



The ACT® Test Terms and Conditions Testing Rules and Policies for the ACT Test 2023–2024

The ACT® Test Terms and Conditions: Testing Rules and Policies for the ACT Test (“Terms and Conditions”) are a legal agreement between the person who will take the ACT test (“you”) and ACT*. They set out important rules and policies relating to your taking the ACT test, including those relating to test security. By registering for, launching, starting, or submitting answer documents for an ACT test (“test”), you are agreeing to these Terms and Conditions. All references to “test” or “tests” in these Terms and Conditions refer to the ACT test and test-related documents in paper or electronic form, including test booklets, test questions, test responses, and responses marked on answer documents.

Please read these Terms and Conditions carefully. If you have any questions, you may discuss them with your parent, legal guardian, or trusted adult. You should carefully review the Terms and Conditions each time you test (available on the ACT website at www.act.org/the-act/terms).

If you have difficulty accessing these Terms and Conditions and/or any of the ACT rules and policies

referred to in the Terms and Conditions, please contact ACT Customer Support at 319.337.1270 or at www.act.org/content/act/en/contact-act.html before registering for or taking the ACT test. ACT will be happy to provide these Terms and Conditions, rules, or policies in an alternative format or give you access to these Terms and Conditions in some other reasonable manner.

NOTICE: By registering for and/or taking the ACT test, you represent and affirm the following to ACT:

- The information you have provided to ACT is true.
- You have read, understand, and agree to be bound by these Terms and Conditions and the ACT rules and policies referenced in these Terms and Conditions.
- You are not working for or on behalf of any test preparation provider(s).
- Any and all disputes, claims, or controversies (“Disputes”) between you and ACT will be resolved through binding arbitration except as expressly provided in Section 14 below, and you understand that by agreeing to arbitration you and ACT are waiving the right to have any such Disputes heard and decided by a judge or jury.

Contents

Section 1. Privacy Policy and Notice of Collection of Personally Identifying Information...	2
Section 2. Automatic Score Reporting for Scholarship Purposes.....	2
Section 3. Photo Submission Requirement for Registration.	2
Section 4. Rules for Entry to the Test.....	3
Section 5. Items Brought to the Test.....	3
Section 6. Prohibited Behaviors.....	3
Section 7. Capturing Images or Video or Audio Recordings.....	4
Section 8. Prohibited Behavior Observed or Suspected by Test Staff.....	4
Section 9. Individual Score Reviews.....	4
Section 10. Individual Score Review Process.....	5
Section 11. Compromises in the Registration, Testing, Scoring, or Score Reporting Process and Group Irregularities.....	5
Section 12. Test Security Investigations.....	6
Section 13. Voluntary Cancellation of Scores by You.....	7

Section 14. ARBITRATION AGREEMENT	7
Section 15. Termination of Agreement (in Whole or in Part).....	9
Section 16. LIMITATION OF LIABILITY AND DAMAGES.....	9
Section 17. ACT Intellectual Property Rights and Confidentiality.....	9
Section 18. ACT Policies and Rules.....	9
Section 19. Limitations.....	10
Section 20. Governing Law.....	10
Section 21. Venue.....	10
Section 22. Waiver and Severability.....	10
Section 23. Force Majeure.....	10
Section 24. No Third-Party Beneficiary.....	10
Section 25. Questions Regarding These Terms and Conditions.....	10

1. **Privacy Policy and Notice of Collection of Personally Identifying Information.** ACT collects personally identifying information when you register for or take one of our tests. Some of this information is mandatory (including, but not limited to, your name, address, and date of birth), because it enables ACT to, for example, administer the test, report scores to colleges, and protect test security. ACT recognizes the importance of protecting the privacy of your personally identifying information. Our processing of such information, including collection, use, transfer, and disclosure, is described in the ACT Privacy Policy found at www.act.org/privacy. When you register for or take an ACT test, you consent to the ACT Privacy Policy. If you or your parent or guardian has any questions about the ACT Privacy Policy, contact our Data Protection Officer at dpo@act.org.

2. **Automatic Score Reporting for Scholarship Purposes.** Some scholarship and recognition programs use ACT scores as one source of information to recognize student achievement. If you meet the program’s criteria, ACT may automatically report your test scores (including superscores) and other information about you (including personally identifying information) to these programs, unless you opt out of such sharing. To opt out, you must send an email to act-services@act.org no later than the late registration deadline for the test date for which you do not want your scores and information reported.

