RECOMMENDED MARKETPLACE STANDARDS AND PROTOCOLS

ND MARKETPLACE PRIVACY STATEMENT

RELEVANT TO THE UNIVERSITY’S MISSION.
Only activities approved by the ND Marketplace Approval Committee (NDMAC) will be conducted via the Marketplace. Such activities should be relevant to the University’s Mission. Those which are not may be subject to Unrelated Business Income Tax (UBIT). The Marketplace should not be used by anyone for personal gain or in any manner that is deemed unethical.

MARKETPLACE PRIVACY.
This privacy statement applies to the University Marketplace; no statement, express or implied, concerning other University sites is made herein. Additionally, some sites within the Marketplace may lead to links outside the Marketplace. Customers and users of the Marketplace should refer to those sites’ privacy policy for information regarding the security and privacy levels they maintain.

WHAT TYPE OF INFORMATION CAN BE COLLECTED?
The only personally identifiable information that should be submitted by customers or collected by merchants is information that is necessary to complete the business transaction through the Marketplace. No financial information especially credit card information should be collected by merchants of the Marketplace. Merchants’ priority is to ensure that their customers’ information is kept confidential and is secure.

HOW IS THE INFORMATION COLLECTED USED?
The personally identifiable information collected is only used for the purpose of order fulfillment. It will not be shared with any third party for any purpose unless the customer is specifically informed and allowed the option not to participate.

THIRD PARTY SERVICES.
The University Marketplace uses a third party secure server for processing all credit card information. Marketplace customers should only transmit credit card information over the Internet if they believe that they are transmitting over a secure channel.

USE OF COOKIES.
The Marketplace software does utilize “Cookies.” By using the Marketplace the user agrees to the use of Cookies. In cases where merchants wish to use cookies or other technologies for gathering information extraneous to the transaction, proper disclosure and instruction must be provided to the customer.

CHILDREN’S ISSUES.
As a general use site the ND Marketplace will not be directed at children under 13 years of age. Children under 13 years of age will not be allowed to order from the site and vendors will not collect personally identifiable information from them. All customers of the Marketplace should be at least 18 years of age.

CHANGES TO THIS PRIVACY PROCESS.
The University reserves the right to update and change this policy at any time as needed. All users who continue to use the Marketplace accept any changes.

OTHER TERMS AND CONDITIONS.
For further information on responsible computing, see the University’s Responsible Use Policy, Copyright Compliance, Web Disclaimer, and Use of Marks Protocols. By using the Marketplace and interacting with the University’s vendors the user agrees to and accepts all terms and conditions identified in this statement as well as the University’s protocols.
SECURITY AND TECHNOLOGY REQUIREMENTS

SOFTWARE REQUIREMENTS.
The solution will consist of two core components: 1) a user-friendly, robust, and secure Shopping Cart component and 2) a secure payment gateway component that is compatible with University partners. The solution may exist as a single application or consist of two compatible, but independent components. In either case, the solution will be hosted to ensure that sensitive financial information is never stored on University servers. The ideal solution will be Cold Fusion based for purposes of internal support or internal hosting.

PROTECTION OF CREDIT CARD INFORMATION.
Transactions must be processed securely via approved University partner(s). No credit card information will be stored by the University. Furthermore, for purposes of transaction management, only partial numbers (no more than four digits) will be accessible through the web interface. This will ensure that all payments/payment information are securely transmitted or displayed at all times.

SUPPORTED PAYMENT METHODS.
The following payment methods will be supported:
- MasterCard
- VISA
- American Express
- Discover
- And, eventually,
  - Check
  - Cash
  - Online ACH

SOFTWARE UPDATES/UPGRADES.
Software updates/upgrades will be the responsibility of the solution provider. Periodic reviews of the software solution will be conducted by the Marketplace Administrator to ensure all program requirements are met and University interests protected.

APPROPRIATE USE OF DATA.
Marketplace participants having access to Marketplace data will comply with all applicable federal and state laws concerning storage, retention, use, release, and destruction of data. Merchants must use all data obtained by participation in the Marketplaces strictly for purposes of order fulfillment and customer service. Social Security information will not be collected or used.

Participants are also subject to the policy describing the Responsible Use of Information Technologies at Notre Dame.

