

Terms And Conditions

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IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, YOU SHOULD NOT ACCESS OR USE THE WEB SITE.

These Terms and Conditions were last updated in April 2016.

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This is a general audience Web Site and users of all ages are welcome to browse the Web Site. However, if you are under the age of 13, you should not provide any information about yourself on or through the Web Site, including, but not limited to, your name, address, email address, phone number and other personally identifiable information.

2. Establishing an Account. Users of all ages are welcome to browse the Web Site under the terms set forth herein, however, you may only establish an account if you are 18 years of age or over. In order to purchase products/services from the Web Site and in order to access/use some Features on the Website, you may be required to establish and use an account. In addition to your name and contact information, you may be required to submit a valid credit card number, billing address, and related billing information in connection with your account. When you register for an account you must (i) provide accurate and truthful information, and (ii) update such information from time to time as necessary to keep your registration information current and accurate. By establishing an account, you represent and warrant you have the right and are authorized to provide the information you provide when you register for the account and further that you have agreed to these Terms and Conditions. You are responsible for maintaining the

confidentiality of your account information and password and for restricting access to such information and to your computer. All activities that occur under your account or password shall be your responsibility.

3. Personally Identifiable Information. The Privacy Policy, which is incorporated into these Terms and Conditions by reference, governs the collection, use and disclosure of personally identifiable information gathered on or through the Web Site, including, but not limited to, the personally identifiable information you provide while establishing an account, purchasing products/services and accessing and using the Web Site and Features.

4. Information You Provide/Submissions. Other than personally identifiable information, which is subject to the Privacy Policy, any material, information, suggestions, ideas, concepts, know-how, techniques, questions, comments and any other communication or content you transmit or post to this Web Site in any form and in any manner ("User Communications") (i) is and will be considered non-confidential, non-personal and non-proprietary to you or anyone else and (ii) may be disseminated or used by Kipling for any purpose without (a) compensation to you or anyone else or (b) acknowledgement of you or anyone else as the source of such User Communications. **Therefore, do not transmit or post to the Web Site any ideas, materials, suggestions, content or other information you would like to keep confidential or for which you would like or expect acknowledgement or compensation.** You hereby grant Kipling a worldwide, irrevocable, non-exclusive, royalty-free, perpetual license to reproduce, disclose, transmit, modify, create derivative works of, adapt, publish, publicly perform and display, distribute, syndicate, sublicense and otherwise use User Communications in any manner whatsoever for any or all commercial or non-commercial purposes, with or without attribution to you or any other party ("User Communications License"). Kipling may, but is not obligated to, monitor or review any User Communications. Kipling shall have no obligations to use, return, review, or respond to any User Communications. The Kipling Parties shall have no liability related to the content of any such User Communications, whether or not arising under the laws of copyright, libel, privacy, obscenity, or otherwise. Kipling retains the right to remove any or all User Communications that includes any material Kipling deems inappropriate or unacceptable.

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We do not guarantee that User Communications will not be lost or damaged or that you will be able to retrieve User Communications.

5. Prohibited Submissions. You are prohibited from posting or transmitting any unlawful, threatening, defamatory, libelous, obscene, pornographic or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense or give rise to civil liability, or otherwise violate any law. In addition to any remedies that Kipling may have at law or in equity, if Kipling reasonably determines that you have violated or are likely to violate the foregoing prohibitions, Kipling may take any action they reasonably deem necessary to cure or prevent the violation, including without limitation, the immediate removal from this Web Site of the related materials. Kipling will fully cooperate with any law enforcement authorities or court order or subpoena requesting or directing Kipling to disclose the identity of anyone posting such materials.

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any manner that disrupts users' real-time exchanges; interfere with or disrupt the Web Site, or servers or network connections to the Web Site, disobey any requirements, procedures, policies or regulations of networks connected to the Web Site; modify, adapt, sublicense, translate, sell, reverse engineer, decompile or disassemble any portion of the Web Site; or attempt to gain unauthorized access to the Web Site (or any portion thereof).

9. Availability of Products, Services, Features and Content. All Features, Content, and products and services available on or through the Website, including, but not limited to, prices of such products and services, are subject to change at any time without notice. In addition, any Feature, Content, product or service may be discontinued at any time in our sole discretion. The inclusion of any Features, Content, products or services in this Web Site at a particular time does not imply or warrant that these products or services will be available at any time. It is your responsibility to ascertain and obey all applicable local, state, federal and international laws (including minimum age requirements) in regard to the possession, use and sale of any service or product purchased from this Web Site. By placing an order, you represent that the products ordered will be used only in a lawful manner.