NOTE: Opting out of scholarship score reporting will not affect other uses of your scores, such as reporting to the colleges you select when you register for the test, reporting to your high school, or sending your information to Educational Opportunity

Service (EOS) recipients if you opt in to that service. This section does not apply to the ACT On-Campus testing program, which is a limited testing program authorized for use by institutions of higher education.

3. **Photo Submission Requirement for Registration.** During test registration, ACT may require you to submit a photo that meets the ACT Photo Submission Requirements found at www.act.org/the-act/photo-requirements.html. Your photo may be used for test security and other identification purposes. For example, ACT may place your photo on your admission ticket, provide it to test staff, and/or include it on the score report that is sent to your high school. You must have the right to submit the photo to ACT, either because you own it or because you have permission to submit it from the person who owns it. ACT may use your photo for all the purposes described in the ACT Privacy Policy, the ACT Photo Submission Requirements, and this section.

- a. **Consequences for Failure to Provide Photo:** Photos must be submitted by the photo upload deadline found at www.act.org/the-act/photo-requirements.html. If you fail to provide a required photo by the deadline, ACT may cancel your test registration and release your seat; you will be subject to all test date change policies and fees. You must then provide a photo by the photo deadline for any new test date. If you miss the deadline and do not request a test date change, your original registration fee will not be refunded.
- b. **Examinees Age 12 or Under:** Examinees who are 12 years old or younger do not have to submit a photo for registration but must bring acceptable identification to be admitted to the test, as set forth in Section 4 below.

4. **Rules for Entry to the Test.** You must meet all rules for entry to the test described in this section.
 - a. **Verifying your Identity.** You must review ACT requirements for acceptable identification, found at www.act.org/the-act/id, and have acceptable identification with you on test day. **ACT policies on acceptable forms of identification are updated from time to time; you must comply with the identification requirements in effect on the day you test. Make sure to check for any updates before the day of testing.** If you have any questions about acceptable identification, please contact ACT Customer Support at 319.337.1270 or at www.act.org/content/act/en/contact-act.html before the day of testing. Test staff have sole discretion on test day to deny admission to the test if they conclude you do not have an acceptable form of identification. Any such decision by test staff is final. For State testing, District testing, Special testing, Arranged testing, and On-Campus testing, ACT requires that you show acceptable identification on the test day, unless test staff personally recognize you.
 - b. **Other Entrance Requirements:** You may be denied entry to the test center and not allowed to take the ACT test if you do not follow the physical security requirements or health and safety rules in place at the test center. Test staff has sole discretion on test day to deny admission to the test if they conclude that you do not meet the test center requirements. Any such decision by test staff is final.
5. **Items Brought to the Test.** Neither ACT nor test staff shall be responsible for loss of or damage to any items that you bring to a test center. ACT may also restrict the items you bring to the test. Items you bring or wear including, but not limited, to hats, glasses, masks, purses, backpacks, cell phones, calculators, other electronic devices, pre-approved medications or personal aids, and watches, may be searched or inspected at the discretion of ACT and test staff. Searches may include the use of tools, such as handheld metal detectors that detect prohibited metal items. ACT may confiscate and retain for a reasonable period any item suspected of having been used, or capable of being used, in violation of these Terms and Conditions. ACT may also provide such items to, and permit searches of such items by, third parties in connection with investigations conducted by ACT or others.
6. **Prohibited Behaviors.** You may not engage in any of the following behaviors in connection with taking the ACT test:
 - a. Filling in or altering responses to any multiple-choice questions or continuing to write or alter the essay after time has been called. This means that you cannot make any changes to a test section outside of the designated time for that section, even to fix a stray mark or accidental keystroke.
 - b. Looking back at a test section on which time has already been called.
 - c. Looking ahead to other test sections.
 - d. Looking at another person's test or answers.
 - e. Giving or receiving assistance by any means.
 - f. Discussing or sharing test questions, answers, or test form identification numbers at any time, including during test administration, during breaks, or after the test.
 - g. Attempting to photograph, copy, or memorize test-related information or remove test materials, including questions or answers, from the test room in any way or at any time.
 - h. Disclosing test questions or answers, in whole or in part, in any way or at any time, including through social media.
 - i. Using a prohibited calculator (described in the ACT Calculator Policy found at www.act.org/calculator-policy.html).
 - j. Using a calculator on any test section other than mathematics.
 - k. Sharing a calculator with another person.
 - l. Wearing a watch during test administration. All watches, timers, or other timing devices must be removed and placed on the desk while in the test room so that it remains visible to staff during the test.
 - m. Using a watch or other timing device with recording, internet, communication, or calculator capabilities (e.g., a smart watch or fitness band).
 - n. Accessing any electronic device other than an approved calculator or watch. All other electronic devices, including cell phones and other wearable devices, must be powered off and stored out of sight from the time you are admitted to test until you leave the test center.
 - o. Using highlighter pens, colored pens or pencils, notes, dictionaries (unless approved

