

# **OMAHA PUBLIC SCHOOLS**

## **ON-LINE TERMS OF USE**

### **TERMS AND CONDITIONS OF USE**

The Omaha Public Schools ("OPS") encourages the use of this Site and other OPS Internet sites, regardless of domain address, as a way to share information and knowledge in support of the OPS mission to provide all students with the high-quality instruction needed to prepare for life in tomorrow's high-tech world. While most OPS Sites are publicly accessible, certain services and information offered on-line may be restricted to specific users or segments of the OPS population

By accessing the Site or other Internet sites through links provided by OPS, you agree to all terms, conditions, and notices contained or referenced herein (the "Terms of Use"). If you do not agree to these Terms of Use please do not use the Site. We reserve the right, at our discretion, to update or revise these Terms of Use. Please check the Terms of Use periodically for changes. Your continued use of the Site following the posting of any changes to the Terms of Use constitutes acceptance of those changes.

### **AGREEMENT TO RULES OF USER CONDUCT**

You agree to abide by the OPS Rules of Use, including but not limited to, agreeing not to use the Site for any unlawful purpose. A copy of the Rules of Use, which you should review can be found below. If you are a student, faculty member or staff member at OPS you also agree to abide by any applicable policies, practice, procedures of guidelines applicable to your use of this Site. In addition, if you are a student at OPS you agree to abide by the "Behavior Rules for Students Using School Computers and Networks."

### **THIRD-PARTY SITES**

The Site may produce automated search results or otherwise link you to other Sites on the Internet. These Sites may contain information or material that some people may find inappropriate or offensive. These other Sites are not under the control of OPS, and you acknowledge that OPS is not responsible for the accuracy, copyright compliance, legality, decency, or any other aspect of the content of such Sites. The inclusion of such a link does not imply endorsement of the Site by OPS or any association with its operators.

## **PROPRIETARY RIGHTS**

You acknowledge and agree that all content and materials available on the Site are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws. Except as expressly authorized by OPS, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works from such materials or content. Notwithstanding the above, you may print or download one copy of the materials or content on the Site on any single computer for your personal, non-commercial use, provided you keep intact all copyright and other proprietary notices. Systematic retrieval of data or other content from the Site to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission from OPS is prohibited. In addition, use of the content or materials for any purpose not expressly permitted in these Terms of Use is prohibited.

As noted above, reproduction, copying, or redistribution for commercial purposes of any materials or design elements on the Site is strictly prohibited without the express written permission of OPS. Permission is granted only when certain limited criteria are met. For information on requesting such permission, please contact: [webteam@ops.org](mailto:webteam@ops.org).

## **DISCLAIMER OF WARRANTIES**

ALL MATERIALS, INFORMATION, SOFTWARE, PRODUCTS, AND SERVICES INCLUDED ON OR AVAILABLE THROUGH THE SITE (THE "CONTENT") ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE. THE CONTENT IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. OPS, ITS SUBSIDIARIES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SITE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE CONTENT IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOUR USE OF THE SITE IS SOLELY AT YOUR RISK. BECAUSE SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES, THESE EXCLUSIONS MAY NOT APPLY TO YOU.

## **LIMITATION OF LIABILITY**

UNDER NO CIRCUMSTANCES SHALL OPS, ITS SUBSIDIARIES, OR ITS LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE SITE. THIS LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF OPS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OPS'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

## **COPYRIGHT**

The entire content (including text and “look and feel” attributes) of the Site is ©2007 Omaha Public Schools. Any use of such content requires the written permission of Omaha Public Schools. All rights reserved.

## **VIRUSES**

Because of the marked increase in the fabrication and proliferation of computer viruses affecting the Internet, we want to warn you about infections or viral contamination on your system. It is your responsibility to scan any and all downloaded materials received from the Internet. We are not responsible or liable for any damage caused by such hazards.

## **SECURITY**

We welcome your e-mail correspondence. But Internet and e-mail communications are not confidential. It is possible that information transmitted to us may be read or obtained by other parties. In an attempt to protect your privacy, our e-mail responses do not include personal account information such as social security numbers or account numbers.

## **INDEMNIFICATION**

Upon a request by OPS, you agree to defend, indemnify, and hold harmless OPS and its subsidiary and other affiliated companies, and their employees, contractors, officers, and directors from all liabilities, claims, and expenses, including attorney’s fees, that arise from your use or misuse of the Site. OPS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with OPS in asserting any available defenses.

## **CONTENT**

Statements made in the Site, newsgroups, message boards, e-mail, forums, conferences and chats reflect only the views of their authors. Forum managers, forum hosts, teachers, staff or Merchants appearing on the Site are not necessarily authorized OPS spokespersons, and their views do not necessarily reflect those of OPS.

## **LICENSES AND IDEA SUBMISSIONS**

You agree to grant to OPS a non-exclusive, worldwide, royalty-free, perpetual license, with the right to sublicense, to reproduce, distribute, transmit, create derivative works of, publicly display and publicly perform any materials and other information (including, without limitation, ideas contained therein for new or improved products or services) you submit to public areas of OPS (such as BBSs, forums and chat rooms) by all means and in any media now known or hereafter developed. You hereby waive your moral rights in any such materials and information, and you hereby warrant that any such materials and information are original with you, or that you have the right to submit such materials and information. You agree that you shall have no recourse against OPS for any alleged or actual infringement or misappropriation of any proprietary right in your communication to us.

## **THIRD PARTY RIGHTS**

The provisions of the Sections Disclaimer of Warranties, Limitation of Liability and Indemnification are for the benefit of OPS and its officers, directors, employees, agents, licensors, suppliers, and information providers. Each of these individuals or entities shall have the right to assert and enforce those provisions directly against you on its own behalf.

