

## TERMS OF USE

These are the official TERMS OF USE (these “**Terms of Use**”) for www.ckyouth.or (as it may be modified from time to time) (the “**Site**”), a website owned and offered by Carment Kiara Youth Organization, a Texas non-profit corporation (“**Company**”). Carefully review these Terms of Use in their entirety, and print a copy for your records.

These Terms of Use constitute a legally binding agreement between you, the person accessing or using the Site and any person helping you access or use this Site (collectively, “**you**” or “**your**”), and Company.

COMPANY MAY SUPPLEMENT, AMEND OR OTHERWISE MODIFY THESE TERMS OF USE AT ANY TIME WITHOUT NOTICE TO YOU. SUCH SUPPLEMENTS, AMENDMENTS AND OTHER MODIFICATIONS WILL BE POSTED ON THIS OR A SIMILAR PAGE OF THE SITE, AND SHALL BE DEEMED EFFECTIVE AS OF THEIR STATED EFFECTIVE DATE. IT IS YOUR RESPONSIBILITY TO CAREFULLY REVIEW THESE TERMS OF USE EACH TIME YOU ACCESS OR USE THE SITE.

BY ACCESSING OR USING THE SITE, YOU ARE AUTOMATICALLY ACCEPTING AND AGREEING TO THE MOST-RECENT VERSION OF THESE TERMS OF USE, AS WELL AS THE MOST-RECENT VERSION OF THE SITE’S [PRIVACY POLICY](#), AND YOUR CONTINUING ACCESS OR USE OF THE SITE REAFFIRMS YOUR ACCEPTANCE AND AGREEMENT IN EACH INSTANCE.

### 1. ELIGIBILITY.

The Site is offered to users eighteen (18) years of age or older who reside in the United States of America, its territories and possessions (collectively, the “**United States of America**”), and who are not using the Site or any information or content found thereon in competition with Company or its affiliates. By accessing or using the Site and, if applicable, its feature(s), you represent and warrant to Company that you meet all of these eligibility requirements.

If you reside outside the United States of America, then you may see information or content on the Site that is not intended for you and/or that is not available or authorized in your country. Do not construe any such information or content as a promotion or solicitation for any donation, product, or service to be made, acquired or used outside the United States of America.

### 2. PRIVACY.

Company respects your privacy and the use and protection of your personal information. Company’s policies concerning the collection and use of your personal information in connection with the Site are set forth in the Site’s [Privacy Policy](#), the most-recent version of which is incorporated herein by reference. You are encouraged to carefully review the Site’s [Privacy Policy](#) each time you access or use the Site.

### 3. PROPRIETARY RIGHTS.

**3.1. SITE OWNERSHIP.** The Site and all elements and derivatives thereof (including, without limitation, all information, content, source codes, object codes, designs, text, scripts, graphics, images, audio, and video), as well as all copyrights, trademarks, trade dress, patents, patentable subject matter, trade secrets, and confidential information of the

foregoing, are owned or licensed by Company, or are permissibly used by Company; and in no event shall you have or retain any rights, titles or interests in or to the foregoing other than those limited rights expressly granted to you under these Terms of Use. No rights or permissions granted to you under these Terms of Use are coupled with an interest.

**3.2. TRADEMARKS.** The trademarks (including, without limitation, the word marks, design marks, service marks, trade names, and logos) found on the Site are owned or licensed by Company, or are permissibly used by Company, and in no event shall you have or retain any rights, titles or interests in or to those trademarks. You are prohibited from making any use of those trademarks (including, without limitation, use as meta tags on other websites, and use in any manner likely to cause confusion, disparagement or dilution of those trademarks).

**3.3. RESERVATION OF RIGHTS.** Nothing in these Terms of Use shall restrict or limit any of Company's rights, titles or interests in or to the Site or any information or content found thereon.