by the test administrator for translations), or other aids.

- p. Using scratch paper.
Note: If you are taking the ACT online, some use of ACT-authorized scratch paper or a dry erase surface/white board may be permitted; all such use must be in accordance with ACT policies and procedures.
- q. Not following instructions or abiding by the rules of the test center.
- r. Not following the rules of the test administration.
- s. Exhibiting confrontational, threatening, or unruly behavior.
- t. Violating any laws. If ACT suspects you have engaged in criminal activities in connection with a test, such activities may be reported to law enforcement agencies.
- u. Allowing an alarm on a personal item to sound in the test room or creating any other disturbance.

7. **Capturing Images or Video or Audio Recordings.** ACT may capture images or record video and/or audio of you and your testing environment in connection with the testing process and may use the images or recordings at any time for the purpose of protecting test security, improving services, or as otherwise allowed under the ACT Privacy Policy and/or applicable law.

8. **Prohibited Behavior Observed or Suspected by Test Staff.** Test staff may monitor you and others during the testing process. If they observe or suspect you of engaging in prohibited behavior, they have the right to discontinue your exam and direct you to leave the test center, if applicable. Any such decision by test staff is final. Test staff may not give you a warning of any observed or suspected prohibited behavior before you are dismissed.

In some cases, test staff may allow an examinee to continue an exam, but report observed or suspected prohibited behavior on an irregularity report that is submitted to ACT. ACT, in its sole discretion, may take action in response, which may include not scoring your exam, or canceling a previously reported score. Any such decision by ACT is final.

If your exam is canceled pursuant to this Section 8, you forfeit your registration, and no refund will be issued.

9. **Individual Score Reviews.** In some cases, test staff may not suspect, observe, or report prohibited behavior in the testing process, but

other information comes to the attention of ACT that raises questions about the validity of an examinee's test scores. For example, ACT may find unusual similarities in an examinee's answers and the answers of another examinee through statistical or other analyses, indicators that an examinee may have falsified his or her identity or impersonated someone else, indicators of possible advance access to test questions or answers, or other indicators that an examinee's test scores may not be valid. In these cases, ACT may choose to conduct an Individual Score Review.

- a. **Objective of an Individual Score Review:** The objective of an Individual Score Review is to determine whether your scores should be considered valid ACT scores—not to determine whether you engaged in misconduct. ACT reserves the right to cancel your scores if it has reason to believe the scores are invalid, based on substantial evidence. Proof of misconduct is not required to cancel scores.
- b. **Integrity of Test Scores:** ACT conducts Individual Score Reviews to protect the fairness of the testing process and the integrity of ACT scores. This benefits examinees as well as colleges, universities, and other score recipients.
- c. **Notification of an Individual Score Review:** In most cases, ACT will initiate the Individual Score Review process by sending you a certified letter. If your mailing address is outside of the United States, however, ACT will send a letter to the email address you provided to ACT. Email is used to avoid delays caused by international mailing, and if your mailing address is outside the United States, you agree to receive unencrypted emails from ACT regarding Individual Score Reviews. You must maintain accurate and up-to-date contact information with ACT. You can update your mailing address by contacting ACT Customer Support at 319.337.1270 or at www.act.org/content/act/en/contact-act.html.
- d. **Timing of an Individual Score Review:** Your scores may become the subject of an Individual Score Review at any time they are on file with ACT as valid and reportable ACT scores. While Individual Score Reviews are typically initiated within a year after the applicable test date, information may come to ACT's attention at any time that causes a review of your scores. For example, investigations into recently reported scores

or activities may cause ACT to reevaluate older scores; ACT may receive inquiries at any time from high schools, colleges, and other official score recipients questioning scores they believe to be inconsistent with their observations of academic performance; or ACT may receive information through its Test Security Hotline or from external investigations causing ACT to reexamine past scores. ACT reserves the right to conduct an Individual Score Review at any time.

