

Terms of Use

Welcome to new.edu, the website and online service of New Charter University (“NCU,” “we,” or “us”). This page explains the terms by which you may use our online and/or mobile services, web site, and software provided on or in connection with the service (collectively the “Service”). By accessing or using the Service, you signify that you have read, understood, and agree to be bound by this Terms of Use Agreement (“Agreement”) and to the collection, use and disclosure of your personally identifiable information as set forth in the NCU Privacy Policy, whether or not you are a registered user of our Service.

We reserve the right to amend this Agreement at any time by notifying you as provided in this Agreement, provided that no notice shall be required for non-substantive changes to the Agreement. Your continued use of the Service after any such change constitutes your acceptance of the new Terms of Use. If you do not agree to any of these terms or any future Terms of Use, do not use or access (or continue to access) the Service. This Agreement applies to all visitors, users, and others who access the Service (“Users”).

1. Use of Our Service

NCU is an accredited United States university with online functionality and access. Our Service allows you to access our content and courses and interact with our faculty and other Students and Members via our adaptive online learning platform.

A. ELIGIBILITY

This Service is intended solely for Users who are thirteen (13) years of age or older, and any registration, use or access to the Service by anyone under thirteen (13) years or age is strictly prohibited and in violation of this Agreement. If you are under eighteen (18) years of age but at least thirteen (13) years of age you may use the Service only if you either are an emancipated minor or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement. If you are a parent or guardian subscribing to the Service for the benefit of your child, please be aware that you are fully responsible for his or her use and conduct on the Service, including financial charges and legal liability that he or she may incur. The Service is not available to any Users previously removed from the Service by NCU.

2. PARENTAL CONSENT AND TERMS OF USER AGREEMENT.

Be sure to carefully read and understand all the rights and restrictions described in this Agreement and the Privacy Policy referenced herein. Potential users are asked to review and either accept or not accept the terms of the Agreement and the applicable Privacy Policy. Users cannot subscribe to or use the Service without accepting the terms of this Agreement and our Privacy Policy. The checking of the “I Agree” box at

registration means you accept the terms of this Agreement and any documents which are referenced herein. This Agreement is a legal agreement between you on behalf of yourself and the minors to whom you grant usage privileges and NCU. By checking the “I Agree” box, you are consenting to (a) NCU’s use of the registration information to set-up your children’s logins and learning paths, (b) the collection and use of your child’s performance data to manage their learning path as described in this Agreement, (c) this Agreement and any documents reference therein; and (d) the terms and conditions of use and payment for the Service described in this Agreement.

A. PARENTAL CONSENT

I certify that I am over the age of 18 and the parent or legal guardian of the child that I am registering to use the Service. I agree that NCU may use the information it collects during registration and from performance data directly from my child’s performance on learning activities, assessments, or otherwise to help NCU formulate and manage my child’s learning path. Additionally, I agree that this data can be used, in an anonymous aggregated form. I understand that NCU is not obligated to provide service to all and may limit its membership at its sole discretion for its commercial purposes.

B. NCU ACCOUNTS

Your NCU account gives you access to the services and functionality that we may establish and maintain from time to time and in our sole discretion. We may maintain different types of accounts for different types of Users. By connecting to NCU with a third-party service, such as Facebook, you give us permission to access and use your information from that service as permitted by that service, and to store your log-in credentials for that service.

You may never use another User’s account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. We encourage you to use “strong” passwords (passwords that use a combination of upper and lower case letters, numbers and symbols) with your account. You must notify NCU immediately of any breach of security or unauthorized use of your account. NCU will not be liable for any losses caused by any unauthorized use of your account.

You may control your User profile and how you interact with the Service by changing the settings in your Settings page. By providing NCU your email address you consent to our using the email address to send you Service-related notices, including any notices required by law, in lieu of communication by postal mail. We may also use your email address to send you other messages, such as changes to features of the Service and special offers. If you do not want to receive such email messages, you may opt out or change your preferences in your Settings page. Opting out may prevent you from receiving email messages regarding updates, improvements, or offers.

