

KID Museum Terms of Use

Last Updated: April 24, 2015

Welcome to the website offered by KID Museum, Inc. (“**KID Museum**,” “**we**,” or “**us**”). These Terms of Use (“**Terms**”) apply to all content, materials, functionality and services made available by KID Museum on its website located at <http://kid-museum.org/> and any related subdomains (“**Site**”).

THESE TERMS CREATE A BINDING LEGAL CONTRACT BETWEEN YOU AND KID MUSEUM, AND YOU SHOULD READ AND BE SURE YOU UNDERSTAND THEM BEFORE USING THE SITE. BY USING THE SITE, YOU REPRESENT AND WARRANT THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT ACCEPT THESE TERMS, YOU MUST NOT USE – AND ARE NOT AUTHORIZED TO USE – ALL OR ANY PORTION OF THE SITE.

AS FURTHER DESCRIBED BELOW, THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

1. General.

1.1 Description. The Site allows users to (a) review and sign-up for KID Museum’s programs and events, (b) donate to KID Museum, and (c) learn about KID Museum’s mission, programs, events and other services.

1.2 Eligibility; Subscribing Entities. We are committed to respecting children’s privacy. Accordingly, please refer to Kid Museum’s Privacy Policy located at <http://kid-museum.org/wp-content/uploads/2015/04/Kid-Museum-Inc.-Privacy-Policy.pdf> (“**Privacy Policy**”) for information about our practices relating to the collection, use and disclosure of information about children under the age of 13. If you wish to use the Site on behalf of a company, entity or organization (each, a “**Subscribing Entity**”), then you represent and warrant that you: (a) are an authorized representative of that Subscribing Entity with the authority to bind such entity to these Terms and (b) agree to be bound by these Terms on behalf of such Subscribing Entity.

1.3 Changes to These Terms. KID Museum reserves the right to revise these Terms in its sole discretion at any time and without prior notice to you other than by posting the revised Terms on the Site. Revisions to the Terms are effective upon posting. The Terms will be identified as of the most recent date of revision. Your continued use of the Site after a revised version of these Terms has been posted on the Site by KID Museum constitutes your binding acceptance of the revised Terms. KID Museum will endeavor to provide you with prior notice of any material changes to these Terms by posting them to the Site. Notwithstanding the preceding sentences of this Section 1.3, no revisions to these Terms will apply to any dispute between you and KID Museum that arose prior to the date of such revision.

1.4 Evolving Nature of Site. The Site is continually evolving and changes to the Site may

be made at any time. If you do not like the Site or in any way disagree with these Terms, we hope you will let us know and give us constructive feedback. Please feel free to e-mail us at any time at info@kid-museum.org. However, your only remedy in the event you are dissatisfied with the Site or these Terms is to discontinue your use of the Site.

1.5 Consideration. You understand and agree that these Terms are entered into in consideration of your use of the Site and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

1.6 Consent to Electronic Communications. By using the Site, you consent to receiving communications from us as further described in the Privacy Policy. Please read the Privacy Policy to learn more about your choices regarding our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including written communications.

2. Privacy. Your use of the Site is subject to the Privacy Policy which is hereby incorporated by reference into these Terms. By using the Site you agree that you have read, understood, and agree to the data collection, use, and disclosure provisions set forth in the Privacy Policy.

3. Use of the Site.

3.1 Payments. You may make donations or pay for certain events or programs on the Site. All payments must be made in United States Dollars. These payments will be processed by one or more third party payment processors. Accordingly, KID Museum is not responsible for processing and/or collecting any payments and related taxes. You are solely responsible for complying with any applicable terms and conditions imposed by any third party payment processor. Under no circumstances will KID Museum be liable for any expenses or losses arising from any payment that you make through the Site.

3.2 Third Party Sites. The Site may include links to external sites and applications owned or controlled by third parties. You are responsible for evaluating whether you want to access or use them. We are not responsible for and do not endorse any features, content, advertising, products, or other materials on third party websites or applications. You assume all risk and we disclaim all liability arising from your use of them.

3.3 Information Provided to KID Museum. You agree to provide true, accurate, current, and complete information as requested in any registration or sign-up form that you submit to KID Museum through the Site, and to update this information promptly, and as necessary, to keep it current and accurate.

