

## TERMS OF USE

**Effective Date: April 28, 2015**

Welcome to Volition, a unique online marketplace for specialty beauty products co-created by you!. The services described herein, including all websites, mobile applications and content (collectively, the "Service") are provided by Pyxis, LLC, a California Limited Liability Company.

These Terms of Use are a legally binding agreement made between you ("you," "your," or "yourself") and us (" Volition", "we," "us" or "our"), and set forth the applicable terms and conditions governing the use of our Service, so please review them carefully. By creating a Service account with us, you also accept and agree to be subject to and abide by our Privacy Policy, which is incorporated herein by reference.

We may choose to update these Terms of Use at any time by posting an update to this site. We encourage you to review these Terms of Use periodically, as your continued use of the Service will mean you accept those changes, whether you have read them or not. In addition, we shall both be subject to any posted guidelines or rules applicable to the Service, which may be posted from time to time.

All contact with us should be made via email to [service@volitionbeauty.com](mailto:service@volitionbeauty.com) in reference to any questions or comments concerning these Terms of Use or Privacy Policy.

### **1. Description of Service**

Volition is the first and only online beauty brand that empowers its customers to co-create and curate its product lines. We see our mission as democratizing beauty. We partner directly with, and then feature prominently, the true sources of beauty product innovation - people like yourself.

### **2. Registration**

As a condition to using the Service, we ask that you create an account by registering with us directly, or through a third party social media account. In that registration process, we require that you provide certain information, such as your full name and email address, and create a unique password. To sign up for an account, you must be at least thirteen (13) years of age.

The registration information you provide must be accurate, complete, and current at all times. Failure to do so constitutes a breach of these Terms of Use, which may result in immediate termination of your account. As specified in Section 13 below, you may also register with our Service through your third party social media accounts, such as Facebook and Twitter, by providing your Third Party Account login information, or allowing us to access your Third Party Account, to the extent permitted under the terms governing such account. By granting us such access to your Third Party Accounts, you agree that we may access, make available and store (if applicable) any information that you have provided to us or which is stored in your Third Party Account so that it is available through the Service, including, without limitation, any information regarding friends, contacts or following/followed lists.

You may not use the name of another person or entity that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity without receiving appropriate authorization, or a name that is offensive, vulgar, or obscene.

### **3. Application License Terms**

Our mobile application is designed for devices using the iOS and Android mobile operating platforms. The iOS application may be downloaded from the App Store, which is operated and owned by Apple Inc.; the Android application may be downloaded from Google Play, which is owned and operated by Google Inc. Please note that it is your responsibility to ensure your mobile device meets all of the necessary technical specifications to enable you to access and use our application.

The application will be provided to you in machine-readable object code only. The application does not include the source code or any portions thereof. You shall have no rights with respect to the source code

under these Terms of Use. Please note that these Terms of Use do not entitle you to any support or maintenance services, updates, upgrades, patches, enhancements, or fixes for the application.

We grant to you a limited, non-exclusive, non-transferable license to use the application solely for your own personal use and not for resale, further distribution, or to render any commercial services. You are not allowed to transfer, assign, sub-license, sell, lease, rent or otherwise distribute the application or any part of it. In no event shall your use include any attempts to copy, reproduce, change, reverse-engineer, de-compile, disassemble, translate, make derivative works, enhancements, extensions or add-ons, modify, adapt or otherwise alter any portion of the application. Any attempt to do so is a violation of the rights of Volition and its licensors. If you breach this restriction, you may be subject to prosecution and damages. These terms will govern any upgrades provided by us that may replace and/or supplement the application, unless such upgrades are accompanied by a separate license in which case the terms of that license will govern.

Your license does not grant you any ownership interest in the Service or any exclusive rights to their use, and these Terms of Use do not grant you any claims to patents, trade secrets, trademarks or other rights pertaining to the Service. You agree that the Service represents the proprietary, confidential, and trade secrets of Volition and that you will undertake all necessary steps and efforts to prevent unlawful or illegal distribution of such proprietary, confidential and trade secret information.

Any third party software provided as part of the Service will be licensed to you on the terms of this Section unless a separate license agreement is provided to you in which event the separate license agreement will apply to your use of the specific third party component.

