

# VITAJUWEL USA, INC.

## TERMS OF USE +++ LIMITED WARRANTY +++ RETURNS & REFUNDS

Last Updated: November 2018

### A. TERMS OF USE

These Terms of Use (“Terms”) apply to your access to and use of the websites, applications and other online products and services (collectively, our “Services”), provided by VitaJuwel USA, Inc. and its subsidiaries (“VitaJuwel” or “we”), including vitajuwel.com. By clicking to indicate your acceptance or otherwise using our Services, you agree to these Terms. If you do not agree to these Terms, including the mandatory arbitration provision and class action waiver in Section 15, you may not use our Services.

In addition to these Terms, we may ask you to accept additional terms that apply to specific features, promotions, products or services (“Additional Terms”). To the extent any Additional Terms conflict with these Terms, the Additional Terms govern with respect to your access to or use of the applicable feature, product or service.

#### 1. Eligibility

You must be at least 13 years of age to use our Services. If you are under 18 years of age (or the age of legal majority where you live), you may only use our Services under the supervision of a parent or legal guardian who agrees to be bound by these Terms. If you are a parent or legal guardian of a user under the age of 18 (or the age of legal majority), you agree to these Terms and to be fully responsible for the acts or omissions of such user.

#### 2. User Accounts

You will need to register for an account to access some or all of our Services. If you register for an account, you must provide accurate account information and promptly update this information if it changes. You must maintain the security of your account and account credentials and promptly notify us if you discover or suspect that someone has accessed your account without your permission. If you permit others to access the Services through your account, you are responsible for the activities of those users. We reserve the right to reclaim screen names on behalf of businesses or individuals that hold legal claim, including trademark rights, in those screen names.

#### 3. Terms of Sale

##### Availability and Pricing.

All products offered for sale are subject to availability and we reserve the right to impose quantity limits on any order or reject all or any part of an order without prior notice. Prices for products are subject to change at any time, but changes will not affect any order for products you have already placed.

##### Taxes.

You are responsible for any applicable sales, use, duty, customs or other governmental taxes, levies or fees (“Taxes”) due with respect to your purchase of products or services through our Services. We will collect applicable Taxes if we determine we have a duty to collect Taxes. We will present an estimate of Taxes we collect at checkout, except where we have clearly stated in writing that a price includes Taxes. The actual Taxes charged may be adjusted from the amount shown at checkout. Several factors may cause this, such as variances between processor programs and changes in tax rates. We are not required to, and do not, collect Taxes in all states. You may have a duty to directly report and pay Taxes if we do not collect such Taxes.

#### Payment.

Only valid payment methods acceptable to us may be used to complete a purchase via the Services. You represent and warrant that you are authorized to use your designated payment method. You authorize us to charge your designated payment method for the total amount of your order (including any applicable taxes and shipping and handling charges). If any of the products in your order are unavailable, we will only charge the prices, Taxes and other applicable charges associated with the products that are included in the shipment.

#### Shipping; Risk of Loss.

You agree to pay any shipping and handling charges shown at the time you make a purchase. We reserve the right to increase, decrease, add or eliminate shipping and handling charges from time to time, but we will provide notice of the changes applicable to you before you make your purchase. Any delivery dates or times shown as part of the checkout process are estimates only and are not guaranteed. Unless we state otherwise in writing via the Services, risk of loss or damage to a product passes to you upon delivery of the product to our designated carrier.

#### Errors.

In the event of an error, we reserve the right to correct the error and revise your order accordingly (which includes charging the correct price) or to cancel the order and refund any amount charged.

