party site is presenting or endorsing, any of the content of the Sites, or incorporate any intellectual property of the Sites, NACS or any of its licensors into another website or other service.

### **Accuracy of Information**

The NACS staff works hard to ensure that information we post to the Sites is both timely and accurate. Please understand, however, that updates occur over time. Though we may post follow-up reports, and may continue to provide access to the original report, as in an archive of news stories, for example, we may not go back and change the original report to reflect new developments. We encourage you to be sure to check the dates on reports to take care to look at recent information.

### **Age Limitation**

The Sites are not intended for use by persons under the age of 13. NACS does not knowingly collect information from visitors under the age of 13 and, in the event that we learn that a person under the age of 13 has provided NACS with personal information, we will delete such personal information.

### **Privacy Policy**

NACS collects personal information about the Users of the Sites. Collection of this information is governed by NACS' Privacy Policy, which can be found at <http://www.nacs.org/privacy.aspx>. By using the Sites, you consent to the collection and use of your personal information by NACS as described in our Privacy Policy, which is incorporated into these Terms by this reference.

### **Representations and Warranties**

You represent and warrant that (a) you have all rights, power and the full legal authority to enter

into the Terms on your own and that the Terms are enforceable against you in accordance with the terms and conditions described herein, (b) you have carefully read the Terms and shall comply with all of your obligations under these Terms, and (c) you accept and will abide by the terms of the Terms, the Privacy Policy, and any other ancillary terms and conditions posted on the Sites.

### **Proprietary Rights to Content**

All materials contained on the Sites are copyrighted except where explicitly noted otherwise. © National Association of College Stores, Inc. All rights reserved.

As between you and NACS, NACS owns all rights, title and interest (including all copyright, trademark, patent, trade secret and other intellectual property rights) in and to the Sites, and you have no rights in and to the Sites other than as expressly set forth in these Terms.

User acknowledges and agrees that content, including but not limited to text, software, music, sound, photographs, video, graphics or other material contained in the Sites (“Content”) is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except for information that is in the public domain or for which you have been given express written permission by NACS, no Content may be sold, leased, copied, reproduced, republished, uploaded, displayed, posted, transmitted, distributed, modified, publicly performed, used in any derivative works based thereon or otherwise used for any public or commercial purpose without the prior written consent of NACS or, where applicable, our licensors. However, you may print copies of materials on the Sites for your personal, noncommercial use only, provided that (a) you must keep intact all copyright, trademark, and other proprietary notices appearing therein and (b) you use such materials solely in the manner permitted by these Terms and not in any manner that competes with us.

### **Corporate Identification and Trademarks**

All registered and/or unregistered trademarks and/or service marks (collectively, “Marks”) used or referred to on the Sites are the property of NACS and/or its affiliates, unless otherwise noted. Users may not use, copy, reproduce, republish, upload, post, transmit, distribute or modify these Marks in any way without NACS’ prior written permission. The use of NACS’ Marks on any other website is prohibited.

### **Links to Third-Party Sites**

NACS provides Users with links to other websites. These third-party sites are not under the control of NACS and User acknowledges that NACS is not responsible or liable for any content, advertising, products or other materials available from such third party sites. User also agrees that NACS shall not be liable for any loss or damage of any sort incurred as the result of using any third party’s site.

### **Limitation of Liability**

EXCEPT WHERE AND TO THE EXTENT PROHIBITED BY LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, USER EXPRESSLY UNDERSTANDS AND AGREES THAT NACS SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE (DIRECT, INDIRECT, PUNITIVE, ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPT OR OTHERWISE) RESULTING FROM ANY USE OF, OR INABILITY TO USE, THE

SITES, OR RESULTING FROM ANY ERRORS OR OMISSIONS IN THE CONTENT OF THE SITES, REGARDLESS OF THE BASIS UPON WHICH LIABILITY IS CLAIMED, EVEN IF NACS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

PLEASE NOTE SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION ARE NOT APPLICABLE TO NEW JERSEY INDIVIDUAL RESIDENTS.

#### **Disclaimer of Warranties**

The Sites are being provided by NACS, but the opinions expressed by Users do not necessarily reflect the opinions and beliefs held by NACS. In addition, NACS makes no warranty that the Sites will meet your requirements or that it will be uninterrupted, timely, secure, useful, complete, or error free; nor does NACS make any warranty as to the results that may be obtained from the use of the Sites or as to the accuracy or reliability of any information obtained through the Sites. USER UNDERSTANDS AND AGREES THAT ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SITES IS DONE AT USER'S OWN RISK AND THAT USER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE DONE TO USER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH CONTENT.

**EXCEPT WHERE AND TO THE EXTENT PROHIBITED BY LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, UNLESS EXPRESSLY STATED OTHERWISE, NACS PROVIDES THE SITES "AS IS," "AS AVAILABLE," AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE FULLEST EXTENT ALLOWABLE BY LAW. THIS INCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OF INTELLECTUAL PROPERTY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL NACS OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION OR LOSS OF INFORMATION) ARISING OUT OF THE USE OR INABILITY TO USE THE SITE CONTENT, EVEN IF NACS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**NOTE: SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION ARE NOT APPLICABLE TO NEW JERSEY INDIVIDUAL RESIDENTS.**

#### **Indemnification**

User agrees, at User's expense, to indemnify, defend and hold harmless NACS, its officers, directors, employees, agents, affiliates, distributors and licensees from and against any judgment, losses, deficiencies, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with or arising from any claim, demand, suit, action or proceeding arising out of User's breach of these Terms or in connection with User's use of the

Sites or any product or service related thereto.

