

## **National Golf Foundation – Terms of Use Agreement and Privacy Policy**

Last Updated: September 24, 2015

National Golf Foundation ("NGF", "we", or "us") operates the web sites located at AMERICANGOLFCENSUS.ORG and AMERICANGOLFCENSUS.COM (the "Sites"). At the Sites, NGF invites individuals to participate in NGF's American Golf Census (the "Census"), which is a database compilation maintained by NGF of golfers who voluntarily submit personally identifiable information about themselves and their experience playing the game of golf. Persons who wish participate in the Census ("Registrants") do so by completing the registration form at the Sites. As an incentive to persons to participate in the Census, NGF often offers Registrants the opportunity to qualify for certain prizes and awards. NGF makes the Sites and various offers related to the Sites available to those individuals who register directly with the Site ("Registrants"), subject to this Terms of Use Agreement and Privacy Policy. If you do not agree with any provision of the Terms of Use Agreement or the Privacy Policy, please do not register at the Sites, and discontinue any access to, or use of, the Sites.

### **TERMS OF USE**

#### **1) In General**

We agree to provide you access to the Sites in accordance with this Terms of Use. You agree to access and use the content on the Sites in a manner consistent with any and all applicable rules and regulations. All information, data, content or other material displayed by us on the Sites are for Your information only, and are not a substitute for specific advice concerning the use of any NGF product or service.

#### **2) Information Collected**

We collect, process and transmit personally identifiable information obtained from and about You in the course of Your accessing and using the functionality available to You at the Sites in accordance with the Privacy Policy set forth below. By agreeing to these Terms of Use You agree to our use and retransmission of such data as set forth in the Privacy Policy. If You submit information to us, or pose questions to us, about the NGF products and services, You grant to us a non-exclusive, world-wide, royalty free license to publish that information, or our answers to Your questions, on any NGF websites, including the Sites, or in NGF's NGF other promotional activities.

#### **3) Use of Information**

You are permitted to download, view, copy, and print the content on our Site solely for Your personal information and non-commercial use. In doing so, You may not remove or amend any trademark, copyright or other proprietary notice. You may not modify copy, distribute, republish or upload any of the material from the Sites without NGF's prior written consent, which NGF may withhold in its sole discretion. Your access to and use of the Sites shall not constitute any license or transfer to You of any intellectual property rights in any content, data, images or graphical material displayed on the Site.

#### **4) Links to Other Sites**

If we provide hypertext links to third party websites we do so for information purposes only, and such links are not endorsements by us of any products or services offered on such sites and we do not accept any liability for your use of such products or services. We are not responsible for the content or practices of the entities that operate any third-party websites to which You may link, or be linked, from our Sites, and do not make any representations or warranties about the content or accuracy of materials on such third-party websites, the products or services offered by the operators of such sites, or the policies or practices, including the privacy policies, of the operators of such sites. You should review the terms of use agreements and privacy policies of any such sites before You access any content available, or use any functionality accessible on such sites.

#### **5) Intellectual Property Protection**

Materials contained on or obtained through this Site, including, but not limited to, text, graphics, images, data, audio and video (collectively, the “**Materials**”), are owned or licensed by NGF, or its third party licensors. NGF and its third-party licensors retain all proprietary rights in and to the Materials, including all intellectual property rights associated therewith (e.g., copyrights, patents, trademarks, trade secrets, know-how, and prohibitions against unfair competition ) and all broadcasting rights or other distribution rights associated therewith. In addition, NGF owns the copyrights in graphical presentation of the content of this Site as the NGF’s collective work. You acknowledge the validity of the NGF’s copyright claims, and agree not to contest such claims, nor assist others in doing so. Unless otherwise expressly indicated on this Site, except for downloading, viewing, copying, and printing portions of the Materials to enable You to learn more about the NGF’s products and services, how and where you can purchase such products and services, and other personal and non-commercial uses, You may not download, store, print, modify, copy, reproduce, translate, perform, display, publish, create derivative works of, distribute or otherwise use the Materials in any way, without the NGF’s prior written permission.

You may not frame or utilize framing techniques to enclose all or any portion of the Sites. You may not use any metatags or any other similar hidden text utilizing the NGF’s name or trademarks.