#### **4. Volition Products**

The products displayed on our Service can be ordered and delivered only within the U.S. Note that certain products may also be available in select U.S. retail stores. All prices displayed on the Service are quoted in U.S. Dollars and are valid and effective only in the U.S. Before any minor uses or purchase any product from us, a legal or parental guardian must have discussed use of the product with the minor's doctor.

All material and information presented by Volition is intended to be used for personal, educational or informational purposes only. Product results may vary between individuals. The statements made about our products have not been evaluated by the U.S. Food and Drug Administration and the results reported, if any, may not necessarily occur in all individuals. The statements and products presented on our Service are not intended to diagnose, treat, cure or prevent any condition or disease. All products should be used strictly in accordance with their instructions, precautions and guidelines. You should always check the ingredients for products to avoid potential allergic reactions. Use of our Service is not meant to serve as a substitute for professional medical advice; please consult with your own physician or health care practitioner regarding the use of any of our products or information received via the Service before using or relying on them. Volition does not give, or intend to give, any answers to medical related questions. Volition does not represent itself as a physician nor is this implied. No prescription medications or medical treatments are intentionally provided on our Service.

The products available on the Service, including any samples Volition may provide to you, are for your personal use only. You may not sell or resell any products you purchase or otherwise receive from Volition. Volition reserves the right, with or without notice, to cancel or reduce the quantity of any order to be filled or products to be provided to you that may result in a violation of these Terms of Use, as determined by Volition in its sole discretion.

While Volition has tried to accurately display the colors of products, the actual colors you see will depend on your device monitor and may not be accurate.

#### **5. Product Orders and Payment**

There is no charge to use the Service. For product orders, Volition accepts American Express, MasterCard, and Visa cards. If any fee is not paid in a timely manner, or we are unable to process your transaction using the payment information provided, Volition reserves the right to suspend or revoke access to your account. Volition may add new fees and charges from time to time. If you want to use a

different payment card or if there is a change in payment card validity or expiration date, you may edit your information by accessing your account page. If your payment card reaches its expiration date, your continued use of the Service constitutes your authorization for us to continue billing that credit card. It is your responsibility to keep your contact information and payment information current and updated.

## **6. Product Samples and Returns**

Your complete satisfaction is important to us, and to this end, we have developed a special product sample program. With most product orders, we will include a sample of the exact product you have purchased. This allows you to experience the texture, feel and, if applicable, the fragrance and/or color of the product. If you don't like the product for any reason, don't break the seal on the full size product. Simply ship the full size product back to us within thirty (30) calendar days. Once the product is received back at our warehouse, you will receive a full refund on the cost of your product (less shipping and handling, if applicable). Please note that we do not mail out samples alone. Please email customer service at [service@volitionbeauty.com](mailto:service@volitionbeauty.com) to process any product return.

## **7. Product Availability Notifications**

If a product that you want to purchase on our Service is not in stock, you can choose to provide us your e-mail address so that we can notify you when the product becomes available again. You do not need to be a registered user to receive a product availability notification.

## **8. Fraud Protection Program**

As part of our order processing procedures, we screen all received orders for fraud, misrepresentation or other types of unauthorized or illegal activity. We reserve the right to refuse to process an order due to suspected fraud or unauthorized or illegal activity. If such activity is suspected, we may reject your order or our Customer Service department may call you at the phone number you provided (or use your email address) to confirm your order. We also reserve the right to cancel any accounts or refuse to ship to certain addresses due to suspected fraud or unauthorized or illegal activity.

## **9. No Animal Testing**

We do not test our products on animals nor do we permit others to do so except where it is required by law. We are strongly opposed to animal testing and support pushing alternative testing methods forward. We hope they will be adopted by all regulatory agencies and we will all see an end to animal testing.

## **10. Your Content**

We allow you to upload content on the Service, including designs, graphics, comments, messages, suggestions and feedback ("Content"). Please read this section carefully before posting, uploading, or otherwise making available any Content on the Service.

By submitting Content to us, you represent and warrant that:

- You understand you are participating in a public forum and that your Content will be available to all other users of the Service;
- You are the sole author and owner of the intellectual property and other rights thereto or have the necessary licenses, rights, consents and permissions to use and authorize Volition to use all intellectual property and other rights thereto to enable inclusion and use of the Content in the manner contemplated by the Service and these Terms of Use;
- All Content that you post is accurate;
- You are at least 13 years old and, if you are a minor, that you have obtained the consent of your parent or legal guardian to use the Site and agree to these Terms of Use; and that use of the Content you supply does not violate these Terms of Use and will not cause injury to any person or entity.