AGING OF PASSWORDS
Users should be prompted to specify a new password at regular intervals. Users should be instructed in the use of strong passwords, i.e., have users "choose passwords that are as long as allowed by the software. Make passwords at least 10 or 12 characters long. Short passwords do not leave enough choices to prevent their being guessed by repeated trials. Ideally a password should contain at least one character from each of the following categories:
- upper case letters (ABC)
- lower case letters (abc)
- digits (123)
- punctuation and other symbols (!$%)"

1 [http://newsforge.com/newsforge/03/02/26/1639212.shtml?tid=2](http://newsforge.com/newsforge/03/02/26/1639212.shtml?tid=2)
**CUSTOMER SERVICE**

**MINIMUM REQUIREMENTS.**

At a minimum, ND Marketplace merchants must adhere to all Federal, State, and local codes regarding customer service and fulfillment. It is the responsibility of the ND Marketplace Administrator to be familiar with such rules, to convey them to Storefront Managers as necessary, and to ensure compliance through the application of audit control structures.

**RETURNS, EXCHANGES, AND REFUNDS.**

With regard to complaints and returns, all merchants must adhere to the following guidelines:
- acknowledge consumer-billing complaints promptly;
- submit complaint acknowledgements in writing to the consumer;
- investigate billing errors;
- promptly post payments to a consumer's account;
- either refund overpayments or credit them to the consumer's account;
- make a full refund to dissatisfied customers if a guarantee of customer satisfaction was made.

Pursuant to these objectives and based upon industry standards, the following procedures are also recommended:
- For returns, most items (save those with explicitly stated restrictions and exceptions) may be returned for a full or partial refund, or store credit where applicable, within 30 days of the purchase or delivery of the item.
- In general, funds transferred in the sale of goods are refunded in the same manner (credit card, ACH, etc.) in which the good was originally purchased. Refunds, like returns, should be processed within 30 days of the purchase or delivery of an item. Customers should be provided with and required to complete an ND Marketplace Return Form detailing the reason for a return.

At his or her discretion, the Marketplace Administrator may introduce more specific formal requirements in order to ensure that these general customer service objectives are achieved in a manner concordant with individual Storefronts’ business requirements.

**WARRANTIES.**

No warranty, either expressed or implied, will be offered with regard to the goods and or services sold within the Marketplace. Where a manufacturer’s warranty is provided, a statement disclaiming responsibility for warranty fulfillment shall be made.

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1 The ND Marketplace Administrator should consider using the Better Business Bureau's [Code of Online Business Practices](https://www.bbb.org/onlinebusiness) as a resource for providing guidance to Storefront Managers.
ADMINISTRATIVE ROLES

ND MARKETPLACE ADMINISTRATOR

PROGRAM OVERSIGHT

The ND Marketplace Administrator will be responsible for administering every aspect of the marketplace, from managing the application process to ongoing assurance of participants’ compliance with guidelines and protocols. Specifically, the ND Marketplace Administrator will be liable for the following.

Application Process:
- Receive all applications and review them for completeness;
- Usher the application through the ND Marketplace Approval Committee. (Every effort should be made to fully process applications within one week of their receipt.)

Training:
- Hold regular training sessions to enable merchants to launch their online stores;

Supervise:
- Monitor ND Marketplace to ensure the security and stability of the marketplace;
- Ensure merchants’ adherence to established program standards;
- Design and implement appropriate control structures such as risk assessments, surveys, site reviews, catalogue inspections, etc. to be conducted at regular intervals;
- Support the storefronts in resolving technical\(^1\) and customer service problems.

Financial:
- Oversee fee payment and revenue distribution;
- Create and adhere to budget for Marketplace operation.

PROGRAM ASSESSMENT

In addition to overseeing the program as detailed above, the ND Marketplace Administrator will:

Maintain and analyze records of marketplace activity—including traffic patterns, financial reports, and customer service issues (e.g. returns, refunds, usability studies)—for purposes of quality control, marketplace development, and long-term integration;
- Keep ND Marketplace stakeholders\(^2\) apprised of all developments, opportunities, and risks in a timely manner;
- Solicit feedback from project sponsors;
- Explore program alternatives including process, technology, management, and funding;
- Prepare quarterly assessments of the program for presentation and discussion with all interested stakeholders. (Suggested refinements and improvement to the program should be included in the assessment.)

ND STOREFRONT MANAGER

STOREFRONT OVERSIGHT

Each department/organization will operate an individual Storefront\(^3\) within the Marketplace. A Storefront Manager must be appointed for each Storefront. Due to the confidential nature of the information involved, the Storefront Manager position must be filled by a faculty or

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\(^1\) While a certain amount of Technical Support will be required of the administrator, the expectation will vary with the final HR plan.