10. Accuracy of Information. Kipling takes reasonable efforts to ensure that information on this Web Site is complete, accurate and current. Despite Kipling's efforts, however, the information on this Web Site may occasionally be inaccurate, incomplete or out of date. Weights, measures, product descriptions, recommendations, commentary regarding products and similar descriptions are provided for convenience purposes only and may be approximations. Kipling makes reasonable efforts to accurately display the attributes of our products and services available for purchase, including the applicable colors; however, the actual color you see will depend on your computer system and we cannot guarantee that your computer will accurately display such colors. The Kipling Parties make no representation as to the completeness, accuracy or timeliness of any information on this Web Site. For example, products included on the Web Site may be unavailable, may have different attributes than those listed, or may actually carry a different price than that stated on the Web Site. In addition, we may make changes in information about price and availability without notice. While it is the practice of Kipling to confirm orders by email, the receipt of an email order confirmation does not constitute acceptance of an order or confirmation of an offer to sell a product or service. Kipling reserves the right, without prior notice, to limit the order quantity on any product or service and/or to refuse service to any customer. Kipling also may require verification of information prior to the acceptance and/or shipment of any order.

11. Shipment of Order. Orders will be shipped to the address designated by the purchaser as long as that shipping address is compliant with the shipping restrictions contained on this Web Site. All purchases from this Web Site are made pursuant to a shipment contract. As a result, risk of loss and title for items purchased from this Web Site pass to the buyer upon delivery of the items to the carrier. The buyer is responsible for filing any claims with carriers for damaged and/or lost shipments.

12. Linking to this Web Site. Creating or maintaining any link from another Web site to any page on this Web Site without Kipling's prior written permission is prohibited. Any permitted links to this Web Site must comply with all applicable laws, rule and regulations.

13. Changes to the Terms and Conditions. Kipling reserves the right, in our sole discretion, to revise, change, or modify (cumulatively "Revisions") these Terms and Conditions at any time upon advance notice to you. We may notify you of such Revisions to these Terms and Conditions in any manner we chose that complies with law, including, but not limited to, posting a notice of such changes on the Web Site. Your continued use of the Web Site following our notice to you of Revisions to these Terms and Conditions signifies your agreement to be bound by the revised Terms and Conditions.

14. Applicability of Additional Terms and Conditions. Additional or different terms and conditions ("Other Terms") may apply in connection with certain Features (e.g. testimonials, sweepstakes or contest entries). If applicable, these Other Terms will be set forth (i) where you are permitted to submit Content, access or use Features, or purchase products and services, or (ii) in a link adjacent to where you are permitted to submit Content, access Features, or purchase products and services. These Other Terms are incorporated into and made a part of these Terms and Conditions by reference. In the event Other Terms conflict with these Terms and Conditions, the Other Terms shall control with respect to the subject matter to which such Other Terms apply.

15. Third Party Links. From time to time, this Web Site may contain links to Web sites that are not governed by these Terms and Conditions (the "Linked Web Sites"). All such links are provided solely as a convenience to you. If you use these links, you will leave this Web Site. The Kipling Parties are not responsible for any content, materials or other information located on or accessible from any other web site. The Kipling Parties do not endorse, guarantee, or make any representations or warranties regarding any other web site, or any content, materials or other information located on or accessible from such web sites, or the results that you may obtain from using such web sites. If you decide to access any other web site linked to or from this Web Site, you do so entirely at your own risk. You should review the policies and terms and conditions associated with Linked Web Sites closely before using, submitting information to such Linked Web Sites, and allowing children to visit Linked Web Sites.

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IN THE EVENT OF ANY PROBLEM WITH THIS WEB SITE OR ANY CONTENT, YOU AGREE THAT YOUR SOLE REMEDY IS TO CEASE USING THIS WEB SITE. IN THE EVENT OF ANY PROBLEM WITH THE PRODUCTS OR SERVICES THAT YOU HAVE PURCHASED ON OR THROUGH THIS WEB SITE, YOU AGREE THAT YOUR SOLE REMEDY, IF ANY, IS FROM THE MANUFACTURER OF SUCH PRODUCTS OR SUPPLIER OF SUCH SERVICES, IN ACCORDANCE WITH SUCH MANUFACTURER'S OR SUPPLIER'S WARRANTY, OR TO SEEK A RETURN AND REFUND FOR SUCH PRODUCT OR SERVICES IN ACCORDANCE WITH THE RETURNS AND REFUNDS POLICIES POSTED ON THIS WEB SITE. **THIS PARAGRAPH DOES NOT APPLY TO NEW JERSEY RESIDENTS.**

18. Termination. Kipling reserves the right to suspend or terminate your account (and delete the profile corresponding to such account and any accompanying content) or your use of this Web Site or Features at any time, for any reason or for no reason. We reserve the right to change, suspend, or discontinue all or any aspect of this Web Site and Features, products and services available on or through the Web Site at any time without notice. You are personally liable for any orders that you place or charges that you incur or are made under your account prior to termination. We shall not be liable to you or any third party for any of the foregoing.