### 4. Limited License

Our Services, including the product descriptions, text, graphics, images, photographs, videos, illustrations, trademarks, trade names, service marks, logos, slogans and other content contained therein, are owned by or licensed to VitaJuwel and are protected under both United States and foreign laws. Except as explicitly stated in these Terms, VitaJuwel and our licensors reserve all rights in and to our Services. VitaJuwel grants you a limited, nonexclusive, nontransferable, non-sublicensable, revocable license to use our Services for your own personal use; however such license does not include the right to (a) sell or resell any aspect of our Services to any third party or otherwise use our Services for any commercial purpose; (b) copy, reproduce, distribute, publicly perform or publicly display any aspect of the Services, except as expressly permitted by us or our licensors; (c) modify the Services, remove any proprietary rights notices or markings, or otherwise make any derivative uses of our Services; or (d) use our Services other than for their intended purposes. Any use of our Services other than as specifically authorized herein, without our prior written permission, is strictly prohibited and will terminate the license granted herein.

### 5. User Content

Our Services may allow you and other users to create, post, store or share content, including messages, text, product reviews, photos, videos, audio and other materials (collectively, "User Content"). Except for the license you grant below, as between you and VitaJuwel, you retain all rights in and to your User Content. You grant VitaJuwel a perpetual, irrevocable, nonexclusive, royalty-free, worldwide, fully-paid, and sub-licensable license to use, reproduce, modify, create derivative works from, distribute, publicly perform and publicly display your User Content, including any name, username or likeness provided in connection with your User Content, via the Services and through all media formats and channels now known or later developed without compensation to you. Although we have no obligation to screen, edit or monitor User Content, we may delete or remove User Content at any time and for any reason. You represent and warrant that you have all necessary rights to grant us the rights granted under this Section.

### 6. Prohibited Conduct

You agree that you will not violate any applicable law, contract, intellectual property or other third-party right or commit a tort, and you are solely responsible for your conduct while accessing or using our Services. You will not:

- Engage in any harassing, threatening, intimidating, spamming, predatory or stalking conduct;
- Use or attempt to use another user's account without authorization from that user;
- Use our Services in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying our Services or that could damage, disable, overburden or impair the functioning of our Services in any manner;
- Reverse engineer any aspect of our Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of our Services;
- Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of our Services that you are not authorized to access;
- Develop or use any applications that interact with our Services without our prior written consent;
- Use any data mining, robots or other data gathering or extraction methods in connection with the Services;
- Bypass or ignore instructions contained in any robots.txt file we provide that controls automated access to portions of our Services; or
- Use our Services in any illegal, fraudulent or other unauthorized manner, or engage in, encourage or promote any activity that violates these Terms.

## 7. Prohibited Content

You may not create, post, store or share any User Content that:

- Is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, misleading or fraudulent;
- Would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any applicable law;
- Infringes any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party;
- Contains or depicts any statements, remarks or claims that do not reflect your honest views and experiences;
- Impersonates, or misrepresents your affiliation with, any person or entity;
- Fails to clearly and prominently disclose any material connections you may have with us or third parties (for instance, in connection with a product review);
- Contains any unsolicited promotions, political campaigning, advertising or solicitations;
- Contains any private or personal information of a third party without that third party's consent;
- Contains any viruses, corrupted data or other harmful, disruptive or destructive files or content; or
- Is, in our sole judgment, objectionable or that restricts or inhibits any other person from using or enjoying our Services, or that may expose VitaJuwel or others to any harm or liability of any type.

## 8. Hyperlinks

You may create a text hyperlink to our Services for noncommercial purposes, provided such link does not portray VitaJuwel or any of its products or services in a false, misleading, derogatory or otherwise defamatory manner and provided further that the linking site does not contain any adult or illegal material or any material that is offensive, harassing or otherwise objectionable. This limited permission may be revoked at any time. You will not use the VitaJuwel logo or other proprietary graphic of VitaJuwel to link to our Services without our express written permission.

## 9. Third-Party Content

VitaJuwel may provide third-party content on our Services, including User Content, and may provide links to web pages and content of third parties (collectively, the "Third-Party Content"). VitaJuwel does not endorse or adopt any Third-Party Content and can make no guarantee as to its accuracy or completeness. VitaJuwel does not create, update, or monitor Third-Party Content and is not responsible for any Third-Party Content. You are responsible for deciding if you want to access or use Third-Party Content or applications that link from our Services. Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through our Services are solely between you and such advertiser. Access and use of such Third-Party Content, including the materials, products or services on or available through any third-party sites, is solely at your own risk.

