

Terms of Service

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This page explains our terms of service, which contains important information about your legal rights. When you use Volusion, you're agreeing to these terms. Everyday language summaries are provided for your convenience only and are not legally binding.

The Terms of Service, Privacy Policy, AUP and the other terms referred to below are an agreement between you and us to use our website and our services.

If you operate your business as, or are an employee acting on behalf of, a corporation, limited liability company or other legal entity, that entity will be bound by this agreement and you represent that you have the authority to do that.

This agreement replaces any other agreement that you may have with us.

We may change this agreement at any time, and your continued use of our website or our services will constitute your agreement to the most recent version.

These Terms of Service, along with Our [Privacy Policy](#), [Acceptable Use Policy](#) and the other terms and policies referenced herein, is an agreement (the "Agreement") between You ("Customer", "You", or "Your") and Volusion, LLC, a Delaware limited liability company ("Volusion", "We", "Us" or "Our"). This Agreement sets forth the terms and conditions of Your use of the <http://volusion.com> website and the platform, applications, tools, templates and other products and services provided by or through Us (collectively, the "Services"). You may use the Services to create or publish websites and online stores and access other ecommerce services ("Your Sites").

If the person entering into this Agreement is acting on behalf of an entity, all references to "Customer", "You" and "Your" shall refer to such entity and such person represents that it has the authority to bind such entity to this Agreement. For individuals, the Services are available only to those who are at least eighteen (18) years of age and recognized as being able to form legally binding contracts under applicable law.

By using or accessing Our Services, You are agreeing to this Agreement and that any previous agreements between You and Us with respect to the Services are superseded by this Agreement. We may change or modify this Agreement at any time at Our discretion. Any such changes or modifications shall be effective immediately upon the earlier of (i) Our email notification to You advising You of such changes or modifications, (ii) Your electronic acceptance of the revised Agreement after such changes or modifications have been made as indicated by the "Last Revised" date at the top of this page, or (iii) Your continued use of the Services after We post the amended Agreement to this website.

Throughout these Terms of Service, We sometimes provide summaries to the right to assist You in Your review and understanding of these terms. These summaries are not binding and are not part of this Agreement. Please make sure You read and understand the entire Agreement before using Our Services.

1. Account; Point of Contact; Account Ownership

To use our services, you must create an account by accurately providing to us certain information. We may reject any application for an account for any reason.

You must designate a single point of contact, and we shall rely on that point of contact in administering your account.

You are responsible for keeping your password secure.

We may require additional information in the event of a question regarding the identify of the point of contact or store ownership.

You must register for an account (the "Account") to access and use the Services by providing your full legal name, current address, phone number, a valid email address and certain other information indicated as required. You agree that all such information is current and accurate. We will use the email address that You provide as the primary method of communication, including for billing matters. We may reject Your application for an Account for any reason, in Our sole discretion.

You shall designate a single "Point of Contact", which shall have full authority to enter into agreements and make binding decisions on Your

behalf. For security reasons, only the Account owner or Point of Contact designated by the Account owner will be allowed to make account changes or cancellations or to designate a new Point of Contact. You agree that We may rely on representations made by Your Point of Contact. You may change Your Point of Contact at any time. If there is reasonable doubt about the authenticity of any instruction, notice, document or communication, We reserve the right to require additional authentication from You.

You must keep Your password secure. We encourage You to use best practices in creating, regularly changing and securing Your password. We will not be liable for any loss or damage from Your failure to maintain the security of Your Account or Your password. You agree to immediately notify Us of any unauthorized use of Your password or any similar breach of security.

In the event of a dispute regarding Account ownership, We reserve the right to request documentation to determine or confirm Account ownership. Documentation may include a copy of Your business license or charter, government issued photo ID, the last four digits of the credit card on file, etc. We retain the right to determine, in Our sole judgment, rightful Account ownership and transfer an Account to the rightful owner. If We are unable to reasonably determine the rightful owner of an Account, We reserve the right to temporarily disable an Account until resolution has been determined between the disputing parties.

2. Our Services

Through our services, you may create and maintain, and we will host, one or more websites and online stores using your content.

Our services are offered through plans described on our website. Some of our plans may have limits, and we may charge you additional fees for exceeding such limits.

If your sites are adversely affecting our other customers, or subject to an attack or intrusion, we may take certain steps to isolate and/or fix the underlying problem.

We will update our services from time to time and you are responsible for the impact of any update on code that we have not provided.

Our servers are located in the United States.

You are solely responsible for your sites.

Technical support is available as described in your plan.

We may provide your personal information to our partners.

We may provide our services to other customers, including our employees, that directly compete with you.

We will provide to You access to those Services to which You subscribe or that You purchase through Your Account (the "Purchased Services"). The Purchased Services shall include hosting of Your Sites and Your Content for access by visitors and users of Your Sites ("Your End Users").

Some of Our Services are offered through plans. The fees for each plan, and their applicable terms and limits, are described on Our website. Certain plans may have limitations, and We reserve the right to charge an overage fee for exceeding such limitations at then current list prices, or to automatically move You to a plan with limits that exceed Your usage.

