

Terms of Use

1. **ACCEPTANCE OF TERMS.** Charm Industrial provides online services to you subject to the following Terms of Use (“Terms of Use”), which may be updated by us from time to time. Updates will be noted on this Web site. In addition, when using, registering and/or signing up for particular Charm Industrial services, you and Charm Industrial shall be subject to any posted guidelines or rules applicable to such services. All such guidelines or rules are hereby incorporated by reference into the Terms of Use.
In order to use the Services, you must (1) be 18 years or older, and (2) have the power to enter into a binding agreement with us through your acceptance of these terms.
THESE TERMS INCLUDE AN AGREEMENT TO RESOLVE DISPUTES BETWEEN YOU AND CHARM INDUSTRIAL THROUGH BINDING ARBITRATION, AND A WAIVER OF THE RIGHT TO CONDUCT SUCH PROCEEDINGS ON A CLASS BASIS, AS SET FORTH UNDER THE HEADING "DISPUTE RESOLUTION – BINDING ARBITRATION WAIVER OF CLASS CLAIMS"
IF YOU DO NOT AGREE WITH ALL OF THESE TERMS OF USE, THEN YOU ARE EXPRESSLY PROHIBITED FROM USING THE SITE AND/OR THE SERVICES AND YOU MUST DISCONTINUE USE IMMEDIATELY.
2. **SERVICES.** Charm Industrial currently provides a variety of on-line sites, systems, resources and services (collectively the “Services”), which we are constantly seeking to improve and enhance. Unless explicitly stated otherwise, any new features that augment or enhance the current Service shall be subject to the Terms of Use. You understand and agree that the Service is provided “AS-IS” and that Charm Industrial assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalization settings. Charm Industrial reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that Charm Industrial shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.
3. **CHARM INDUSTRIAL PRIVACY POLICY.** Registration Data and certain other information about you is subject to our Privacy Policy. For more information, please see our full privacy policy at <http://www.charmindustrial.com/privacy-policy>.
4. **USE OF SERVICE.** In consideration of your use of the Service, you agree to use the Service as intended by Charm Industrial, and to refrain from any misuse of sites, services, and/or systems made available by Charm Industrial. Misuse of the service includes but is not limited to any action described in 4.1 – 4.10 below, or that compromises Charm Industrial sites, services, systems and/or any information contained therein. Misuse of the service will be prosecuted to the fullest extent of the law. You agree to not use the Service to:
 1. Upload, post, email or otherwise transmit any content, including but not limited to e-mail communication, information, data, text, software, music, sound, photographs, graphics, video, messages or other material (“Content”), that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar,

- obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
2. Harm minors in any way;
 3. Impersonate any person or entity, including, but not limited to, a Charm Industrial employee, or falsely state or otherwise misrepresent your affiliation with a person or entity;
 4. Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content, including but not limited to e-mail commentary, transmitted through the Service;
 5. Upload, post, email or otherwise transmit any Content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
 6. Upload, post, email or otherwise transmit any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party;
 7. Upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that are designated for such purpose;
 8. Upload, post, email or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
 9. Interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
 10. Access, collect or store personal data about other users.

You acknowledge that Charm Industrial and its designees shall have the right (but not the obligation) in their sole discretion to refuse or remove any Content that is available via the Service. Without limiting the foregoing, Charm Industrial and its designees shall have the right to remove any Content that violates the Terms of Use or is otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. In this regard, you acknowledge that you may not rely on any Content created or linked to by Charm Industrial or submitted to Charm Industrial. You acknowledge and agree that Charm Industrial may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the Terms of Use; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of Charm Industrial, its users and the public. You understand that the technical processing and transmission of the Service, including your Content, may involve (a) transmissions over various networks;

and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

5. INDEMNITY. You agree to defend, indemnify, and hold us harmless, including our subsidiaries, affiliates, and all of our respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of: (1) your Purchases; (2) your use of the Services; (3) your breach of these Terms of Use; (4) any breach or inaccuracy of your representations and warranties set forth in these Terms of Use; (5) your violation of the rights of a third party, including but not limited to intellectual property rights; or (6) any overt harmful act by you toward any other user of the Site or the Services with whom you connected via the Site. Notwithstanding the foregoing, we reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate, at your expense, with our defense of such claims. We will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.
6. NO RESALE OF SERVICE. The Service is provided for the use and enjoyment of visitors and registrants to Charm Industrial's Web sites. You agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service.
7. TERMINATION. You agree that Charm Industrial, in its sole discretion, may terminate your use of the Service, if Charm Industrial believes that you have violated or acted inconsistently with the letter or spirit of the Terms of Use. Charm Industrial may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice. You agree that any termination of your access to the Service under any provision of this Terms of Use may be effected without prior notice. Further, you agree that Charm Industrial shall not be liable to you or any third party for any termination of your access to the Service.
8. DEALINGS WITH ADVERTISERS & MERCHANTS. Your correspondence or business dealings with, or participation in promotions of, advertisers and/or merchants found on or through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such advertiser and/or merchant. You agree that Charm Industrial shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers and/or merchants on the Service.
9. LINKS The Service may provide, or third parties may provide, references and/or links to other World Wide Web sites or resources. Because Charm Industrial has no control over such sites and resources, you acknowledge and agree that Charm Industrial is not responsible for the availability of such external sites or resources, and does not endorse or sponsor and is not responsible or liable for any Terms of Use, Content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that Charm Industrial shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection

with use of or reliance on any such Content, goods or services available on or through any such site or resource.

