

KWIPSHARE, INC.
WEBSITE TERMS OF USE

Last Updated: September 20, 2018

BY USING THE WEBSITE WWW.KWIPSHARE.COM (THE “SITE”), YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE “AGREEMENT”) GOVERNING YOUR USE OF THE ONLINE SERVICES OF KWIPSHARE, INC. (THE “COMPANY” OR “KWIPSHARE” HEREIN). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS THE SITE OR USE THE SERVICE.

Welcome

Subject to the terms of this Agreement, KwipShare will provide you with use of the Site. Your use of the Site shall be deemed to be your agreement to abide by this Agreement including any materials available on the KwipShare website incorporated by reference herein, including but not limited to KwipShare’s Privacy Policy. For reference, a Definitions section is included at the end of this Agreement.

1. Privacy & Security; Disclosure

KwipShare’s Privacy Policy may be viewed by following the Privacy Policy link at kwipshare.com. KwipShare reserves the right to modify its Privacy Policy in its reasonable discretion from time to time.

2. General Data Protection Regulation (GDPR) Compliance

If you are a resident of or are located in the European Union or European Economic Area (“EEA”), you may also have certain rights under the General Data Protection Regulation (“GDPR”). Personal information (“Personal Data”) you provide on the Site is only collected with your consent, and is subject to the terms of KwipShare’s Privacy Policy.

3. License Grant & Restrictions

KwipShare hereby grants you a non-exclusive, non-transferable, limited, revocable, worldwide right to use the Site, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by KwipShare

and its licensors. You may not access the Site for purposes of monitoring its availability, performance or functionality, or for any other benchmarking, reverse engineering, or other competitive purposes. You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Site in any way; (ii) modify or make derivative works based upon the Site; (iii) embed the Site as a frame from within another application; or (iv) reverse engineer or access the Site in order to (a) build a competitive product or service, (b) build a product using ideas, features, functions or graphics that are similar to those related to the Site, or (c) copy any ideas, features, functions or graphics of the Site. You shall not: (i) send to or store on the Site any material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (ii) interfere with or disrupt the integrity or performance of the Site or the data contained therein, or KwipShare's servers or networks; (iii) attempt to gain unauthorized access to the Site or its related systems or networks; or (iv) take any action that imposes an unreasonably or disproportionately large load on KwipShare's infrastructure. KwipShare shall be entitled to adjust the scope of the Site and the underlying technical infrastructure to reflect the continuing development of the Site and technical advances.

4. Your Responsibilities

You are responsible for all of your activity on the Site and for all activity occurring under your User accounts, and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Site, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify KwipShare immediately of any unauthorized use of any password or account used for access to the Site, or any other known or suspected breach of security related to the Site; (ii) not provide false identity information to gain access to or use the Site; (iii) not use the Site to defame, abuse, harass, threaten or otherwise violate the legal right of others; (iv) not publish, post, upload, email, distribute or disseminate any defamatory, misleading, infringing or unlawful content; and (v) not collect, store or transmit personal information about individuals or any information that is subject to applicable privacy laws or regulations.

You are solely responsible for all text, logos and images ("Customer Content") you provide to the Site. KwipShare does not own any Customer Content provided by you hereunder, provided that you hereby grant KwipShare a worldwide, royalty-free, non-exclusive right to use, reproduce, create derivative works of, distribute, perform, transmit and publish your Customer Content for the sole purpose of providing the Site.

5. Intellectual Property Ownership

You acknowledge that the Site may contain proprietary information of KwipShare and its licensors, and that such information may be protected by applicable intellectual property laws.

KwipShare (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the KwipShare technology and the Site, and any derivatives, suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Site, and any aggregated metrics, data and trends compiled by KwipShare. The KwipShare name, the KwipShare logo, and the product and service names associated with the Site and KwipShare Content are trademarks of KwipShare or third parties, and no right or license is granted to use them hereunder. The Site may include trademarks, service marks or logos of third parties, all of which are the property of their respective owners. In addition, unless otherwise specified in a separate written agreement between you and KwipShare, all content published on the Site belongs to KwipShare and/or its licensors under applicable copyright law.