You may be able to share your Content with other users via the Service. It must be emphasized that we cannot prevent users from taking screen shots or captures or from downloading your Content and subsequently making your Content publicly available. We and other users may retain and continue to use, host, display, store, cache, reproduce, publish, transmit, modify, re-format, re-arrange, distribute, and create derivative works of any of your Content that you have posted to the Service. If the potential for public dissemination of your Content concerns you, please do not share that Content. Please note that recipients of Content are not allowed to download or maintain a copy of such shared Content.

## **11. Responsibility for Your Content.**

You are entirely responsible for all Content that you upload, post, transmit or otherwise make available via the Service. None of the Content that you submit shall be subject to any obligation of confidence on the part of Volition. Under no circumstances will we be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, Intellectual Property Rights infringement claims regarding any Content you submit, or any loss or damage of any kind incurred as a result of the use of any Content posted, transmitted or otherwise made available via the Service. Procurement of applicable licensing rights for any of your Content and payment of all applicable royalties for such rights is solely your responsibility, and we disclaim any liability therefor.

We make no effort to review any of your Content for any purpose, including but not limited to, for accuracy, legality or non-infringement. You may remove your Content from the Service at any time; however you acknowledge that we may retain archived copies of your Content.

We do not guarantee that you will have any recourse through Volition to edit or delete any Content you have submitted. We reserve the right to incorporate any Content you have submitted into any account you may have, now or in the future, as a registered user of the Service. Ratings, written comments, questions and answers are generally posted within two to four business days. However, we reserve the right to remove or to refuse to post any submission for any reason.

Other users of the Service may post copyrighted information which has copyright protection whether or not it is identified as copyrighted. We reserve the right, but have no obligation, to monitor such Content, and, as such, we do not control or guarantee the accuracy, integrity or quality of user Content. You acknowledge that by using the Service, you may be exposed to user Content that is offensive, indecent or objectionable.

By making your Content available to our Service, you are granting us a non-exclusive, royalty-free, worldwide license to use, host, display, store, cache, transmit, modify, re-format, re-arrange, and adapt (including, without limitation, in order to conform it to the requirements of any networks, devices, services, or media through which the Service is available), and create derivative works of your Content. The rights you grant to us are for the limited purpose of operating and providing the Service, improving the Service, and allowing us to develop new services.

Opinions, advice, statements, offers, or other information or content made available through the Service, but not directly by us, are those of their respective authors, and should not necessarily be relied upon. Such authors are solely responsible for such content. We do not guarantee the accuracy, completeness, or usefulness of any information on the Service. We also do not adopt or endorse, nor are we responsible for the accuracy or reliability of any opinion, advice, or statement made by parties other than us. Under no circumstances will we be responsible for any loss or damage resulting from anyone's reliance on information or other Content posted on the Service, or transmitted to users.

## **12. Confidentiality**

You agree not to use any technical, financial, strategic and other proprietary and confidential information relating to our business, operations and products ("Confidential Information") disclosed to you for your own use or for any purpose other than as contemplated herein. You shall not disclose or permit disclosure of any Confidential Information to third parties. You agree to take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of our company in order to prevent it from falling into the public domain. Notwithstanding the above, you shall not be liable to us with regard to any disclosure of Confidential Information which you can prove: (a) was in the public domain at the time it was disclosed by us or has entered the public domain through no fault of yours; (b) was known

to you, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (c) is disclosed with our prior written approval; (d) becomes known to you, without restriction, from a source other than us without breach of these Terms of Use by you and otherwise not in violation of our rights; or (e) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that you shall provide prompt notice of such court order or requirement to us to enable us to seek a protective order or otherwise prevent or restrict such disclosure.