\(^2\) “Stakeholders” includes representatives from Business Operations, OIT, Student Activities, General Counsel, Audit and Advisory Services, Controller’s Office, Accounting and Financial Services and Tax Department.

\(^3\) It is assumed that all student clubs/organizations will be consolidated under one storefront, to facilitate cost savings and streamline administrator responsibilities.
staff member. Storefront Managers will be required to sign Access and Terms of Use agreements. Furthermore, the Storefront Manager will assume all business responsibilities related to the marketplace. Most of the responsibilities of the Storefront Manager will fall into the following duties:

**Catalog Maintenance**
The ND Storefront Managers will perform all updates to the catalog. New merchandise must be approved by the appropriate University personnel prior to inclusion in the catalog. Each request must be made in writing and contain the following information:
- Name of club/organization, including contact details (e.g. primary member contact name, telephone number, email address)
- A completed Licensing Application with Artwork
- Product description (e.g. color, size, material)
- Available sizes
- Available quantity
- Price

**Monthly Reporting**
The Storefront Manager will be responsible for generating all necessary financial reporting including monthly transaction and aggregate reports. Reports are to be reconciled against the University’s general ledger to ensure accuracy and proper accounting. Additionally, the Manager will prepare other reports such as fulfillment reports as required by the Marketplace Administrator.

**Fee payment**
Each Storefront manager will be responsible for assuring that all the associated fees necessary for conducting business within the Marketplace are paid (e.g. set-up, transaction, and other fees).

**Customer Service and Fulfillment**
Ultimately the ND Storefront Manager will be responsible for fulfilling all transactions processed in that store. These responsibilities include:
- Promptly and correctly fulfilling orders,
- Accurately recording all details of the order and its fulfillment and;
- Notifying the customer of any problems or delays with the order;
- Reporting fulfillment exceptions to ND Marketplace administrator;
- Managing the customer relationship, all conduct of the Storefront manager is to be performed in a prompt and professional manner with all customers at all times.

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1 Because licensing regulations vary by sales venue, this form must be completed even if your organization has already had a license for the product approved in the past.
2 Although order fulfillment is the responsibility of each club/organization, the option exists for each club/organization to establish an agreement with Follett to out-source the process. Agreements will be made on an individual basis and may constitute either a fixed fee per order filled or an outright inventory purchase. The administrator will assist in the establishment of such an agreement, if requested by the club/organization.
Sponsorship and Advertising

**SPONSORSHIP APPROVAL.**

Approval for site sponsorship must be obtained during the merchant approval process. Groups seeking sponsorship will complete the Request for Sponsorship Approval and submit it to the Marketplace Administrator along with the rest of the application. The ND Marketplace Approval Committee will determine whether the sponsorship is a tax-exempt, qualified sponsorship or an advertisement.

**QUALIFIED SPONSORSHIPS VS. ADVERTISING.**

According to IRS regulations, “qualified sponsorship payments” received by a tax-exempt organization are not subject to Unrelated Business Income Tax. The IRS defines a qualified sponsorship payment as “one made by a person engaged in a trade or business for which the person does not receive a substantial return benefit other than goods, services, or other benefits that are of insubstantial value...or the use or acknowledgment of the payor's name, logo or product lines in connection with the organization's activities.”

The following are permissible under a qualified sponsorship:
- Logos and slogans that do not include qualitative or comparative descriptions of products or services,
- A list of the payor company’s location, telephone number, and Internet address,
- Value-neutral descriptions of the company’s products or services, and
- The company’s brand or trade names and product service listings.

The following are impermissible under a qualified sponsorship:
- Qualitative or comparative language
- Price information or other indications of sale or value
- An endorsement
- An inducement to buy a product or service

**NONTAXABLE ADVERTISING.**

Most advertising is deemed to have a substantial return benefit and is taxable. However, some forms of advertising are not taxable. In order for an advertisement to be nontaxable the venue where advertisement is displayed must have an educational component.¹

**REQUIREMENTS SPECIFIC TO STUDENTS.**

Student groups are reminded that the solicitation of advertising or sponsorships is subject to the Solicitation section of the Student Activities Policy. Furthermore, the Student Activities Policy states: “All student media [print or broadcast] should carry a prominent statement that the opinions expressed are not necessarily those of the college, University or student body.”