10. **Individual Score Review Process.** If your ACT scores become the subject of an Individual Score Review, ACT will send you a letter that gives you three options: (1) submit documentation to ACT in support of your scores; (2) take a free, private retest to resolve the score review; or (3) voluntarily cancel your scores. Additional details regarding these options will be provided in ACT's correspondence to you. ACT's letter will include a Score Review Option Sheet that outlines these options. You must sign and return the Score Review Option Sheet to ACT with only one option selected by the deadline stated in the letter.
- a. **Submit Documentation:** If you choose to submit documentation to ACT in support of your scores, this documentation is provided to a Test Security Review Panel, which will consider the totality of the evidence from you and ACT and determine whether to recommend cancellation of the scores. If the review panel recommends that your scores be canceled, you will again be given several options, including: (1) voluntarily canceling your scores; (2) taking a free, private retest to resolve the score review; or (3) challenging the review panel's cancellation recommendation pursuant to the dispute resolution provisions discussed in Section 14 below. Additional details regarding these options will be provided in ACT's correspondence to you.
 - b. **Private Retest or Voluntary Score Cancellation:** You may select the private retest option or voluntary score cancellation option at any point in the Individual Score Review process to fully resolve the Individual Score Review.
 - c. **Failure to Participate in the Individual Score Review Process:** If you do not respond to ACT's Individual Score Review correspondence and identify a preferred option by the deadline stated in the correspondence, do not participate in the Individual Score Review process, or unreasonably delay the Individual Score Review process or resolution, ACT may cancel your scores that are under review if it has substantial evidence to support they are invalid. You hereby agree and authorize ACT to make such a cancellation. If your scores have been canceled, ACT will not reinstate them absent exceptional circumstances and only in ACT's sole discretion.
 - d. **Score Reporting While Scores Are Under Review:** ACT reserves the right to hold scores and not issue score reports pending the outcome of the Individual Score Review process.
 - e. **Notification to Official Score Recipients of Pending Individual Score Review:** Although it is ACT's general policy not to notify official score recipients of a pending Individual Score Review, ACT reserves the right to notify official score recipients that an Individual Score Review is pending at any time. You hereby agree and authorize ACT to make such a disclosure.
 - f. **Score Cancellation Notices:** If your scores are canceled for any reason relating to an Individual Score Review, ACT sends a letter to all official score recipients (i.e., the entities that receive scores directly from ACT) informing them that the scores have been canceled. ACT generally does not inform official score recipients of the reason for cancellation but may do so in exceptional circumstances including, but not limited to, instances in which there is a misconduct finding as defined in Section 12(c) below.
11. **Compromises in the Registration, Testing, Scoring, or Score Reporting Process and Group Irregularities.** ACT takes steps that are intended to provide you a standardized testing process. However, circumstances may prevent this from occurring in some cases. Those circumstances include, but are not limited to:
- Deviations from standard testing procedures such as events that cause testing to be canceled or interrupted, or a mistiming on any part of the test;
 - Concerns regarding whether testing can be safely conducted considering health or other conditions affecting a testing location;
 - Errors, delays, or other non-standard circumstances in (a) processing test registrations; (b) delivering tests; (c) administering tests; (d) uploading test

responses; (e) preparing, handling, shipping, receiving, processing, or scoring tests; or (f) reporting scores;

- Disruptions at the test location;
- Evidence of group irregularities or compromises (which includes, but is not limited to, evidence of advance access to or disclosure of test content, unusual similarities for a group of examinees, or evidence that a room or center was impacted by prohibited behavior); or
- Any other events that disrupt or compromise any part of the testing process (i.e., registration, test distribution, testing, scoring, and score reporting).

In the event such a circumstance occurs, ACT will examine the situation and determine whether it needs to take any action including, but not limited to, not proceeding with a scheduled test administration, not scoring tests, or canceling scores. ACT may determine that no further action is necessary, and that decision is final. However, if ACT determines that it needs to take action, ACT will in its sole discretion: (a) correct the error (if an error occurred and ACT believes correction is feasible); (b) cancel the test administration, not score tests, or cancel scores, including all completed sections of the test (“discontinue the testing process”); (c) discontinue the testing process and offer each affected person the option to retest at no additional fee (normally on a future National test date); or (d) discontinue the testing process and offer a refund.