We reserve the right to quarantine one or more of Your Sites, throttle traffic or invoke other necessary techniques to protect Our other customers. Any such move will last as long as We deem necessary to protect Our other customers, and will not include any additional support. If any of Your Sites is the target of a DDoS or other attack, You consent to Us performing mitigation procedures with or without notice to You and without liability for any delay, disruption or interruption of service. Such procedures may include, but are not limited to, taking Your Site offline in order to isolate Your Site in a quarantine server, implementing ACL (access control lists), IP filtering, IP blocking, or any other mitigation techniques necessary to block the DDoS or other attack. Further, these techniques will remain in place until Your Site experiences at least 48 hours of continuous non-malicious, "normal" traffic.

We will update and modify Our Services from time to time. We will not be responsible for the effect an update has on any code not provided by Us. Any modifications to such code necessary to restore functionality to Your Site shall be Your sole responsibility.

The servers used to provide the Services are physically located in the United States of America and, as a result, all content will be subject to the laws thereof.

In the normal course of business, it may be necessary for Us to migrate Our servers. As a result, even though You may have a dedicated IP, Your IP number may change. We do not warrant that you will be able to consistently maintain Your given IP numbers.

Technical support is only provided to paying Account holders and is only available to the extent specifically provided for the plan purchased. Where support is provided by Us, We will provide technical support for the most recent release of the software associated with a Service.

As a condition of Your use of the Purchased Services, You acknowledge and agree We may provide Your personal information to Our partners.

We reserve the right to provide the Services to Your competitors and make no promise of exclusivity in any particular market segment. You further acknowledge and agree that Our employees and contractors may also be Our customers, and that they may compete with You, although they may not use Your confidential information in doing so.

We reserve the right to modify or suspend all or any part of Our Services for any reason, without notice, at any time.

3. Your Obligations and Restrictions

We may suspend our services for a variety of reasons.

You cannot use our services in a way that impairs our ability to provide services to other customers and to disseminate spam or to store or disseminate content that violates a another person's copyright or trademark rights, that violates law or that is malicious.

You may not access our services through automated means, use our services to conduct attacks or intrusions on other servers or sites or use our services to create anonymous gateways.

You agree to allow us to conduct forensic investigations when warranted.

You agree that your sites and stores, your business, and your end-users are your responsibility, and you must comply with all applicable laws.

We may suspend the Purchased Services to You with or without notice and without liability if: (a) We reasonably believe that You are using the Services in violation of the Agreement; (b) You don't cooperate with Our reasonable investigation of any suspected violation of the Agreement; (c) there is an attack on Your Sites or Your Sites are accessed or manipulated by a third party without Your consent, (d) We are required by law, or a regulatory or government body, to suspend Your Services; or (e) there is another event for which We reasonably believe that the suspension of Services is necessary to protect Our other customers. We will use commercially reasonable efforts to give You advance notice of any such suspension unless We determine that a suspension on shorter notice or without notice is necessary to protect Us or Our other customers from imminent risk.

You shall not use the Service in any way that shall impair the functioning or operation of Our Services or equipment. You further agree not to use the Services to:

- disseminate or transmit content that is spam, including content that is machine- or randomly-generated and/or contains unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing), or mislead recipients as to the source of the material (such as spoofing);
- disseminate or transmit unsolicited messages, chain letters, unsolicited commercial email, or unreasonably large volumes of email on a daily basis;
- disseminate or transmit files, graphics, software or other material, data or work that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person;

- export, re-export or permit downloading of any message or content in violation of any export or import law, regulation or restriction of the United States and its agencies or authorities, or without all required approvals, licenses and/or exemptions; or
- disseminate or transmit any virus, trojan horse or other malicious, harmful or disabling data, work, code or program.

You may not (i) access the Services through automated means, (ii) use Our servers or Your Sites as a source, intermediary, reply to address, or destination address for mail bombs, Internet packet flooding, packet corruption, denial of service, or other abusive activities, (iii) use Your Sites as an anonymous gateway, (iv) run a public recursive DNS service on any of Our servers, (v) use Our Service as a storage device or to store any data or content that is not reasonably related to the use, operation or maintenance of Your Site, or (v) use of software or scripts run on Our servers that cause the server to load beyond a reasonable level.

You agree that We have the right to carry out a forensic examination in the event of a compromise to Your Sites or Your Account.

From time to time Your Site may be subject to an event expected to cause a significant spike in traffic, such as appearance on a nationally syndicated television show or substantially advertised promotion. We encourage You to provide advanced notice of such planned events to Us so that We can create a response plan to minimize the effect on Your Sites.

You shall bear full risk of loss and damage to Your Sites and Your Account and agree that You are solely responsible for all acts, omissions and use under and charges incurred with Your Account or password or in connection with Your Sites.

You understand and agree that Your Sites and Your End Users are Your responsibility, and You are solely responsible for compliance with any applicable laws or regulations related to Your Sites and Your End Users. You agree to post a privacy policy on Your Sites that complies with the laws applicable to Your business. You also agree to obtain consent from Your customers for the use and access of their personal information by Us and other third parties. We are not liable for, and won't provide You with any legal advice regarding, Your Sites or Your End Users.

You agree to comply with all applicable domestic and international laws and regulations regarding Your use of the Services.

4. Your Content

You are responsible for your content, which includes all data, images and other content that you or your end-users upload or input into our services.

