

**KIPSWIRL SPLIT INC.  
WEBSITE TERMS OF USE**

**PLEASE READ THESE TERMS OF USE CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES AND OBLIGATIONS. THESE INCLUDE VARIOUS LIABILITY LIMITATIONS AND EXCLUSIONS, AND A DISPUTE RESOLUTION CLAUSE THAT GOVERNS HOW DISPUTES WILL BE RESOLVED.**

Access and use of this website (the "**Site**") and its related services (the "**Services**") are provided by **Kipswirl Split Inc.** ("**KIPSWIRL**", "**we**" and "**us**") to you on condition that you accept these Terms of Use, and by using the Site or the Services, you agree to these Terms of Use. If you do not agree to accept and abide by these Terms of Use you may not access or use this Site or the Services.

These Terms of Use govern the relationship between you, the Site visitor and/or member ("**you**"), and KIPSWIRL with respect to your use of the this Site and its related Services. You agree that the agreement formed by these Terms of Use is like any written negotiated agreement signed by you, and you agree to be bound by, and fully comply with, its terms. You represent and warrant that you have all necessary right, power and authority to enter into this agreement and to perform and otherwise discharge all of your obligations hereunder.

IF YOU ARE A PARENT OR GUARDIAN AND YOU CONSENT TO YOUR CHILD'S USE OF THIS SITE OR THE SERVICES, BY PROVIDING SUCH CONSENT YOU ARE AGREEING TO BE BOUND BY THESE TERMS OF USE IN RESPECT OF YOUR CHILD'S USE OF THIS SITE AND THE SERVICES. YOUR CHILD CANNOT USE THIS SITE OR THE SERVICES WITHOUT YOUR CONSENT, SUPERVISION, INVOLVEMENT AND PERMISSION. IF YOU DO NOT AGREE TO CONSENT TO, AND SUPERVISE, YOUR CHILD'S USE OF THIS SITE OR THE SERVICES, YOU AND YOUR CHILD MAY NOT ACCESS OR USE THIS SITE OR THE SERVICES.

ALL INFORMATION CONTAINED ON THE SITE IS FOR INFORMATIONAL PURPOSES ONLY.

**1. JURISDICTION & CHILDREN**

You understand that aspects of this Site and the Services may not be available in all jurisdictions and that you are responsible for ensuring that it is lawful for you to use this Site and receive the Services where these activities occur.

If you reside in a jurisdiction which restricts the use of Internet-based applications according to age, or which restricts the ability to enter into agreements such as set out in these Terms of Use according to age and you are under such a jurisdiction and under such age limit, you may not enter into this agreement or use this Site or the Services.

Furthermore, if you reside in a jurisdiction where it is forbidden by law to participate in the activities offered by this Site or the Services, you may not enter into this agreement or use this Site or the Services. By using this Site you are explicitly representing that you have verified that your use of this Site and the Services is allowed in your own jurisdiction.

You may, where authorized or permitted by law, permit your children to use this Site and the Services, provided that you supervise such use. You are responsible for ensuring that you and your child are aware of, understand, and comply with these Terms of Use. You shall at all times be responsible and liable for all activities conducted and items obtained through your Account (defined below), including, without limitation, all activities which may be conducted and/or items which may be obtained by your child. While the Site and Services are designed for use by individuals under the age of 18, those individuals may only do so only with the consent, involvement, supervision, and permission of a parent or legal guardian who is age of majority or older.

Your Account (as defined below) may be deleted and these Terms of Use may be suspended or terminated without warning, if we believe that you are under age or your use of this Site or the Services is not allowed (among other reasons set out below).

## 2. PRIVACY

KIPSWIRL is committed to respecting the privacy of the personal information of the individuals with whom we interact. We have developed a *Privacy Policy* to describe our privacy policies and practices and how we collect, use and disclose the personal information of those individuals who visit this Site or use the Services. Please see our *Privacy Policy* for further details and contact information for our Privacy Officer.

You acknowledge and agree that access to and use of this Site and the Services is provided via the Internet and that your information, including personal information, may be transferred across national borders and stored or processed in any country in the world.

## 3. ACCOUNTS

In order to access and use certain of the Services available on this Site, you may need to sign up for, open and maintain an account (“**Account**”). Prior to completing the signup process for your Account, you will be required to indicate your acceptance of all of the terms and conditions of these Terms of Use. If you do not agree to these Terms of Use, you may not sign up for an Account.