### **Arbitration**

EXCEPT WHERE AND TO THE EXTENT PROHIBITED BY LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, by visiting the Sites, you and NACS agree that, if there is any controversy, claim, action or dispute arising out of or related to any transaction conducted on the Sites, or the breach, enforcement, interpretation, or validity of these Terms of Use or any part of it ("Dispute"), both parties shall first try in good faith to settle such Dispute by providing written notice to the other party describing the facts and circumstances of the Dispute and allowing the receiving party thirty (30) days in which to respond to or settle the Dispute.

Notice shall be sent:

(1) to the National Association of College Stores, 528 East Lorain Street, Oberlin, OH 44074, or

(2) to you at: your last-used billing address, the billing and/or shipping address in your online profile, or other address that we have on file for you.

Both you and NACS agree that this dispute resolution procedure is a condition precedent that must be satisfied before initiating any litigation or filing any claim against the other party.

IF ANY DISPUTE CANNOT BE RESOLVED BY THE ABOVE DISPUTE RESOLUTION PROCEDURE, YOU AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION FOR SUCH DISPUTE WILL BE DECIDED EXCLUSIVELY THROUGH CONFIDENTIAL AND BINDING ARBITRATION ON AN INDIVIDUAL BASIS. ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND THAT YOU MAY NOT PROCEED IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE CAPACITY. OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT WILL NOT BE AVAILABLE OR WILL BE MORE LIMITED IN ARBITRATION, INCLUDING DISCOVERY AND APPEAL RIGHTS. All such Disputes shall be exclusively submitted to JAMS ([www.jamsadr.com](http://www.jamsadr.com)) for binding arbitration under its rules then in effect, before one arbitrator to be mutually agreed upon by both parties.

The arbitrator, and not any federal, provincial/territorial, state or local court or agency, shall have exclusive authority to resolve any dispute arising under or relating to the interpretation, applicability, enforceability or formation of these Terms, including any claim that all or any part of these Terms is void or voidable.

### **Assignment**

You shall not resell or assign your rights, duties or obligations under these Terms, and any attempted assignment or delegation will be void and of no force or effect whatsoever. These Terms may be automatically assigned by NACS, in our sole discretion, to a third party, and such an assignment will inure to the benefit of our successors, assigns and/or licensees. Without limiting the foregoing, we may sell, transfer or otherwise share some or all of our assets, including your personal information, with any parent company, subsidiary, joint venture, and a

company under our common control, as well as with a potential acquirer, lender, or investor, including in connection with a merger, reorganization, or sale of assets, or in the event of bankruptcy. In each such event, the personal information we have collected from you may be one of the assets transferred.

### **Governing Law**

For US residents, these Terms and the relationship between User and NACS shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law provisions. Any controversy or claim arising out of or relating to these Terms or relating to use of the Sites and the material contained in the Sites shall be resolved in an Ohio court.

For Canadian residents, these Terms and the relationship between User and NACS shall be governed by the laws of the jurisdiction in which the individual resides.

User agrees that, regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to these Terms must be filed within one (1) year after such claim or cause of action arises or will be forever barred.

### **Choice of Forum**

For US residents, you further agree that any disputes or claims not subject to the arbitration provision discussed above shall be resolved by a court located in the State of Ohio and you agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action. PLEASE NOTE THAT BY AGREEING TO THESE TERMS OF USE, YOU ARE: (1) WAIVING CLAIMS THAT YOU MIGHT OTHERWISE HAVE AGAINST US BASED ON THE LAWS OF OTHER JURISDICTIONS, INCLUDING YOUR OWN; (2) IRREVOCABLY CONSENTING TO THE EXCLUSIVE JURISDICTION OF, AND VENUE IN, STATE OR FEDERAL COURTS IN THE STATE OF OHIO FOR ANY DISPUTES OR CLAIMS BROUGHT UNDER THIS PROVISION; AND (3) SUBMITTING YOURSELF TO THE PERSONAL JURISDICTION OF COURTS LOCATED IN THE STATE OF OHIO FOR THE PURPOSE OF RESOLVING ANY SUCH DISPUTES OR CLAIMS.

For Canadian residents, you agree that any disputes or claims not subject to the arbitration provision discussed above shall be resolved by a court in the jurisdiction in which you reside.

### **Waiver/Severability**

The waiver by either party of a breach or right under these Terms will not constitute a waiver of any subsequent breach or right. If a party does not exercise or enforce any legal right or remedy which is contained in these Terms (or which the party has the benefit of under any applicable law or regulation), such action or inaction shall not be taken to be a formal waiver of the party's rights, and all such rights or remedies shall still be available to such party. If any provision of these Terms is found to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be severed from the remainder of these Terms, which will otherwise remain in full force and effect.

### **Reservation of Rights**

Any rights not expressly granted herein are reserved.

**General**

Section headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. These Terms and any ancillary terms and conditions referenced herein or included in the Sites set forth the entire understanding and agreement between you and NACS with respect to the subject matter hereof. The provisions of these Terms shall survive suspension or cancellation of your account to the extent necessary to carry out the obligations of you and NACS hereunder.

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created between you and NACS by these Terms.

**Contacting Us**

If you have any questions or concerns regarding the Sites or these Terms, please contact us by e-mail at [membership@nacs.org](mailto:membership@nacs.org) or write to us at the following address:

National Association of College Stores

528 East Lorain Street

Oberlin, OH 44074