#### **6) Prohibited Activity**

You may not do any of the following while using the Sites:

- interfere with or disrupt networks connected to the Sites or violate the regulations, policies or procedures of such networks;
- attempt to gain unauthorized access to this Site, computer systems or networks connected to this Site, through password mining or any other means;
- interfere with another user’s use and enjoyment of this Site;

- upload any message, information, data, text, software, graphic files or other materials (“**Content**”) that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, that may be invasive of another’s privacy, hateful, racially, ethnically or otherwise objectionable;
- upload any Content that contains a virus, corrupted file, or other harmful component;
- impersonate any person or entity, including, but not limited to, the NGF personnel, or falsely state or otherwise misrepresent Your affiliation with any person or entity;
- upload any Content that You do not have a right to upload under law or under contractual or fiduciary relationships (including, but not limited to, nondisclosure agreements);
- upload any information or grant permissions to view information to any person in a manner that exceeds Your contractual or other legal authority;
- upload any unsolicited advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, contests, surveys, or any other form of solicitation (commercial or non-commercial);
- intentionally or unintentionally violate or encourage or assist another to violate any law or regulation in connection with Your use or another’s use of this Site; or
- upload any Content that violates or infringes any patent, trademark, trade secret, copyright or any right, of whatever nature, of anyone.

If You violate any provision of this Section, Your permission to use the Materials and the Sites shall automatically terminate.

## **7) Use of the Sites**

You understand and expressly agree that use of the Sites and the Materials is at Your sole risk and that the Sites and the Materials may not be current, complete, uninterrupted, accurate or error-free. We make no representation or warranty regarding the use, validity, security, accuracy, currency, completeness, or reliability of the content accessible on the Sites, or the results You might obtain from the use of the Sites or the Materials and do not assume any liability or responsibility for any errors or omissions in the Materials, or any actions that You take, or do not take, in reliance upon the Materials.

## **8) DISCLAIMER OF WARRANTIES**

THE SITES AND THE MATERIALS DISPLAYED ON THE SITES ARE PROVIDED ON AN AS-IS, AS-AVAILABLE BASIS WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, WE ON BEHALF OF OUR EMPLOYEES, AGENTS, SUPPLIERS, AND CONTRACTORS EXCLUDE LIABILITY FOR ANY LOSSES AND EXPENSES OF WHATEVER NATURE AND HOWSOEVER ARISING, INCLUDING WITHOUT LIMITATION ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR

CONSEQUENTIAL DAMAGES, LOSS OF USE, LOSS OF DATA, LOSS CAUSED BY A VIRUS OR BUG, LOSS OF INCOME OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY, CLAIMS OF THIRD PARTIES, OR OTHER LOSSES OF ANY KIND OR CHARACTER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, ARISING OUT OF OR IN CONNECTION YOUR USE OF THE SITES OR ANY WEBSITE TO WHICH YOU MAY LINK FROM THE SITES. YOU ASSUME TOTAL RESPONSIBILITY FOR ESTABLISHING ANY PROCEDURES FOR DATA BACK UP AND VIRUS CHECKING AS YOU CONSIDER NECESSARY.

## **9) Indemnification**

You will defend, indemnify and hold harmless the NGF and its affiliates and their officers, directors, employees and agents, from and against any and all third-party claims, liability, actions, demands, costs or expenses (including, but not limited to, attorneys' fees and litigation costs and expenses at trial or on appeal) arising from or relating to Your use of the Sites or the Materials, or Your breach or violation of these Terms of Use. The NGF reserves the right to undertake the direct defense of any such claim at Your cost and expense, and You agree to provide the NGF with such reasonable cooperation as it may request.

## **10) Governing Law; Dispute Resolution**

These Terms of Use will be governed by the laws of the State of Florida, without regard to its conflicts of laws principles. You agree that any and all disputes, claims and causes of action arising from or relating to this Site or these Terms of Use may be brought only in a state or federal court sitting in Palm Beach County, Florida, and you hereby consent to the personal jurisdiction, venue and convenience of such courts. Any and all disputes, claims and causes of action arising out of or relating to this Site or these Terms of Use shall be resolved individually, without resort to any form of class action. Should any part of these Terms of Use be declared invalid or unenforceable by a court of competent jurisdiction, this shall not affect the validity of any remaining portion and such remaining portion shall remain in full force and effect as if the invalid portion of these Terms of Use had been eliminated.

## **11) Legal Compliance**

The Sites are based in the United States. Access to the Materials by certain persons may not be lawful under the laws of certain countries. If You access the Sites from outside the United States, You do so at Your own risk and are solely responsible for compliance with the laws applicable in the location from which You access the Sites.