If the impacted test event is a State testing event (i.e., one where a state or district has paid for your test), ACT may offer you the option to retest at no additional fee or it may cancel the test event without an option for retest.

ACT shall not be required to conduct Individual Score Reviews for each impacted group member described in this Section 11.

ACT may take any action pursuant to this section regardless of whether you caused or benefited from the compromise or irregularity, or otherwise violated these Terms and Conditions. **To the extent permitted by applicable law, the remedies listed in this**

Section 11 are the exclusive remedies available to examinees for the circumstances described in this Section 11. Decisions made by ACT pursuant to this section are final.

12. **Test Security Investigations.** As part of its efforts to protect the fairness of the ACT test and the integrity of ACT scores, ACT may investigate the security of its test materials and the testing process (“test security investigation”), and you agree to cooperate with any test security investigation. ACT reserves the right to hold and not report scores pending the outcome of a test security investigation. Test security investigations may produce evidence that causes ACT to initiate one or more Individual Score Reviews as outlined in Sections 9 and 10 above. In other cases, test security investigations may produce evidence that calls into question a group of examinee scores (e.g., all scores achieved from a specific room, school, or district on a specific test date) and results in ACT taking action under Section 11, above.

In addition to taking action regarding examinee scores, ACT may, in its sole discretion, decide as part of a test security investigation that additional steps are appropriate, such as when prohibited behavior is or might be ongoing or rises to the level of an infringement of ACT’s intellectual property rights or a criminal act (e.g., coordinated group efforts to steal and disseminate ACT’s secure test content; activities involving someone else taking the test for another person or altering test responses; theft of, disclosure of, or access to test content or responses to secure test questions; or other serious or potentially ongoing misconduct). Those additional steps may include, but are not limited to, the following:

- a. **Prohibiting You from Taking the ACT:** ACT may prohibit you from taking the ACT test, even if you have already registered, if ACT has reason to believe (1) you engaged in prohibited behavior in connection with a prior or future administration of the ACT test, (2) you intend to engage in prohibited behavior in the future, (3) you have provided false or misleading information to ACT or to others relating to your taking the ACT test, or (4) you are working for a test preparation provider. This prohibition may be temporary or permanent.
- b. **Disclosure of Investigative Information:** ACT may disclose details of a test security investigation to anyone who may be able to

assist ACT in the investigation or who may have an interest in their own independent investigation, such as law enforcement, state departments of education, local school officials, and official score recipients. Such disclosures help protect the integrity and fairness of the test process and benefit examinees who properly obtain their ACT scores, as well as official score recipients. You authorize and consent to these disclosures.

- c. **Disclosure of Misconduct Finding:** If you are found by a court or arbitrator to have engaged in any action prohibited under these Terms and Conditions that affected the validity of your scores on the ACT test or the scores of any other examinee(s) ("misconduct finding"), ACT may disclose that fact to any schools or scholarship entities that received your ACT scores and to other third parties with a legitimate reason for knowing that information.

13. **Voluntary Cancellation of Scores by You.**

Unless you test under a State, District, or On-Campus testing program, ACT will cancel your scores upon your request. If ACT has already sent the scores to official score recipients, ACT will notify those official score recipients that the scores have been canceled. ACT will not be required to reinstate voluntarily canceled scores, even if you later change your mind.

14. **ARBITRATION AGREEMENT.** Arbitration is an alternative dispute resolution procedure intended to allow you and ACT to resolve issues without going to court. As described in this Section 14, certain Disputes between you and ACT will be submitted to an arbitrator, not a judge or jury, for resolution.

- a. **Arbitration of Disputes:** You and ACT agree that any and all disputes, claims, or controversies ("Disputes") (other than Disputes that solely involve infringement of intellectual property rights) that may arise between you and ACT—including, but not limited to, Disputes that relate in any way to these Terms and Conditions, registering for the test, taking the test, requesting or receiving accommodations or supports on the test, the reporting of ACT test scores, the use or disclosure of personal information by ACT, Individual Score Reviews, or the cancellation of test scores—shall be resolved by a single arbitrator through final and binding arbitration. You and ACT agree that a final arbitration award may be entered in a court which has jurisdiction.