3.4 Prohibitions. In using the Site, you further agree not to:

- (a) Create a false identity or impersonate another person or entity in any way;

(b) Restrict, discourage or inhibit any person from using the Site, disclose personal information about a third person obtained from the Site without the consent of such person, or collect information about users of the Site not otherwise provided herein;

(c) Undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of any aspect of the Site or any part thereof, or attempt to do any of the foregoing;

(d) Gain unauthorized access to the Site, to other users' names or personally identifiable information, or to other computers or websites connected or linked to the Site;

(e) Reproduce, distribute, publicly display, publicly perform, sell, trade, resell or exploit any portion of the Site, use of the Site, access to the Site or content obtained through the Site, for any purpose other than expressly permitted by these Terms;

(f) Transmit or make available any virus, worm, spyware or any other computer code, file or program that may or is intended to damage or hijack the operation of any hardware, software or telecommunications equipment, or any other aspect of the Site or communications equipment and computers connected to the Site;

(g) Remove, disable, damage, circumvent or otherwise interfere with any security-related features of the Site, features that prevent or restrict the use or copying of any part of the Site or any content on the Site, or features that enforce limitations on the use of the Site or any content on the Site;

(h) Use any scraper, spider, robot or other automated means of any kind to access the Site, deep-link to any feature or content on the Site, bypass our robot exclusion headers or other measures we may use to prevent or restrict access to the Site;

(i) Interfere with or disrupt the Site, networks or servers connected to the Site or violate the regulations, policies or procedures of such networks or servers;

(j) Violate any applicable federal, state or local laws or regulations or these Terms; or

(k) Assist or permit any persons in engaging in any of the activities described above.

4. Site Security. You are prohibited from violating, or attempting to violate, the security of the Site. Any such violations may result in criminal and/or civil penalties against you, as well as the termination of your privilege to use the Site, at KID Museum's sole discretion. KID Museum reserves the right to investigate any alleged or suspected violations and, if a criminal violation is suspected, refer such suspected violation to the appropriate law enforcement agencies and cooperate fully with such investigations, including, but not limited to, the disclosure of any or all of your activities on or related to the Site.

5. Contests. KID Museum may offer certain contests or other promotions on or through the Site (collectively, "**Contests**"). The terms governing these Contests will be posted separately on the Site. In the event of any conflict or inconsistency between these Terms and the terms governing any Contests, the latter terms will control solely to the extent of the conflict or inconsistency.

6. Intellectual Property Rights.

6.1 Generally. The content made available on or through the Site, including without limitation, any text, graphics, photos, software, music, videos, sounds, and interactive features, may be protected by copyright or other intellectual property rights, and is owned by KID Museum or third party licensors of KID Museum (collectively, "**KID Museum Content**"). No KID Museum Content from the Site may be copied, reproduced, uploaded, republished, transmitted, posted, or distributed in any way without express written permission of KID Museum or as otherwise specified in these Terms or permitted by functionalities of the Site. Modification of KID Museum Content is a violation of the copyrights and other proprietary rights of KID Museum or its licensors. All design rights, databases and compilation and other intellectual property rights in and to the Site, in each case whether registered or unregistered, and related goodwill are proprietary to KID Museum.

6.2 Trademarks. All trademarks, service marks, logos and trade names on the Site, whether registered or unregistered, are proprietary to KID Museum or to other companies where so indicated. You may not reproduce, download or otherwise use any such trademarks, service marks, logos or trade names without the prior express written consent of the appropriate owner thereof.

6.3 License Grant to You. You are hereby granted a limited, non-assignable, revocable license to access and use the Site for your personal, non-commercial use, including any software included with the Site, as provided for in these Terms and pursuant to the authorized features of the Site without modification, so long as you agree to these Terms, subject to KID Museum's right to terminate your right to use the Site in its sole discretion at any time.

6.4 No Implied Rights. There are no implied licenses granted in these Terms and all rights not granted to you as a user are expressly reserved by KID Museum.

7. Feedback. We appreciate hearing from our users and welcome your comments regarding the Site. Please be advised, however, that if you send us creative ideas, suggestions, inventions, or materials (collectively, "**Feedback**"): (a) you hereby grant to us a worldwide, non-exclusive, irrevocable, perpetual, royalty-free and unlimited license to use the Feedback, whether written or oral, in any manner whatsoever; (b) we will not be subject to any obligation of confidentiality and will not be liable for any use or disclosure of any Feedback; and (c) we will be entitled to unrestricted use of the Feedback for any purpose whatsoever, commercial or otherwise, without compensation to you or any other person.

8. Indemnity. You agree to indemnify and hold KID Museum, and its officers, directors, employees, agents, successors, and assigns harmless from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or in any way connected to (a) your access, use, or misuse of the Site, or KID Museum Content, or (b) your violation of these Terms. KID Museum will use reasonable efforts to notify you

of any such claim, action or proceeding for which it seeks an indemnification from you upon becoming aware of it, but if KID Museum is unable to communicate with you in a timely manner because of an inactive e-mail address for you, your indemnification obligation will continue notwithstanding KID Museum's inability to contact you in a timely manner.