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¹ For instance, most advertising in student newspapers is not taxable because in the process of creating the newspaper students are learning to be reporters, learning to market, etc. That is to say, the creation of the paper is an educational process. The publishing of a journal by faculty members, however, is not regarded as having an educational component. Considering the growing importance and prevalence of e-commerce, it is conceivable that the management of an online storefront could become an educational exercise.
TERMS AND CONDITIONS

OVERVIEW.
Welcome to the ND Marketplace website ("ND Marketplace Website"), a site owned and operated by The University of Notre Dame.

These Terms of Use, along with guidelines and protocols located throughout the ND Marketplace Website identify what users of the ND Marketplace Website ("Users") can expect from the University of Notre Dame, ND Marketplace Providers (as defined below) and the ND Marketplace Website and what we expect from Users. By accessing any areas of the ND Marketplace Website, Users are deemed to have accepted these Terms of Use and other protocols and guidelines identified throughout the ND Marketplace Website.

I. ONLINE CONDUCT.
User agrees to use the ND Marketplace Website only for lawful purposes. User is prohibited from posting on or transmitting through the ND Marketplace Website any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually explicit, profane, hateful, racially, ethnically, or otherwise objectionable material of any kind, including but not limited to any material that encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any applicable local, state, national, or international law.

If the University of Notre Dame is notified of any book, information, data, software, photographs, graphs, videos, typefaces, graphics, music, sounds, and other material on the ND Marketplace Website (collectively "Content") provided by User (e.g., through a Storefront) that is allegedly infringing, defamatory, damaging, illegal, or offensive, the University of Notre Dame may investigate the allegation and determine in its sole discretion whether to remove or request the removal of such Content from the ND Marketplace Website. The University of Notre Dame may disclose any Content or electronic communication of any kind (i) to satisfy any law, regulation, or government request; (ii) if such disclosure is necessary or appropriate to operate the ND Marketplace Website; or (iii) to protect the rights or property of the University of Notre Dame and its officers, directors, employees, agents, third-party content providers, merchants, sponsors, and licensors (collectively, "University of Notre Dame Providers") and any other User.

The University of Notre Dame reserves the right to prohibit conduct, communication, or Content that it deems in its sole discretion to be harmful to individual Users, The University of Notre Dame, the ND Marketplace Website, the communities that make up the ND Marketplace Website, or any rights of the University of Notre Dame or any third party, or to violate any applicable law. Notwithstanding the foregoing, no University of Notre Dame Provider can ensure prompt removal of questionable Content after online posting. Accordingly, no University of Notre Dame Provider shall assume liability for any action or inaction with respect to conduct, communication, or Content on the ND Marketplace Website.

II. TRADEMARK
ND Marketplace, University of Notre Dame, ND,... and Fightin’ Irish (and derivatives thereof) are all trademarks or service marks of ND Marketplace or its licensor. All rights are reserved. These and other graphics, logos, service marks, trademarks and trade dress of ND Marketplace and its licensors used on the ND Marketplace Website may not be used without prior written consent of ND Marketplace or its licensor, as the case may be. Without limiting the foregoing, no ND Marketplace trademark or trade dress may be used in connection with any product or service that is not
ND Marketplace's, in any manner that is likely to cause confusion among Users, or in any manner that disparages or discredits ND Marketplace.

III. CONTENT

A. PROPRIETARY RIGHTS

User acknowledges that the ND Marketplace Website contains Content that are protected by copyrights, trademarks, trade secrets, or other proprietary rights, and that these rights are valid and protected in all forms, media and technologies existing now or hereinafter developed. All Content is copyrighted as a collective work under the U.S. copyright laws, and the University of Notre Dame owns a copyright in the selection, coordination, arrangement, and enhancement of such Content. User may not modify, remove, delete, augment, add to, publish, transmit, participate in the transfer or sale of, create derivative works from, or in any way exploit any of the Content, in whole or in part. If no specific restrictions are displayed, Users may make copies of select portions of the Content, provided that the copies are made only for User's personal use and that User maintains any notices contained in the Content, such as all copyright notices, trademark legends, or other proprietary rights notices. Except as provided in the preceding sentence or as permitted by the fair use privilege under the U.S. copyright laws (see, e.g., 17 U.S.C. Section 107), User may not upload, post, reproduce, or distribute in any way Content protected by copyright, or other proprietary right, without obtaining permission of the owner of the copyright or other proprietary right. In addition to the foregoing, use of any software Content shall be governed by the software license agreement accompanying such software.