C. SERVICE RULES

You agree not to engage in any of the following prohibited activities: (i) copying, distributing, or disclosing any part of the Service in any medium, including without limitation by any automated or non-automated “scraping”; (ii) using any automated system, including without limitation “robots,” “spiders,” “offline readers,” etc., to access the Service in a manner that sends more request messages to the NCU servers than a human can reasonably produce in the same period of time by using a conventional on-line web browser,); (iii) transmitting spam, chain letters, or other unsolicited email; (iv) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Service; (v) taking any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure; (vi) uploading invalid data, viruses, worms, or other software agents through the Service; (vii) collecting or harvesting any personally identifiable information, including account names, from the Service; (viii) using the Service for any commercial solicitation purposes; (ix) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (x) interfering with the proper working of the Service; (xi) accessing any content on the Service through any technology or means other than those provided or authorized by the Service; or (xii) bypassing the measures we may use to prevent or restrict access to the Service, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Service or the content therein.

Accessing the audiovisual content available on the Service for any purpose or in any manner other than Streaming (as defined below) is expressly prohibited. “Streaming” means a contemporaneous digital transmission of an audiovisual work via the Internet from the NCU Service to a User’s device in such a manner that the data is intended for real-time viewing and not intended to be copied, stored, permanently downloaded, or redistributed by the User.

We may, without prior notice, change the Service; stop providing the Service or features of the Service, to you or to users generally; or create usage limits for the Service. We may permanently or temporarily terminate or suspend your access to the Service without notice and liability for any reason, including if in our sole determination you violate any provision of this Agreement, or for no reason. Upon termination for any reason or no reason, you continue to be bound by this Agreement. You are solely responsible for your interactions with other NCU Users. We reserve the right, but have no obligation, to monitor disputes between you and other Users. NCU shall have no liability for your interactions with other Users, or for any User’s action or inaction.

3. User Content

Some areas of the Service allow Users to post content such as profile information, comments, questions, and other content or information (any such materials a User submits, posts, displays, or otherwise makes available on the Service “User Content”). You retain ownership of your User Content.

You agree not to post User Content that: (i) may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness to you, to any other person, or to any animal; (ii) may create a risk of any other loss or damage to any person or property; (iii) seeks to harm or exploit children by exposing them to inappropriate content, asking for personally identifiable details or otherwise; (iv) may constitute or contribute to a crime or tort; (v) contains any information or content that we deem to be unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, profane, or otherwise objectionable; (vi) contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets); (vii) contains any information or content that you do not have a right to make available under any law or under contractual or fiduciary relationships; or (viii) contains any information or content that you know is not correct and current or (ix) violates any school or other applicable policy, including those related to cheating or ethics. You agree that any User Content that you post does not and will not violate third-party rights of any kind, including without limitation any Intellectual Property Rights (as defined below) or rights of privacy. To the extent that your User Content contains music, you hereby represent that you are the owner of all the copyright rights, including without limitation the performance, mechanical, and sound recordings rights, with respect to each and every musical composition (including lyrics) and sound recording contained in such User Content and have the power to grant the license granted below. NCU reserves the right, but is not obligated, to reject and/or remove any User Content that NCU believes, in its sole discretion, violates these provisions. You understand that publishing your User Content on the Service is not a substitute for registering it with the U.S. Copyright Office, the Writer's Guild of America, or any other rights organization.

For the purposes of this Agreement, "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

In connection with your User Content, you affirm, represent and warrant the following:

A. You have the written consent of each and every identifiable natural person in the User Content to use such person's name or likeness in the manner contemplated by the Service and this Agreement, and each such person has released you from any liability that may arise in relation to such use.

B. Your User Content and NCU's use thereof as contemplated by this Agreement and the Service will not violate any law or infringe any rights of any third party, including but not limited to any Intellectual Property Rights and privacy rights.

C. NCU may exercise the rights to your User Content granted under this Agreement without liability for payment of any residuals, payments, fees, or royalties payable under any collective bargaining agreement or otherwise.

