



## TERMS OF USE

PLEASE READ THESE TERMS OF USE (“AGREEMENT” OR “TERMS OF USE”) CAREFULLY BEFORE USING THE SERVICES OFFERED BY VERTITECHIT, INC. (“COMPANY”). THIS AGREEMENT SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE WEBSITE OWNED AND OPERATED BY COMPANY, [www.vertitechit.com](http://www.vertitechit.com), INCLUDING ANY SUCCESSOR WEBSITES THERETO (“SITE”), AND ANY OTHER FEATURES, CONTENT, OR APPLICATIONS OFFERED FROM TIME TO TIME BY THE COMPANY IN CONNECTION THEREWITH (COLLECTIVELY, THE “SERVICE”). BY USING THE SITE OR SERVICE IN ANY MANNER, INCLUDING BUT NOT LIMITED TO VISITING OR BROWSING THE SITE, YOU AGREE TO BE BOUND BY THIS AGREEMENT. THIS AGREEMENT APPLIES TO ALL USERS OF THE SITE OR SERVICE, INCLUDING USERS WHO ARE ALSO CONTRIBUTORS OF CONTENT, INFORMATION, AND OTHER MATERIALS OR SERVICES ON THE SITE.

### Acceptance of Terms

The Service is offered subject to acceptance without modification of all of the terms and conditions contained herein (the “Terms of Use”) and all other operating rules, policies and procedures that may be published from time to time on the Site by Company. In addition, some services offered through the Service may be subject to additional terms and conditions promulgated by Company from time to time; your use of such services is subject to those additional terms and conditions, which are incorporated into these Terms of Use by this reference.

You represent and warranty that if you are an individual, you are at least 18 years old; that all registration information you submit is accurate and truthful; and that your use of the Service does not violate any applicable law or regulation. Company may, in its sole discretion, refuse to offer the Service to any person or entity and change its eligibility criteria at any time. This provision is void where prohibited by law and the right to access the Service is revoked in such jurisdictions.

### Modifications

Company reserves the right, at its sole discretion, to modify or replace any of the Terms of Use, or change, suspend, limit or discontinue the Service (including without limitation, the availability of any feature, database, or content) at any time by posting a notice on the Site or by sending you an email. Your continued use of the Service following notice of any changes to the Terms of Use constitutes acceptance of those changes.

### Privacy

Company’s current Site privacy statement is located at [www.vertitechit.com](http://www.vertitechit.com) (the “Privacy Policy”) and is incorporated into these Terms of Use. For inquiries in regard to the Privacy Policy, or to report a privacy-related problem, please contact [info@vertitechit.com](mailto:info@vertitechit.com).

### Rules and Conduct

As a condition of use, you promise not to use the Service for any purpose that is prohibited by the Terms of Use. You are responsible for all of your activity in connection with the Service. The

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term “Content” includes, without limitation, any advertisements, advice, suggestions, videos, audio clips, written forum comments, information, data, text, photographs, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible by Company or its partners on or through the Service.

By way of example, and not as a limitation, you shall not (and shall not permit any third party to) either (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any content on or through the Service, that:

- infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any other person or entity;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another’s privacy, tortious, obscene, offensive, or profane;
- constitutes unauthorized or unsolicited advertising, junk or bulk e-mail (“spamming”);
- involves commercial activities and/or sales without Company’s prior written consent such as contests, sweepstakes, barter, advertising, or pyramid schemes;
- contains software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information of Company or any third party; or
- impersonates any person or entity, including any employee or representative of Company.

Additionally, you shall not: (i) take any action that imposes or may impose (as determined by Company in its sole discretion) an unreasonable or disproportionately large load on Company’s (or its third party providers’) infrastructure; (ii) interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service; (iii) bypass any measures Company may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service); (iv) run Maillist, Listserv, any form of auto-responder or “spam” on the Service; or (v) use manual or automated software, devices, or other processes to “crawl” or “spider” any page of the Site.

You shall not (directly or indirectly): (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Service, except to the limited extent applicable laws specifically prohibit such restriction, (ii) modify, translate, or otherwise create derivative works of any part of the Service, or (iii) copy, rent, lease, distribute, or otherwise transfer any or all of the rights that you receive hereunder. You shall abide by all applicable local, state, national and international laws and regulations.

Company reserves the right to remove any Content from the Site or Service at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or

authorities relating to such Content or if Company is concerned that you may have violated the Terms of Use), or for no reason at all.

## **Registration**

As a condition to using certain aspects of the Service, you may be required to register with Company and select a password and screen name (“Company User ID”). If you choose to register, you shall provide Company with accurate, complete, and updated registration information. Company reserves the right to refuse registration of or cancel a Company User ID in its sole discretion. You are solely responsible for activity that occurs on your account and shall be responsible for maintaining the confidentiality of your password. You shall never use another user’s account without such other user’s express permission. You will immediately notify Company in writing of any unauthorized use of your account, or other account related security breach of which you are aware.

## **Links to or from Third Party Sites**

The Service may permit you to link to other websites or resources on the Internet. When you access third party websites, you do so at your own risk. These other websites are not under Company’s control, and you acknowledge that Company is not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites or resources, or for any damage or loss caused or alleged to be caused by your use of or reliance on any content, goods or services available on or through any such website or resource. The inclusion of any such link does not imply endorsement by Company or any association with its operators.