During the registration process we may collect your name, birth date, email address, phone number, username, password, IP address, computer’s hardware and operating system specifications, and where you permit your children to use the Site or the Services, their name, email address, username and password. Where a fee is payable for a Service, we may also collect your payment related information (such as your credit card number and billing address). Your information may be used by us:

- to verify your eligibility to create and to maintain your Account;
- to ensure that your Account, including your username, is unique;
- to enable us to provide certain security and privacy safeguards;
- to deal with security, debugging and technical support issues;
- for payment-related issues;
- to protect ourselves and others from abuse;
- to conduct a criminal or other background check in relation to you; and
- to comply with law.

All of the information you provide to us or that we collect from you in connection with your use of the Site or the Services will be governed by these Terms of Use. You agree at all times to: (i) provide accurate, current and complete information about yourself as prompted by our registration form or otherwise; and (ii) maintain and update your information (including your e-mail address) to keep it accurate, current and complete. You acknowledge that, if any information provided by you is untrue, inaccurate, not current or incomplete, we may suspend or terminate your Account and your ability to use this Site or the Services and, in our sole discretion, to report you to appropriate authorities.

Only "natural persons," as opposed to any kind of legal entities (e.g., corporations, limited liability companies, and/or partnerships) shall have the right to establish an Account. We hereby disclaim any and all responsibility and liability for any unauthorized use of your Account.

We hereby disclaim any and all responsibility or liability for any unauthorized use of your Account.

You must not choose a username that infringes the rights of any third party, impersonates any KIPSWIRL employee, other user, celebrity or any famous person or entity, which is deliberately confusing or which is offensive, racist, obscene, hurtful, unlawful or otherwise inappropriate. You agree that you will not use misspellings or alternative spellings or take any other actions for the purpose of circumventing the foregoing restrictions. You understand and agree that, in addition to the foregoing restrictions, we reserve the right to change, remove, alter or delete any username at any time and for any reason in our sole discretion.

**YOU ARE ENTIRELY RESPONSIBLE FOR MAINTAINING THE CONFIDENTIALITY OF YOUR USERNAME AND PASSWORD AND FOR ANY AND ALL ACTIVITIES (INCLUDING PURCHASES AND CHARGES, AS APPLICABLE) THAT ARE CONDUCTED THROUGH YOUR ACCOUNT.**

You cannot transfer your Account to any other person, or permit anyone else to use it.

You agree to notify us immediately of any unauthorized use, theft or misappropriation of your account, username, or password. We shall not be liable for any loss that you incur as a result of someone else using your username or password, either with or without your knowledge.

#### **4. PERSONAL USE ONLY**

This Site and the Services are only for personal use. You may not use this Site or the Services for commercial purposes or in any way that is unlawful, or harms us or any other person or entity, as determined in our sole discretion.

#### **5. CODE OF CONDUCT**

You may not interfere with the security of, or otherwise abuse this Site, the Services or any system resources, services or networks connected to or accessible through this Site or the Services. You may only use this Site and the Services for lawful purposes. You agree that you will not attempt to, nor permit any third party to, enter restricted areas of KIPSWIRL's computer systems or perform functions that you are not authorized to perform.

KIPSWIRL may, without notice, temporarily suspend your, or any other parties, access to this Site or the Services by deactivating any Account, password(s) or links to the Internet if we reasonably suspect that you, or any other parties, are obtaining unauthorized access to our other systems or information, or are

using otherwise valid user identifications or passwords in any unauthorized manner. These suspensions will be for such periods of time as KIPSWIRL may reasonably determine is necessary to permit the thorough investigation and mitigation of such suspended activity.

While using this Site or the Services you agree to comply with all applicable laws, rules and regulations, including without limitation any laws governing the transmission of commercial electronic messages or similar. In particular, you agree not to use the Site or the Services to send commercial electronic messages.

We reserve the right, in our sole discretion, to take any actions we deem necessary and appropriate to preserve the integrity of this Site and the Services.