D. To the best of your knowledge, all your User Content and other information that you provide to us is truthful and accurate.

NCU takes no responsibility and assumes no liability for any User Content that you or any other User or third-party posts or sends over the Service. You shall be solely responsible for your User Content and the consequences of posting or publishing it, and you agree that we are only acting as a passive conduit for your online distribution and publication of your User Content. You understand and agree that you may be exposed to User Content that is inaccurate, objectionable, inappropriate for children, or otherwise unsuited to your purpose, and you agree that NCU shall not be liable for any damages you allege to incur as a result of User Content.

4. User Content License Grant

By posting any User Content on the Service, you expressly grant, and you represent and warrant that you have all rights necessary to grant, to NCU a royalty free, sublicensable, transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, reproduce, modify, publish, list information regarding, edit, translate, distribute, syndicate, publicly perform, publicly display, and make derivative works of all such User Content and your name, voice, and/or likeness as contained in your User Content, in whole or in part, and in any form, media or technology, whether now known or hereafter developed, for use in connection with the Service and NCU's (and its successors' and affiliates') business, including without limitation for promoting and redistributing part or all of the Service (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each User of the Service a non-exclusive license to access your User Content through the Service, and to use, reproduce, distribute, display and perform such User Content as permitted through the functionality of the Service and under this Agreement.

If the features of the Service allow you to remove or delete User Content from the Service, the above licenses granted by you in your User Content terminate within a commercially reasonable time after you remove or delete such User Content from the Service. You understand and agree, however, that NCU may retain, but not display, distribute, or perform, server copies of User Content that have been removed or deleted. The above licenses granted by you in User Content for which the Service does not provide you a means to delete or remove are perpetual and irrevocable.

5. End User License Grant

A. NCU Service.

Subject to the terms and conditions of this Agreement, you are hereby granted a non-exclusive, limited, non-transferable, freely revocable license to use the Service for your personal, noncommercial use only and as permitted by the features of the Service. NCU reserves all rights not expressly granted herein in the Service and the NCU Content (as defined below). NCU may terminate this license at any time for any reason or no reason.

B. MOBILE SOFTWARE

We may make available software to access the Service via a mobile device (“Mobile Software”). To use the Mobile Software, you must have a mobile device that is compatible with the Mobile Service. NCU does not warrant that the Mobile Software will be compatible with your mobile device. NCU hereby grants you a non-exclusive, non-transferable, revocable license to use a compiled code copy of the Mobile Software for one NCU account on one mobile device owned or leased solely by you, for your personal use. You may not: (i) modify, disassemble, decompile or reverse engineer the Mobile Software, except to the extent that such restriction is expressly prohibited by law; (ii) rent, lease, loan, resell, sublicense, distribute or otherwise transfer the Mobile Software to any third party or use the Mobile Software to provide time sharing or similar services for any third party; (iii) make any copies of the Mobile Software; (iv) remove, circumvent, disable, damage or otherwise interfere with security-related features of the Mobile Software, features that prevent or restrict use or copying of any content accessible through the Mobile Software, or features that enforce limitations on use of the Mobile Software; or (v) delete the copyright and other proprietary rights notices on the Mobile Software. You acknowledge that NCU may from time to time issue upgraded versions of the Mobile Software and may automatically electronically upgrade the version of the Mobile Software that you are using on your mobile device. You consent to such automatic upgrading on your mobile device and agree that the terms and conditions of this Agreement will apply to all such upgrades. Any third-party code that may be incorporated in the Mobile Software is covered by the applicable open source or third-party license EULA, if any, authorizing use of such code. The foregoing license grant is not a sale of the Mobile Software or any copy thereof, and NCU or its third-party partners or suppliers retain all right, title, and interest in the Mobile Software (and any copy thereof). Any attempt by you to transfer any of the rights, duties or obligations hereunder, except as expressly provided for in this Agreement, is void. NCU reserves all rights not expressly granted under this Agreement. If the Mobile Software is being acquired on behalf of the United States Government, then the following provision applies. Use, duplication, or disclosure of the Mobile Software by the U.S. Government is subject to restrictions set forth in this Agreement and as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013(c)(1)(ii) (OCT 1988), FAR 12.212(a) (1995), FAR 52.227-19, or FAR 52.227-14 (ALT III), as applicable. The Mobile Software originates in the United States and is subject to United States export laws and regulations. The Mobile Software may not be exported or re-exported to certain countries or those persons or entities prohibited from receiving exports from the United States. In addition, the Mobile Software may be subject to the import and export laws of other countries. You agree to comply with all United States and foreign laws related to use of the Mobile Software and the NCU Service.

