

Terms of Service

Last Updated: 20 August 2019

1. TERMS

These Terms of Use constitute a legally binding agreement made between you, whether personally or on behalf of an entity (“you”) and Kant & Sysiak (“we,” “us” or “our”), concerning your access to and use of the Stubborn app as well as any other media form, media channel, desktop website, mobile website or mobile application related, linked, or otherwise connected thereto (“Stubborn”, “service”, or “site”). You agree that by accessing Stubborn, you have read, understood, and agree to be bound by all of these Terms of Use. If you do not agree with all of these terms of use, then you are expressly prohibited from using Stubborn and you must discontinue use immediately.

Supplemental terms and conditions or documents that may be posted on Stubborn from time to time are hereby expressly incorporated herein by reference. We reserve the right, in our sole discretion, to make changes or modifications to these Terms of Use at any time and for any reason. We will alert you about any changes by updating the “Last updated” date of these Terms of Use, and you waive any right to receive specific notice of each such change. It is your responsibility to periodically review these Terms of Use to stay informed of updates. You will be subject to, and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms of Use by your continued use of the Stubborn after the date such revised Terms of Use are posted.

The information provided on the Stubborn is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject us to any registration requirement within such jurisdiction or country. Accordingly, those persons who choose to access Stubborn from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.

By accessing our app, Stubborn, you are agreeing to be bound by these terms of service, all applicable laws and regulations, and agree that you are responsible for compliance with any applicable local laws. If you do not agree with any of these terms, you are prohibited from using or accessing Stubborn. The materials contained in Stubborn are protected by applicable copyright and trademark law.

2. USE LICENSE

Permission is granted to temporarily download one copy of Stubborn per device for personal, non-commercial transitory viewing only. This is the grant of a license, not a transfer of title, and under this license you may not:

- * modify or copy the materials;
- * use the materials for any commercial purpose, or for any public display (commercial or non-commercial);
- * attempt to decompile or reverse engineer any software contained in Stubborn;
- * remove any copyright or other proprietary notations from the materials; or
- * transfer the materials to another person or "mirror" the materials on any other server.

This license shall automatically terminate if you violate any of these restrictions and may be terminated by Stubborn at any time. Upon terminating your viewing of these materials or upon the termination of this license, you must destroy any downloaded materials in your possession whether in electronic or printed format.

3. DISCLAIMER

KANT & SYSIK, OUR AFFILIATES, OUR PARTNERS, AND OUR AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, OR LICENSORS, MAKE NO WARRANTIES OR REPRESENTATIONS ABOUT THE CONTENT (INCLUDING THE USER CONTENT), INCLUDING BUT NOT LIMITED TO ITS ACCURACY, RELIABILITY, COMPLETENESS, TIMELINESS, OR RELIABILITY. IF YOU CHOOSE TO USE THE SERVICES, YOU DO SO AT YOUR SOLE RISK. KANT & SYSIK EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. KANT & SYSIK MAKES NO WARRANTY THAT THE SITE, APPLICATION, SERVICES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS.

THE MATERIALS WITHIN STUBBORN ARE PROVIDED ON AN 'AS IS' BASIS. KANT & SYSIK MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AND HEREBY DISCLAIMS AND NEGATES ALL OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY OR OTHER VIOLATION OF RIGHTS.

FURTHER, KANT & SYSIK DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS CONCERNING THE ACCURACY, LIKELY RESULTS, OR RELIABILITY OF THE USE OF THE MATERIALS ON ITS WEBSITE OR OTHERWISE RELATING TO SUCH MATERIALS OR ON ANY SITES LINKED TO STUBBORN.

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." KANT & SYSIK DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, NOT EXPRESSLY SET OUT IN THESE TERMS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN ADDITION, KANT & SYSIK MAKES NO REPRESENTATION, WARRANTY, OR GUARANTEE REGARDING THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, OR AVAILABILITY OF THE SERVICES OR ANY SERVICES OR GOODS REQUESTED THROUGH THE USE OF THE SERVICES, OR THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. KANT & SYSIK DOES NOT GUARANTEE THE QUALITY, SUITABILITY, SAFETY OR ABILITY OF THIRD PARTY PROVIDERS. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY SERVICE OR GOOD REQUESTED IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.