## **12) Waiver**

Any waiver of any provision of these Terms of Use will be effective only if it is in writing and signed by an authorized officer of the NGF.

## **PRIVACY POLICY**

This Privacy Policy identifies to visitors and Registrants at the Sites (“You” or “Your”) the information, including Personally Identifiable Information (“PII”) that NGF collects from Registrants at the Sites, how NGF uses or may share this information, including Your PII, with third parties, and how such information and PII is maintained by NGF. By visiting the Sites, or by becoming a Registrant at the Sites, You signify Your agreement with the terms and conditions set forth in this Privacy Policy. This Privacy Policy only applies to information and PII collected by NGF, and not to any information about You or Your PII collected or obtained by third parties through other websites or through other methods of collection or sources.

### **Collection of Personally Identifiable Information**

NGF collects certain PII about voluntarily provided by persons who complete the registration process at the Sites and thereby choose to become Site Registrants. The PII that NGF currently collects from Registrants at the Sites include first and last name, mailing address, email address, gender, age range, average 18 hole golf score, estimated number of annual rounds played by a Registrant, and whether the Registrant is a member of a private golf club. From time to time, NGF may also present opportunities for Registrants to voluntarily provide additional information about themselves.

### **Use and Sharing of PII**

By becoming a Registrant at the Sites, You grant NGF the right to include Your PII in NGF’s American Golf Census database compilation (the “AGC Database”). By agreeing to permit NGF to include Your PII In the AGC Database, You authorize NGF use Your PII as a component of the AGC Database to (1) send direct mail or email messages to You from time to time about golf related products or services about which you may have an interest, including advising You of Your opportunity to win prizes and awards available to AGC Registrants; or (2) license some or all of the AGC Database that may include Your PII to third parties who may incorporate the licensed portions of the AGC Database into the third parties’ database compilations, which such third parties may use to send direct mail or email messages to You promoting golf related goods or services.

NGF may change this Privacy Policy at any time (See "Changes to this Policy," below). Therefore, NGF may in the future use Your PII for additional purposes not currently identified in this Policy. By becoming a Registrant of the Site(s), You agree that NGF or its licensees may contact You by direct mail or email about NGF related activities, products or services, or those offered by NGF members or other companies with which NGF has a marketing or promotional relationship. From time to time NGF contracts with third parties to conduct sweepstakes and other game promotions. If You elect to respond to such sweepstakes or promotions, and provide NGF with Your PII in the

course of such a response, NGF may use Your PII for any purpose disclosed in this Privacy Policy or in the rules applicable to the specific sweepstakes or promotion.

In addition to the foregoing, NGF may disclose Your PII collected at the Sites to: (1) comply with applicable laws (including, without limitation, the CAN-SPAM Act); (2) respond to governmental inquiries; (3) comply with valid legal process; and (4) protect the rights or property of NGF, including without limitation, filing copyright applications with the Library of Congress, Copyright Office; or (4) avoid or mitigate the actual or reasonably likely harm or damage to the person or property of any NGF officers, directors, employees, consultants, or third parties.

#### **CALIFORNIA RESIDENTS: YOUR PRIVACY RIGHTS**

California Civil Code Section 1798.83, requires companies that collect PII from California residents and disclose such information to third parties (including affiliated entities) for marketing purposes to allow California residents to provide a mechanism by which a consumer may opt-out of having his/her information shared with third parties. If you are a California resident and would like to make such a request to opt-out of having your PII shared with third parties, please submit your request in writing to:

National Golf Foundation  
Attn: Privacy Policy Manager  
501 N Highway A1A  
Jupiter, FL 33477  
ethics@ngf.org

#### **Opt-Out of Promotions or Updates.**

During registration process at the Sites, Registrants will have the option to direct NGF, or any of its affiliates or third party licensees, members, or marketing partners, not to send the Registrant any promotional offers or updates via emails. If You do not wish to receive such promotional offers and updates, You must elect that option by checking or unchecking the appropriate box at the registration form on the Sites. If You initially choose to receive promotional offers or updates, You may, at any time after You register at the Sites, choose to opt out from any future receipt of promotional emails from NGF, its affiliates, members or third party licensees by following the "unsubscribe" instructions in the promotional email sent to You. Notwithstanding the foregoing, NGF may continue to contact Registrants for the purpose of communicating information about their registration with NGF or similar information relating to NGF, the Site or their registration, as well as to facilitate, complete or confirm any transaction that Registrants enter into or in response to or fulfillment of Registrants' inquiries or requests.

