

bhawkins

Terms of Use

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We offer a range of bhawkins Services and Products and sometimes additional terms may apply. When you use a bhawkins Service or Product, you also will be subject to the guidelines, terms and agreements applicable to that bhawkins Service or Product ("Additional Terms"). If these Terms of Use are inconsistent with the Additional Terms, those Additional Terms will control.

- 1. Privacy.** By accessing and using our Website, you agree to be bound by the terms found in our Privacy Policy which can be accessed at this link <http://www.bhawkins.com/docs/Privacy-Policy.pdf>. Please review our Privacy Policy carefully.
- 2. Electronic Communications.** When you use any bhawkins Service, access this Website, or send e-mails to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will also communicate with you by e-mail, United States Postal Service, telephone, or facsimile as requested by you or by posting notices on this Website or through other bhawkins Services. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
- 3. Services; Resale Prohibited.** Only end users may purchase bhawkins Services and Products because those Services and Products are intended for use only by the purchaser.

Resellers are prohibited from purchasing bhawkins Services and Products through the Website; any attempt to purchase Services or Products listed on the Website with the intent of reselling them to end-users violates these Terms of Use.

- 4. Content Ownership; Copyright.** All content included in or made available through any bhawkins Service or Product, such as text, graphics, logos, button icons, images, audio clips, digital downloads, and data compilations is the property of bhawkins, its parent company, or its content suppliers and protected by United States and international copyright laws. The compilation of all content included in or made available through any bhawkins Service is the exclusive property of bhawkins (or its parent company) and protected by U.S. and international copyright laws.
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- 6. Patents.** Portions of the bhawkins Services and the products accessible via the bhawkins Services operate under license of one or more patents that are owned by or licensed to bhawkins.
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- 8. Your Account.** If you use any bhawkins Service, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. bhawkins does provide services and products available for purchase with a credit card or other permitted payment method. If you are under 18, you may use the bhawkins Services only with involvement of a parent or guardian. bhawkins may refuse service, terminate accounts, remove or edit content, or cancel orders in its sole discretion.
- 9. User-Generated Content.** bhawkins may permit you to post content, including text, images, photographs, graphics, comments, reviews, bulletin-board postings, and other user-created and posted materials ("User Content"), to public areas or private portions of the Website. All User Content is subject to the restrictions set forth in these Terms of Use. If you post any User Content to any portion of the Website, you agree not to post any User Content that is unacceptable ("Unacceptable Content"); Unacceptable Content includes, but is not limited to, User Content that:
 - (a)** is obscene, indecent, lewd, or profane, including any User Content that is violent, pornographic, sexually explicit, obscene, offensive, indecent, or that otherwise contains nudity or sexual material, or depictions of violent or sexual acts;
 - (b)** is abusive, harassing, hateful, threatening, inflammatory or otherwise objectionable, including User Content used to harass, threaten, or stalk a person;

- (c) is unlawful or that could facilitate the violation of any applicable law, regulation, or governmental policy;
- (d) is discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age;
- (e) offers or otherwise disseminates any fraudulent goods, services, schemes or promotions, including pyramid schemes, or is otherwise deceptive;
- (f) involves commercial activities or sales, including but not limited to contests, sweepstakes, and other sales promotions or advertising;
- (g) is libelous, defamatory, knowingly false, or misrepresentative;
- (h) seeks to impersonate any person or entity, or falsely states or otherwise misrepresents an affiliation with a person or entity;
- (i) infringes upon the intellectual property rights of any third party, including the copyrights, trademarks, patents, rights of privacy, rights of publicity, or trade secrets of that third party, or is otherwise posted without the express permission of the owner of such rights;
- (j) includes any material that is encrypted or that involves the transmission of spamming, unsolicited mass mailing, "junk mail," or unauthorized advertising;
- (k) is harmful or malicious to the systems or networks of bhawkins or any other persons;
- (l) interferes with, surreptitiously intercepts, or appropriates any system, program, data, or personal information;
- (m) violates any obligation of confidentiality or violates the privacy or any other right of any third party;
- (n) consists of any other User Content that bhawkins in its sole discretion deems to be Unacceptable Content.

