

LookLook® Terms of Service

Languages:

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Effective as of: November 20, 2018

Introduction

SPARK Ideas LLC (“SPARK”) grants you (“You” or “User,” collectively “Users”) a non-exclusive, non-transferable, permission to display the webpages and access content hosted on the LookLook® website (“Website”) and accessible via the LookLook® app for mobile devices (“Mobile App”), subject to the restrictions in this Terms of Service agreement (“TOS”). This TOS is a legally binding contract between You and SPARK governing the access and use of the services offered, and all information, content, media, content, printed materials and other electronic documentation accessible from www.spark-nyc.com, www.looklook-app.com, www.looklook-analysis.com, or any sub-domains thereof (each of which constitute a part of the Website), as well as the use of services offered, and all information, content, media, content, printed materials and other electronic documentation accessible using the Mobile App, regardless of whether any such materials or services are provided in a publicly-accessible or private (e.g., members-only) section of the Website or the Mobile App.

The Website and the Mobile App are offered by SPARK to Users free of charge on the express condition that Users accept and abide by the TOS. Access and use of the Website and the Mobile App is conditioned upon continued compliance with the TOS. SPARK expressly reserves the right to change the TOS at any time. You will be notified of any amendments or modifications and given an opportunity to accept the new TOS.

Please note the arbitration provision set forth below, which, except where and to the extent prohibited by law, requires you to arbitrate any claims You may have against SPARK on an individual basis. Arbitration on an individual basis means that you will not have, and you waive, the right for a judge or jury to decide your claims, and that you may not proceed in a class, consolidated or representative capacity.

Intellectual Property

All works of authorship hosted on the Website or accessible via the Mobile App which have been generated by SPARK or on its behalf by employees, agents or contractors, including, but not limited to, any designs, text, sound recordings, images, icons, and the overall appearance of the Website or sections thereof, as well as the interface and content of the Mobile App, are the sole and exclusive property of SPARK and/or its affiliates. The posting of such works on the Website or accessibility of such works via the Mobile App does not constitute a waiver of any of SPARK’s intellectual property or proprietary rights, including, but not limited to, copyrights, trademarks, service marks, patents and other intellectual property or proprietary rights, or a

transfer by implication, estoppel or otherwise of any such rights or of any license to Users of the Website or the Mobile App, or to any third party. The contents of the Website and the Mobile App are protected by U.S. and foreign copyright laws, both as individual works and in some instances as collections, as well as by U.S. and foreign trademark laws. By using the Website or the Mobile App, You agree not to utilize any copyright, trademark, proprietary or confidential information contained therein in a manner inconsistent with the TOS or in violation of any U.S. or foreign law governing the protection of intellectual property or proprietary rights.

No material from the Website or the Mobile App may be copied, reproduced, displayed, republished, reverse engineered, downloaded, posted, digitized, translated, modified, transmitted, distributed or commercially exploited in any way without SPARK's express consent.

User-Generated Content

Users may be allowed to publish or submit user-generated content on the Website or using the Mobile App, such as reviews, responses to surveys and other information solicited by SPARK. User-generated content includes, without limitation: posts, profiles, blogs, e-mail, files, photos, videos, and any other text, images or other content submitted to or published by Users of the Website or the Mobile App (e.g., using electronic form fields, scripts or applications made available to Users on the Website or accessible via the Mobile App).

By submitting or publishing user-generated content to the Website or using the Mobile App, you expressly agree that SPARK may use such content, including but not limited to by publicly displaying it, reformatting it, incorporating it into advertisements and other works, creating derivative works from it, promoting it, and distributing it. As such, you hereby irrevocably grant SPARK a world-wide, non-exclusive, royalty-free, sub-licensable, transferable right to use such content for any commercial or non-commercial purpose. You also irrevocably grant SPARK the right to share, at its discretion, any user-generated content with other Users of the Website or the Mobile App, and with SPARK's affiliates, customers and commercial partners. Finally, you irrevocably waive, and cause to be waived, against SPARK or any other party (including other Users), any claims and assertions of moral rights or attribution with respect to such content. The term "use" in this context is expressly understood to include the right to use, copy, publicly perform or display, distribute, modify, translate, and create derivative works based on such content.