You agree not to post anything on the Site that:

- is defamatory, abusive, harassing, threatening, or an invasion of a right of privacy of another person;
- is bigoted, hateful, or racially or otherwise offensive;
- is violent, vulgar, obscene, pornographic or otherwise sexually explicit, or otherwise harms or can reasonably be expected to harm any person or entity;
- is misleading, untruthful or inaccurate;
- contains a virus or other harmful component, or otherwise tampers with, impairs or damages the Service or any connected network, or otherwise interferes with any person or entity's use or enjoyment of the Service;
- is commercial, business-related or advertises or offers to sell any products, services or otherwise (whether or not for profit), or solicits others (including solicitations for contributions or donations);
- is illegal or encourages or advocates illegal activity or the discussion of illegal activities with the intent to commit them, including without limitation a submission that is, or represents an attempt to engage in, child pornography, stalking, sexual assault, fraud, trafficking in obscene or stolen material, drug dealing and/or drug abuse, harassment, theft, or conspiracy to commit any criminal activity; or
- infringes or violates any right of a third party including: (i) copyright, patent, trademark, trade secret or other proprietary or contractual rights; (ii) rights of privacy (specifically, you must not distribute another person's personal information of any kind without their express permission) personality or publicity; or (iii) any confidentiality obligation.

In addition, you agree not to:

- download, copy, reproduce, republish, upload, post, transmit, modify, distribute or publicly display any of the content or information contained in this Site or the Services except as expressly authorized by us in writing;
- use tools which hack or alter this Site, the Services or that allow you to connect to this Site's or the Services' private binary interface or utilize user or other interfaces other than those provided by us to you;
- attempt to obtain a password or other private account information from any other person or user of this Site or the Services;
- create multiple Accounts for any purpose; or

- transmit any software or other materials that contain any viruses, worms, trojan horses, defects, date bombs, time bombs or other items of a destructive nature.

You acknowledge that KIPSWIRL may remove, delete or edit any post, information or content provided by you for any reason whatsoever, including non-compliance with the foregoing.

WE CANNOT AND DO NOT ASSURE THAT OTHER USERS ARE OR WILL BE COMPLYING WITH THE FOREGOING CODE OF CONDUCT OR ANY OTHER PROVISIONS OF THESE TERMS OF USE, AND, AS BETWEEN YOU AND US, YOU HEREBY ASSUME ALL RISK OF HARM OR INJURY RESULTING FROM ANY SUCH LACK OF COMPLIANCE.

## **6. AVAILABILITY**

While we endeavour to keep downtime to a minimum, we can't promise that this Site or the Services will be uninterrupted, secure or error-free. We reserve the right to interrupt or suspend this Site or the Services, or any part thereof, with or without prior notice for any reason.

## **7. ACCESS TO THE INTERNET**

You are solely responsible for obtaining and maintaining all Internet, computer hardware and other equipment needed to access and use this Site and the Services and that you shall be solely responsible for all charges and fee related thereto.

## **8. CHANGES TO SITE AND CONTENT**

KIPSWIRL may revise, supplement or delete information, services and/or the resources contained in this Site and the Services and reserves the right to make such changes without prior notification to past, current or prospective visitors. For the avoidance of doubt, we reserve the right at any time to change: (i) the terms and conditions of these Terms of Use; (ii) this Site or the Services, including terminating, eliminating, supplementing, modifying, adding or discontinuing any content or feature or data or service on or available through this Site or the Services or the hours that they are available; (iii) any fees or charges, if any, related to the use of this Site or the Services; and (iv) the equipment, hardware or software required to use and access this Site or the Services.

Any changes we make to these Terms of Use will be effective immediately upon notice, which we may provide by any means including, without limitation, posting on this website. Your continued use of this Site or the Services after such notice will be deemed acceptance of such changes. Be sure to return to this Site periodically to ensure you are familiar with the most current version of these Terms of Use.

## **9. LINKED WEBSITES**

This Site or the Services may provide links to third party websites for your convenience only. The inclusion of these links does not imply that KIPSWIRL monitors or endorses these websites. KIPSWIRL does not accept any responsibility for such websites. KIPSWIRL shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or the reliance upon any information, content, goods or services available on or through any third party websites or linked resources.

## 10. INTERNET SOFTWARE OR COMPUTER VIRUSES

Due to technical difficulties with the Internet, Internet software or transmission problems could produce inaccurate or incomplete copies of information contained on this Site or the Services. Due to the ability to share certain content and materials, computer viruses or other destructive programs may also be inadvertently downloaded from this Site or the Services.