4. LIMITATION OF LIABILITY.

IN NO EVENT SHALL KANT & SYSIK OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR PROFIT, OR DUE TO BUSINESS INTERRUPTION) ARISING OUT OF THE USE OR INABILITY TO USE STUBBORN, EVEN IF KANT & SYSIK OR A KANT & SYSIK AUTHORIZED REPRESENTATIVE HAS BEEN NOTIFIED ORALLY OR IN WRITING OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, OR LIMITATIONS OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THESE LIMITATIONS MAY NOT APPLY TO YOU.

KANT & SYSIK SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST DATA, PERSONAL INJURY, OR PROPERTY DAMAGE RELATED TO, IN CONNECTION WITH, OR OTHERWISE RESULTING FROM ANY USE OF THE SERVICES, EVEN IF KANT & SYSIK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. KANT & SYSIK SHALL NOT BE LIABLE FOR ANY DAMAGES, LIABILITY OR LOSSES ARISING OUT OF: (I) YOUR USE OF OR RELIANCE ON THE SERVICES OR YOUR INABILITY TO ACCESS OR USE THE SERVICES; OR (II) ANY TRANSACTION OR RELATIONSHIP BETWEEN YOU AND ANY THIRD PARTY PROVIDER, EVEN IF KANT & SYSIK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. KANT & SYSIK SHALL NOT BE LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND KANT & SYSIK'S REASONABLE CONTROL.

THE LIMITATIONS AND DISCLAIMER IN THIS SECTION 5 DO NOT PURPORT TO LIMIT LIABILITY OR ALTER YOUR RIGHTS AS A CONSUMER THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

You acknowledge that the Services have not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that functions of the Applications meet your requirements.

Where you have been supplied the Services for domestic and private use only you agree not to use the Applications and Services for any commercial, business or resale purposes which are not first authorized by Kant & Sysiak.

You agree that Kant & Sysiak, its owners, officers, employees and agents have no liability to you for any loss of employment, wages, salary, profit, loss of business, business interruption, or loss of business opportunity.

You are solely responsible for maintaining the confidentiality of the device through which you access the Services and for restricting access to your password and to your computer while logged into the Services. You accept responsibility for all activities that occur under your account or device.

Our maximum aggregate liability under or in connection with these Terms (including your use of any Application or Services) whether in contract, tort (including negligence) any cause of action or otherwise, or under any theory of damages, shall in all circumstances be limited to the amount you paid for the Services in the last twelve (12) months.

5. INDEMNITY

You agree to indemnify and hold Kant & Sysiak and its officers, directors, employees, and agents harmless from any and all claims, demands, losses, liabilities, and expenses (including attorneys' fees), arising out of or in connection with: (i) your use of the Services or services or goods obtained through your use of the Services; (ii) your breach or violation of any of these Terms; (iii) Kant & Sysiak's use of your User Content; or (iv) your violation of the rights of any third party, including Third Party Providers.

6. ACCURACY OF MATERIALS

The materials appearing in Stubborn could include technical, typographical, or photographic errors. Kant & Sysiak does not warrant that any of the materials on Stubborn are accurate, complete or current. Kant & Sysiak may make changes to the materials contained in Stubborn at any time without notice. However Kant & Sysiak does not make any commitment to update the materials.

7.FEES AND PAYMENT

You may be required to purchase or pay a fee to access some of our services. You agree to provide current, complete, and accurate purchase and account information for all purchases made via Stubborn. You further agree to promptly update account and payment information, including email address, payment method, and payment card expiration date, so that we can complete your transactions and contact you as needed. We bill you through an online billing account for purchases made via Stubborn.