#### **4. SITE ACCESS AND USE.**

**4.1. LIMITED LICENSE.** Subject to these Terms of Use, Company grants you a limited, personal, freely revocable, non-transferable, non-sublicensable and non-exclusive license to access the Site; to view the information and content found on the Site; and to use the features found on the Site as directed, provided that you are eligible to use such features. Your unauthorized use of the Site or any breach of these Terms of Use automatically terminates this license.

**4.2. UNAUTHORIZED CONDUCT.** You shall not engage in, encourage or incite any of the following conduct in connection with the Site, regardless of whether you are aware or unaware of such conduct: (a) impersonate any person or entity; (b) use, download, copy, reproduce, modify, adapt, publish, translate, create derivative works from, transmit, distribute, perform, display, or otherwise exploit the Site or any content found thereon in a manner contrary to these Terms of Use or with the express consent of Company; (c) engage in activities which involve or concern decryption, security bypassing, computer, software or network hacking, data mining, harvesting of client or personal information, reverse engineering, copying, or the like; (d) gain or attempt to gain unauthorized access to computer systems, networks, information or materials through the Site; (e) use the Site or the Site's feature(s) or server(s) in any manner with the intent to interrupt, damage, disable, overburden, or impair the Site or the Site's feature(s) or server(s), including, without limitation and by way of example only, sending mass unsolicited messages, "flooding" the Site's feature(s) or server(s) with requests, or uploading software codes or programs (malicious or otherwise) to the Site; or (f) use the Site or the Site's feature(s) in violation of any international, federal, state, or local law.

**4.3. ACCESS AND INTERFERENCE.** The following practices are strictly prohibited: (a) the systematic retrieval of any information or content found on the Site to directly or indirectly create or compile, in whole or in part, a collection, compilation, database, or directory; (b) the use of a software, code program, process, device, application or routine

(including, without limitation and by way of example only, robots, scrapers, spiders, viruses, spyware, and malware) used to monitor, copy, disrupt, interfere with, or impermissibly access, in whole or in part, the Site or any information or content found thereon; (c) “screen scraping,” “database scraping,” or any other practice or activity that serves to obtain data or other information about the Site, the Site’s users, Company, or Company’s affiliates; (d) framing or the use of framing techniques to enclose any information, content, copyrightable material, patentable material, trademark, trade dress or other properties of Company; (e) the use of meta tags or any other “hidden text” utilizing Company’s trademarks; (f) the use of any software, program, process, device, application or routine (including, without limitation and by way of example only, robots, scrapers, spiders, viruses, spyware, and malware) to bypass or circumvent any security measure which Company may utilize in connection with the Site or any information or content found thereon, or to impermissibly monitor, copy, disrupt, interfere with or access the Site or any information or content found thereon; and (g) any act that will overload, unreasonably disrupt, or unreasonably interfere with the infrastructure of the Site or the Site’s feature(s) or server(s).

## **5. MOBILE APPLICATIONS.**

Certain portions of the Site or its features may be configured for, and Company may offer the Site and/or its features through, mobile devices, mobile websites and/or mobile applications (collectively, “**Mobile Media**”). These Terms of Use shall apply with equal force and measure to your access and use of the Site through Mobile Media. If you access or use the Site through Mobile Media, then, subject to the Site’s [Privacy Policy](#), you hereby acknowledge and agree that information about your use of the Site through a mobile device (*e.g.*, iPhone, BlackBerry) and/or a mobile device carrier (*e.g.*, Verizon, AT&T) (such as, by way of example only, the identity of the mobile device, and/or the mobile device carrier) may be communicated to Company; and that you accept responsibility for all mobile device and mobile device carrier fees, rates and charges that may apply, if any.

## **6. TERM; TERMINATION; SURVIVAL.**

These Terms of Use shall remain in effect in perpetuity, unless earlier terminated by Company. Company may terminate your use of the Site at any time, for any or no reason, and without notice to you. Upon the termination of these Terms of Use, all rights granted to you under these Terms of Use shall automatically revert back to Company, and all representations, warranties, covenants, certifications, indemnifications and promises made by you under these Terms of Use shall survive in perpetuity.