### **13. Social Media and Third Party Sites**

As mentioned in Section 3 above, as part of the functionality of the Service, you may be able to register through online accounts you may have with third party service providers such as Facebook and Twitter (each such account, a "Third Party Account") by either: providing your Third Party Account login information through the Service, or allowing us to access your Third Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third Party Account. You represent that you are entitled to disclose your Third Party Account login information to us and/or grant us access to your Third Party Account (including, but not limited to, for use for the purposes described herein), without breach by you of any of the terms and conditions that govern your use of the applicable Third Party Account and without obligating us to pay any fees or making us subject to any usage limitations imposed by such third party service providers. By granting us access to any Third Party Accounts, you understand and agree that we may access, make available and store (if applicable) any Content that you have provided to and stored in your Third Party Account (the "Third Party Content") so that it is available on and through the Service via your account, including without limitation any friend, contacts or following/followed lists, and we may submit and receive additional information to and from your Third Party Account as indicated herein. Unless otherwise specified in these Terms of Use, all Third Party Content shall be considered to be your Content for purposes of these Terms of Use. Depending on the Third Party Accounts you choose and subject to the privacy settings that you have set in such Third Party Accounts, personal information (as defined in the Privacy Policy) that you post to your Third Party Accounts may be available on and through the Service. PLEASE NOTE THAT YOUR RELATIONSHIPS WITH THE THIRD PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD PARTY ACCOUNTS ARE GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD PARTY SERVICE PROVIDERS.

Links to third party websites are not endorsements or referrals of any products, services or information contained in such websites. Information provided and opinions expressed by others do not necessarily represent our opinions. We expressly disclaim any and all liability resulting from reliance on such information or opinions. Some products, manufacturers and service providers may be mentioned in or on the Service. Mention of these products, manufacturers or service providers does not constitute an endorsement by us. We shall have the right, at our sole discretion, to remove links and images attached to such links, if such links are flagged by users as offensive.

### **14. Use Restrictions**

You represent and warrant that you will not use the Service to:

- Upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable.
- Express or imply that any statements you make are endorsed by us, without our specific prior written consent.
- Use any robot, spider, site search/retrieval application, or other manual or automatic device or process to retrieve, index, "data mine", or in any way reproduce or circumvent the presentation of the Service.
- Interfere with or disrupt the Service, or the servers or networks connected to the Service.
- Forge headers or otherwise manipulate identifiers to disguise the origin of any Content or order transmitted through the Service, or attempt to impersonate another user, person or entity.
- Download lists of other users of the Service and use their information for your own business reasons.
- "Frame" or "mirror" any part of the Service, or use meta tags or code or other devices containing any reference to us or the Service in order to direct any person to any other websites for any purpose.

- Modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Service, or cause others to do so.
- Upload, post, email, transmit or otherwise make available any Content that you do not have a right to make available 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).
- Provide false, inaccurate or misleading information on the Service (directly or by omission or failure to update information).
- Post or transmit, or cause to be posted or transmitted, any communication or solicitation designed or intended to obtain password, account, or private information from any user.
- Create or send unsolicited messages or other electronic communications.
- Upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party.
- Upload, post, email, transmit or otherwise make available any material that contains software viruses Trojan horses, worms, time bombs, cancelbots, easter eggs or any other computer code, files or programs designed to interrupt, destroy detrimentally interfere with or limit the functionality of any computer software or hardware or telecommunications equipment or intercept or expropriate any system, data or personal information.
- Submit stories or comments linking to affiliate programs, multi-level marketing schemes, or websites/blogs repurposing existing stories (source hops).
- Advertise to, or solicit, any user to buy or sell any products or services, or use any information obtained from the Service to contact, advertise to, solicit, or sell to any user without the user's prior explicit consent.
- Intentionally or unintentionally violate any applicable local, state, national or international law.

We reserve the right, but are not obligated to, investigate and terminate your participation in the Service if you have misused the Service, or violated any of the restrictions above.

## **15. No Warranties**

EXCEPT AS PROVIDED IN SECTION 6, WE PROVIDE THE SERVICE AND RELATED INFORMATION AND PRODUCTS ON AN "AS IS" BASIS AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED OR STATUTORY. WE DO NOT GUARANTEE AND DO NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE SERVICE. WE, OUR SUBSIDIARIES, MEMBERS, DIRECTORS, EMPLOYEES AND SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SOME STATES DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMER MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