You represent that you have all necessary rights to your content and that it does not violate any third party's rights.

You are responsible for the security of your content and backing-up your site and content.

We may remove any of your content that we believe violates this agreement or our AUP, violates any other person's rights or is otherwise objectionable.

We will not intentionally disclose your confidential information.

You agree to give us the right to access your content for the purpose of providing our services.

We will transfer some of your content, other than credit card data, in unencrypted formats.

We claim no ownership to your content.

Our Services allow You and Your End Users to upload, post, transmit, publish, share, store, or manage content, including, data, graphics, links, photos, music, sound, messages, videos and other materials (altogether, "Your Content"). You are solely responsible for any and all of Your Content. You represent and warrant that (i) You have all necessary rights to distribute Your Content via Our Services and (ii) Your Content does not violate the rights of any third party. You hereby grant Us a worldwide, royalty-free, non-exclusive license to host and use Your Content in order to provide the Services to You. You are responsible for undertaking necessary measures to ensure the security, confidentiality and integrity of all Your Content transmitted through or stored on Our servers. You are responsible for any of Your Content that may be lost or unrecoverable through Your use of the Services.

Our servers are not an archive and We shall have no liability to You or any other person for loss, damage or destruction of any of Your Sites or Your Content. You are solely responsible for the backup of Your Sites and Your Content. You are encouraged to archive Your Content regularly and frequently.

We do not pre-screen Your Content and We shall have no duty or obligation to monitor Your Content or any other content provided or distributed by others. However, We may at any time, without notice or liability to You, remove from public view, disconnect, or terminate the hosting of any of Your Content which We deem in Our sole discretion (i) violates the terms of this Agreement, including Our **Authorized Use Policy**, (ii) violates any third party's intellectual property, or (iii) is otherwise objectionable.

We will not intentionally disclose Your confidential information to third parties, except as required in the course of providing Our Services. Confidential information includes any materials or information provided by You to Us that is not publicly known (“Your Confidential Information”). Your Confidential information does not include information that: (a) was in the public domain at the time We received it; (b) comes into the public domain after We received it through no fault of ours; (c) We received from someone other than You without breach of Our or their confidentiality obligations; or (d) We are required by law to disclose.

In order to permit Us to protect the quality of Our Services, You hereby consent to Our staff accessing Your Account, Your Sites and Your Content from time to time to investigate complaints or other allegations or abuse and to otherwise perform the Services set forth herein.

You understand that Your Content, other than credit card information, may be transferred unencrypted over various networks and may be modified to the extent necessary to conform and adapt to technical requirements of connecting networks or devices. Credit card information, however, is always encrypted during transfer to or by Us.

We claim no ownership or intellectual property rights in Your Content.

5. Applications and Themes

You may download applications and themes to use with your sites. If you download applications or themes that we have developed, you are licensed to use them for one store and may not transfer them, unless we otherwise provide that you can.

Some themes that you download may contain content, including copyrighted images, that you may not have the right to use. You may have to remove such content, or separately secure such rights.

The intellectual property rights remain with the developer or designer of any applications or themes.

We make no representations regarding any applications or themes that we have not developed.

You may download, through the Services or otherwise, and apply Applications to Your Sites. An "Application" means a software application, website, connector, extension or other independent software or interface, whether developed by Us, You or a third party and whether proprietary or open-sourced, that supplements, utilizes or and/interacts with Our Services or one or more websites using Our Services. You may also establish the appearance of Your Sites with a design template download through Our Services or otherwise (a "Theme").

If you download an Application or a Theme that is developed by Us, You are licensed to use it for a single store only. You are not permitted to transfer or sell an Application or a Theme developed by Us to any other person. We give no assurance that a particular Application or Theme will remain available for additional downloads. All Applications and Themes developed by Us that are downloaded by You are considered part of the Purchased Services for purposes of this Agreement.

Some Themes that You download may contain copyrighted material, including images, that You may not have the right to use. You should confirm Your rights to use any images included in a Theme prior to Your use on Your Sites.

You may modify a Theme to suit Your Site and Your stores. We may modify a Theme where it contains an element that may violate Our AUP or that violates any person's intellectual property rights, even if You received a Theme in that condition. We may modify the Theme to reflect technical changes and updates as required.

The intellectual property rights of any Applications or Themes remains the property of the developer/designer. If You exceed the rights granted by Your purchase of an Application or a Theme, the designer (which may be Us or a third party) may take legal action against You, and We may take administrative action such as modifying Your store or closing Your store.

WE MAKE NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING APPLICATIONS OR THEMES THAT ARE NOT DEVELOPED BY US, INCLUDING THE COMPATIBILITY OF APPLICATIONS OR THEMES WITH OUR SERVICES. Your use of any such Application or Theme is governed by the terms of Your separate agreement with the provider of those products and services. Technical support for an Application or a Theme developed by a third party is the responsibility of the designer, and We accept no responsibility to provide such support.

It is Your responsibility to ensure that the installation of an Application or a Theme does not overwrite or damage Your Content or Your current or preexisting Theme.

6. Third Party Sites and Services

Our websites may contain links to other party's websites and services. We are not responsible for any activity occurring on these third party websites and services.