## **7. SITE DISCONTINUATION.**

Company shall have the right in its sole discretion to discontinue the Site and any portions thereof as Company deems advisable and without notice to you. COMPANY SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY(S) FOR ANY LOSS OR DAMAGE THAT IS CAUSED BY OR ARISES FROM OR IN CONNECTION WITH ANY SUCH DISCONTINUATION (INCLUDING, WITHOUT LIMITATION AND BY WAY OF EXAMPLE ONLY, MONETARY DAMAGES, DISRUPTION IN SERVICE, AND LOSS OF CONTENT).

## **8. LINKS TO OTHER SITES.**

The Site may contain links to third party websites, including advertisers (each a “**Linked Site**”, and collectively the “**Linked Sites**”). The Linked Sites are not under the control of Company. The Site contains these links only as a convenience to you. Company is not responsible for any information, content, goods, services, promotions, advertisements, programs, codes or other items which may be found on or excluded from the Linked Sites (including, without limitation and by way of example only, malicious software, spyware programs, inaccurate information, and illegal content).

Accordingly, Company cannot make any representations or warranties, and does not make any representations or warranties (express, implied, or otherwise), concerning the terms of use, privacy policies, information, content, goods, services, promotions, advertisements, programs, codes or other items which may be found on or excluded from the Linked Sites; nor shall the fact that the Site links to a Linked Site constitute an affiliation with, an association with or an endorsement of that Linked Site or any information, content, goods, services, promotions, advertisements, programs, codes or other items which may be found on or excluded from that Linked Site. If you decide to access a Linked Site, then you do so at your own risk.

## **9. DONATIONS AND PAYMENTS; REFUNDS.**

You may make financial donations or payments to Company through the Site. All credit card transactions occur through an online payment processing application provided by PayPal, Inc. and/or Green Bank, N.A. that is accessible through the Site (the “**Payment Processing Application**”).

Additional information about PayPal, Inc. and its information security measures is available at [https://www.paypal.com/webapps/mpp/ua/legalhub-full?country.x=US&locale.x=en\\_US](https://www.paypal.com/webapps/mpp/ua/legalhub-full?country.x=US&locale.x=en_US) (last visited April 8, 2014) (the “**PayPal Policies**”). The PayPal Policies are provided to you for informational purposes only; and it is in no way incorporated into or made a part of this Policy. Company’s relationship with PayPal, Inc. is merely contractual in nature, as PayPal, Inc. is nothing more than a third-party vendor to Company, and is in no way subject to Company’s direction or control; thus, their relationship is not, and should not be construed as, one of fiduciaries, agents-principals, employers-employees, partners, joint venturers, or the like.

Additional information about Green Bank, N.A.. and its information security measures is available at <http://www.greenbank.com/privacy-policy> (last visited April 8, 2014), <http://www.greenbank.com/terms-of-use> (last visited April 8, 2014), and <http://www.greenbank.com/security-information> (last visited April 8, 2014) (the “**Green Bank Policies**”). The Green Bank Policies are provided to you for informational purposes only; and it is in no way incorporated into or made a part of this Policy. Company’s relationship with Green Bank, N.A. is merely contractual in nature, as Green Bank, N.A. is nothing more than a third-party vendor to Company, and is in no way subject to Company’s direction or control; thus, their relationship is not, and should not be construed as, one of fiduciaries, agents-principals, employers-employees, partners, joint venturers, or the like.

Please direct all requests for the refund of financial donations or payments made through the Site to any one of the following:

By e-mail: Carment Kiara Youth Organization, attn.: Site Administrator, c/o bheiser@heiserdev.com, with an e-mail subject/reference line of "Refund".