## 10. Feedback

Any questions, comments, suggestions, ideas, original or creative materials or other information you submit about VitaJuwel or our products or Services (collectively, "Feedback"), is non-confidential and VitaJuwel will be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

## 11. Indemnification

To the fullest extent permitted by applicable law, you will indemnify, defend, and hold harmless VitaJuwel, our affiliates, and each of our and their respective officers, members, managers, directors, agents, partners and employees (individually and collectively, the "VitaJuwel Parties") from and against any loss, liability, claim, demand, damages, expenses or costs ("Claims") arising out of or related to (a) your access to or use of our Services, including your conduct in connection with our Services; (b) your User Content or Feedback; (c) your violation of these Terms; or (d) your violation, misappropriation or infringement of any rights of another (including intellectual property rights or privacy rights). You agree to promptly notify VitaJuwel Parties of any third-party Claims, cooperate with VitaJuwel Parties in defending such Claims and pay all fees, costs and expenses associated with defending such Claims (including, but not limited to, attorneys' fees). You also agree that the VitaJuwel Parties will have control of the defense or settlement of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and any of the VitaJuwel Parties.

## 12. DISCLAIMERS

### USE OF WEBSITE

YOU AGREE THAT USE OF THE WEBSITE IS ENTIRELY AT YOUR OWN RISK. THE WEBSITE IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND. ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. TO THE FULLEST EXTENT PERMITTED BY LAW, VITAJUWEL DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, ACCURACY, AND PERFORMANCE OF THE WEBSITE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE WEBSITE DISCLAIMS ANY WARRANTIES FOR OTHER SERVICES OR GOODS OFFERED BY THIRD PARTIES, RECEIVED THROUGH OR ADVERTISED ON THE WEBSITE, OR ACCESSED THROUGH ANY LINKS ON THE WEBSITE. TO THE FULLEST EXTENT PERMITTED BY LAW, VITAJUWEL DISCLAIMS ANY WARRANTIES FOR VIRUSES OR OTHER HARMFUL COMPONENTS IN CONNECTION WITH THE WEBSITE. SOME JURISDICTIONS DO NOT ALLOW THE

DISCLAIMER OF IMPLIED WARRANTIES. IN SUCH JURISDICTIONS, SOME OF THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU INsofar AS THEY RELATE TO IMPLIED WARRANTIES.

THE FOREGOING DISCLAIMER OF WARRANTIES APPLIES ONLY TO YOUR USE OF THE WEBSITE AND DOES NOT APPLY TO VITAJUWEL PRODUCTS. INFORMATION CONCERNING THE LIMITED WARRANTY FOR VITAJUWEL PRODUCTS CAN BE FOUND BELOW IN SECTION B.

#### INFORMATION ON PRODUCTS

CRYSTAL HEALING SHOULD BE USED WITH THE UNDERSTANDING THAT IT IS PART OF A HOLISTIC TREATMENT PLAN. IT IS NOT MEANT TO TAKE THE PLACE OF STANDARD MEDICAL OR PSYCHOLOGICAL TREATMENT, BUT TO ACCOMPANY & WORK ALONGSIDE IT. THE INFORMATION CONTAINED HEREIN IS METAPHYSICAL IN NATURE & DOES NOT CLAIM TO HEAL OR CURE.