You are responsible for complying with any third party terms and conditions for the use of third party websites and services.

Our services may require that you provide to us access to third party services. If you do, you must have the legal right to do so.

Our websites may contain links to other websites owned by third parties ("Third Party Sites"), and when you click on any of these links, you are entering another website. You may also have the ability through Our Service or through Applications to access Your accounts for services provided by third parties or to link accounts for Third Party Services to Your Account (collectively, "Third Party Services").

We make no representation or warranty regarding any Third Party Site or Third Party Service, including their compatibility with Our Services. You agree that We shall not be responsible for any loss or damage incurred as a result of Your use of any Third Party Sites and/or Third Party Services, whether or not You were linked to or directed to a Third Party Site or Third Party Service through Our Service. You acknowledge that Third Party Sites and Third Party Services may be subject to the applicable third party provider's terms of service, and you are solely responsible for reviewing and complying with any such terms of service. In no event shall any reference on Our website to any third party, third party website or third party product or service be construed as an approval or endorsement by Us.

Some of Our Services may require You to give us access to or require you to provide login information and password information for Third Party Services. When You provide this information to us or give us access to these third party accounts, You agree that You have all the necessary contractual and legal rights to give Us such access, login information.

We strongly recommend that You seek specialist advice before using or relying on certain tools. In particular, tax calculators should be used for reference only and not as a substitute for independent tax advice when assessing the correct tax rates You should charge Your End Users.

7. Our Property

All of the intellectual property rights in the services and our marks are owned by us or owned by another person that has licensed them to us. We or those other persons reserve all rights not specifically granted to you.

We grant to you a revocable, non-transferable and non-exclusive right to use our intellectual property to the extent necessary for the services that you purchase. You may not transfer such rights or reverse engineer or decompile any of our services.

You may not bid on or purchase search engine or other pay-per-click keywords or domain names that use "Volusion " or any name, mark or other identifier used by Us, including any misspellings.

The Services, and all other materials provided by or through Us, including, but not limited to, software, all informational text, software documentation, design of and "look and feel," layout, photographs, graphics, audio, video, messages, interactive and instant messaging, design and functions, files, documents, images, or other materials, whether publicly posted or privately transmitted as well as all derivative works thereof (collectively, "Our Intellectual Property"), are owned by Us

or other parties that have licensed their material or provided services to Us, and are protected by copyright, trademark, trade secret and other intellectual property laws.

All of Our trademarks and service marks, logos, slogans and taglines, including "Volusion", are Our property. All other trademarks, service marks, logos, slogans and taglines are the property of their respective owners. Except as otherwise specifically provided herein, nothing should be construed as granting any license or right to use any trademarks, service marks, logos, slogans or taglines of Ours or any third party without Our express written permission, or the express written permission of such party that may own the trademark, service mark, logo, slogan or tagline.

Subject to the limited rights expressly granted to You hereunder, We and Our licensors reserve all of Our/their right, title and interest in and to the Services, including all of Our/their related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

Subject to this Agreement, We hereby grant You a limited, revocable, non-transferable and non-exclusive license to use Our Intellectual Property to the extent, and only to the extent, necessary to access and use the Purchased Services in accordance with the terms of this Agreement.

You may not (and shall not allow any third party to): (a) use the Services outside of the scope of the limited license herein granted; (b) sublicense, distribute, copy, reproduce, resell, modify, adapt, translate, or prepare derivative works from, to the Services without Our prior written permission; or (c) reverse engineer, disassemble, or decompile any software or otherwise attempt to discover any source code or trade secrets related to the Services.

You may use Our trade name, trademarks, and service marks that are used in connection with our Volusion platform in advertising and publicity in conjunction with Your use of the Purchased Services, provided that You shall submit a copy to Us for prior written approval. However, You need not obtain Our prior written approval where use of Our Volusion marks is limited to inclusion in a list of services via which Your Content is available.

You may not bid on or purchase search engine or other pay-per-click keywords or domain names that use "Volusion " or any name, mark or other identifier used by Us, or any misspellings or similar alterations of any of the foregoing.

8. Your Names and Trademarks

You grant to us a non-exclusive license to your name and marks for our use on our websites, in printed and online advertising and publicity.

You hereby grant to Us a non-exclusive right and license to Your name, trade names, trademarks, and service marks as are provided to Us in connection with this Agreement for Our use (a) on Our own websites, (b) in printed and online advertising, publicity, directories, newsletters, and updates describing Our Services, and (c) as reasonably necessary and ancillary to the foregoing.

9. Fees and Payment

If you purchase services that we offer for a fee, you agree to pay such fees when due.

We will automatically bill You for certain services on a recurring basis until you cancel on a month to month basis, unless unless otherwise provided in the plan. The subscription for such services shall automatically renew until cancelled by you.

You may cancel a suscription by logging into <http://my.volusion.com/customer care.aspx> or contacting our support and then following their instructions.

We offer billing only via credit card or debit card. Credit card and debit card information should be only submitted to us through our online checkout feature, through the administrative features of our services or over the phone with our sales or customer support employees, and should never be sent to us via email, IM, chat or any other method of communication.

Late fees and other charges may apply.

All fees charged do not include any taxes, all of which are your responsibility.