By agreeing to arbitration, you and ACT are waiving the right to have Disputes subject to this arbitration agreement (including Disputes regarding statutory rights) brought before or decided by a judge or jury in state or federal court and are agreeing that any such Disputes will instead be resolved through final and binding arbitration.

- b. **Arbitration Process:** The arbitration will be administered by the American Arbitration Association ("AAA"), under the AAA Consumer Arbitration Rules ("AAA Consumer Rules") in effect at the time a request for arbitration is filed with the AAA, unless you and ACT agree in writing to an alternate arbitration forum and/or different arbitration rules, or a substitute arbitration forum is agreed to or ordered pursuant to Section 14(f). Copies of the AAA Consumer Rules can be located on AAA's website and are currently found at www.adr.org/sites/default/files/Consumer_Rules_Web_0.pdf. When an arbitration demand is properly and permissibly filed pursuant to this Section 14, you and ACT must promptly comply with the filing requirements, which for AAA arbitrations includes your obligation to pay AAA a non-refundable individual filing fee (unless AAA agrees to waive the fee for you or ACT is the claimant) and ACT's obligation to pay the remainder of the filing fee. The filing party must provide prompt notice of the filing of the arbitration demand to the other party. Each party will be responsible for its own attorney's fees and expenses incurred in connection with the arbitration, regardless of the outcome of the arbitration, except as required by applicable law.
- c. **Arbitrator Jurisdiction:** Any issues regarding the enforceability of this arbitration agreement or whether a Dispute is subject to this arbitration agreement will be decided solely by the arbitrator, except in the case of Disputes that solely involve infringement of intellectual property rights or as set forth in Section 14(e) below.
- d. **Individual Arbitration; Class Action Waiver:** No arbitration may be brought or maintained as a class action or a collective action. All arbitration demands must be filed on an individual examinee basis. The arbitrator shall not have the authority to combine, consolidate, or aggregate the Disputes of more than one individual, conduct any class proceeding, make any class award, or make an award to any

person or entity not a party to the arbitration.

- e. **Multiple Demands:** Notwithstanding the arbitration agreement set forth in this Section 14, neither you nor ACT may file an arbitration demand or arbitrate a Dispute if your arbitration demand or ACT's arbitration demand would be one of more than 50 substantially similar arbitration demands filed within a consecutive 12-month period by or with the assistance or coordination of the same law firm(s) or organization(s). You and ACT agree that AAA (or any substitute arbitration forum) may not accept any such arbitration demand for filing or invoice or collect any filing or other fees for any such arbitration demand. You and ACT agree that arbitration demands that challenge score cancellation decisions made in different Individual Score Reviews do not constitute "substantially similar arbitration demands."
- In the event you or ACT are unable to seek resolution of a Dispute in arbitration due to this provision, you or ACT may seek resolution of the Dispute in court in accordance with Section 21. Neither you nor ACT may file a court action pursuant to this provision, however, unless the other party is provided prior written notice identifying all the substantially similar arbitration demands that have been or will be filed to trigger coverage under this provision, with such notice to be provided at least 30 days prior to the filing of any such court action. Notwithstanding Section 14(c), any issues regarding whether the filing of an arbitration demand does or would violate this Section 14(e) and/or whether a court action may be filed pursuant to this Section 14(e) must be resolved in court in accordance with Section 21, and no proceedings may be conducted before, and no fees may be invoiced or collected by AAA (or any substitute arbitration forum) pending resolution of any such issues in court.
- f. **Substitute Arbitration Forum:** If, for any reason, AAA is not available as an arbitration forum, you and ACT agree to reasonably confer regarding a substitute arbitration forum or arbitrator. In the event you and ACT are not able to reach agreement on a substitute arbitration forum or arbitrator within 14 days of the first communication on the topic between the parties, you and/or ACT may submit the

issue to the U.S. District Court for the Southern District of Iowa or a state court located in Johnson County, Iowa, for the sole purpose of seeking a declaratory judgment naming a substitute arbitration forum or arbitrator.