By phone: (512) 467-7696

All requests for refunds must be received by Company within 2 weeks of making the applicable financial donation or payment; otherwise, the donation or payment shall be considered final.

## **10. REPRESENTATIONS AND WARRANTIES.**

You represent, warrant and covenant to Company that: (a) you are a natural person; (b) you have read these Terms of Use in their entirety; (c) you have the full right and authority to enter into and abide by the terms and conditions of these Terms of Use; (d) YOU UNDERSTAND AND ACKNOWLEDGE THAT BY ACCEPTING THESE TERMS OF USE YOU ARE GIVING UP CERTAIN LEGAL RIGHTS AND REMEDIES; (e) you voluntarily accept and agree to the terms and conditions of these Terms of Use; and (f) you will not violate any applicable international, federal, state, or local laws, which may concern the Site or any information or content found thereon.

## **11. DISCLAIMERS.**

**11.1. GENERAL DISCLAIMER.** YOUR ACCESS AND USE OF THE SITE IN ANY WAY IS DONE AT YOUR OWN RISK. THE SITE AND ALL INFORMATION, CONTENT, PRODUCTS AND SERVICES FOUND ON OR PROVIDED THROUGH THE SITE (INCLUDING, WITHOUT LIMITATION, THE PAYMENT PROCESSING APPLICATION) ARE PROVIDED ON AN "AS IS", "WHERE IS", "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS. COMPANY DOES NOT MAKE, NOR HAS COMPANY MADE, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE (WHETHER DIRECT OR INDIRECT, ORAL OR WRITTEN, OR EXPRESS OR IMPLIED) TO YOU WITH RESPECT TO THE SITE OR ANY INFORMATION, CONTENT, PRODUCTS OR SERVICES FOUND ON OR PROVIDED THROUGH THE SITE. ACCORDINGLY, COMPANY EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS WARRANTIES, IMPLIED WARRANTIES (INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD FAITH AND FAIR DEALING, TITLE, NON-INFRINGEMENT, QUALITY, ACCURACY, AND PERFORMANCE), AND WARRANTIES ARISING FROM CONDUCT, COURSE OF DEALING, CUSTOM, AND USAGE IN TRADE. COMPANY HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE SITE OR ANY INFORMATION, CONTENT, PRODUCTS OR SERVICES FOUND ON OR PROVIDED THROUGH THE SITE THAT HAS BECOME ANY BASIS OF THIS BARGAIN. THERE ARE NO WARRANTIES (EXPRESS, IMPLIED OR OTHERWISE) THAT EXTEND BEYOND THE FACE OF THESE TERMS OF USE.

**11.2 Disclaimer About Certain Information or Content.** ANY OPINIONS, ADVICE, STATEMENTS, OFFERS OR OTHER INFORMATION OR CONTENT FOUND ON THE SITE ARE THOSE OF THEIR RESPECTIVE AUTHORS AND NOT OF COMPANY, AND SHOULD NOT NECESSARILY BE RELIED UPON. SUCH AUTHORS ARE SOLELY RESPONSIBLE FOR THE ACCURACY OF SUCH INFORMATION OR CONTENT. COMPANY DOES NOT GUARANTEE, ADOPT OR ENDORSE THE ACCURACY, COMPLETENESS, RELIABILITY OR USEFULNESS OF ANY SUCH INFORMATION OR CONTENT. COMPANY IS NOT RESPONSIBLE FOR THE ACCURACY, COMPLETENESS, RELIABILITY OR USEFULNESS OF ANY SUCH INFORMATION OR CONTENT. UNDER NO CIRCUMSTANCES SHALL COMPANY BE LIABLE TO YOU OR ANY THIRD PARTIES

FOR ANY LOSS OR DAMAGE CAUSED BY OR ARISING FROM OR IN CONNECTION WITH YOUR RELIANCE ON ANY SUCH INFORMATION OR CONTENT.