**Access to Information** If You want to review, correct or change Your Registrant account information, please contact us at the address listed below.

**Contact NGF at:**  
National Golf Foundation  
501 N Highway A1A

Jupiter, FL 33477  
census@ngf.org

### **Non-Personally Identifiable Information**

NGF also collects certain non-personally identifiable information at the Sites as more fully described below.

**1. Cookies.** NGF may use "cookies" on the Sites. Cookies are small pieces of information that NGF's server places on an individual's computer hard drive to enable the individual to more easily communicate and interact with the Sites. For example, NGF may place a cookie on a Registrant's computer when he/she initially clicks on a link in an email from NGF. The next time that Registrant opens an email from NGF and clicks on the link, NGF's server will recognize the cookie (and the Registrant) and allow the Registrant to perform certain actions immediately without signing in as Site Registrant or User.

While Your Web browser may allow You to automatically reject all cookies or be notified when a cookie is about to be placed on the Registrant's computer, preventing NGF from placing cookies on your computer may compromise the efficiency and added services that cookies provide when You use the Sites.

**2. IP Address.** NGF collects Your IP (Internet Protocol) address to help diagnose problems with NGF's server, and to administer the Site and NGF email offers. An IP address is a number that is assigned to Your computer when You use the Internet. Your IP address is also used to help identify You during a particular session.

Although the information collected through the foregoing methods does not itself contain any PII, NGF may analyze and match such information with other information that You provide (including PI!) as well as information that NGF may obtain from other sources, and NGF may share all or some of such information with NGF's members, actual or potential marketing partners, and other third parties. NGF may also disclose non-personally identifiable information in order to (1) comply with applicable laws, (2) respond to governmental inquiries, (3) comply with valid legal process, or (4) protect the personal safety or property rights of NGF, its officers, directors, employees, agents, or Registrants and other users of the Site..

### **Third Party Services**

Certain information and services available to Registrants are provided by entities not affiliated with NGF. Although NGF advises all of its partners and affiliates to support this Policy, NGF has no control over the information handling practices of any third party, and is not responsible for any failure of such persons or entities to adhere to this Policy.

### **Links from Email**

NGF may provide links to its third party licensees', members' and affiliates' websites and other websites that may wish to be promoted on the Sites. If You link from the Sites to any of these third party websites, this Policy will not apply to Your use of, and activities on, those third party websites. We encourage You to carefully review the legal

notices posted on those sites, including the privacy policies applicable to such sites. NGF does not assume any responsibility or liability for Your access to or use, or the data collection and usage practices of, those other websites.

### **Note Concerning Individuals 17 Years of Age and Younger**

The Sites, NGF emails and the content available in connection therewith, are neither intended for, nor directed to, children under the age of 18. Unless You are at least 18 years old, You do not have our permission to use the Sites, become a Registrant at the Sites, or to provide any of Your PII to NGF. If NGF learns that a person who is a Registrant is under the age of 18, NGF will promptly terminate that individual's registration and delete the individual's PII from NGF's records. NGF will not knowingly distribute the PII of any person under the age of 18 years to any third parties.

### **Security**

While NGF takes reasonable precautions to safeguard information transmitted between NGF and Registrants and/or users of the Sites, NGF may be unable to prevent unauthorized access to such information by third parties or inadvertent disclosure of such information. Registrants and users acknowledge this risk when communicating with NGF.

### **Consent to Processing**

By providing PII and other information to NGF, Registrants of the Site fully understand and knowingly consent to the collection, processing and transfer of such information in the United States and other countries or territories, in accordance with the terms of this Privacy Policy.

### **Transfer in Certain Circumstances**

In its sole discretion, NGF may transfer, sell or assign information collected on or about Registrants of the Site, including without limitation, PII and other information provided by Registrants to one or more third parties, as a result of the sale, merger, consolidation, change in control, transfer of substantial assets, reorganization or liquidation of NGF. By registering at the Sites, You expressly consent to such transfer of Your PII or information about You that NGF may have collected at the Sites.

### **Changes to This Terms of Use or Privacy Policy**

NGF may, from time to time, amend this Terms of Use or Privacy Policy, in whole or part, in its sole discretion. Any changes to this Terms of Use or Privacy Policy will be effective immediately upon the posting of the revised Terms of Use or Privacy Policy on the Sites. By continuing to use the Sites following any changes, You will be deemed to have agreed to such changes in the Terms of Use or Privacy Policy.