## **INTERNATIONAL USE**

OPS makes no representation that materials on the Site are appropriate or available for use in locations outside the United States, and accessing them from territories where their contents are illegal is prohibited. Those who choose to access the Site from other locations do so on their own initiative and are responsible for compliance with local laws.

## **LIMITED LICENSE**

By this Agreement, OPS grants, subject to the terms of this Agreement, only a limited, non-transferable and non-exclusive license to use the software and documentation necessary to access, explore and otherwise use the Site in real time and to use the materials on this Internet Site in a manner consistent with this Agreement.

## **ELECTRONIC MEANS**

You and OPS desire to facilitate certain transactions pursuant to this Agreement by exchanging documents, records and signatures electronically or by utilizing electronic agents. The use of electronic facilities or agents shall be in accordance with procedures established by OPS and governed by the applicable provisions of the Uniform Electronic Transactions Act as adopted in the State of Nebraska.

## **INDEMNIFICATION AND FORCE MAJEURE**

OPS shall not be liable in any way, and you agree to indemnify and hold harmless OPS and its subsidiary, other affiliated entities and all employees, contractors, officers, and directors thereof (the "Indemnitees") for (1) any inaccuracy, error, or delay in, or omission of (a) any Information, or (b) the transmission or delivery of Information; (2) any loss or damage arising from or occasioned by (a) your use or misuse of the Site as well as any such inaccuracy, error, delay, or omission, or (b) any non-performance, or interruption of Information due either to any negligent act or omission by the Indemnitees or to any "force majeure" (i.e. flood, extraordinary weather conditions, earthquake, or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications, power failure, or equipment or software malfunction) or any other cause beyond the reasonable control of the Indemnitees.

## **CHOICE OF LAW AND FORUM**

These Terms of Use shall be governed by and construed in accordance with the laws of the State of Nebraska, excluding its conflicts of law rules. You expressly agree that the exclusive jurisdiction for any claim or action arising out of or relating to these Terms of Use or your use of the Site shall be filed only in the state or federal courts located in the State of Nebraska, and you further agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

## **SEVERABILITY AND INTEGRATION**

Unless otherwise specified herein, this Agreement constitutes the entire agreement between you and OPS with respect to the Site and supersedes all prior or contemporaneous communications and proposals (whether oral, written, or electronic) between you and OPS with respect to the Site. If any part of these Terms of Use is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

## **NOTICE SPECIFIC TO SOFTWARE AVAILABLE ON THE SITE.**

Any software that is made available to download from this server ("Software") is the copyrighted work of OPS and/or its suppliers. Use of the Software is governed by the terms of the end user license agreement, if any, which accompanies or is included with the Software ("License Agreement"). An end user may not install any Software that is accompanied by or includes a License Agreement, unless he or she first agrees to the terms of the License Agreement.

The Software is made available for downloading solely for use by end users according to the License Agreement. Any reproduction or redistribution of the Software not in accordance with the License Agreement is expressly prohibited by law, and may result in severe civil and criminal penalties. Violators will be prosecuted to the maximum extent possible.

**WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED.**

**THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE LICENSE AGREEMENT. EXCEPT AS WARRANTED IN THE LICENSE AGREEMENT, OPS CORPORATION HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE SOFTWARE, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.**

**NOTICES REGARDING SOFTWARE, DOCUMENTS AND SERVICES AVAILABLE ON THE SITE.**

**IN NO EVENT SHALL OPS BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF SOFTWARE, DOCUMENTS, PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR INFORMATION AVAILABLE FROM THIS SERVER.**

**NOTICES AND PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT.**

Pursuant to Title 17, United States Code, Section 512(C)(2), notifications of claimed copyright infringement should be sent to Service Provider's Designated Agent. All inquiries not relevant to the following procedure will not receive a response. For more information click contact: [webteam@ops.org](mailto:webteam@ops.org).

## **TERMINATION**

OPS reserves the right, in its sole discretion, to terminate your access to all or part of the Site, with or without notice.

## **POLICY AMENDMENTS AND UPDATES**

Please note that we review our practices from time to time, and that such practices are subject to change. OPS reserves the right to change these terms of use at any time by posting revisions on the OPS web Site. We ask that you periodically review this page to insure familiarity with the most current version of these terms of use. However, these terms of use is not intended to, and does not, create any contractual or other legal rights in or on behalf of any party.

## **RULES OF USE**

By posting information in or otherwise using any communications service, chat room, message board, newsgroup, software library, or other interactive service that may be available to you on or through the Site, you agree that you will not upload, post, or otherwise distribute or facilitate distribution of any content -- including text, communications, software, images, sounds, data, or other information -- that:

1. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, contains explicit or graphic descriptions or accounts of sexual acts (including, but not limited to, sexual language of a violent or threatening nature directed at another individual or group of individuals), or otherwise violates OPS' rules or policies;
2. victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
3. infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party;
4. constitutes unauthorized or unsolicited advertising, junk or bulk e-mail (also known as "spamming"), chain letters, any other form of unauthorized solicitation, or any form of lottery or gambling;
5. contains software viruses or any other computer code, files, or programs that are designed or intended to disrupt, damage, or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party; or
6. impersonates any person or entity, including any employee or representative of OPS.

You also agree that you will not harvest or collect information about the users or members of the Site or use such information for the purpose of transmitting or facilitating transmission of unsolicited bulk electronic e-mail or communications.

OPS generally does not pre-screen, monitor, or edit the content posted by users of communications services, chat rooms, message boards, newsgroups, software libraries, or other interactive services that may be available on or through the Site. However, OPS and its agents



have the right, at their sole discretion, to remove any content that, in OPS' judgment, does not comply with its rules or is otherwise harmful, objectionable, or inaccurate. OPS is not responsible for any failure or delay in removing such content.