## **12. LIMITATION OF LIABILITY.**

IN NO EVENT SHALL COMPANY OR ANY OF COMPANY'S OFFICERS, DIRECTORS, MEMBERS, MANAGERS, OWNERS, PARTNERS, AGENTS, EMPLOYEES, AFFILIATES, SUCCESSORS, TRUSTEES, ASSIGNS, TRANSFEREES OR LICENSEES BE LIABLE TO (OR BE OBLIGATED TO INDEMNIFY) YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LEGAL COSTS, ATTORNEY FEES, LOST PROFITS, REPLACEMENT COSTS, OR REPAIR COSTS) CAUSED BY OR ARISING FROM OR IN CONNECTION WITH: (A) YOUR ACCESS, INABILITY TO ACCESS, USE OR INABILITY TO USE THE SITE; (B) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR INFORMATION; (C) ANY STATEMENTS, CONTENT OR CONDUCT OF ANY THIRD PARTY ON THE SITE; (D) ANY HACKING ATTEMPT THAT MAY LEAD TO A COMPROMISE OF YOUR PERSONAL INFORMATION OR DAMAGE TO YOUR COMPUTER(S), SOFTWARE PROGRAM(S), SOFTWARE FILE(S), OR MOBILE MEDIA; (E) ANY TRANSMISSION, DOWNLOAD OR INFECTION OF ANY SOFTWARE, PROGRAM, PROCESS, DEVICE, APPLICATION OR ROUTINE (INCLUDING, WITHOUT LIMITATION AND BY WAY OF EXAMPLE ONLY, ROBOTS, SCRAPERS, SPIDERS, VIRUSES, SPYWARE, AND MALWARE) THAT MAY LEAD TO A COMPROMISE OF YOUR PERSONAL INFORMATION OR DAMAGE TO YOUR COMPUTER(S), SOFTWARE PROGRAM(S), SOFTWARE FILE(S), OR MOBILE MEDIA; OR (F) THE FACT THAT YOU HAVE RELIED ON ANY INFORMATION OR CONTENT FOUND ON THE SITE. IF YOU ARE DISSATISFIED WITH THE SITE OR ANY INFORMATION OR CONTENT FOUND THEREON, THEN YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE YOUR ACCESS AND USE OF THE SITE.

## **13. INDEMNITY.**

YOU HEREBY AGREE TO INDEMNIFY, RELEASE AND HOLD HARMLESS COMPANY AND COMPANY'S OFFICERS, DIRECTORS, MEMBERS, MANAGERS, OWNERS, PARTNERS, AGENTS, EMPLOYEES, AFFILIATES, SUCCESSORS, TRUSTEES, ASSIGNS, TRANSFEREES AND LICENSEES FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, SUITS, DEMANDS, ACTIONS, JUDGMENTS, LOSSES, DAMAGES, FINES, PENALTIES AND EXPENSES (INCLUDING COSTS AND REASONABLE OUTSIDE ATTORNEYS' FEES) INCURRED BY SUCH INDEMNITEES, OR ASSERTED AGAINST SUCH INDEMNITEES BY THIRD PARTIES, ARISING OUT OF OR IN CONNECTION WITH ANY BREACH OF THE REPRESENTATIONS, WARRANTIES, COVENANTS, CERTIFICATIONS, INDEMNIFICATIONS AND/OR PROMISES MADE BY YOU UNDER THESE TERMS OF USE.

## **14. GOVERNING LAW.**

THESE TERMS OF USE, AND ALL DISPUTES, CONTROVERSIES AND CLAIMS ARISING FROM, RELATED TO AND/OR CONCERNING THE SUBJECT MATTER OF THESE TERMS OF USE (INCLUDING, WITHOUT LIMITATION, THE SITE, AND THE SITE'S [PRIVACY POLICY](#)), WHETHER GROUNDED IN CONTRACT, TORT, LAW OR EQUITY, SHALL BE GOVERNED, INTERPRETED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND APPLICABLE FEDERAL LAW, REGARDLESS OF THE PLACE OF EXECUTION, PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS OF USE, AND REGARDLESS OF ANY CONFLICTS OF LAW ANALYSIS.