9. Warranty Disclaimers. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SITE IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SITE IS PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND KID MUSEUM HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SITE AND ANY SERVICES OFFERED BY KID MUSEUM, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

10. Limitation of Liability. IN NO EVENT WILL KID MUSEUM OR ITS OFFICERS, DIRECTORS, LICENSORS, SUPPLIERS, SUCCESSORS OR ASSIGNS BE LIABLE TO ANY PARTY FOR ANY DIRECT, INDIRECT, SPECIAL OR OTHER CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR ACCESS OF OR INABILITY TO USE OR ACCESS THE SITE OR ANY SERVICES OR CONTENT MADE AVAILABLE THROUGH THE SITE, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, OR OTHERWISE, WHETHER BASED IN TORT, CONTRACT OR OTHER LEGAL THEORY, EVEN IF KID MUSEUM IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL KID MUSEUM BE LIABLE IN THE AGGREGATE FOR ANY DAMAGES INCURRED BY YOU THAT EXCEED ONE HUNDRED DOLLARS.

11. Basis of the Bargain. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH CASES, YOU AGREE THAT BECAUSE SUCH WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND KID MUSEUM, AND ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND KID MUSEUM IN LIGHT OF KID MUSEUM'S OFFERING MANY OF THE FUNCTIONALITIES OF THE SITE FOR FREE, KID MUSEUM'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

12. Term and Termination.

12.1 Term. These Terms will be effective commencing with your first use of the Site and will remain in full force and effect throughout your use of the Site, until such time as you cease all use of the Site, subject to the Survival provision of these Terms.

12.2 Termination. KID Museum may terminate your use of the Site or any features or functionalities of the Site at any time and for any reason, with or without notice, for conduct violating these Terms or upon KID Museum's sole determination. You hereby agree to KID Museum's broad right of termination. You agree that if your use of the Site is terminated pursuant to these Terms, you will not attempt to use the Site, and further agree that if you violate this restriction after being terminated, you will indemnify and hold us harmless from any and all liability that we may incur therefor. You are free to terminate your use of the Site at any time; you can simply choose to stop visiting or using any aspect of the Site.

13. Jurisdictional Matters. The Site is controlled and operated by KID Museum from its offices within the State of Maryland. KID Museum makes no representation that materials on the Site or through the Site are appropriate or available for use in other locations. Those who choose to access or use the Site from other locations, including from outside the United States of America, do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. Access to the Site from jurisdictions where the contents or practices of the Site are illegal, unauthorized or penalized is strictly prohibited.

14. Dispute Resolution.

14.1 KID Museum is not a party to, has no involvement or interest in, makes no representations or warranties as to, and has no responsibility or liability with respect to any communications, transactions, interactions, disputes or any relations whatsoever between you and any user or other third party. Disputes between a user and KID Museum are subject to this Section 14.

14.2 Mandatory Arbitration. Please read this carefully. It affects your rights. YOU AND KID MUSEUM AND EACH OF OUR RESPECTIVE SUBSIDIARIES, AFFILIATES, PREDECESSORS IN INTEREST, SUCCESSORS, AND PERMITTED ASSIGNS AGREE TO ARBITRATION (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT), AS THE EXCLUSIVE FORM OF DISPUTE RESOLUTION EXCEPT AS PROVIDED FOR BELOW, FOR ALL DISPUTES AND CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF THE SITE. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a jury or judge, 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. Please visit www.adr.org for more information about arbitration.

(a) Commencing Arbitration. A party who intends to seek arbitration must first send to the other, by certified mail, a written notice of intent to arbitrate (a "**Notice**"), or, in the absence of a mailing address provided by you to KID Museum, to you via any other method available to KID Museum, including via e-mail. The Notice to KID Museum should be addressed to 6400 Democracy Blvd Bethesda, MD 20817, Attn: Chief Executive Officer (the "**Arbitration Notice Address**"). The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (the "**Demand**"). If you and KID Museum do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or KID Museum may commence an arbitration proceeding as set forth below or file a claim in small claims court. THE

ARBITRATION SHALL BE ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) IN ACCORDANCE WITH ITS COMMERCIAL ARBITRATION RULES AND THE SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES (the “Rules”), AS MODIFIED BY THIS AGREEMENT. The Rules and AAA forms are available online at www.adr.org. If you are required to pay a filing fee to commence an arbitration against KID Museum, then KID Museum will promptly reimburse you for your confirmed payment of the filing fee upon KID Museum’s receipt of Notice at the Arbitration Notice Address that you have commenced arbitration along with a receipt evidencing payment of the filing fee, unless your Demand is equal to or greater than \$1,000 or filed in bad faith, in which case you are solely responsible for the payment of the filing fee.