10. Use of Content Supplied by You. Please see our Privacy Policy for information regarding use of personal information you provide or communicate to bhawkins. By posting User Content or engaging in any other form of communication through the Website, you grant to

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- 11. Shipping Loss.** All items purchased from bhawkins are shipped under a third-party shipment contract. This means that the risk of loss and title for such items pass to you upon our delivery to the carrier.
- 12. Returns.** bhawkins accepts returns only for products under warranty (if any), and only to the extent of and through the methods specified in any applicable limited warranty. If you need to return any product, contact bhawkins directly or through the Website "Contact Us" page.
- 13. Product Descriptions.** bhawkins attempts to be as accurate as possible, but bhawkins does not warrant that product descriptions or other content of any bhawkins Service is accurate, complete, reliable, current, or error-free. If a product offered by bhawkins itself is not as described, your sole remedy is to return it in unused condition.
- 14. Pricing.** Pricing is specified on each Service and Product page, which is incorporated by reference into these Terms of Use.
- 15. Third-Party Businesses.** Parties other than bhawkins may offer bhawkins products on this Website or through other means. In addition, we may provide links to the sites of affiliated

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18. INAPPLICABILITY. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

19. Disputes. The Federal Arbitration Act and federal arbitration law apply to these Terms of Use. *Any dispute or claim relating in any way to your use or purchase of any bhawkins Service, purchase of any bhawkins product or Service, access to the Website, or to any interaction between you and bhawkins or an bhawkins officer, employee, or agent will be resolved by binding arbitration, rather than in court. Any claims that qualify for small claims court may, however, be asserted in small claims court.*

There is no judge or jury in arbitration, and court review of an arbitration award is limited. But an arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages), and must follow the terms of these Terms of Use as a court would.

To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to bhawkins, 1550 S. Acoma, Denver, co 80223. bhawkins will respond to you with further instructions. The American Arbitration Association (“AAA”) will conduct the arbitration under its rules, including the AAA's Supplementary Procedures for Consumer-Related Disputes. The AAA's rules are available at www.adr.org or by calling 1-800-778-7879. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person.

Both you and bhawkins agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration ***we each waive any right to a jury trial.*** We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

20. Applicable Law. By using any bhawkins Service, purchasing a bhawkins Service or Product, or accessing the Website, you agree that the Federal Arbitration Act, applicable federal law, and the laws of the State of Colorado, without regard to principles of conflict of laws, will govern these Terms of Use and any dispute of any sort that might arise between you and bhawkins.

21. Website Policies, Modification, and Severability. Please review our other policies, such as Privacy Policy. These policies also govern your use of bhawkins Services. bhawkins may modify this Website, policies, Pricing, Additional Terms, and these Terms of Use at any time. Any invalid, void, or otherwise unenforceable provision will be deemed severable and will not affect the validity and enforceability of any remaining provision.

22. Our Address: 1550 S. Acoma. Denver, CO 80223

23. Additional bhawkins Website Software Terms. The following additional terms apply to any software (including any updates or upgrades to the software and any related documentation) that we make available to you from time to time for your use in connection with the Website.

(a) Use of the bhawkins Website Software. You may use bhawkins Website Software only to enable your use and enjoyment of the bhawkins Services. You are prohibited from: incorporating any portion of the bhawkins Website Software into your own programs, compiling any portion of it in combination with your own programs, transferring it for use with another service, or selling, leasing, loaning, distributing sub-licensing, assigning, or in any way transferring the bhawkins Website Software or the rights to the bhawkins Website Software in whole or in part. You must not use the bhawkins Website Software for any illegal purpose. bhawkins may cease providing any bhawkins Website Software and may terminate your right to use the Website at any time.

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(b) Use of Third Party Services. Your use of the Website may result in the use of the services of one or more third parties, such as a third-party software company, a wireless carrier, or a mobile platform provider. Your use of these third-party services may be subject to the separate terms of use, policies, and fees of these third parties.

(c) No Reverse Engineering. You must not directly or indirectly (or assist or encourage others to): copy, modify, distribute, transfer, reverse engineer, decompile, disassemble, create derivative works from, or otherwise tamper with bhawkins Website Software.

24. Entire Agreement. These Terms of Use and the Privacy Policy, and any other incorporated terms constitute the entire agreement between you and bhawkins regarding your use of and access to the Website and the services and products provided by bhawkins; these Terms of Use supersede all prior agreements or understandings, whether oral or written, relating to that subject matter. Any purchase of merchandise or services through a third-party provider or access to a third-party website will be subject to any agreement or understanding between you and that third-party.