You agree to pay all charges or fees at the prices then in effect for your purchases, and you authorize us to charge your chosen payment provider for any such amounts upon making your purchase. If your purchase is subject to recurring charges, then you consent to our charging your payment method on a recurring basis without requiring your prior approval for each recurring charge, until you notify us of your cancellation. We reserve the right to correct any errors or mistakes in pricing, even if we have already requested or received payment. We also reserve the right to refuse any order placed through the Site.

7. LINKS

Kant & Sysiak has not reviewed all of the sites linked to Stubborn and is not responsible for the contents of any such linked site. The inclusion of any link does not imply endorsement by Kant & Sysiak of the site. Use of any such linked website is at the user's own risk.

8. MODIFICATIONS

Kant & Sysiak may revise these terms of service for Stubborn at any time without notice. By using Stubborn you are agreeing to be bound by the then current version of these terms of service.

9. GOVERNING LAW

These Terms of Use and your use of the Site are governed by and construed in accordance with the laws of the Washington State (United States) applicable to agreements made and to be entirely performed within the Washington States (United States), without regard to its conflict of law principles.

10. DISPUTE RESOLUTION

INFORMAL NEGOTIATIONS

To expedite resolution and control the cost of any dispute, controversy, or claim related to these Terms of Use (each a “Dispute” and collectively, the “Disputes”) brought by either you or us (individually, a “Party” and collectively, the “Parties”), the Parties agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least thirty (30) days before initiating arbitration. Such informal negotiations commence upon written notice from one Party to the other Party.

BINDING ARBITRATION

If the Parties are unable to resolve a Dispute through informal negotiations, the Dispute (except those Disputes expressly excluded below) will be finally and exclusively resolved by binding arbitration. YOU UNDERSTAND THAT WITHOUT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) and, where appropriate, the AAA’s Supplementary Procedures for Consumer Related Disputes (“AAA Consumer Rules”), both of which are available at the AAA website www.adr.org. Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Consumer Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined to be by the arbitrator to be excessive, we will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone, or online. The arbitrator will make a decision in writing, but need not provide a statement of reasons unless requested by either Party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except where otherwise required by the applicable AAA rules or applicable law, the arbitration will take place in Thurston County, WA. Except as otherwise provided herein, the Parties may litigate in court to compel arbitration, stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

If for any reason, a Dispute proceeds in court rather than arbitration, the Dispute shall be commenced or prosecuted in the state and federal courts located in Thurston County, WA, and the Parties hereby consent to, and waive all defenses of lack of personal jurisdiction, and forum non conveniens with respect to venue and jurisdiction in such state and federal courts. Application of the United Nations Convention on Contracts for the International Sale of Goods and the the Uniform Computer Information Transaction Act (UCITA) are excluded from these Terms of Use.

In no event shall any Dispute brought by either Party related in any way to the Site be commenced more than one (1) years after the cause of action arose. If this provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.

RESTRICTIONS

The Parties agree that any arbitration shall be limited to the Dispute between the Parties individually. To the full extent permitted by law, (a) no arbitration shall be joined with any other proceeding; (b) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (c) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

EXCEPTIONS TO INFORMAL NEGOTIATIONS AND ARBITRATION

The Parties agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (a) any Disputes seeking to enforce or protect, or concerning the validity of, any of the intellectual property rights of a Party; (b) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy, or unauthorized use; and (c) any claim for injunctive relief. If this provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.

CORRECTIONS

There may be information on the Site that contains typographical errors, inaccuracies, or omissions, including descriptions, pricing, availability, and various other information. We reserve the right to correct any errors, inaccuracies, or omissions and to change or update the information on the Site at any time, without prior notice.

10. CONTACT US

In order to resolve a complaint regarding the Site or to receive further information regarding use of the Site, please contact us at:

Kant & Sysiak
403 Terry Ave, APT 204,
Seattle,
WA 98104
hello@stubbornapp.com
www.stubbornapp.com