6. MOBILE SOFTWARE FROM iTunes

The following applies to any Mobile Software you acquire from the iTunes Store (“iTunes-Sourced Software”): You acknowledge and agree that this Agreement is solely between you and NCU, not Apple, and that Apple has no responsibility for the iTunes-Sourced Software or content thereof. Your use of the iTunes-Sourced Software must

comply with the App Store Terms of Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iTunes-Sourced Software. In the event of any failure of the iTunes Sourced Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the iTunes-Sourced Software to you; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iTunes-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement and any law applicable to NCU as provider of the software. You acknowledge that Apple is not responsible for addressing any claims of you or any third party relating to the iTunes-Sourced Software or your possession and/or use of the iTunes-Sourced Software, including, but not limited to: (i) product liability claims; (ii) any claim that the iTunes-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims are governed solely by this Agreement and any law applicable to NCU as provider of the software. You acknowledge that, in the event of any third-party claim that the iTunes-Sourced Software or your possession and use of that iTunes-Sourced Software infringes that third party's intellectual property rights, NCU, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement. You and NCU acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement as relates to your license of the iTunes-Sourced Software, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as relates to your license of the iTunes-Sourced Software against you as a third party beneficiary thereof.

7. Our Proprietary Rights

Except for your User Content, the Service and all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music, and User Content belonging to other Users (the "NCU Content"), and all Intellectual Property Rights related thereto, are the exclusive property of NCU and its licensors (including other Users who post User Content to the Service). Except as explicitly provided herein, nothing in this Agreement shall be deemed to create a license in or under any such Intellectual Property Rights, and you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any NCU Content. Use of the NCU Content for any purpose not expressly permitted by this Agreement is strictly prohibited. You may choose to or we may invite you to submit comments or ideas about the Service, including without limitation about how to improve the Service or our products ("Ideas"). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place NCU under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You

further acknowledge that, by acceptance of your submission, NCU does not waive any rights to use similar or related ideas previously known to NCU, or developed by its employees, or obtained from sources other than you. User shall promptly notify NCU if User becomes aware of any infringement of the NCU's Intellectual Property Rights in the NCU Content and fully cooperate with NCU in any legal action taken by NCU to enforce its Intellectual Property Rights.

8. Paid Services

A. BILLING POLICIES

Certain aspects of the Service may be provided for a fee or other charge. If you elect to use paid aspects of the Service, you agree to the pricing and payment terms, as we may update them from time to time. NCU may add new services for additional fees and charges, or amend fees and charges for existing services, at any time in its sole discretion. If you purchase certain aspects of the Service from a third-party payment processor or a social networking website such as Facebook, you are agreeing to that website's payment terms and NCU is not a party to the transaction.

B. NO REFUNDS

You may cancel your NCU account at any time; however, there are no refunds for cancellation; however, refunds for tuition for enrolled students are governed by the NCU Catalog. In the event that NCU suspends or terminates your account or this Agreement for your breach of this Agreement, you understand and agree that you shall receive no refund or exchange for any NCU Property, any unused time on a subscription, any license or subscription fees for any portion of the Service, any content or data associated with your account, or for anything else. If the Service was purchased from a social networking website, the refund policy is subject to that social networking website's payment terms and conditions.

C. PAYMENT INFORMATION; TAXES

All information that you provide in connection with a purchase or transaction or other monetary transaction interaction with the Service must be accurate, complete, and current. You agree to pay all charges incurred by users of your credit card, debit card, or other payment method used in connection with a purchase or transaction or other monetary transaction interaction with the Service at the prices in effect when such charges are incurred. You will pay any applicable taxes, if any, relating to any such purchases, transactions or other monetary transaction interactions.