You expressly agree that any user-generated content that you publish to the Website or submit using the Mobile App is not false, intentionally misleading, defamatory, abusive, vulgar, hateful, harassing, obscene, profane, sexually-oriented, threatening, invasive of a person's privacy, or otherwise in violation of any law. You further expressly agree that such content does not: violate any third-party right, including any copyright, trademark, patent, trade secret, moral right, confidentiality right, privacy right, right of publicity, or any other intellectual property or proprietary right; contain material that is unlawful, including illegal hate speech or pornography; exploit or otherwise harm minors; or violate or advocate the violation of any U.S. or foreign law. You may expose yourself to liability by failing to abide by this requirement and SPARK shall bear no responsibility for any such user-generated content. Furthermore, Users that publish user-generated content which violates this provision or any other requirement of the TOS may be banned from the Website or the Mobile App, or have their access to the Website or the Mobile

App (or services provided by the Website or the Mobile App) restricted, without warning and at SPARK's sole discretion.

Users acknowledge and agree that SPARK is not responsible for monitoring user-generated content. SPARK and its designees shall, however, have the right (but not the obligation) in their sole discretion to pre-screen, refuse, edit, or remove any user-generated content that is available on the Website or the Mobile App, or services provided in connection with the Website or the Mobile App. Users further agree to assume all risks associated with the use of any user-generated content including any reliance on the accuracy, completeness, or usefulness or such content.

In accordance with the U.S. Children's Online Privacy Protection Act of 1998 (COPPA), Users are not permitted to publish or submit to the Website or the Mobile App any user-generated content intended for children under the age of 13 without the express written permission of SPARK. Users are also not permitted to collect personal information from children under the age of 13. You expressly agree to act in accordance with these provisions when posting any user-generated content to the Website or submitting any user-generated content using the Mobile App.

External Links

SPARK may provide links to other Internet websites or resources on the Website or accessible via the Mobile App. SPARK may also permit Users to post links to other Internet websites or resources (e.g., in user-generated content). In either case, SPARK, its affiliates or agents, or any other parties involved in the preparation or publication of the Website or the Mobile App shall not be responsible for the content of any linked website or any link contained in a linked website, or any changes or updates to such websites, nor does SPARK endorse any such links or other related materials. It is the responsibility of Users to take precautions when accessing any linked websites or content hosted on third party websites.

Registration

In order to access certain areas or functionality of the Website or the Mobile App (e.g., a members-only section), Users may need to register an account. You are responsible for maintaining the confidentiality of your account credentials and the additional personal information. Registered Users of any members-only areas must abide by all of the requirements of the TOS described herein, including but not limited to acceptable terms of use related to user-generated content described above.

Your access to any such members-only areas, content, or other Website or Mobile App functionality that requires registration is granted solely at SPARK's discretion. In consideration of this access, you represent that you are of legal age to form a binding contract and are not a person barred from receiving services under the laws of the United States or any other applicable jurisdiction. You further agree to: (a) provide true, accurate, current and complete information about yourself when prompted and (b) maintain and promptly update your information to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or if SPARK has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, SPARK may, in its sole

discretion, suspend or terminate your access to any such members-only areas, content, or functionality and refuse any and all current or future use of the Website or the Mobile App (or any portion thereof).

You acknowledge, consent and agree that SPARK may access, preserve and disclose your account information and user-generated content if required to do so by law or if SPARK believes that such access, preservation, or disclosure is reasonably necessary to (a) comply with legal process; (b) enforce the requirements of the TOS; (c) respond to claims that any such content violates the rights of third parties; (d) respond to your requests for customer service; or (e) protect the rights, property or personal safety of SPARK, other Users, or the public.

User Conduct

In addition to any other general guidelines for user-generated content provided herein, registered Users expressly agree not to upload, publish, post, e-mail, transmit or otherwise make available on the Website or the Mobile App any content that:

- (a) is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, or otherwise objectionable;
- (b) infringes any patent, trademark, trade secret, copyright or other proprietary right of any party;
- (c) the User does not have a right to make available (e.g., proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- (d) contains unsolicited or unauthorized advertising, promotional materials (e.g., "junk mail," "spam," or any other form of solicitation); or
- (e) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware.

Users further agree not to: (a) impersonate any person or entity, including, but not limited to a SPARK employee or forum administrator, or falsely state or otherwise misrepresent your affiliation with a person or entity; (b) to "stalk" or otherwise harass other registered Users of the Website or the Mobile App; or (c) collect or store personal data about other Users.