All sales are final and we offer no refunds of any kind unless otherwise expressly noted.

We may change our prices and payment terms at any time, and such changes shall be posted on our website and effective immediately.

If Your Purchased Services include Services that we offer for a fee (“Paid Services”), You agree to pay Us all such fees when due. These fees may

include subscription fees, transaction fees and overage fees, the prices and terms of which are listed on Our website. Only Services and features clearly indicated as "free" or "no charge" are free or without charge.

To ensure uninterrupted service, We will automatically bill You for certain Paid Services on a recurring basis until You cancel. The initial term of Your subscription to any Paid Services is for a term of one month, unless otherwise noted in the description of such Paid Services on Our website or as agreed by Us and You. The subscription for such Paid Services shall automatically renew for successive periods equal in time to the initial term of such subscription until cancelled by You. You may cancel a subscription to any Paid Services effective as of the end of the then current term of such subscription by logging into <http://my.volusion.com/customer care.aspx> or contacting Our support and then following the specific instructions provided to You. Failure to do so will result in the cancellation request not being processed and You will continue to be liable for all recurring fees until such the actions specified in such instructions are complete. A cancellation of a particular Paid Service may not cancel all Services associated with Your Account. You must follow the instructions provided in order to ensure you cancel all Services desired.

Any payments of fees are due upon purchase, and the applicable Paid Services will not begin until payment is received. Payments for Paid Services that are billed on a recurring basis are due on or before the beginning of each term of such subscription. We offer billing only via credit card or debit card. Credit card and debit card information, including card numbers, should be only submitted to Us through our online checkout feature or the administrative features of Our Services or via phone, and should never be sent to us via email, IM, chat or any other method of communication. If you purchase any Services that we offer for a Fee, You agree to allow Us, or our third party service providers, to store Your payment card information. If the payment card You provide expires and You do not provide new payment card information or cancel

Your account, You authorize Us to continue billing You and You agree to remain responsible for any uncollected Fees.

It is Your obligation to review all charges for accuracy. Failure to dispute a charge within 45 days following such charge shall constitute Your agreement that such charges are valid and You agree to waive any claims You may have had regarding such charge.

If a payment of Yours to Us is returned or rejected, or incurs additional costs for Us (e.g., bank fees) for any reason, then You may be charged a service fee of \$40 per incident and be required to reimburse all such fees and costs incurred by Us.

All amounts that are past due are subject to a late payment penalty of 1.5% per month, or the maximum amount permitted by law, whichever is greater, until fully paid. We will attempt to automatically charge the card on file for any past due invoice for current, suspended and cancelled accounts. Accounts suspended and reactivated must pay all past due and current amounts as well as a reactivation fee any late payment penalties. Accounts past due over 30 days cannot be reactivated and You must sign up for new Services in addition to paying any outstanding amounts due.

We reserve the right to seek collection of all past due amounts (including by referral to third party collectors), plus all reasonable legal fees (including reasonable attorneys' fees) and costs associated with such collection.

All fees charged by Us for the Services are exclusive of all taxes, VAT and similar fees imposed on the transaction and/or the delivery of Services, all of which You will be responsible for and must pay in full. If We are required to directly pay any such taxes, You must, upon receipt of Our invoice for such taxes, promptly reimburse Us.

All sales are final and We offer no refunds of any kind unless otherwise expressly noted, even if Your Purchased Services are suspended, terminated or transferred.

We expressly reserve the right to change Our prices and payment terms at any time, and such changes shall be posted online on Our website and effective immediately without need for further notice to You.

10. Your Feedback

You grant to us a license to any feedback that you give to us regarding our services.

Any ideas, questions, opinions, recommendations, feedback or other information related, directly or indirectly, to any of Our products and services ("Your Feedback") communicated to Us, whether by email, Our online forums, interactions with our sales or support representatives, including through chat or IM, or other communication, are considered to be non-confidential and non-proprietary. You hereby grant to Us, a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully-paid, sublicenseable and transferable right and license to incorporate, use, publish and exploit Your Feedback for any purpose whatsoever, commercial or otherwise, without acknowledgment or compensation to You or to anyone else.

11. Additional Policies

You are bound by our [Privacy Policy](#), [AUP](#), [DMCA Notice and Takedown Policy](#) and [Subpoena Policy](#).

All of the following policies are incorporated into this Agreement.

We encourage you to read Our [Privacy Policy](#), and to use the information it contains to help you make informed decisions.

You agree to abide by [Acceptable Use Policy](#) ("AUP"). We may modify the AUP at any time, and the then-current AUP will be effective upon posting. You acknowledge that our AUP applies to both You and Your End Users, and that We may terminate access to Your Sites with respect to any of Your End Users for their noncompliance with Our AUP, even if such End User has not violated Your own terms and conditions of use of Your Sites.

We support the protection of intellectual property and ask our customers to do the same. It is our policy to respond to all notices of alleged copyright infringement. If someone believes that one of our customers is infringing their intellectual property rights, they can send a DMCA Notice to Our designated agent for copyright complaints. Please see our [DMCA Notice and Takedown Policy](#) for further information.

Our [Subpoena Policy](#) describe the guidelines and process for our release of data concerning You or Your Account pursuant to a subpoena issued in a civil legal matter or a criminal legal matter or investigation.

