

## COGNOMOS TERMS OF SERVICE

**Last Updated:** May 25, 2017

These Terms of Service ("**Terms**") apply to your access to and use of the websites, applications and other online products and services (collectively, our "**Services**") provided by Cognomos, Inc. ("**Cognomos**" or "**we**"). **If you do not agree to these Terms, including the mandatory arbitration provision and class action waiver in Section 14, do not access or use our Services.**

If you have any questions about these Terms or our Services, please contact us at [legal@cognomos.com](mailto:legal@cognomos.com).

### **1 Description of Services**

Cognomos provides a service that allows students to select and rank desired courses to produce fair course schedules for an entire class.

### **2 Eligibility**

You must be at least 13 years of age to access or use our Services. If you are under 18 years of age (or the age of legal majority where you live), you may only access or use our Services under the supervision of a parent or legal guardian who agrees to be bound by these Terms. If you are a parent or legal guardian of a user under the age of 18 (or the age of legal majority), you agree to be fully responsible for the acts or omissions of such user in connection with our Services. If you are accessing or using our Services on behalf of another person or entity, you represent that you are authorized to accept these Terms on that person or entity's behalf and that the person or entity agrees to be responsible to us if you or the other person or entity violates these Terms.

### **3 User Accounts and Account Security**

You may need to register for an account to access some or all of our Services. If you register for an account, you must provide accurate account information and promptly update this information if it changes. You also must maintain the security of your account and promptly notify us if you discover or suspect that someone has accessed your account without your permission.

### **4 Privacy**

Please refer to our Privacy Policy [\[insert link\]](#) for information about how we collect, use and disclose information about you.

### **5 Prohibited Conduct and Content**

You will not violate any applicable law, contract, intellectual property or other third-party right or commit a tort, and you are solely responsible for your conduct while accessing or using our Services. You will not:

- Engage in any harassing, threatening, intimidating, predatory or stalking conduct;
- Use or attempt to use another user's account without authorization from that user and Cognomos;
- Use our Services in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying our Services or that could damage, disable, overburden or impair the functioning of our Services in any manner;

- Reverse engineer any aspect of our Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of our Services;
- Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of our Services that you are not authorized to access;
- Develop or use any third-party applications that interact with our Services without our prior written consent, including any scripts designed to scrape or extract data from our Services;
- Bypass or ignore instructions contained in our robots.txt file, accessible at [cognomos.com/robots.txt](http://cognomos.com/robots.txt), that controls automated access to portions of our Services; or
- Use our Services for any illegal or unauthorized purpose, or engage in, encourage or promote any activity that violates these Terms.

## 6 Copyright and Limited License

Our Services and all content and other materials contained therein including, without limitation, all designs, text, graphics, pictures, information, data, software, sound files, other files and the selection and arrangement thereof (collectively, the "**Cognomos Content**") are the proprietary property of Cognomos or its licensors or users and are protected by U.S. and international copyright laws.

You are granted a limited, non-sublicensable license to access and use our Services for your informational, non-commercial and personal use only. Such license is subject to these Terms and does not include: (a) any resale or commercial use of our Services or the Cognomos Content therein; (b) the distribution, public performance or public display of any Cognomos Content; (c) modifying or otherwise making any derivative uses of our Services or the Cognomos Content, or any portion thereof; (d) use of any data mining, robots or similar data gathering or extraction methods; (e) downloading (other than the page caching) of any portion of our Services, the Cognomos Content or any information contained therein, except as expressly permitted on the Services; or (f) any use of the Services or the Cognomos Content other than for its intended purpose. Any use of our Services or the Cognomos Content other than as specifically authorized herein, without the prior written permission of Cognomos, is strictly prohibited and will terminate the license granted herein. Such unauthorized use may also violate applicable laws including without limitation copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in these Terms shall be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise. This license is revocable at any time.