- g. **Small Claims Court:** Notwithstanding the arbitration agreement set forth in this Section 14, you or ACT may take a claim to small claims court instead of arbitration if the claim is within the jurisdiction of the small claims court, but only if and as permitted in the AAA Consumer Rules. If an action in small claims court is instituted by you or ACT pursuant to the rules, and such action is within the jurisdiction of the small claims court, you and ACT agree to accept the judgment of the small claims court as a final resolution of the Dispute and not to appeal the small claims court's decision or pursue any other claim relating to that Dispute in court or arbitration. Each party will be responsible for its own attorney's fees and expenses incurred in connection with the small claims proceeding, regardless of the outcome, except as required by applicable law.
- h. **Applicable Law:** The Federal Arbitration Act ("FAA") applies to and governs this arbitration agreement, including interpretation and enforcement of the agreement, and preempts all state laws to the fullest extent permitted by law. Rulings in other arbitrations involving ACT to which you are not a party may not be relied upon as binding precedent or be given preclusive effect in any arbitration or court proceeding involving you.
- i. **Severability:** If any provision in this Section 14 is held by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way; and, to the fullest extent possible, the invalid, illegal, or unenforceable provision shall be modified so that it is valid, legal, and enforceable and, to the fullest extent possible, reflects the intention of you and ACT as originally set forth in this agreement. If, however, a finding of invalidity, illegality, or unenforceability applies to (i) Section 14(d) so as to allow for class, collective, combined, consolidated, or aggregated arbitration, or to allow for an award to any person or entity not a party to the arbitration, or (ii) Section 14(e) so as to

allow for more than 50 substantially similar arbitration demands to be filed within a consecutive twelve-month period by or with the assistance or coordination of the same law firm(s) or organization(s), the arbitration agreement between you and ACT will be unenforceable in its entirety except with respect to any claim(s) and/or remedies sought on an individual basis. The remainder of the Dispute will be resolved in court in accordance with Section 21, and you and ACT agree that any court proceedings will be stayed pending conclusion of any arbitration proceedings.

15. **Termination of Agreement (in Whole or in Part).** If you repudiate, disaffirm, disavow, rescind, or otherwise cancel your agreement to all or any part of these Terms and Conditions at any time, ACT may—in addition to taking other action and without conceding the validity of your actions—in its sole discretion, refund your test registration fee(s), cancel your score(s), and notify official score recipients that the score(s) have been canceled.

16. **LIMITATION OF LIABILITY AND DAMAGES.** To the extent permitted by applicable law, ACT's total liability to you, or anyone claiming by or through you or on your behalf, for any claims, losses, costs, or damages arising out of, resulting from, or in any way related to the ACT test, from any cause, shall not exceed the test registration fees you paid to ACT or \$250, whichever is greater. To the extent permitted by applicable law, in no event shall act be liable to you, or anyone claiming by or through you or on your behalf, for

- Any indirect, special, consequential, speculative, incidental, loss of opportunity (regardless of whether or how these are classified as damages), exemplary, or punitive damages
- Attorneys' fees or expenses
- Expert witness fees
- Other costs, whether arising out of claims for breach of contract, tort (including negligence), strict liability, product liability, or otherwise and regardless of whether such loss or damage was foreseeable, or you have been advised of the possibility of such loss or damage.

17. **ACT Intellectual Property Rights and Confidentiality.**

a. **Intellectual Property:** All ACT tests, test-related documents and materials, and test preparation materials (collectively, "ACT materials") are copyrighted works owned by ACT and protected by the laws of the

United States and other countries. Outside of the protection granted by United States copyright law, ACT considers the ACT tests to be trade secrets. The test questions and answers, test-related secure documents, and other materials constitute highly confidential, proprietary testing information that ACT takes every precaution to protect from disclosure beyond what is absolutely necessary for the purpose of administering a test.

b. **Confidentiality:** You agree to maintain the confidentiality of the ACT materials. Secure ACT tests and test questions (i.e., tests and test questions that are not made available by ACT to the general public) may not be copied, shared, discussed, or disclosed at any time or in any manner whatsoever. Test-related materials that ACT has made available to the general public, such as materials designated by ACT as practice or sample tests, may not be copied, duplicated, or used in any other works, in whole or in part, without the prior written approval of ACT.

c. **Consequences for Violation of ACT Rights:** ACT may pursue all available civil and criminal remedies if its intellectual property rights are violated, including seeking damages and injunctive relief in a court of law and referring such violations to law enforcement authorities for criminal prosecution.

d. **ACT Ownership of Answer Documents and Use of Score Reports:** ACT owns all answers and answer documents you submit, including all essay responses, and all score-related data maintained by ACT. Score reports that ACT provides you may not be altered, and if ACT cancels the scores reflected on such score reports, you may not provide those scores or score reports to third parties. You do not have any property rights or property interests in your actual test score.