The most recent version of the Uniform Name Dispute Resolution Policy can be found at <https://www.icann.org/resources/pages/help/dndr/udrp-en>

12. PCI

Our services are certified under PCI-DSS.

If you store or process credit card data using our services, you agree to comply with PCI-DSS to the extent that you are required.

Our Services provide a framework that is certified under the Payment Card Industry ("PCI") Cardholder Information Security Program under optimal security settings and will maintain compliance with the PCI Data Security Standards ("DSS") for the portions of the Purchased Services that store or process credit card data. If You store or process credit card data using the Purchased Services, You agree to implement and maintain reasonable security measures to protect cardholder data in Your possession and You hereby acknowledge Your responsibilities under the PCI DSS. These guidelines can be found at https://www.pcisecuritystandards.org/document_library. You further agree not to take any action, or fail to take any action that is required of You by PCI DSS, when using the Purchased Services that could cause us to not be in compliance with PCI DSS.

At Our discretion, We reserve the right to change the security settings at any time with or without warning and to suspend or terminate the Services for any customer that is suspected or proven to be in violation of minimum PCI guidelines.

13. Service Level Warranty

We warrant that our network will be available 99.9% of the time in any month. If Our network is not available for 99.9% in any month, upon request We will refund You 5% (up to 100%) of the monthly fee for each 30 minutes of network downtime in excess of the warranted amount. This is your sole remedy for any network downtime.

We warrant that Our network will be available 99.9% of the time in any month. For these purposes, network availability for any month is calculated as a percentage by dividing (x) the total minutes in such month, less the minutes of Network Downtime (as defined below), by (y) the total minutes in such month. "Network Downtime" exists when You are unable to transmit and receive data on the Volusion platform and You notify Us of such downtime. Network Downtime shall exclude performance issues: (1) to the extent caused by factors outside of Our reasonable control; (2) that resulted from any actions or inactions of You or any third parties not affiliated with Us, for example a DDOS attack on Your site or another customer's site hosted on the same server; (3) that resulted from Your equipment and/or third party equipment; (4) that resulted from software related issues; or (5) that are scheduled by Us for purposes of maintaining or updating the Services. Network Downtime is measured from the time the trouble ticket is opened by You to the time the server is once again able to transmit and receive data.

If Our network is not available for 99.9% in any month, upon request We will refund You 5% of the monthly fee for each 30 minutes of Network Downtime (up to and not to exceed 100% of customer's monthly fee) that exceeds the amount of Network Downtime that would result in 99.9% network availability. This is Your sole and exclusive remedy for failure to meet the Service Level Warranty. If You fail to notify Us of Network Downtime as required above, or fail to request a Service Level Warranty credit within 30 days of the end of a month, You shall not be entitled to receive such credit for such event or such month.

14. Indemnification

You shall indemnify Us for liability related to any third party claim resulting from your breach of this agreement or your violation of any law or third party rights, your failure to comply with Section 12 (PCI), or your use of the services and/or your content.

You irrevocably agree to indemnify, defend and hold harmless Us, Our affiliates, directors, officers, employees and agents from and against any and all claims, demands, actions, causes of action, suits, proceedings, losses, damages, costs, and expenses, including reasonable attorneys' fees and fees attributable to in house legal personnel, arising from of or related to (i) any third party claim resulting from Your breach of this Agreement or your violation of any law or rights of any third party, (ii) Your failure to comply with Section 12 (PCI) of these Terms of Service, or (iii) Your use of the Services and/or Your Content. This indemnification is in addition to any indemnification required under the UDRP or any similar policy.

15. DISCLAIMER OF WARRANTIES

All of our services are provided "as is" and "with all faults". We disclaim all warranties, including implied warranties, and make no representations about our services or our website.

No information or advice provided by Us or our employees will create a warranty or constitute legal or financial advice of any kind.

You are responsible for the accuracy of all data and content on your site.

Our services may not be appropriate or available in all geographic locations.

YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR OWN RISK AND THAT THE SERVICES ARE PROVIDED "AS IS", "AS AVAILABLE" AND "WITH ALL FAULTS". WE DISCLAIM ALL WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

WE MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT (I) THE ACCURACY, COMPLETENESS, OR CONTENT OF OUR WEBSITE OR ANY WEBSITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO OUR WEBSITE, OR (II) THE SERVICES, AND WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR THE SAME.

EXCEPT AS OTHERWISE PROVIDED HEREIN, WE MAKE NO WARRANTY THAT OUR SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. YOU ACKNOWLEDGE THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY AND ACTIVITY THAT COULD RESULT IN THE LOSS OF YOUR PRIVACY, CONFIDENTIAL INFORMATION AND PROPERTY. WE DO NOT WARRANT THAT OUR WEBSITES, SERVERS OR SERVICES OR ANY E-MAIL SENT FROM OUR SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

YOU ARE SOLELY RESPONSIBLE FOR THE ACCURACY AND APPROPRIATENESS OF ALL DATA AND CONTENT WITHIN YOUR SITE; INCLUDING SALES TAX CALCULATIONS, PRODUCT PRICING, AND PRODUCT DESCRIPTIONS, SHIPPING CHARGES, CONTACT INFORMATION, EMAIL COMMUNICATIONS, AND ELECTRONIC PAYMENT PROCESSING.

NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED BY US OR OUR OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, WHETHER DIRECTLY OR INDIRECTLY, WILL CREATE A WARRANTY OF ANY KIND NOR WILL IT CONSTITUTE PERSONAL, LEGAL OR FINANCIAL ADVICE. IN ADDITION, YOU ACKNOWLEDGE AND AGREE THAT ANY DATA, INFORMATION, CONTENT OR MATERIALS CONTAINED IN OR MADE AVAILABLE IN CONNECTION WITH THE SERVICES IS NOT INTENDED AS A SUBSTITUTE FOR, THE KNOWLEDGE, EXPERTISE, SKILL AND JUDGMENT TAX, LEGAL OR OTHER PROFESSIONALS. YOU ARE RESPONSIBLE FOR OBTAINING SUCH ADVICE.

FURTHER, WE DO NOT MAKE ANY REPRESENTATION OR WARRANTIES THAT THE SERVICES ARE APPROPRIATE OR AVAILABLE FOR USE IN ALL GEOGRAPHIC LOCATIONS.

THESE DISCLAIMERS OF REPRESENTATIONS AND WARRANTIES SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW, AND SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT OR YOUR USE OF THIS WEBSITE OR THE SERVICES.

Certain states and/or jurisdictions do not allow the exclusion of implied warranties, so one or more of the disclaimers set forth above may not apply to You.

16. LIMITATION OF LIABILITY

We are not liable for damages of any kind arising out of the use of our website, the services, your content or your use of third party sites or services, and you agree to release us from any and all such claims.

In the event of any problem with our service, your sole remedy is to cease using the services.

WE ARE NOT LIABLE TO YOU OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY PERSONAL INJURY, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA ON YOUR COMPUTER OR OTHERWISE) ARISING FROM OR IN CONNECTION WITH USE OF OUR WEBSITE, THE SERVICES, YOUR CONTENT, THIRD PARTY SERVICES, THIRD PARTY SITES OR THIRD PARTY CONTENT, WHETHER UNDER A THEORY OF BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, MALPRACTICE OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU HEREBY RELEASE US AND HOLD US AND EACH OF OUR PARENTS, SUBSIDIARIES, AFFILIATES, LICENSORS, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, TRUSTEES, AFFILIATES, SUBCONTRACTORS, AGENTS AND EMPLOYEES, HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, AND DAMAGES OF EVERY KIND AND NATURE (INCLUDING, WITHOUT LIMITATION, ACTUAL, SPECIAL, INCIDENTAL AND CONSEQUENTIAL), KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OUR WEBSITE, THE SERVICES, YOUR CONTENT, THIRD PARTY SERVICES, THIRD PARTY SITES OR THIRD PARTY CONTENT. YOU HEREBY WAIVE THE PROVISIONS OF ANY STATE OR LOCAL LAW LIMITING OR PROHIBITING A GENERAL RELEASE.

IN THE EVENT OF ANY PROBLEM WITH OUR WEBSITE, THE SERVICES OR OUR INTELLECTUAL PROPERTY, YOU AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY IS TO CEASE USING THE THE SERVICES.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW, AND SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT OR YOUR USE OF THIS SITE OR THE SERVICES FOUND AT THIS SITE.

Certain states and/or jurisdictions do not allow the limitation of liability for incidental or consequential damages, so the exclusions set forth above may not apply to You.

17. Term and Termination

Either You or Us may terminate this agreement. You may terminate this agreement by logging into <http://my.volusion.com/customer care.aspx> or contacting our support and following their instructions.

If you terminate this agreement prior to the expiration of a subscription term, you will be obligated to pay all fees associated with that subscription to the end of the term.

We may terminate this agreement for any reason.

If this agreement is terminated, You will not longer have access to your account and your sites will be taken offline, and you will not be entitled to any refunds.

You are responsible for the transfer of your content and websites off of our servers.

This Agreement will remain in effect until terminated by either Your or Us. You may terminate this Agreement and all Services by logging into <http://my.volusion.com/customercare.aspx> or contacting Our support and then following the specific instructions provided to You. If You terminate this Agreement prior to the expiration of a subscription term for Paid Services, You will be obligated to pay all fees associated with such subscription to the end of the term.

We may terminate this Agreement and/or Your right to the Services, in whole or in part, at any time and for any reason, including but not limited to, if You violate or breach the terms of this Agreement.

Upon termination of this Agreement by either party, (a) We will cease providing the Services to You, You will no longer be able to access Your Account and Your Sites will be taken offline, (b) You will not be entitled to any refunds of any usage fees or any other fees, pro rata or otherwise, unless We terminate Your Service without cause, and (c) any outstanding balance for Your usage of the Paid Services through the effective date of such termination, together with any fees owed for Paid Services for which You have subscribed having an unexpired term through the end of such term, will be immediately due and payable in full.

Sections [9 Fees and Payment](#), [14 Indemnification](#), [15 Disclaimer of Warranties](#) and [16 Limitation of Liability](#) shall survive any termination of this Agreement.