We do not warrant that your use of the Service will be accurate, complete, reliable, current, secure, uninterrupted, always available, or error-free, or will meet your requirements, that any defects in the Service will be corrected, or that the Service is free of viruses or other harmful components. We will be responsible for those instructions that actually are received by us. We are not responsible for any losses or delays in transmission of orders arising out of the use of any Internet Access Service Provider or caused by any browser software or any computer virus or related problem that may be attributable to such Internet Access Service Provider. In addition, we do not assume responsibility for malfunctions in communications facilities not under our control that may affect the accuracy or timeliness of any orders you send. We are also not responsible should you give incorrect instructions or if your credit-card payment is not processed by your credit-card company. We do not accept responsibility or liability for any Content, communication or other use or access of the Service by anyone in violation of these Terms of Use. We are not responsible or liable in any manner for any Content posted on the Service, or for any of the equipment or programming associated with or utilized in the Service. Although we provide rules for user conduct and postings, we do not control and are not responsible for what users post, transmit or share on the Service and are not responsible for any offensive, inappropriate, obscene, unlawful or otherwise objectionable Content you may encounter while using the Service. It also is possible for others to obtain personal information about you due to your use of the Service, and that the recipient may use such information to harass or injure you. We are not responsible for the use of any personal information that you disclose on the Service.

The Service may be temporarily unavailable from time to time for maintenance or other reasons. We are not responsible for any technical malfunction or other problems of any telephone network or service, computer systems, servers or providers, computer or mobile phone equipment, software, failure of text messaging on account of technical problems or traffic congestion on the Internet, on the Service, on any website or any combination thereof, including injury or damage to your mobile device or other hardware or software, related to or resulting from using or downloading materials in connection with the Service.

No oral or written information or advice provided by us, our resellers, agents or employees shall create a warranty or in any way.

## **16. Indemnity**

You agree to fully exonerate, indemnify, defend and save harmless Volition, its directors, officers, employees or agents, from and against any and all suits, actions, claims, demands, liens, losses, damages, fines, judgments or decrees, and any expenses in connection with such, including, without limitation, reasonable attorneys' fees, based upon or arising out of loss, damage or injury (including death) arising from: (a) your use of and access to the Service, (b) the violation of any law, statute, ordinance or regulation by you or any of your employees, agents, contractors or subcontractors; (c) the violation of any of your obligations under these Terms of Use, including but not limited to the failure to procure necessary licensing rights and/or pay applicable royalties for such rights; (d) a breach of your representations and warranties set forth above regarding Content; or (e) any claim that any Content you submitted caused damage to a third party.

## **17. Limitation of Liability**

IN NO EVENT SHALL WE BE LIABLE TO YOU, OR ANY THIRD PARTY, FOR ANY DAMAGES ARISING FROM YOUR USE OF, OR ANY THIRD PARTY'S USE OF, OR INABILITY TO USE, THE SERVICE (WHETHER SUCH DAMAGES ARE DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL, AND ARISING FROM ANY CAUSE WHATSOEVER, WHETHER IN CONTRACT OR TORT, INCLUDING DAMAGES FOR LOSS OF PROFITS, REVENUE, OR DATA) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL WE BE LIABLE FOR LOSS OF YOUR DATA, INFORMATION, CONTENT OR OTHER INFORMATION IN CONNECTION WITH THE USE OF SERVICE.

## **18. Term and Termination**

These Terms of Use are effective until terminated. Volition reserves the right, at any time, without notice and in its sole discretion, to terminate your account and to block or prevent your future access to and use of the Service.

## **19. Audit Rights**

You agree that we may audit your use of the Service for compliance with these Terms of Use at any time. In the event that such audit reveals any use of the Service by you other than in full compliance with these Terms of Use, you shall reimburse us for all reasonable expenses related to such audit in addition to any other liabilities to which you may be subject as a result of such non-compliance. You acknowledge that we shall have the right to enforce the provisions of these Terms of Use directly against you and our remedies for any breaches may include, without limitation, damages or injunctive or other equitable remedies.

## **20. Intellectual Property Rights**

Volitionbeauty.com and all page headers, custom graphics and button icons are service marks, trademarks, and/or trade dress of Volition and may not be used in connection with any product or service that is not offered by Volition in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits Volition. All other trademarks, product names and company names or logos cited herein are the property of their respective owners.

All Intellectual Property Rights in and to the Service shall be owned by us absolutely and in their entirety. These rights include, but are not limited to, database rights, copyright, design rights (whether registered

or unregistered), trademarks (whether registered or unregistered) and other similar rights wherever existing in the world together with the right to apply for protection of the same. All other trademarks, logos, service marks, company or product names set forth in the Service are the property of their respective owners. You may not remove or alter any trademark, trade names, service mark, product names, logo, copyright or other proprietary notices, legends, symbols or labels featured on the Service.