D. PAYMENTS

Unless otherwise agreed by the parties in writing, NCU shall remit payments due to you hereunder no later than thirty (30) days after the end of each calendar month in which the applicable fees are received. Payment shall be in the form you select when you register for the Service, or as subsequently updated as permitted by the Service. Payments shall only be made in those months in which the amount due to you totals at least \$5. Unpaid amounts due shall accrue until the next month in which the amount

due is at least \$5. NCU reserves the right to withhold payment or charge back to your account any amounts otherwise due to us under this Agreement or amounts due to any breach of this Agreement by you, pending NCU's reasonable investigation of such breach. To ensure proper payment, you are solely responsible for providing and maintaining accurate contact and payment information associated with your account, which includes without limitation applicable tax information. If we believe that we are obligated to obtain tax information and you do not provide this information to us after we have requested it, we may withhold your payments until you provide this information or otherwise satisfy us that you are not a person or entity from whom we are required to obtain tax information. Any third-party fees related to returned or cancelled payments due to a contact or payment information error or omission may be deducted from the newly issued payment. You agree to pay all applicable taxes or charges imposed by any government entity in connection with your participation in the Service. If you dispute any payment made hereunder, you must notify NCU in writing within thirty (30) days of such payment. Failure to so notify NCU shall result in the waiver by you of any claim relating to such disputed payment. Payment shall be calculated solely based on records maintained by NCU. No other measurements or statistics of any kind shall be accepted by NCU or have any effect under this Agreement. We may withhold any taxes or other amounts from payments due to you as required by law.

9. Privacy

We care about the privacy of our Users. We collect, use and share personally identifiable information and non-personally identifiable information as set forth in our Privacy Policy. You understand that by using the Services you consent to the collection of such information, and to have your personal data collected, used, transferred to and processed in the United States.

10. Security

NCU uses commercially reasonable physical, managerial, and technical safeguards to preserve the integrity and security of your personal information and implement your profile settings. However, we cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

11. DMCA Notice

Since we respect artist and content owner rights, it is NCU's policy to respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 ("DMCA"). If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible via the Service, please notify NCU's copyright agent as set forth in the DMCA. For your complaint to be valid under the DMCA, you must provide the following information in writing:

1. An electronic or physical signature of a person authorized to act on behalf of the copyright owner;

2. Identification of the copyrighted work that you claim has been infringed;
3. Identification of the material that is claimed to be infringing and where it is located on the Service;
4. Information reasonably sufficient to permit NCU to contact you, such as your address, telephone number, and, e-mail address;
5. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law; and
6. A statement, made under penalty of perjury, that the above information is accurate, and that you are the copyright owner or are authorized to act on behalf of the owner.

The above information must be submitted to the following:

New Charter University
50 W. Broadway, Suite 300, Salt Lake City, UT 84101
(801) 883-8336

UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

Please note that this procedure is exclusively for notifying NCU and its affiliates that your copyrighted material has been infringed. The preceding requirements are intended to comply with NCU's rights and obligations under the DMCA, including 17 U.S.C. §512(c), but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws.

In accordance with the DMCA and other applicable law, NCU has adopted a policy of terminating, in appropriate circumstances, Users who are deemed to be repeat infringers. NCU may also at its sole discretion limit access to the Service and/or terminate the accounts of any Users who infringe any intellectual property rights of others, whether there is any repeat infringement.

12. Third-Party Links

The Service may contain links to third-party websites, advertisers, services, special offers, or other events or activities that are not owned or controlled by NCU. NCU does not endorse or assume any responsibility for any such third-party sites, information, materials, products, or services. If you access a third-party website from the Service, you do so at your own risk, and you understand that this Agreement and NCU's Privacy Policy do not apply to your use of such sites. You expressly relieve NCU from any and all liability arising from your use of any third-party website, service, or content. Additionally, your dealings with or participation in promotions of advertisers found on the Service, including payment and delivery of goods, and any other terms (such as warranties) are solely between you and such advertisers. You agree that NCU shall not be responsible for any loss or damage of any sort relating to your dealings with such advertisers.