In the event You terminate Your use of the Services, moving Your Content and Sites off of Our servers is Your responsibility. We will not transfer Your Content or Sites to another provider.

18. Notices

Notices to you will be sent to the address and email address for your account. Notices to Us should be directed to our physical address, or legal@volusion.com.

Except as otherwise specified in this Agreement, all notices and other required communications hereunder shall be in writing and shall be deemed to have been given upon: (i) immediately upon personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email.

Notices to You will be directed to the address and information of record on Your account with Us. Notices to Us should be directed to:

Volusion, LLC
1835-A Kramer Lane, Suite 100
Austin, TX 78758
FAX: (888) 480-0945
E-mail: legal@volusion.com
Attn: Legal Department

19. Miscellaneous

The laws of the State of Texas apply to this Agreement. You consent to sue and be sued in the federal and state courts of

in Travis County, Texas, USA. You agree to waive the right to trial by jury.

You are not allowed to bring a class action suit or participate as a member of a class in a suit against us.

You may not assign this agreement without our prior written consent. We may assign this agreement at any time.

Except for disputes governed by the Uniform Domain Name Resolution Policy, this Agreement shall in all respects be interpreted and construed with and by the laws of the State of Texas, excluding its conflicts of laws rules, and the United States of America. You hereby consent to (and waive all defenses of lack of personal jurisdiction and forum non conveniens with respect to) the jurisdiction and venue of the federal and state courts of in Travis County, Texas, USA. You agree to waive the right to trial by jury in any action or proceeding that takes place relating to or arising out of this Agreement. The United Nations Convention on Contracts for the International Sales of Goods does not apply to this Agreement.

If a court of competent jurisdiction rules that one or more of the provisions contained in this Agreement is unenforceable in any respect, then such provisions will be modified as necessary to be enforceable while reflecting the parties' original intentions to the greatest extent possible. All remaining provisions of this Agreement shall remain in full force and effect without modification.

You may only resolve disputes with us on an individual basis, and may not bring a claim as a plaintiff or a class member in a class, consolidated or representative action. Class actions, class arbitrations, private attorney general actions and consolidation with other arbitrations aren't allowed.

This Agreement represents the entire understanding of the parties with respect to the Services and supersedes all prior and contemporaneous agreements (including, but not limited to, any prior versions of the Terms of Service), written or oral, concerning its subject matter. The parties agree that any term or condition stated in Your purchase order or in any other of Your order documentation is void and that any acceptance of such order documents by Us shall be for acknowledgment purposes only.

You may not assign this Agreement without Our prior written consent, which We may refuse in Our sole discretion. Any attempt to assign this Agreement without Our prior written permission is deemed null and void. We may assign this Agreement at any time, which shall be effective upon written notice provided to You.

No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

20. Additional Terms for Volusion Services

Your use of certain of our services are subject to additional terms.

You may choose to use use certain of Our Services that require You to agree to additional terms.

If You choose to use Our **Merchant Services** to enable You to accept a transaction payment through a secure channel by use of Your End User's credit or debit card, You acknowledge that We are providing such

services through a third-party service provider (“Our Merchant Service”). Therefore, use of Our Merchant Services is subject to such providers' acceptance of your application and Your acceptance of the providers' terms and conditions.

If You choose to use Our **Fraud Score**, You agree to the additional terms and conditions found [here](#).

If you choose to use Our **Design Services**, You agree to the additional terms and conditions found [here](#).

If you choose to use Our **Marketing Services**, You agree to the additional terms and conditions found [here](#).

If you access Your Sites or Your Account through Our **mobile application**, you agree that all the terms of this agreement shall govern such access. In addition, Your use of any mobile application shall also be governed by a separate End User License Agreement.

When purchasing an **SSL Certificate**, You are required to provide requested information in a timely manner in order to complete the purchase. If You fail to respond to Our inquiries within 30 days or otherwise delay completion of the SSL Certificate process for 30 days or more, such order will be considered completed and You may incur additional fees for reinstating the order or placing a new order.

21. Additional Terms for Third Party Services

Your use of certain third party services are subject to additional terms.

Norton SSL

If You are purchasing a Norton branded SSL, you agree to be bound by the contract terms applicable to the Product as specified by Norton and published at <http://www.verisign.com/repository/subscriber/index.html>, or <http://www.thawte.com/repository/index.html>, or <http://www.geotrust.com/resources/repository/legal.asp> (as applicable); and You acknowledge that Norton shall be an express third party beneficiary of the obligations contained in this Agreement. Norton may modify its contract terms from time to time and you agree to flow-down such new terms to your new customers. In order to maintain the trust and integrity of the Norton PKI, Norton in its sole discretion retains the right to revoke a customer's Product for activities that Norton considers harmful to the Norton PKI.

Shippo

We offer shipping solutions from Shippo. If You elect to use Our shipping solutions, You acknowledge that Popout, Inc. (d/b/a Shippo) shall be an express third party beneficiary of the obligations contained in this Agreement. Also, if You elect to use Our shipping solutions, You acknowledge that We will share with Popout, Inc. certain Personally Identifiable Information in accordance with Our [Privacy Policy](#).

22. Prior Versions

[Volusion Terms of service Effective September 30, 2016](#)

[Volusion Terms of service Effective March 31, 2014](#)