B. DISTRIBUTION/UPLOADING OF THIRD-PARTY CONTENT

Except as set forth in paragraph a. above, User may upload to or otherwise distribute on the ND Marketplace Website only Content that is not subject to any copyright or other proprietary rights protection (collectively, "Public Content"), or Content in which the author has given express authorization for distribution on the World Wide Web. Any copyrighted or other proprietary Content distributed with the consent of a copyright owner should contain a phrase such as "Copyright, owned by [name of owner]; used by permission." The unauthorized submission or distribution of copyrighted or other proprietary Content is illegal and could subject the User to criminal prosecution as well as personal liability for damages in a civil suit. User will be liable for any damage resulting from any infringement of copyrights or proprietary rights, or from any other harm arising from such submission. No University of Notre Dame Provider will be liable for any damage resulting from any infringement of copyrights or proprietary rights, or from any other harm arising from such User submission. In compliance with the Digital Millennium Copyright Act, Users and other persons can report an infringement to the University of Notre Dame at dmca.agent.1@nd.edu. By submitting Content to any User-submit areas, including, without limitation, to any Storefront website, User automatically grants, or warrants that the owner of such Content has expressly granted the University of Notre Dame Providers, the royalty-free, perpetual, irrevocable, right and license to use, reproduce, publish, translate, sublicense, copy, and distribute the Content in whole or in part worldwide and/or to incorporate it in other works in any form, media, or technology now known or hereafter developed for the full term of any copyright that may exist in such Content. User also permits any other User to access, store, or reproduce the Content for that User's personal use. Subject to this grant, the owner of Content placed on the ND Marketplace Website retains any and all rights which may exist in such Content.

C. THIRD-PARTY CONTENT

The University of Notre Dame is a distributor and not a publisher of Content supplied by third parties and Users. The University of Notre Dame has no more editorial control over such Content than does a public library or newsstand. Any opinions, advice, statements, services, offers, or other information that constitutes part of Content expressed or made
available by third parties, including any other User, are those of the respective authors or distributors and not of the University of Notre Dame or its affiliates or any of their officers, directors, employees, or agents. No University of Notre Dame Provider guarantees the accuracy, completeness, or usefulness of any Content, nor its merchantability or fitness for any particular purpose. In many instances, the Content available through the ND Marketplace Website represents the opinions and judgments of the respective third party providing such Content. The University of Notre Dame neither endorses nor is responsible for the accuracy or reliability of any opinion, advice, or statement made on the ND Marketplace Website by anyone other than University of Notre Dame. Under no circumstances shall the University of Notre Dame, or its affiliates, or any of their officers, directors, employees, or agents be liable for any loss, damage or harm caused by a User's reliance on information obtained through the ND Marketplace Website. It is the responsibility of User to evaluate the information, opinion, advice, or other Content available through the ND Marketplace Website.

D. Export
The U.S. export control laws regulate the export and re-export of technology originating in the United States. This includes the electronic transmission of information and software to foreign countries and to certain foreign nationals. User agrees to abide by these laws and their regulations -- including but not limited to the Export Administration Act and the Arms Export Control Act and not to transfer, by electronic transmission or otherwise, any Content derived from the ND Marketplace Website to either a foreign national or a foreign destination in violation of such laws.

IV. Age of Users
The University of Notre Dame does not intend the ND Marketplace Website to be used by minors under the age of 13. Furthermore, the University of Notre Dame does not market the ND Marketplace Website for use by minors under the age of 13. The University of Notre Dame relies upon parents or guardians of Users under the age of 18 to determine if any content or items available on the ND Marketplace Website are appropriate for view or access by such Users.

V. Termination of Usage
The University of Notre Dame may suspend or terminate any User's access to all or any part of the ND Marketplace Website including any account thereon, without notice, for any reason in the University of Notre Dame's sole discretion, including without limitation the University of Notre Dame's belief that such access would violate any applicable law or would be harmful to the interests of any University of Notre Dame Provider or another User.

VI. Password Security
Where the ND Marketplace Website is secured by password authentication, every User is responsible for (i) keeping such User's ND Marketplace Website account password confidential and (ii) restricting access to such User's computer. Each User agrees to accept full responsibility for all activities that occur within such User's ND Marketplace Website account.