VITAJUWEL HAS CONDUCTED A NUMBER OF TESTS TO FIND OUT MORE ABOUT THE EFFECT OF OUR PRODUCTS ON WATER. THESE TESTS HAVE BEEN MADE BY INTERNATIONAL LABS. WHEREAS THESE TESTS HAVE BEEN MADE UNDER CERTIFIED CONDITIONS, RESULTS HAVE VARIED. AT TIMES THE PH VALUE HAS EVEN STAYED UNCHANGED. THIS IS DUE TO THE FACT THAT NOT TWO GEMS THE SAME. APPLYING SCIENTIFIC MEASURES ON NATURAL PRODUCTS ALMOST NECESSARILY LEADS TO VARYING RESULTS

#### 13. Limitation of Liability

The VitaJuwel Parties will not be liable to you under any theory of liability—whether based in contract, tort, negligence, warranty, or otherwise—for any indirect, consequential, incidental or special damages arising out of or in any way related to these Terms or our Services (including the products purchased via our Services), even if VitaJuwel or the other VitaJuwel Parties have been advised of the possibility of such damages. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

The total liability of the VitaJuwel Parties for any claim arising out of or relating to any product purchased via the Services will not exceed the greater of \$100 or the purchase price of that product. For all other claims arising out of or relating to these Terms or our Services, the total liability of VitaJuwel Parties is limited to \$100.

The limitations set forth in this section will not limit or exclude liability for personal injury or property damage caused by a product you purchased via the Services or the gross negligence, fraud, or intentional, willful, or reckless misconduct of the VitaJuwel Parties or for any other matters in which liability cannot be excluded or limited under applicable law.

#### 14. Release

To the fullest extent permitted by applicable law, you release the VitaJuwel Parties from responsibility, liability, claims, demands, or damages of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between users and the acts or omissions of third parties. You expressly waive any rights you may have under California Civil Code § 1542 as well as any other statute or common law principles that would otherwise limit the coverage of this release to include only those claims which you may know or suspect to exist in your favor at the time of agreeing to this release.

#### 15. Dispute Resolution; Binding Arbitration

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with VitaJuwel and limits the manner in which you can seek relief from us.

Except as specified in Section 16(f) below, you and VitaJuwel waive your rights to a jury trial and to have any dispute arising out of or related to these Terms or our Services resolved in court. Instead, all disputes arising out of or relating to these Terms or our Services will be resolved through confidential binding arbitration in accordance with the Streamlined Arbitration Rules and Procedures ("Rules") of the Judicial Arbitration and Mediation Services ("JAMS"), which are available on the [JAMS website](#) and hereby incorporated by reference. The arbitration will be held in the county in which you reside, provided that if the claim is for \$25,000 or less, either you or VitaJuwel may choose to conduct the arbitration through a telephonic hearing. You either acknowledge and agree that you have read and understand the rules of JAMS or waive your opportunity to read the rules of JAMS and any claim that the rules of JAMS are unfair or should not apply for any reason.

You and VitaJuwel agree that any dispute arising out of or related to these Terms or our Services is personal to you and VitaJuwel and that any dispute will be resolved solely through individual arbitration and will not be brought as a class arbitration, class action or any other type of representative proceeding.

To the maximum extent permitted by applicable law, you and VitaJuwel agree that these Terms affect interstate commerce and that the enforceability of this Section 16 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the "FAA"). As limited by the FAA, these Terms and the JAMS Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court; provided, however, that the arbitrator does not have the authority to conduct a class arbitration or a representative action, which is prohibited by these Terms. The arbitrator may only conduct an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual. You and VitaJuwel agree that for any arbitration you initiate, the party filing the claim will pay the filing fee and the parties will split the remaining JAMS fees and costs. You and VitaJuwel agree that the state or federal courts of the State of Utah and the United States sitting in Summit County, Utah have exclusive jurisdiction over any appeals and the enforcement of an arbitration award.

Any claim arising out of or related to these Terms or our Services must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and VITAJUWEL will not have the right to assert the claim.

You have the right to opt out of binding arbitration within thirty (30) days of the date you first accepted the terms of this Section 16 by emailing [legal@VitaJuwel.com](mailto:legal@VitaJuwel.com). In order to be effective, the opt-out notice must include your full name and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve Disputes in accordance with Section 17.

This Section 15 will not apply to (i) small claims disputes in which you or VitaJuwel may seek to bring an individual action in small claims court located in the county of your billing address or (ii) disputes in which you or VitaJuwel seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property.

