

## KunstraumLLC Terms of Use

These Terms of Use, together with KunstraumLLC's Privacy Policy, set forth the terms and conditions ("Terms") that apply to your access and use of all KunstraumLLC products and services that are made available through our website[s], located at <https://www.kunstraumllc.com> (together, the "Site"). "KunstraumLLC" includes KunstraumLLC and its officers, directors, employees, consultants, affiliates, subsidiaries, and agents. By using or accessing the Site you agree to these Terms, as updated from time to time in accordance with Section 8 below. Because KunstraumLLC provides a wide range of services, we may at times ask you to review and accept supplemental terms that apply to your interaction with a specific product or service. These Terms state that any disputes between you and KunstraumLLC must be resolved in arbitration or small claims court.

**1. Account Security.** To use the Site you must (i) be at least eighteen (18) years of age; (ii) have not previously been suspended or removed from the Services; and (iii) register for and use the Site in compliance with any and all applicable laws and regulations.

**2. Prohibited Conduct.** You agree not to:

- A. Use the Site for any illegal purpose, or in violation of any local, state, national, or international law;
- B. Violate or encourage others to violate the rights of third parties, including intellectual property rights;
- C. Post, upload, or distribute any content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, hateful, or otherwise inappropriate;
- D. Interfere in any way with security-related features of the Site;
- E. Interfere with the operation or any user's enjoyment of the Site, including by uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious code, making unsolicited offers or advertisements to other users, or attempting to collect personal information about users or third parties without their consent;
- F. Access, monitor or copy any content or information of the Site using any robot, spider, scraper, or other automated means or any manual process for any purpose without KunstraumLLC's express written permission;
- G. Perform any fraudulent activity, including impersonating any person or entity, claiming false affiliations, accessing the accounts of other users without permission, or falsifying your identity or any information about you, including age or date of birth; or

H. Sell or otherwise transfer the access granted herein.

**3. Third Party Content.** The Site may contain links to third party websites and services. KunstraumLLC provides such links as a convenience, and does not control or endorse these websites and services. You acknowledge and agree that KunstraumLLC has not reviewed the content, advertising, products, services, or other materials that appear on such third party websites or services, and is not responsible for the legality, accuracy, or appropriateness of any such content, and 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 any such third party websites or services.

**4. Intellectual Property.** You acknowledge and agree that you relinquish all ownership rights in any ideas or suggestions that you submit to KunstraumLLC through this Site. This Site is protected by applicable copyright and other intellectual property laws, and no materials from the Site may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way without our express permission. All trademarks and service marks on the Site belong to KunstraumLLC, except third-party trademarks or service marks, which are the property of their respective owners.

**5. Indemnification.** You agree that you will be personally responsible for your use of the Site, and you agree to defend, indemnify, and hold harmless KunstraumLLC from and against any and all claims, liabilities, damages, losses, and expenses (including attorneys' and accounting fees and costs), arising out of or in any way connected with (i) your access to, use of, or alleged use of the Site; (ii) your violation of the Terms or any applicable law or regulation; (iii) your violation of any third party right, including without limitation any intellectual property right, publicity, confidentiality, property, or privacy right; or (iv) any disputes or issues between you and any third party. KunstraumLLC reserves the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim.

**6. Modification of the Terms.** KunstraumLLC reserves the right at any time to modify these Terms and to impose new or additional terms or conditions on your use of the Site. Such modifications and additional terms and conditions will be effective immediately upon notice and incorporated into these Terms. We will make reasonable efforts to notify you of any material changes to the Terms, including, but not limited to, by posting a notice to our website or by sending an email to any address you may have provided to us. Your continued use of the Services following notice will be deemed acceptance of any modifications to the Terms.

**7. Disclaimers of Warranties.** The Site provided "as is" and on an "as available" basis, without warranty or condition of any kind, either express or implied. Although KunstraumLLC seeks to maintain safe, secure, accurate, and well-functioning services, we cannot guarantee the continuous operation of or access to our Site, and there may at times be inadvertent technical or factual errors or inaccuracies. KunstraumLLC specifically (but without limitation) disclaims (i) any implied warranties of merchantability, fitness for a particular purpose, quiet enjoyment, or non-infringement; and (ii) any warranties arising out of course-of-dealing, usage, or trade. You assume all risk for any/all damages that may result from your use of or access to the Site. KunstraumLLC does not guarantee the accuracy of, and disclaims all

liability for, any errors or other inaccuracies in the information, content, recommendations, and materials made available through the Site.

**8. Limitation of Liability.** In no event will KunstraumLLC be liable to you for any incidental, special, consequential, direct, indirect, or punitive damages, whether based on warranty, contract, tort (including negligence), statute, or any other legal theory, whether or not KunstraumLLC has been informed of the possibility of such damage. Some jurisdictions do not allow the disclaimer of warranties or limitation of liability in certain circumstances. Accordingly, some of the above limitations may not apply to you.

**9. Governing Law.** These Terms are governed by the laws of the State of New York, without regard to conflict of law principles. Subject to Section 12, which provides that disputes are to be resolved through binding arbitration or small claims court, to the extent that any lawsuit or court proceeding is permitted hereunder, you and KunstraumLLC agree to submit to the exclusive personal jurisdiction of the state courts and federal courts located within Kings County, New York, for the purpose of litigating all such disputes.

**10. Dispute Resolution by Binding Arbitration.** In the interest of resolving disputes between you and KunstraumLLC in the most expedient and cost effective manner, you and KunstraumLLC agree to resolve disputes through binding arbitration or small claims court instead of in courts of general jurisdiction (“Agreement to Arbitrate”). Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Any arbitration under these Terms will take place on an individual basis; class arbitrations and class actions are not permitted. You acknowledge and agree that the arbitrator may award relief (including monetary, injunctive, and declaratory relief) only in favor of the individual party seeking relief and only to the extent necessary to provide relief necessitated by that individual party’s claim(s). Any relief awarded cannot affect other users.<sup>1</sup>

**11. Modification of the Site.** KunstraumLLC reserves the right to modify or discontinue, temporarily or permanently, some or all of the Site at any time without any notice or further obligation to you. You agree that KunstraumLLC will not be liable to you or to any third party for any modification, suspension, or discontinuance of any of the Site.

**12. General.**

- A. Entire Agreement. These Terms, together with the Privacy Policy, constitute the entire and exclusive understanding and agreement between you and KunstraumLLC regarding your use of and access to the Site, and except as expressly permitted above may only be amended by a written agreement signed by authorized representatives of the parties.
- B. No Waiver. The failure to require performance of any provision shall not affect our right to require performance at any time thereafter, nor shall a waiver of any

---

<sup>1</sup> Consider.

breach or default of the Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

- C. Paragraph Headers. Use of paragraph headers in the Terms is for convenience only and shall not have any impact on the interpretation of particular provisions.
- D. Severability. In the event that any part of the Terms is held to be invalid or unenforceable, the unenforceable part shall be given effect to the greatest extent possible and the remaining parts will remain in full force and effect.

**13. Notice to California Residents.** Under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the service or to receive further information regarding use of the service.

Last updated: April 15, 2019

\*\*\*