(b) Arbitration Proceeding. The arbitration shall be conducted in the English language. A single independent and impartial arbitrator shall be appointed pursuant to the Rules, as modified herein. You and KID Museum agree to comply with the following rules, which are intended to streamline the dispute resolution process and reduce the costs and burdens on the parties: (a) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner to be chosen by the party initiating the arbitration; (b) the arbitration shall not require any personal appearance by the parties or witnesses unless otherwise mutually agreed in writing by the parties; and (c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(c) No Class Actions. YOU AND KID MUSEUM AGREE THAT YOU AND KID MUSEUM MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. FURTHER, YOU AGREE THAT THE ARBITRATOR MAY NOT CONSOLIDATE PROCEEDINGS OF MORE THAN ONE PERSON’S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND THAT IF THIS SPECIFIC PROVISIO IS FOUND TO BE UNENFORCEABLE, THEN THE ENTIRETY OF THIS SECTION 14.2 SHALL BE NULL AND VOID.

(d) Decision of the Arbitrator. Barring extraordinary circumstances, the arbitrator shall issue his or her decision within 120 days from the date the arbitrator is appointed. The arbitrator may extend this time limit for an additional 30 days in the interests of justice. All arbitration proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed, except as necessary to obtain court confirmation of the arbitration award. The award of the arbitrator shall be in writing and shall include a statement setting forth the reasons for the disposition of any claim. The arbitrator shall apply the laws of the State of Maryland in conducting the arbitration. You acknowledge that these Terms and your use of the Site evidence a transaction involving interstate commerce. The United States Federal Arbitration Act shall govern the interpretation, enforcement, and proceedings pursuant to the Mandatory Arbitration clause in these Terms.

14.3 Choice of Law; Choice of Forum. These Terms and your use of the Site shall be governed by the substantive laws of the State of Maryland without reference to its choice or conflicts of law principles. Only if the Mandatory Arbitration clause is deemed to be null and void, then all

disputes arising between you and KID Museum under these Terms shall be subject to the exclusive jurisdiction of the state and federal courts located in Montgomery County, Maryland, and you and KID Museum hereby submit to the personal jurisdiction and venue of these courts and waive any defense of inconvenient forum.

14.4 Equitable Relief. The foregoing provisions of this Dispute Resolution section do not apply to any claim in which KID Museum seeks equitable relief of any kind. You acknowledge that, in the event of a breach of these Terms by KID Museum or any third party, the damage or harm, if any, caused to you will not entitle you to seek injunctive or other equitable relief against KID Museum, and your only remedy shall be for monetary damages, subject to the limitations of liability set forth in these Terms.

14.5 Claims. You and KID Museum agree that, notwithstanding any other rights the party may have under law or equity, any cause of action arising out of or related to these Terms or the Site, excluding a claim for indemnification, must commence within one year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

14.6 Improperly Filed Claims. All claims you bring against KID Museum must be resolved in accordance with this Dispute Resolution section. All claims filed or brought contrary to this Dispute Resolution section shall be considered improperly filed. Should you file a claim contrary to this Dispute Resolution section, KID Museum may recover attorneys' fees and costs up to \$5,000, provided that KID Museum has notified you in writing of the improperly filed claim, and you have failed to promptly withdraw the claim.

15. Miscellaneous.

15.1 Entire Agreement. These Terms and the Privacy Policy constitute the entire agreement between you and KID Museum relating to the subject matter herein and supersede all previous and contemporaneous communications, representations, understandings and agreements, either oral or written, between you and KID Museum with respect to your use of the Site. These Terms shall not be modified except in writing, signed by both parties, or by a change to these Terms made by KID Museum as authorized in these Terms.

15.2 Waiver. A provision of these Terms may be waived only by a written instrument executed by the party entitled to the benefit of such provision. No failure or delay on the part of KID Museum in the exercise of any power or right under these Terms shall operate as a waiver thereof. No single or partial exercise of any right or power under these Terms shall operate as a waiver of such right or of any other right or power. The waiver by KID Museum of a breach of any provision of these Terms shall not operate or be construed as a waiver of any other or subsequent breach of these Terms.

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

15.4 Assignment. These Terms, and any rights and licenses granted hereunder, may not be

transferred or assigned by you, but may be assigned by KID Museum without restriction. Any assignment attempted to be made by you in violation of these Terms shall be void. These Terms will be binding upon and inure to the benefit of the parties hereto, and permitted successors and assigns.

15.5 No Agency. You agree that no joint venture, partnership, employment, or agency relationship exists between you and KID Museum as a result of these Terms or use of the Site.

15.6 Survival. Sections 1.3, 3-4 and 6-15 will survive any termination of these Terms.

15.7 Headings. The heading references in these Terms are for convenience purposes only, do not constitute a part of these Terms, and shall not be deemed to limit or affect any of the provisions hereof.

15.8 Communication. You can contact KID Museum by email at **info@kid-museum.org**, by U.S. post at 6400 Democracy Blvd Bethesda, MD 20817, or by phone at (301) 897-5437.