## 7 Trademarks

COGNOMOS and any other name, slogan or logos contained in our Services are trademarks of Cognomos, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Cognomos or the applicable trademark holder. You may not use any metatags or any other "hidden text" utilizing "COGNOMOS" or any other name, trademark or product or service name of Cognomos without our prior written permission. In addition, the look and feel of our Services, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or trade dress of Cognomos and may not be copied, imitated or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names and company or organization names or logos mentioned in our Services are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof by us.

## **8 Feedback**

Any questions, comments, suggestions, ideas, original or creative materials or other information you submit about Cognomos or our products or Services (collectively, "**Feedback**"), is non-confidential and will become the sole property of Cognomos. We will own exclusive rights, including, without limitation, all intellectual property rights, in and to Feedback and will be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

## **9 Indemnification**

To the fullest extent permitted by applicable law, you will indemnify, defend, and hold harmless Cognomos and each of our officers, directors, agents, partners and employees (individually and collectively, the "**Cognomos Parties**") from and against any loss, liability, claim, demand, damages, expenses or costs ("**Claims**") arising out of or related to (a) your access to or use of our Services; (b) your User Content or Feedback; (c) your violation of these Terms; (d) your violation, misappropriation or infringement of any rights of another (including intellectual property rights or privacy rights); or (e) your conduct in connection with our Services. You agree to promptly notify Cognomos Parties of any third party Claims, cooperate with Cognomos Parties in defending such Claims and pay all fees, costs and expenses associated with defending such Claims (including, but not limited to, attorneys' fees). You also agree that the Cognomos Parties will have control of the defense or settlement of any third party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Cognomos or the other Cognomos Parties.

## **10 Disclaimers**

**We do not control, endorse or take responsibility for any third-party content available on or linked to by our Services.**

**Your use of our Services is at your sole risk. Our Services are provided "as is" and "as available" without warranties of any kind, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. In addition, Cognomos does not represent or warrant that our Services are accurate, complete, reliable, current or error-free. While Cognomos attempts to make your access to and use of our Services safe, we cannot and do not represent or warrant that our Services or servers are free of viruses or other harmful components. You assume the entire risk as to the quality and performance of the Services.**

## **11 Limitation of Liability**

**Cognomos and the other Cognomos Parties will not be liable to you under any theory of liability—whether based in contract, tort, negligence, strict liability, warranty, or otherwise—for any indirect, consequential, exemplary, incidental, punitive or special damages or lost profits, even if Cognomos or the other Cognomos Parties have been advised of the possibility of such damages.**

**The total liability of Cognomos and the other Cognomos Parties, for any claim arising out of or relating to these Terms or our Services, regardless of the form of the action, is limited to the amount paid, if any, by you to access or use our Services.**

**The limitations set forth in this section will not limit or exclude liability for the gross negligence, fraud or intentional misconduct of Cognomos or the other Cognomos Parties or for any other matters in which liability cannot be excluded or limited under applicable law. Additionally, some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.**

## 12 Release

To the fullest extent permitted by applicable law, you release Cognomos and the other Cognomos Parties from responsibility, liability, claims, demands, and/or damages (actual and consequential) of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between users and the acts or omissions of third parties. **You expressly waive any rights you may have under California Civil Code § 1542 as well as any other statute or common law principles that would otherwise limit the coverage of this release to include only those claims which you may know or suspect to exist in your favor at the time of agreeing to this release.**

## 13 Transfer and Processing Data

By accessing or using our Services, you consent to the processing, transfer and storage of information about you in and to the United States and other countries, where you may not have the same rights and protections as you do under local law.