Registered Users that violate any of the requirements of the TOS, or who upload, publish, post, e-mail, transmit or otherwise make available any content on the Website or the Mobile App that is found to be objectionable, inflammatory, or abusive to other registered Users or SPARK staff may have their accounts limited, suspended or terminated by SPARK. Similarly, any determination regarding whether content is objectionable, inflammatory, or abusive is made at SPARK's sole discretion.

Age Limitation

The Website and the Mobile App are not intended for use by children under the age of 13. SPARK does not knowingly request or solicit personally identifiable information from anyone under the age of 13. However, if SPARK receives actual knowledge that it has collected such

personal information, SPARK will delete that information from the Website or the Mobile App (as the case may be), as quickly as is reasonably practical.

Privacy

SPARK may collect personal or aggregate information about Users of the Website or the Mobile App in accordance with our Privacy Policy [<http://spark-nyc.com/s/LookLook-Privacy-Policy-EN.pdf>] Please see our Privacy Policy for more information about our privacy practices.

Notice of Claims of Intellectual Property Infringement

SPARK complies with the provisions of the Digital Millennium Copyright Act (DMCA). As described elsewhere herein, the Website and/or the Mobile App may from time to time feature user-generated content or content published to the Website and/or the Mobile App by third parties (e.g., SPARK partners or affiliates). SPARK does not authorize or permit the use of content on the Website or the Mobile App that infringes on the intellectual property rights or other proprietary rights of others, and will remove any such content if properly notified in accordance with the procedure set forth in the TOS. If you believe that any of the content on the Website and/or the Mobile App infringes your copyright or trademark rights or violates your right of publicity or other proprietary rights, please contact SPARK's agent for the notice of any claim of infringement of any copyright or trademark or other proprietary rights, who can be reached using the contact information provided below:

Malinda Sanna
malinda@spark-nyc.com
Attention: DMCA Notice
1328 Ridge Road
Laurel Hollow, NY. 11791

Please include the following information with your request in order to expedite processing:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of at least one exclusive right that is allegedly infringed.
2. An identification of the copyrighted work, trademark or proprietary right claimed to have been infringed, or, if you believe that multiple works, marks or proprietary rights have been infringed on the Website and/or the Mobile App, a representative list of such works, trademarks or proprietary rights.
3. An identification of the published material that is allegedly infringing or otherwise the subject of infringing activity for which you request removal, and information reasonably sufficient to permit SPARK to locate any such material.
4. Information reasonably sufficient to permit SPARK to contact you (e.g., an address, telephone number, or an e-mail address) in connection with the request.

5. A statement that you in good faith believe that use of the material in the manner complained of is not authorized by the owner, its agent, or otherwise permissible by law.
6. A statement that the information in the notification is accurate, and that, under penalty of perjury, you are authorized to act on behalf of the owner of the intellectual property or proprietary right that is allegedly infringed.

Upon receipt of a request containing the information described above, SPARK shall investigate the matter and take appropriate action to remove any content found to infringe or violate any third party rights.

Disclaimer of Warranty and Liability

You understand that, except for information, products, or services clearly identified as being supplied by the SPARK, SPARK does not review, operate, or control any material, information, products or services on the Website or accessible via the Mobile App, or on the Internet. To the fullest extent permitted under law and save for the rights granted to consumers under applicable laws, the Website and the Mobile App are provided on an “as is” and “as available” basis. SPARK makes no representations or warranties of any kind, express or implied, regarding the availability, operation, or administration of the Website or the Mobile App or the information or content on either platform. SPARK does not make any express or implied warranties, representations, or endorsements whatsoever in connection with user-generated content published to the Website or made accessible on the Mobile App, other websites accessed by links posted on the Website or the Mobile App, or the Internet generally. To the full extent permitted by applicable law, SPARK specifically disclaims all such warranties, whether express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. SPARK does not guarantee that the Website and the Mobile App will meet User requirements, or that they are error-free, reliable, without interruption or available at all times. SPARK does not guarantee that the services that may be obtained from the use of the Website and the Mobile App, including any support services, will be effective, reliable, and accurate or meet User requirements. SPARK does not guarantee that you will be able to access or use the Website and the Mobile App (either directly or through third-party networks) at all times or locations of your choosing.