13. Indemnity

You agree to defend, indemnify and hold harmless NCU and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Service, including any data or content transmitted or received by you; (ii) your violation of any term of this Agreement, including without limitation your breach of any of the representations and warranties above; (iii) your violation of any third-party right, including without limitation any right of privacy or Intellectual Property Rights; (iv) your violation of any applicable law, rule or regulation; (v) any claim for damages that arise as a result of any of your User Content or any that is submitted via your account; or (vi) any other party's access and use of the Service with your unique username, password or other appropriate security code.

14. No Warranty

THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, NCU, ITS SUBSIDIARIES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICE WILL MEET YOUR REQUIREMENTS; THAT THE SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICE.

NCU DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE NCU SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, AND NCU WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

15. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL NCU, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL,

SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THIS SERVICE. UNDER NO CIRCUMSTANCES WILL NCU BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NCU ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF OUR SERVICE; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICE BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICE; AND/OR (VII) USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL NCU, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO NCU HEREUNDER. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF NCU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

The Service is controlled and operated from its facilities in the United States. NCU makes no representations that the Service is appropriate or available for use in other locations. Those who access or use the Service from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Service if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Service

are solely directed to individuals, companies, or other entities located in the United States.

16. Term and Termination

This Agreement and the license granted hereunder shall remain in effect until terminated as set forth herein (the "Term"). User may terminate this Agreement by ceasing to use and destroying all copies of pertaining to use of NCU online. NCU may terminate this Agreement, effective upon written notice to User, if User, breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured ten (10) days after NCU provides written notice thereof. Upon expiration or termination of this Agreement, the license granted hereunder shall also terminate, and Licensee shall cease using and destroy all copies pertaining to use of NCU online related Documentation. No expiration or termination shall affect User's obligation to pay all User Fees and Support Fees that may have become due before such expiration or termination, or entitle User to any refund, in each case except as set forth in Section 13.

17. Assignment

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by NCU without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.

18. General

A. GOVERNING LAW

You agree that: (i) the Service shall be deemed solely based in Utah; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over NCU, either specific or general, in jurisdictions other than Utah. This Agreement shall be governed by the internal substantive laws of the State of Utah, without respect to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Except as otherwise agreed between the parties or as described in Section 15.B. below, any claim or dispute between you and NCU that arises in whole or in part from the Service shall be decided exclusively by a court of competent jurisdiction located in Salt Lake City, Utah, unless submitted to arbitration as set forth in the following paragraph.

B. ARBITRATION

For any claim (excluding claims for injunctive or other equitable relief) under this Agreement, the party requesting relief may elect to resolve the dispute through binding non-appearance based arbitration. The party electing such arbitration shall initiate the arbitration through an established alternative dispute resolution ("ADR") provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: a) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, as selected by the party initiating the

arbitration; b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

C. NOTIFICATION PROCEDURES

NCU may provide notifications, whether such notifications are required by law or are for marketing or other business-related purposes, to you via email notice, written or hard copy notice, or through posting of such notice on our website, as determined by NCU in our sole discretion. NCU reserves the right to determine the form and means of providing notifications to our Users, provided that you may opt out of certain means of notification as described in this Agreement. NCU is not responsible for any automatic filtering you or your network provider may apply to email notifications we send to the email address you provide us.

D. ENTIRE AGREEMENT / SEVERABILITY

This Agreement, together with any amendments and any additional agreements you may enter into with NCU in connection with the Service, shall constitute the entire agreement between you and NCU concerning the Service. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect.

E. NO WAIVER

No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and NCU's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

F. CALIFORNIA USERS AND RESIDENTS

If any complaint with us is not satisfactorily resolved, you and contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 North Market Blvd., Suite N 112, Sacramento, California 95834 or by telephone at (800) 952-5210 or (916) 445-1254.