KIPSWIRL shall not be responsible or liable for any software, computer viruses or other destructive, harmful or disruptive files or programs that may infect or otherwise impact your use of your computer equipment or other property on account of your access to, use of, or browsing on this Site or the Services or other content from this Site. KIPSWIRL suggests that you take prudent action to protect yourself, such as installing appropriate anti-virus or other protective software.

## 11. INTELLECTUAL PROPERTY

This Site and the Services are owned and operated by KIPSWIRL and may be protected by intellectual property laws including laws relating to copyrights, trade-marks, trade-names, Internet domain names, notice and notice rights, and other similar rights under the laws of Alberta, Canada.

KIPSWIRL may make certain content, software or other electronic materials (including all files, text, URLs, video, audio and images contained in or generated by such materials, and accompanying data) (collectively "**KIPSWIRL Materials**") available to you from this Site or the Services, from time to time. If you stream or use KIPSWIRL Materials, you agree that such materials: (i) may only be used for your personal and non-commercial use, (ii) may not be modified, used to create a derivative work, incorporated into any other work or otherwise exploited without KIPSWIRL's prior written permission, and (iii) shall only be used in compliance with any additional license terms accompanying such materials. KIPSWIRL does not transfer either the title or the intellectual property rights to the KIPSWIRL Materials, and retains any and all intellectual property rights that it may have therein. You agree not to sell, share, redistribute, or reproduce the KIPSWIRL Materials. You further agree not to decompile, reverse-engineer, disassemble, or otherwise convert any KIPSWIRL Materials into a human-perceivable form. KIPSWIRL or its licensors own all related trademarks and logos, and you agree not to copy or use them in any manner

By any posting, uploading, displaying, performing, transmitting, sharing, making available or otherwise distributing information or other content ("**User Materials**") to this Site or the Services by you or at your direction, you are granting, and hereby grant, KIPSWIRL, its affiliates, partners, officers, directors, employees, consultants, agents, and representatives a worldwide, irrevocable, non-exclusive, royalty-free, sublicensable license to use such User Materials in connection with the operation of this Site and the Services, including, a right to copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate, make available, make derivative works from, include in mashups, and reformat such User Materials. You will not be compensated for any User Materials. You agree that KIPSWIRL may publish or otherwise disclose your username in connection with your User Materials. By posting User Materials on this Site or the Services, you warrant and represent that you own title to the User Materials and any work or content therein that may be subject to protection by intellectual property laws, or are otherwise authorized by the owner of such title to post, distribute, display, perform, transmit, make available, or otherwise distribute User Materials, in compliance with the license granted herein to KIPSWIRL, its affiliates, partners, officers, directors, employees, consultants, agents, and representatives and that such User Materials, and their use, do not violate any applicable laws, including, without limitation, any intellectual property laws. You agree that the burden of proving that any User Materials do not violate any

laws or third party rights rests solely with you.

By posting, uploading, displaying, performing, transmitting, sharing or otherwise distributing any User Materials to this Site or the Services, you agree that KIPSWIRL may, with or without notice to you, remove or render inaccessible such User Materials from the Site or the Services at any time and for any reason, including, without limitation, account inactivity or compliance with law including, where applicable, the DMCA provisions respecting intellectual property protection.

If you choose to transmit, share or otherwise distribute your User Materials to third parties through the Site or the Services, you represent and warrant that you will do so in compliance with all laws, including, without limitation, any laws governing the transmission of commercial electronic messages or similar.

You are solely responsible for your User Materials. You are solely responsible for making and keeping backup copies of your User Materials and for applying the appropriate level of access rights to same. KIPSWIRL shall not be responsible or liable for the loss, deletion or accuracy of any User Materials, the failure to store, transmit, encrypt (or otherwise secure) or receive any User Materials, or the storage, transmission, encryption (or other security) or receipt of any other communication involving the use of this Site or the Services. We may, in our sole discretion, limit the data volume of User Materials that you post or upload to the Site or Services, and may charge a fee for the storage of greater volumes of data, as discussed above. Further, we may, in case of Account inactivity, delete your User Materials.

You are solely responsible for obtaining and maintaining any necessary consents or permissions from any third party whose information may be collected, recorded, processed, stored, used, disclosed, transferred, exchanged or otherwise handled as a result of, or as part of, any User Materials or any communications involving the use of this Site or the Services including without limitation that you have the consent to include images of each identifiable person included in the User Materials and agree to obtain and maintain all such consents or permissions throughout the term of this agreement.