18. **ACT Policies and Rules.** The ACT examinee policies and rules referenced in these Terms and Conditions and other rules applicable to the administration of the ACT test are available for your review at www.act.org/the-act/terms/rules, and are specifically incorporated into these Terms and Conditions. ACT examinee policies and rules are periodically updated, and subject to change until 48 hours prior to your test date. Except to the extent you are testing under a State, District, Arranged, or On-Campus testing program, ACT will send you a

notification approximately 48 hours before the test date reminding you to review the policies and rules on the website, and you have an obligation to read the policies and rules before you take the test. If you do not agree to comply with the policies and rules that are in effect 48 hours prior to your test date, you must notify ACT prior to the test of your intent to cancel your registration pursuant to this provision. ACT may provide a refund in the event of such cancellation in its sole discretion. Information about when ACT allows refunds can be found at www.act.org/the-act/terms/rules. If you have any questions about the applicable policies and rules, contact ACT Customer Support at 319.337.1270 or at www.act.org/content/act/en/contact-act.html in advance of the applicable test date. Notification of your intent to cancel your registration pursuant to this provision should likewise be directed to ACT Customer Support.

19. **Limitations.** To the extent permitted by applicable law, any and all claims by you and ACT arising out of or relating in any way to these Terms and Conditions (except for claims relating to intellectual property rights), whether sounding in contract, tort, or statute, must be brought within two years of the date the cause of action accrues, provided that ACT has the right to cancel scores consistent with these Terms and Conditions at any time as long as the scores are otherwise considered valid, college reportable scores.
20. **Governing Law.** If you take the ACT test outside the United States, these Terms and Conditions and any and all Disputes between you and ACT arising out of or relating in any way to these Terms and Conditions, whether sounding in contract, tort, or statute, shall be governed by the laws of the State of Iowa, without giving effect to conflict of law principles or other rules that would result in the application of the laws of a different jurisdiction and subject to the applicability of the FAA as stated in Section 14(h) above, as well as applicable United States federal law.
21. **Venue.** Pursuant to Section 14, you and ACT have agreed to participate in binding arbitration (or small claims court proceedings if allowed under the AAA Consumer Rules) to resolve certain Disputes. You and ACT agree that any permissible court action (except for any permissible small claims court action), shall be brought exclusively in the U.S. District Court for the Southern District of Iowa or a state court located in Johnson County, Iowa. You and ACT agree to submit to the personal jurisdiction of

either of these courts, and you and ACT waive any objection they may have to the location of such courts (including, but not limited to, any objection based on personal jurisdiction or venue in such courts).

22. **Waiver and Severability.** Any failure by either party to insist on strict performance of any of these Terms and Conditions shall not be deemed a waiver of its rights unless such waiver is in writing signed by the party against whom it is asserted. Any waiver of any right hereunder at any time shall not be deemed a waiver of any other right. Except as stated in Section 14(i) above, if any provision in these Terms and Conditions is held by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way; and, to the fullest extent possible, the invalid, illegal, or unenforceable provision shall be modified so that it is valid, legal, and enforceable and, to the fullest extent possible, reflects the intention of you and ACT as originally set forth in these Terms and Conditions.
23. **Force Majeure.** ACT shall not be liable for any delay or failure to perform when such delay or failure is due to causes or circumstances beyond ACT's control including, without limitation, your actions or failure to comply with the requirements of ACT; national emergencies, fire, flood, inclement weather, epidemics, pandemics, or catastrophes; acts of God, governmental authorities, or parties not under the control of ACT; or insurrection, war, riots, or failure of transportation, communication, or power supply. ACT will exercise commercially reasonable efforts to mitigate the extent of any excusable delay or failure to perform and any adverse consequences.
24. **No Third-Party Beneficiary.** These Terms and Conditions do not create a third-party beneficiary relationship between ACT and any individual or entity other than you.
25. **Questions Regarding These Terms and Conditions.** You must agree to these Terms and Conditions, including the provisions regarding score cancellation and binding arbitration, as a condition to registering for the ACT. If you have questions about these Terms and Conditions, you should discuss them with your parent or guardian before registering for the test.

*Impact Asset Corp., a Delaware Corporation and wholly owned indirect subsidiary of Gateway Impact Corp., a Delaware Public Benefit Corporation ("ACT")