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Service ("Submissions"), provided by you to us are non-confidential and shall become our sole property. We shall own exclusive rights, including all Intellectual Property Rights, in these Submissions, and shall be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

Unless otherwise noted, all materials, including images, illustrations, designs, icons, photographs and written and other materials that appear on our Site are copyrights, trademarks, trade dress and/or other intellectual properties owned, controlled or licensed by Volition. Designs created using the text tools and images available through our Service are in no way your exclusive property. We retain the right to display such designs or offer them (or variations of such designs) to other customers.

The compilation (meaning the collection, arrangement and assembly) of all Content on the Service is the exclusive property of Volition and protected by U.S. and international copyright laws. All software used on the Service the property of Volition or its software suppliers and is protected by U.S. and international copyright laws. Permission is granted to electronically copy and to print in hard copy portions of the Service for the sole purpose of placing an order with Volition, participating in interactive portions of the Service, or using the Service as a shopping resource. Any other use of materials on the Service, including reproduction for purposes other than those permitted above, modification, distribution, republishing, transmission, display or performance - without the prior written permission of Volition is strictly prohibited.

## **21. E-mail and Text Communications**

E-mail communications and text messages sent from us to you are designed to make your experience more efficient and enjoyable. You specifically agree to accept and consent to receiving e-mail communications and text messages initiated from us, which include, without limitation: message notification e-mails, e-mails or text messages informing you about potential available sales and e-mails informing you of promotions we run and emails informing you of new and existing features we provide. Standard text messaging charges applied by your mobile device carrier will apply to text messages we send. If you change your mobile phone service provider, the notification service may be deactivated for your phone number and you may need to re-enroll in the notification service. We reserve the right to cancel the notification service at any time. If you do not wish to receive any of our e-mail communications or text messages, you shall have the opportunity to opt out of receiving communications from us (excluding messages targeted directly at you about matters regarding the state of your account, billing, or your continued use of the Service).

## **22. Surveys and Feedback**

We want to know what you think about the products you have tried, bought, know and love and we encourage you to use the interactive portions of our Service. When writing a review, posing a question on the question and an answer service or participating in our on-line community, please consider the following guidelines:

- Focus on the product and your individual experience;
- Provide details about why you like or dislike a product; and
- Note that all submitted reviews, comments and questions are read by our moderators and are subject to these Terms of Use.



Volition reserves the right to not post a review or to withdraw a posted review for any reason. Your review will be excluded if it violates our guidelines or the provisions in these Terms of Use regarding submission of Content generally.

In addition, we may periodically present you with surveys or solicit your opinion about the Service. You acknowledge that your participation in these types of programs is completely voluntary. By submitting opinions, suggestions, feedback, images, documents, and/or proposals to us through these surveys, any suggestion or feedback webpages, or through any other communication with you, you acknowledge and agree that: (a) the suggestions or feedback you provide will not contain confidential or proprietary information; (b) we are not under any obligation of confidentiality, express or implied, with respect to the suggestions and feedback you provide; (c) we shall be entitled to use or disclose (or choose not to use or disclose) the suggestions and feedback you provide for any purpose, in any way, in any media worldwide (without disclosing your identity); (d) we may have similar ideas to the suggestions and feedback you provide already under consideration or in development; (e) the suggestions and feedback you provide will automatically become our property without any obligation to you; and (f) you are not entitled to any compensation or reimbursement of any kind from us under any circumstances.

### **23. Promotions**

We may periodically feature promotions (“Promotions”) on our site and you will have the opportunity to participate in such Promotions. By participating, you acknowledge that third parties may be responsible for such Promotions and for ensuring that such Promotions comply with all applicable laws, rules, and regulations. We recommend that you carefully review the Official Rules, including any applicable privacy policy, these Terms, and any additional information or links provided in the Official Rules regarding such Promotions. You acknowledge and agree that we are not responsible or liable for the failure of any third party to comply with the rules, terms, conditions, policies, and applicable laws, rules, or regulations governing any Promotion.