19. Choice of Law. To the fullest extent permitted by law, these Terms and Conditions and any claim or dispute arising out of or relating to these Terms and Conditions, including but not limited to the Web Site, will be governed by and construed in accordance with the laws of the State of New York, without regard to its choice of law principles. Except in New Jersey and in jurisdictions where prohibited by law, any claim or dispute must be brought within one (1) year from the date the cause of action arises.

20. Mandatory Arbitration of Disputes. These Terms provide that all disputes between you and us will be resolved by BINDING ARBITRATION. YOU HEREBY AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract, except for matters that may be taken to small claims court. Your rights will be determined by a neutral arbitrator, NOT a judge or jury. You agree that any dispute arising out of or relating to this Agreement, including with respect to the interpretation of any provision of this Agreement or concerning the performance or obligations of Kipling or you, shall be resolved by mandatory and binding arbitration submitted to JAMS in accordance with its Commercial Arbitration Rules at the request of either Kipling or you pursuant to the following conditions:

(a) Place of Arbitration Hearings. Unless you elect to conduct the arbitration by telephone or written submission, an in-person arbitration hearing will be conducted at the JAMS facility in your area.

(b) Selection of Arbitrator shall be made pursuant to JAMS' Streamlined Arbitration Rules & Procedures or JAMS' Comprehensive Arbitration Rules & Procedures, depending on the amount of the claim as specified herein.

(c) Conduct of Arbitration. The arbitration shall be conducted by a single arbitrator under JAMS' Streamlined Arbitration Rules & Procedures. For claims exceeding \$5,000.00, the arbitration shall be conducted under JAMS' Comprehensive Arbitration Rules & Procedures Subject to the applicable JAMS procedure, the arbitrator shall allow reasonable discovery in the forms permitted by the Federal Rules of Civil Procedure, to the extent consistent with the purpose of the arbitration. The arbitrator(s) shall have no power or authority to amend or disregard any provision of this section or any other provision of these Terms and Conditions, except as necessary to comply with JAMS' Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses Minimum Standards of Procedural Fairness. The arbitration hearing shall be commenced promptly and conducted expeditiously. If more than one day is necessary, the arbitration hearing shall be conducted on consecutive days unless otherwise agreed in writing by the parties.

(d) Findings and Conclusions. The arbitrator(s) shall, after reaching judgment and award, prepare and distribute to the parties written findings of fact and conclusions of law relevant to such judgment and award and containing an opinion setting forth the reasons for the giving or denial of any award. The award of the arbitrator(s) shall be final and binding on the parties, and judgment thereon may be entered in a court of competent jurisdiction.

(e) Costs and Fees. You will be subject to a \$250 filing fee to initiate an arbitration. To the extent permitted by JAMS procedures, each party shall bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration. Kipling will be responsible for its share of costs, expenses and fees plus any costs, expenses and fees required of it under JAMS procedures. Except where prohibited by law, the prevailing party shall be entitled to an award of reasonable attorney fees.

(f) Litigation. The Federal Arbitration Act and federal arbitration law apply to this Agreement. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy). We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

(g) Other. The Federal Arbitration Act and federal arbitration law apply to these Terms and Conditions and you agree that **that any arbitration or other proceedings by or between you and Kipling will be conducted on an individual basis and not in any class action, consolidated or representative basis.** You further agree **that the arbitrator shall have no authority to award class-wide relief. You acknowledge and agree that this agreement specifically prohibits you from commencing arbitration proceedings as a representative of others.** If for any reason a claim proceeds in court rather than in arbitration, we each waive any right to a jury trial.

21. Other. You may not use or export or re-export the materials at the Web Site or any copy or adaptation in violation of any applicable laws or regulations including without limitation United States export laws and regulations. If any provision of these Terms and Conditions is held to be unlawful, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of the remaining provisions. These Terms and Conditions constitute the entire agreement between you and Kipling relating to your use of the Web Site, superseding any other agreement between you and Kipling with respect to the subject matter of these Terms and Conditions. Section headings in these Terms and Conditions are for convenience only and have no legal or contractual effect. If any provision of these Terms and Conditions shall be found to be unenforceable, the other provisions shall still remain in full force and effect. A printed version of these Terms and Conditions shall be admissible in judicial and administrative proceedings based upon or relating to these Terms and Conditions to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

22. Contact Us. For issues or questions related to the Web Site or these Terms and Conditions please contact Customer Service at **1-866-376-4185** or via email at customerservice@kipling-usa.com. Representatives are available 24 hours a day, 7 days a week.