VII. Disclaimers and Limitation of Liability
THE ND MARKETPLACE WEBSITE IS PROVIDED BY UNIVERSITY OF NOTRE DAME PROVIDERS ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, EACH UNIVERSITY OF NOTRE DAME PROVIDER DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

WITHOUT LIMITING THE FOREGOING, NO ND MARKETPLACE PROVIDER MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED: (I) AS TO THE
OPERATION OF THE ND MARKETPLACE WEBSITE, OR THE INFORMATION, CONTENT, MATERIALS OR PRODUCTS INCLUDED THEREON; (II) THAT THE ND MARKETPLACE WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE; (III) AS TO THE ACCURACY, RELIABILITY, OR CURRENCY OF ANY INFORMATION, CONTENT, SERVICE, OR MERCHANDISE PROVIDED THROUGH THE ND MARKETPLACE WEBSITE; OR (IV) THAT THE ND MARKETPLACE WEBSITE, ITS SERVERS, OR E-MAIL SENT FROM OR ON BEHALF OF THE UNIVERSITY OF NOTRE DAME ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

NO ND MARKETPLACE PROVIDER GUARANTEES THE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO THE ND MARKETPLACE WEBSITE OR ANY RELATED SERVICES. THE OPERATION OF THE ND MARKETPLACE WEBSITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE THE CONTROL OF ANY UNIVERSITY OF NOTRE DAME PROVIDER.

UNDER NO CIRCUMSTANCES SHALL ANY UNIVERSITY OF NOTRE DAME PROVIDER BE LIABLE FOR ANY DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE ND MARKETPLACE WEBSITE, INCLUDING BUT NOT LIMITED TO RELIANCE BY A USER ON ANY INFORMATION OBTAINED FROM THE ND MARKETPLACE WEBSITE OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR EMAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION, OR UNAUTHORIZED ACCESS TO THE UNIVERSITY OF NOTRE DAME'S RECORDS, PROGRAMS, OR SERVICES. USER HEREBY ACKNOWLEDGES THAT THIS PARAGRAPH SHALL APPLY TO ALL CONTENT, MERCHANDISE, AND SERVICES AVAILABLE THROUGH THE ND MARKETPLACE WEBSITE.

NO UNIVERSITY OF NOTRE DAME PROVIDER WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM THE USE OF THE ND MARKETPLACE WEBSITE OR THE PURCHASE OF ANY PRODUCT THEREFROM, EVEN IF SUCH UNIVERSITY OF NOTRE DAME PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO A USER, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO SUCH USER, AND SUCH USER MAY HAVE ADDITIONAL RIGHTS.

IX. SEVERABILITY
The provisions of these Terms of Use are intended to be severable. If for any reason any provision of these Terms of Use shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

IX. APPLICABLE LAW: JURISDICTION
This site is created and controlled by the University of Notre Dame in the State of Indiana. As such, the laws of the State of Indiana will govern these Terms of Use, without giving effect to any principles of conflicts of laws.

User hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of Indiana and of the United States of America located in the State of Indiana for any litigation arising out of or relating to use of or purchase made through the ND Marketplace Website (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the
Indiana Courts and agrees not to plead or claim in any Indiana Court that such litigation brought therein has been brought in an inconvenient forum.

X. BINDING ARBITRATION

Any controversy or claim arising out of or relating to this Terms of Use (including any breach thereof), the ND Marketplace Website, any Content or any item purchased from the ND Marketplace Website shall be settled by confidential arbitration in Indiana, Indiana administered by the American Arbitration Association under its Commercial Arbitration Rules (including without limitation the Supplementary Procedures for Consumer-Related Disputes), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such controversy or claim shall be arbitrated on an individual basis and shall not be consolidated with any claim or controversy of any other party. The foregoing shall not preclude the University of Notre Dame from seeking any injunctive relief in State or Federal courts located in the State of Indiana for protection of the University of Notre Dame’s or the University of Notre Dame licensor’s intellectual property rights, and you consent to exclusive jurisdiction and venue in such courts.

XI. ACKNOWLEDGEMENT

The Terms of Use, including all documents referenced herein, represents the entire understanding between User and ND Marketplace regarding User’s relationship with ND Marketplace and supersedes any prior statements or representations. When using the ND Marketplace Website or making a purchase there from, USER AGREES TO BE BOUND BY THESE TERMS OF USE.

XII. MODIFICATION

The University of Notre Dame reserves the right to make changes to the ND Marketplace Website, posted protocols and these Terms of Use at any time without notice. These Terms of Use were last revised on June 28, 2003.