## **12. FEES FOR RELATED SERVICES**

We may, from time to time, provide certain Services through this Site on a fee basis. Where you elect to receive such Services, you agree to pay, through the payment mechanism selected by you and approved by us, all amounts due and owing for such Services as more particularly set out in the order confirmation provided at the time that you ordered such Services. We may amend this Site, the Services and/or the amounts that we charge for same at any time, without prior notice. Fees do not include any applicable sales, use, excise, value-added or other taxes or governmental charges, and you shall be responsible for, and shall promptly pay, same. If we terminate your access to the Site or Services because of your breach of these Terms of Use, you shall not be entitled to the refund of any unused portion of any fees you have already paid. You agree that we may collect interest at the lesser of 1.5% per month (18% per annum) or the highest amount permitted by law on any amounts not paid when due, where relevant.

## **13. SITE AND SERVICES PROVIDED "AS IS"**

THIS SITE (INCLUDING, WITHOUT LIMITATION, THE INFORMATION PUBLISHED THEREON) AND THE SERVICES ARE PROVIDED "AS IS" WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. KIPSWIRL DOES NOT

REPRESENT OR WARRANT THAT THIS SITE OR THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR-FREE.

#### **14. LIMITATION OF LIABILITY**

KIPSWIRL DOES NOT TAKE RESPONSIBILITY FOR ANY INFORMATION OR CLAIM MADE BY A USER OF THE SITE OR THE SERVICES.

YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THIS SITE AND THE SERVICES, INCLUDING WITHOUT LIMITATION ANY OF THE INFORMATION CONTAINED THEREIN. **IN PARTICULAR, YOU ASSUME ALL LIABILITY AND RISK FOR ANY MENTAL OR BODILY INJURY WHATSOEVER, INCLUDING LOSS OF LIFE OR LOSS OF BODILY FUNCTION, SUSTAINED BY YOU IN CONNECTION WITH THE USAGE OF THE SITE AND THE SERVICES, INCLUDING ANY ACTIVITIES SUGGESTED BY THE SITE OR SERVICES, WHETHER BY WAY OF ACCIDENT, INTENTIONAL ASSAULT OR OTHERWISE.**

IN NO EVENT SHALL KIPSWIRL OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, PARTNERS, OR AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES WHATSOEVER (OR FOR ANY DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THESE TERMS OF USE, INCLUDING WITHOUT LIMITATION YOUR USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THIS SITE, THE SERVICES, OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO YOU HEREUNDER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE.

IN EVERY EVENT, KIPSWIRL'S TOTAL MAXIMUM AGGREGATE LIABILITY UNDER THESE TERMS OF USE OR THE USE OR EXPLOITATION OF ANY OR ALL PART OF THIS SITE AND/OR THE SERVICES IN ANY MANNER WHATSOEVER SHALL BE LIMITED TO THE VALUE OF FEES PAID BY YOU HEREUNDER OR FIVE DOLLARS (\$5.00), WHICHEVER IS GREATER.

THE CONSIDERATION BEING PAID HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR KIPSWIRL TO ASSUME ANY RISKS BEYOND THOSE EXPRESSLY ASSUMED HEREIN AND IF ANY SUCH RISKS WERE TO BE ASSUMED BY KIPSWIRL, KIPSWIRL WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT CHARGING SUBSTANTIALLY HIGHER FEES.

SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

#### **15. INDEMNIFICATION**



YOU AGREE TO, UPON REQUEST, INDEMNIFY AND HOLD US HARMLESS FROM ANY AND ALL LIABILITIES, CLAIMS, LOSSES AND EXPENSES, INCLUDING ATTORNEYS' AND OTHER FEES AND COSTS, WHICH ARISE DIRECTLY OR INDIRECTLY FROM ANY BREACH OF THESE TERMS OF USE FOR WHICH YOU ARE RESPONSIBLE.

## **16. TERM & TERMINATION**

You acknowledge and agree that access to this Site and the Services may not be available from time to time, may be amended, revised, replaced, suspended or terminated in whole or in part at any time and without notice, and that KIPSWIRL shall not, in any event, be responsible to you in any way should you be unable to access this Site and the Service at any time or from time to time.