To the fullest extent permitted under law and save for the rights granted to consumers under applicable laws, SPARK will not be liable for any damages of any kind arising from the use or inability to use the Website or the Mobile App. You expressly agree that you use the Website and the Mobile App solely at your own risk.

In no event shall SPARK be liable for any injury, loss, claim, damage, or any incidental or consequential damages arising either directly or indirectly out of or in any way connected with the Website or the Mobile App, or any failure or delay in updating or including any materials on the Website or the Mobile App, or any use of or inability to use any materials on the Website or the Mobile App, even if SPARK has been advised of the possibility of such damages.

Right to Restrict Access, Remove Content and Discontinue Service

SPARK has the right to restrict Users' access to the Website or the Mobile App, including individual areas or services provided by the Website or the Mobile App, for any reason. SPARK has the right (though not the obligation) in its sole discretion to refuse or remove any user-generated content at any time that violates the TOS or any SPARK policy, or applicable federal or state statutes, or common law. SPARK also reserves the right to modify, suspend or discontinue the Website or the Mobile App, with or without notice, at any time and without any liability to Website or Mobile App Users.

Dispute Resolution and Agreement to Arbitrate

Except where and to the extent prohibited by law, by using the Website and/or the Mobile App, you and SPARK agree that, if there is any controversy, claim, action, or dispute arising out of or related to your use of the Website and/or the Mobile App, or the breach, enforcement, interpretation, or validity of this TOS or any part of it ("Dispute"), both parties shall first try in good faith to settle such Dispute by providing written notice to the other party describing the facts and circumstances of the Dispute and allowing the receiving party thirty (30) days in which to respond to or settle the Dispute. Notice shall be sent to us at:

Spark Ideas, LLC
1328 Ridge Road
Syosset, New York 11791

Both you and SPARK agree that this dispute resolution procedure is a condition precedent that must be satisfied before initiating any litigation or filing any claim against the other party. IF ANY DISPUTE CANNOT BE RESOLVED BY THE ABOVE DISPUTE RESOLUTION PROCEDURE, YOU AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION FOR SUCH DISPUTE WILL BE DECIDED BY BINDING ARBITRATION ON AN INDIVIDUAL BASIS. ARBITRATION ON AN INDIVIDUAL BASIS MEANS THAT YOU WILL NOT HAVE, AND YOU WAIVE, THE RIGHT FOR A JUDGE OR JURY TO DECIDE YOUR CLAIMS, AND THAT YOU MAY NOT PROCEED IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE CAPACITY. Other rights that you and we would otherwise have in court will not be available or will be more limited in arbitration, including discovery and appeal rights. All such disputes shall be exclusively submitted to JAMS (www.jamsadr.com) for binding arbitration under its rules then in effect, before one arbitrator to be mutually agreed upon by both parties.

The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute arising under or relating to the interpretation, applicability, enforceability, or formation of this TOS, including any claim that all or any part of this TOS is void or voidable.

Governing Law

You agree that if SPARK does not exercise or enforce any legal right or remedy that is contained in the TOS (or for which SPARK is entitled under any applicable law), this will not be construed as a waiver of these rights and remedies.

The state and federal courts located in New York, New York will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the TOS, including their formation as a contract or their enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts. Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to the TOS. In any action or proceeding to enforce rights under the TOS, the prevailing party will be entitled to recover its reasonable costs and attorney's fees.

Severability

If any one or more of the provisions of this TOS are held to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision or provision in every other respect and of the remaining provisions of this TOS shall not be in any way impaired.

Termination

This TOS will continue to apply until terminated by either You or SPARK. SPARK may at any time terminate its legal agreement with You established by this TOS for any reason upon notice. In addition, SPARK expressly reserves the right to terminate or limit your right to access and use the Website or the Mobile App if you have breached any provision of the TOS, if SPARK is required to do so by law, or if SPARK no longer maintains the Website or the Mobile App and is terminating the service.

Contact Information

SPARK welcomes your questions or comments regarding this TOS, the Website and The Mobile App. If you have questions or concerns, please contact us at:

Spark Ideas, LLC
1328 Ridge Road
Syosset, New York 11791

Telephone number:
(917) 991-0477