WE DO NOT SPONSOR, ADMINISTER OR ENDORSE THE CONTENT OF ANY PROMOTION DISTRIBUTED THROUGH THE SITE UNLESS OTHERWISE STATED AND IS THEREFORE NOT LIABLE OR RESPONSIBLE FOR SUCH PROMTIONS.

Promotions may require you to provide personal information in order to participate. In the event that you choose to provide personal information, you acknowledge and agree that we may use any such information you provide consistent with these Terms of Use and our Privacy Policy.

You acknowledge and agree that we are not responsible or liable for use or distribution of information you provide in a Promotion. Please see the rules and privacy policy for each Promotion on how it will use your personal information.

### **24. DMCA, Copyright and Other Complaints**

We promote respect for the Intellectual Property Rights of others in all of our business endeavors and strictly prohibit users from uploading infringing Content to the Service. We may, in our sole discretion, remove Content that appears to infringe on the Intellectual Property Rights of others. It is our policy to respond to and investigate claims of copyright and other Intellectual Property Rights infringement. We have a policy of terminating the access of users who are repeat infringers in appropriate circumstances.

You may notify us of alleged copyright infringement in accordance with the Digital Millennium Copyright Act (the “DMCA”). We will respond expeditiously to notices of alleged infringement sent pursuant to the DMCA.

In order to notify us of a copyright infringement claim pursuant to the DMCA, you must include:

- a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Service are covered by a single notification, a representative list of such works;

- a description of the material that is claimed to be infringing or to be the subject of infringing activity, and information reasonably sufficient to permit us to locate the material, including a URL address;
- Your full name, address, telephone number, and, email address;
- a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- a statement made under penalty of perjury by you that the information in the notification is accurate, and that you are authorized to act on behalf of the owner of the copyright involved.

The notice described above should be sent to us via email using the address [service@volitionbeauty.com](mailto:service@volitionbeauty.com).

Please note that in order to facilitate resolution of the dispute, we may provide your contact information to the user or entity that posted the Content that you are reporting; or in the event that you are the alleged infringer and provide a counter-notice, to the user or entity that filed the original claim. Please also note that you may be liable for damages (including costs and attorneys' fees) if you knowingly and materially misrepresent that material or an activity is infringing your copyright.

## **25. Other Complaints**

If you reasonably believe that Content made available through the Service infringes your rights, please email us at [service@volitionbeauty.com](mailto:service@volitionbeauty.com).

## **26. Independent Contractors**

No agency, partnership, joint venture, or employment relationship is created between us, or between you and our manufacturers, as a result of these Terms of Use and you do not have any authority of any kind to bind us in any respect whatsoever.

## **27. Non-Waiver**

The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

## **28. Force Majeure**

We shall not be liable for any failure to perform our obligations hereunder where such failure results from any cause beyond our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference).

## **29. Severability**

If any provision of these Terms of Use is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that these Terms of Use shall otherwise remain in full force and effect and enforceable.

## **30. Assignment**

These Terms of Use are not assignable, transferable or sub-licensable by you except with our prior written consent. We may transfer, assign or delegate these Terms of Use and their rights and obligations without consent.

## **31. Governing Law**

By using the Service, you agree that these Terms of Use shall be governed by and construed in accordance with the laws of the State of California, United States of America, without regards to its conflict of law rules. Each of the parties irrevocably submits to the exclusive jurisdiction of the courts of the State of California located in San Francisco County and the United States District Court for the Northern District of California for the purpose of any suit, action, proceeding or judgment relating to or arising out of these Terms of Use and the transactions contemplated hereby. Each of the parties waives

all defenses of lack of personal jurisdiction and *forum non conveniens*. In any action or suit to enforce any right or remedy under this Agreement, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees. You agree that you may only bring claims in your individual capacity and not as a plaintiff or class member in any purported class or representative proceeding.

**32. Entire Agreement.**

These Terms of Use supersede all prior and contemporaneous agreements, representations and warranties and understandings, whether oral or written, with respect to the Service, and any Content. We reserve the right, at our sole discretion, to modify or replace these Terms of Use at any time. If the alterations constitute a material change to these Terms, we will notify you by posting an announcement on the Service. What constitutes a material change will be determined by us in our sole discretion. However, it is your responsibility to read and become familiar with any modifications that we may make. Using the Service following notification of a material change to these Terms of Use shall constitute your acceptance of the Terms of Use as modified.