## **15. DISPUTE RESOLUTION.**

YOU AND COMPANY HEREBY IRREVOCABLY SUBMIT SOLELY TO THE PERSONAL JURISDICTION AND VENUE OF THE STATE COURTS OF THE STATE OF TEXAS IN AUSTIN, TRAVIS COUNTY, TEXAS, AND TO THE PERSONAL JURISDICTION AND VENUE OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, AUSTIN DIVISION, IN EACH CASE TO THE EXCLUSION OF ALL OTHER COURTS OR VENUES, FOR THE PURPOSE OF LITIGATING ANY DISPUTE, CONTROVERSY OR CLAIM ARISING FROM, RELATED TO OR CONCERNING THESE TERMS OF USE AND/OR THE SUBJECT MATTER THEREOF (INCLUDING, WITHOUT LIMITATION, THE SITE, AND THE SITE'S [PRIVACY POLICY](#)), WHETHER GROUNDED IN CONTRACT, TORT, LAW OR EQUITY, AND COVENANT AND AGREE THAT NEITHER OF THE FOREGOING IS AN INCONVENIENT VENUE OR FORUM.

## **16. GENERAL.**

**16.1. NO RELATIONSHIP.** No agency, employment, independent contractor, fiduciary, partnership, joint venture or franchise relationship is intended or created by these Terms of Use or the exercise or performance of a party's rights or obligations under these Terms of Use.

**16.2. WAIVER OF RIGHTS.** The delay or failure of a party hereto to exercise a right or remedy available under these Terms of Use shall not constitute a waiver of such right or remedy.

**16.3. EXCUSED PERFORMANCE.** Company will be excused for any failure to perform to the extent that its performance is prevented by any reason outside of its reasonable control or that may be characterized as a force majeure event.

**16.4. ASSIGNMENT AND DELEGATION.** Company may freely assign and delegate its rights and obligations under these Terms of Use. You shall not assign or delegate any of your rights or obligations under these Terms of Use without Company's prior written consent.

**16.5. HEADINGS.** Headings are inserted in these Terms of Use for reference and convenience only and shall not interpret, define, limit, or describe the scope, intent, terms or conditions of these Terms of Use, except to the extent permitted in **Section 16.6** below concerning the reformation of an invalidated or unenforceable term or condition of these Terms of Use.

**16.6. SEVERABILITY.** If any term or condition of these Terms of Use is deemed invalid or unenforceable by a court of law with binding authority, then the remaining terms and conditions shall not be affected, and the court shall reform the invalidated or unenforceable term or condition to the maximum extent possible so as to affect the intent of the parties hereto.

**16.7. ENTIRE AGREEMENT.** These Terms of Use, in addition to the Site's [Privacy Policy](#) and other applicable policies referred to within the Site, constitutes the entire agreement between you and Company with respect to your access to or use of the Site, superseding any prior agreements between you and Company with respect to your access to or use of the Site (including, without limitation, any prior versions of these Terms of Use or the Site's [Privacy Policy](#)).

## **17. CONTACT US.**

Please direct any questions or comments you may have about the Site or these Terms of Use to any one of the following:

By e-mail: Carment Kiara Youth Organization c/o [bheiser@heiserdev.com](mailto:bheiser@heiserdev.com)

By mail: Carment Kiara Youth Organization, attn.: Site Administrator, c/o 901 S. Mopac, Barton Oaks Plaza Building 2, Suite 505, Austin, Texas 78746.

By phone: (512) 467-7696

The foregoing contact information may change from time-to-time by supplementation, amendment or modification of these Terms of Use.

## **18. EFFECTIVE DATE.**

**EFFECTIVE DATE:** April 8, 2014