10. **CHARM INDUSTRIAL PROPRIETARY RIGHTS.** All proprietary rights in the Service and any necessary software used in connection with the Service or this Web site (“Software”) are owned or licensed for use by Charm Industrial. This Web site is owned and operated by Charm Industrial and except as otherwise specified, Charm Industrial owns all materials appearing on this Web site, including the text, site design, logos, graphics, and images, as well as the selection, assembly and arrangement thereof. You acknowledge and agree that the Service and Software contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in sponsor advertisements or information presented to you through the Service or advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except as expressly authorized by Charm Industrial or advertisers, you agree not to copy, modify, rent, lease, loan, sell, distribute, display, perform or create derivative works based on the Service or the Software, in whole or in part. Charm Industrial grants you a personal, non-transferable and non-exclusive right and license to use the object code of its Software; provided that you do not (and do not allow any third party to) copy, modify, display, distribute, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by Charm Industrial for use in accessing the Service.
11. **GENERAL DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.**
YOU UNDERSTAND AND AGREE THAT:
 1. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. CHARM INDUSTRIAL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
 2. CHARM INDUSTRIAL MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.
 3. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY

DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

4. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM CHARM INDUSTRIAL OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS OF USE.
5. LIMITATION OF LIABILITY YOU EXPRESSLY UNDERSTAND AND AGREE THAT CHARM INDUSTRIAL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF CHARM INDUSTRIAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE GREATER OF (1) THE AMOUNT PAID, IF ANY, BY YOU TO US DURING THE SIX (6) MONTH PERIOD PRIOR TO ANY CAUSE OF ACTION ARISING OR (2) \$100. THIS SECTION APPLIES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.
6. EXCLUSIONS AND LIMITATIONS SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.
12. TRADEMARK INFORMATION. Charm Industrial, and other Charm Industrial logos and product and service names are trademarks of Charm Industrial. (the “Charm Industrial Marks”). Without Charm Industrial’s prior permission, you agree not to display or use in any manner, the Charm Industrial Marks. Charm Industrial respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please contact us at contact@charmindustrial.com
13. DISPUTE RESOLUTION – BINDING ARBITRATION AND WAIVER OF CLASS CLAIMS. In the interest of resolving disputes between you and Charm Industrial in the most expedient and cost effective manner, you and Charm Industrial agree that any and all disputes arising in connection with these Terms of Use will be resolved by binding

arbitration. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Our agreement with you to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether the claims arise during or after the termination of these Terms of Use. You understand and agree that, by entering into these Terms of Use, you and Charm Industrial are each waiving the right to a trial by jury or to participate in a class action.

Notwithstanding the paragraph immediately above, you and Charm Industrial agree that nothing herein will be deemed to waive, preclude, or otherwise limit either of our right to (i) bring an individual action in small claims court, (ii) pursue enforcement actions through applicable federal, state, or local agencies where such actions are available, (iii) seek injunctive relief in a court of law, or (iv) file suit in a court of law to address intellectual property infringement claims not otherwise precluded by these Terms of Use. Any arbitration between you and Charm Industrial will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (or such subsequently adopted rules modifying such procedures) of the American Arbitration Association ("collectively, the "AAA Rules"), subject to any modification by these Terms of Use and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879.

A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified mail or nationally recognized overnight courier (signature required), or, in the event that we do not have a current physical address on file for you, by email ("Notice"). Charm Industrial's address for Notice is: email: contact@charmindustrial.com. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. We agree to use good faith efforts to resolve the claim directly, but if we do not reach an agreement to do so within 30 days after the Notice is received, you or Charm Industrial may commence an arbitration proceeding.

Any arbitration hearings will take place at a location to be agreed upon in San Francisco County, California, provided that if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a non-appearance-based telephonic hearing, or by an in-person hearing as established by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

YOU AND CHARM INDUSTRIAL AGREE THAT YOU EACH 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, unless both

you and Charm Industrial agree otherwise, you will not request the arbitrator or court to consolidate more than one person's claims, or to otherwise preside over any form of a representative or class proceeding. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Terms of Use must be filed within one (1) year after such claim or cause of action arose or be forever barred.

14. GENERAL INFORMATION. The Terms of Use, along with terms and conditions provided to registrants and customers of Charm Industrial sites and services, constitute the entire agreement between you and Charm Industrial and govern your use of the Service, superseding any prior agreements between you and Charm Industrial. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. The Terms of Use and the relationship between you and Charm Industrial shall be governed by the laws of the State of California without regard to its conflict of law provisions. Charm Industrial may assign any of its rights and/or obligations under the Terms of Use, in whole or in part. You may not assign the Terms of Use, in whole or in part, nor transfer or sub-license your rights under the Terms of Use, to any third party, except with Charm Industrial's written consent. The section titles in the Terms of Use are for convenience only and have no legal or contractual effect.

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