## 14 Dispute Resolution; Binding Arbitration

**Please read the following section carefully because it requires you to arbitrate certain disputes and claims with Cognomos and limits the manner in which you can seek relief from us.**

Except for small claims disputes in which you or Cognomos seek to bring an individual action in small claims court located in the county of your billing address or disputes in which you or Cognomos seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, you and Cognomos waive your rights to a jury trial and to have any dispute arising out of or related to these Terms or our Services resolved in court. Instead, all disputes arising out of or relating to these Terms or our Services will be resolved through confidential binding arbitration held in Cook County, Illinois in accordance with the Streamlined Arbitration Rules and Procedures ("**Rules**") of the Judicial Arbitration and Mediation Services ("**JAMS**"), which are available on the [JAMS website and hereby incorporated by reference](#). You either acknowledge and agree that you have read and understand the rules of JAMS or waive your opportunity to read the rules of JAMS and any claim that the rules of JAMS are unfair or should not apply for any reason.

**You and Cognomos agree that any dispute arising out of or related to these Terms or our Services is personal to you and Cognomos and that any dispute will be resolved solely through individual arbitration and will not be brought as a class arbitration, class action or any other type of representative proceeding.**

You and Cognomos agree that these Terms affect interstate commerce and that the enforceability of this Section 14 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* (the "**FAA**"), to the maximum extent permitted by applicable law. As limited by the FAA, these Terms and the JAMS Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court; provided, however, that the arbitrator does not have the authority to conduct a class arbitration or a representative action, which is prohibited by these Terms. The arbitrator may only conduct an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual. You and Cognomos agree that for any arbitration you initiate, you will pay the filing fee and Cognomos will pay the remaining JAMS fees and costs. For any arbitration initiated by Cognomos, Cognomos will pay all JAMS fees and costs. You and Cognomos agree that the state or federal courts of the State of Illinois and the United States sitting in Cook County, Illinois have exclusive jurisdiction over any appeals and the enforcement of an arbitration award.

**ANY CLAIM ARISING OUT OF OR RELATED TO THESE TERMS OR OUR SERVICES MUST BE FILED WITHIN ONE YEAR AFTER SUCH CLAIM AROSE; OTHERWISE, THE CLAIM IS**

PERMANENTLY BARRED, WHICH MEANS THAT YOU AND COGNOMOS WILL NOT HAVE THE RIGHT TO ASSERT THE CLAIM.

You have the right to opt out of binding arbitration within 30 days of the date you first accepted the terms of this Section 14 by emailing us at [legal@cognomos.com](mailto:legal@cognomos.com). In order to be effective, the opt out notice must include your full name and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve Disputes in accordance with Section 15.

## **15 Governing Law and Venue**

These Terms and your access to and use of our Services will be governed by and construed and enforced in accordance with the laws of Delaware, without regard to conflict of law rules or principles (whether of Delaware or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any dispute between the parties that is not subject to arbitration or cannot be heard in small claims court will be resolved in the state or federal courts of Illinois and the United States, respectively, sitting in Cook County, Illinois.

## **16 Electronic Communications**

By creating a Cognomos account, you also consent to receive electronic communications from Cognomos (e.g., via email or by posting notices on our Services). These communications may include notices about your account (e.g., payment authorizations, password changes and other transactional information) and are part of your relationship with us. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including, but not limited to, that such communications be in writing.

## **17 Changes to these Terms**

We may make changes to these Terms from time to time. If we make changes, we will post the amended Terms to our Services and update the "Last Updated" date above. We may also attempt to notify you by sending an email notification to the address associated with your account or providing notice through our Services. Unless we say otherwise in our notice, the amended Terms will be effective immediately and your continued access to and use of our Services after we provide notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop accessing and using our Services.

## **18 Termination**

We reserve the right, without notice and in our sole discretion, to terminate your right to access or use our Services. We are not responsible for any loss or harm related to your inability to access or use our Services.

## **19 Severability**

If any provision or part of a provision of these Terms is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions.

## **20 Miscellaneous**

These Terms constitute the entire agreement between you and Cognomos relating to your access to and use of our Services. The failure of Cognomos to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. Except as otherwise provided herein, these

Terms are intended solely for the benefit of the parties and are not intended to confer third party beneficiary rights upon any other person or entity.