KIPSWIRL may, at its sole discretion, at any time and from time to time, without notice, suspend your right to use this Site and the Services and/or terminate these Terms of Use (including any of the licenses granted hereunder). Without limiting the foregoing, these Terms of Use and the licenses granted herein shall automatically terminate, without notice, if you materially fail to perform or comply with these Terms of Use or any provision hereof. Upon termination of these Terms of Use, you shall immediately cease and desist from all use of this Site and the Services.

Sections 11 to 20 will survive any termination or expiry of these Terms of Use.

## **17. NOTICE**

If you need to contact us regarding this Site, the Services or these Terms of Use, please e-mail us at [hello@sophiaandme.com](mailto:hello@sophiaandme.com). You can also contact us via mail addressed to:

4500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, AB  
T2P 4K7

## **18. YOUR COMMENTS**

Feel free to email your comments, suggestions and feedback ("**Comments**") to KIPSWIRL at the e-mail addresses provided in this Site or the Services. However, the Internet is not a fully secure medium and any communication may be lost, intercepted or altered. KIPSWIRL is not liable for any damages related to communications to or from this Site or the Services. You agree with respect to any Comments provided by you to us, via e-mail or otherwise, that: (i) KIPSWIRL has no obligation concerning such Comments; (ii) such Comments are non-confidential; (iii) KIPSWIRL may use, disclose, distribute or copy such Comments and use any ideas, concepts or know-how contained in such Comments for any purpose and without restriction or obligation to you (or any third party); and (iv) such Comments are truthful, do not violate the legal rights of others, and are not the property of others.

## **19. EXPORT CONTROL AND JURISDICTION**

This Site and the Services are subject to United States export controls. No materials may be downloaded or otherwise exported or re-exported (i) into any country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S.

Commerce Department's Table of Deny Orders. By downloading or using any materials, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

We reserve the right to limit the availability of the Site and/or the provision of any of the Services, materials, or other products described or offered thereon to any person, geographic area, or jurisdiction we so desire, at any time and in our sole discretion, and to limit the quantities of any such Services, materials, or other product provided.

## 20. MISCELLANEOUS

These Terms of Use is governed by and construed in accordance with the laws of the Province of Alberta, Canada, without regards to its principles of conflicts of law. Subject to the obligation to arbitrate below, you agree to the exclusive personal jurisdiction of the courts located in Calgary, Alberta, Canada, and waive any jurisdictional, venue, or inconvenient forum objections to such courts.

Except where prohibited by applicable law, any controversy, claim or dispute arising out of or relating to these Terms of Use, the Site or the Services or the relationship which results from these Terms of Use, including without limitation, the performance, breach, enforcement, existence or validity of the matters provided for in these Terms of Use or your receipt and use of the Site or Services, which cannot be amicably resolved, (collectively, a "**Claim**"), will be referred to and finally settled (to the exclusion of the courts) by private and confidential binding arbitration before a single arbitrator held in Calgary, Alberta in English and in accordance with the UNCITRAL Arbitration Rules, except as such rules are modified or waived herein. Although the appointing authority shall be a Justice of the Alberta Court of Queen's Bench, the arbitrator will be a person who is legally trained and who has experience in the information technology field in Canada or the United States of America and is independent of either party. Any such Claim will be arbitrated on an individual basis, and will not be consolidated in any arbitration with any claim, controversy or dispute of any other party. Except where prohibited by applicable law, you agree to: (i) waive any right you may have to commence or participate in any class action against KIPSWIRL relating to any Claim; (ii) opt out of any class proceedings against KIPSWIRL; and (iii) waive, to the fullest extent permitted by law, any right of appeal. Notwithstanding the foregoing, KIPSWIRL reserves the right to pursue the protection of intellectual property rights and confidential information through injunctive or other equitable relief through the courts.

If any provision of these Terms of Use is found to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.

These Terms of Use (which incorporate by reference our *Privacy Policy*) set out the entire agreement between us relating to the subject matter herein and supersede and any all prior or contemporaneous written or oral agreements between us. These Terms of Use are not assignable, transferable or sub-licensable by you except with KIPSWIRL's prior written consent. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Any heading, caption or section title contained in these Terms of Use is inserted only as a matter of convenience and in no way defines or explains any section or provision hereof.

These Terms of Use were last updated on April 27, 2019.