6. Representations & Warranties; Availability; Support

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Site, and that you are an individual who is at least 18 years of age.

KwipShare represents and warrants that it will provide the Site in a manner consistent with general industry standards reasonably applicable to the provision thereof. KwipShare will use commercially reasonable efforts to cause the Site to be available twenty-four (24) hours per day, seven (7) days a week, three hundred and sixty-five (365) days per year, outside of scheduled downtime for maintenance and upgrades and extraordinary circumstances or causes beyond our control (such as fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, strikes, lockouts, labor difficulties, generalized internet interruptions (through denial of service, worms, telecommunications problems or the like)) but does not guarantee, represent or warrant such availability. KwipShare, from time to time, may make enhancements or upgrades to the Site which result in the Site being unavailable, which KwipShare shall take reasonable steps to schedule so as to minimize Site unavailability and customer inconvenience.

7. Disclaimer of Warranties

KWIPSHARE AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SITE OR ANY CONTENT. KWIPSHARE AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SITE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SITE WILL MEET YOUR REQUIREMENTS

OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, LEADS OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SITE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVER(S) THAT MAKE THE SITE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN A SEPARATE WRITTEN AGREEMENT BETWEEN YOU AND KWIPSHARE, THE SITE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN AS IS BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY KWIPSHARE AND ITS LICENSORS.

8. Indemnification

You shall indemnify and hold KwipShare, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Content infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; and (iii) a claim arising from the breach by you of this Agreement.

9. Internet Delays

KWIPSHARE'S SITE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. KWIPSHARE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

10. Limitation of Liability

IN NO EVENT SHALL KWIPSHARE'S AGGREGATE LIABILITY PURSUANT TO THIS AGREEMENT EXCEED TEN DOLLARS (\$10.00). IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SITE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SITE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SITE, ANY

INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Additional Rights

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

12. Local Laws and Export Control

The Site provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies and the export control regulations of other applicable countries. You acknowledge and agree that the Site shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States or any other applicable country maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Site, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. You agree to comply strictly with all U.S. and other applicable export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required. KwipShare and its licensors make no representation that the Site is appropriate or available for use in other locations. If you use the Site from outside the United States of America, you are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries.

13. Notice

KwipShare may give notice by means of electronic mail to your e-mail address on record in KwipShare's account information, or by written communication sent by first class mail or pre-paid post to your address on record in KwipShare's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to KwipShare (such notice shall be deemed given when received by KwipShare) at any time by any of the following: letter to KwipShare delivered by nationally recognized overnight delivery

service or first class postage prepaid mail to KwipShare, in either case, addressed to the attention of: Manager.

14. Modification to Terms

KwipShare reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Site at any time, effective upon posting of an updated version of this Agreement on the Site. You are responsible for regularly reviewing this Agreement. Continued use of the Site after any such changes shall constitute your consent to such changes.

15. Assignment; Change in Control

This Agreement may not be assigned by you without the prior written approval of KwipShare but may be assigned without your consent by KwipShare to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger, consolidation, stock sale or similar. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of you that results or would result in a direct competitor of KwipShare directly or indirectly owning or controlling 50% or more of you shall entitle KwipShare to terminate this Agreement for cause immediately upon written notice.

16. General

This Agreement shall be governed by Massachusetts law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Site shall be subject to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and KwipShare as a result of this Agreement or use of the Site. The failure of KwipShare to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by KwipShare in writing. This Agreement comprises the entire agreement between you and KwipShare with respect to your use of the Site, and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

17. Definitions

As used in this Agreement now or hereafter associated herewith:

“Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

“User(s)” means your employees, representatives, consultants, contractors or agents who are authorized to use the Site and/or have been supplied user identifications and passwords by you (or by KwipShare at your request).

Questions or Additional Information

If you have questions regarding this Agreement or wish to obtain additional information, please send an e-mail to support@kwipshare.com.