## 16. Governing Law and Venue

These Terms and your access to and use of our Services will be governed by and construed and enforced in accordance with the laws of California, without regard to conflict of law rules or principles (whether of

California or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any dispute between the parties that is not subject to arbitration or small claims court will be resolved in the state or federal courts of California and the United States, respectively, sitting in Contra Costa County, California.

#### 17. Export Compliance

All or part of our Services or the products purchased via our Services may be subject to U.S. export control, customs or economic sanctions laws (“Export Controls”). You agree to comply with all Export Controls as they relate to your receipt and use of our Services and the products purchased via our Services. You represent and warrant that: (a) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

#### 18. Government Users

This section applies only if you are acting on or behalf of an agency of the U.S. government. If acquired by any agency of the U.S. government, such agency acknowledges that: (a) any software obtained in connection with the Services (such as our mobile apps) constitute “commercial computer software” or “commercial computer software documentation” for purposes of 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable; and (b) such agency’s rights are limited to those specifically granted under these Terms.

#### 19. Termination

We reserve the right, without notice and in our sole discretion, to terminate your right to access or use our Services or to discontinue all or a part of the Services. We are not responsible for any loss or harm related to your inability to access or use our Services.

#### 20. Miscellaneous

If any provision or part of a provision of these Terms is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions. These Terms and any applicable Additional Terms constitute the entire agreement between you and VitaJuwel relating to your access to and use of our Services. The failure of VitaJuwel to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. Except as otherwise provided herein, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity. You agree that communications and transactions between us may be conducted electronically.

#### 21. Changes to Terms

We may make changes to these Terms from time to time. If we make changes, we will provide notice of such changes, such as by sending an email notification, providing notice through our Services, or posting the amended Terms to our Services and updating the “Last Updated” date above. Unless we say otherwise in our notice, the amended Terms will be effective immediately and your continued access to and use of our Services after we provide notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop accessing and using our Services.

#### 22. Contact

If you have any questions or concerns regarding the Services or these Terms, please contact us at: 1170 Burnett Ave, Ste O, Concord, CA 94520, [contact@vitajewel.com](mailto:contact@vitajewel.com) or +1.925.291.7490.

## **B. LIMITED WARRANTY**

Since 2013, VitaJewel has been committed to offering the finest products, using only the best materials and applying strict quality control standards. VitaJewel products are warranted to be free of defects in material and workmanship for 12 months from date of purchase. Our warranty is an expression of our confidence in the material and workmanship of our company's products, and assures unsurpassed quality for dependable glass products. This, however, is not a guarantee against normal wear and tear. Nor does it apply to product that has been damaged by misuse, neglect, accident, modification or unauthorized repair or product purchased from an unauthorized dealer or seller.

Bear in mind that most of our products are hand-made and contain semi-precious stones. Those stones – being natural products – vary in size, shape and color. Hand-crafted products like our Gemstone Vials vary slightly in size. The product you purchased will not look exactly as the one depicted on the pages of this website and might not be of the exact same size as your friend's VitaJewel product. These variations do not qualify as a product defect.

Due to these variations in the manufacturing process, it might be possible that one or more of the stones get stuck in the stem of the Gemstone Vial or the Gemstone Droplet. That does not impact the usability of the product and does also not qualify as a manufacturing defect.

If you believe your product is defective, please send an email with a description of the defect, a close-up photo and a purchase receipt to [contact@vitajewel.com](mailto:contact@vitajewel.com). Our support team will get back to you as soon as possible to guide you through the next steps.

If, upon inspection, we determine that the product is defective, we reserve the right to replace the product or issue you a credit, depending on the nature of the defect. This warranty gives you specific legal rights, and you may also have other rights which vary from state to state. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

## **C. RETURNS AND REFUNDS**

All purchases of VitaJewel products on this website are final and cannot be returned for a replacement or refund if they are free of defects.