## **Company and Site Content**

You agree that the Service contains Content specifically provided by Company or its partners and that such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You shall abide by all copyright notices, information, and restrictions contained in any such Content. You shall not sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, create derivative works from, or otherwise exploit any Content or third party submissions or other proprietary rights not owned by you, (i) without the consent of the respective owners or other valid right, and (ii) in any way that violates any third party right.

## **User Submissions**

The Service may provide you with the ability to upload, submit, disclose, distribute or otherwise post (hereafter, “posting”) content, videos, audio clips, written forum comments, data, text, photographs, software, scripts, graphics, suggestions, testimonials, works of authorship or other materials or information to the Services (the “User Submissions”). By posting User Submissions on or at any of the Site or otherwise through the Service:

- You hereby do and shall grant Company a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sub-licensable and transferable license to use, modify, reproduce, distribute, prepare derivative works of, display, publish, perform, and otherwise fully exploit (“Use”) the User Submissions in connection with the Site, the Service and Company’s (and its successors and assigns) business, including without limitation for promoting and redistributing part or all of the Site (and derivative works thereof) or the Service in any media formats and through any media channels

(including, without limitation, third party websites). You also hereby do and shall grant each user of the Site and/or the Service a non-exclusive license to access your User Submissions through the Site and the Service, and to Use such User Submissions as permitted through the functionality of the Site and the Service and under these Terms of Use. For clarity, the foregoing license grant to Company does not affect your other ownership or license rights in your User Submission(s), including the right to grant additional licenses to the material in your User Submission(s), unless otherwise agreed in writing;

- You represent and warrant: that you own or otherwise control all rights to Use such User Submissions and that disclosure and Use of such User Submissions by Company (including without limitation, publishing content on or at the Site) will not infringe or violate the rights of any third party, including without limitation any privacy, publicity, contract or other rights of any person or entity;
- You understand that Company shall have the right to reformat, excerpt, or translate any materials, content or information submitted by you; and that all information publicly posted or privately transmitted through the Site is the sole responsibility of the person from which such content originated; and that Company cannot guarantee the identity of or the authenticity of any data posted by any other users with whom you may interact in the course of using the Service.

Company does not endorse and has no control over any User Submission. Company has the right, but not the obligation, to monitor the Site, Service, Content, or User Submissions. Company may remove any User Submission at any time for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such User Submission), or for no reason at all.

Under no circumstances will Company be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or any loss or damage of any kind incurred in connection with use of or exposure to any Content posted, emailed, accessed, transmitted or otherwise made available via the Service.

## **Termination**

Company may terminate your access to all or any part of the Service at any time, with or without cause, with or without notice, which may result in the forfeiture and destruction of all information associated with your membership. If you wish to terminate your account, you may do so by following the instructions on the Site. Any fees paid hereunder are non-refundable. All provisions of the Terms of Use that by their nature should survive termination, shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

## **Warranty Disclaimer**

THE SERVICE (INCLUDING, WITHOUT LIMITATION, ANY CONTENT) IS PROVIDED “AS IS” AND “AS AVAILABLE” AND IS WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF



PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. COMPANY, AND ITS DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND CONTENT PROVIDERS DO NOT WARRANT THAT: (A) THE SERVICE WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (B) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (C) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (D) THE RESULTS OF USING THE SERVICE WILL MEET YOUR REQUIREMENTS. YOUR USE OF THE SERVICE IS SOLELY AT YOUR OWN RISK.

SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

### **Indemnification**

You shall defend, indemnify, and hold harmless Company, its affiliates and each of its, and its affiliates employees, contractors, directors, suppliers and representatives from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to (i) your use of the Site, Service and/or Content or otherwise from your User Submissions, (ii) your violation of the Terms of Use, or (iii) infringement by you, or any third party using the your account, of any intellectual property or other right of any person or entity. Company reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with Company in asserting any available defenses.

### **Limitation of Liability**

IN NO EVENT SHALL COMPANY, NOR ITS DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SERVICE (INCLUDING, WITHOUT LIMITATION, ANY CONTENT) (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGIN), (III) FOR YOUR RELIANCE ON THE SERVICE OR (IV) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) THE FEES AND AMOUNTS PAID BY YOU TO COMPANY IN THE SIX (6) MONTHS PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM OR ONE-HUNDRED U.S. DOLLARS (\$100.00), WHICHEVER IS GREATER. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

### **Dispute Resolution**

A printed version of the Terms of Use and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to the Terms of Use to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You and Company agree that any cause of action arising out of or related to the Service must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.

The Terms of Use shall be governed by and construed in accordance with the laws of the State of Massachusetts, excluding its conflicts of law rules, and the United States of America. Any

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dispute arising from or relating to the subject matter of this Agreement shall be finally settled by arbitration in Massachusetts, using the English language in accordance with the Arbitration Rules and Procedures of Judicial Arbitration and Mediation Services, Inc. (“JAMS”) then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes, who shall be selected from the appropriate list of JAMS arbitrators in accordance with the Arbitration Rules and Procedures of JAMS. The prevailing party in the arbitration shall be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys’ fees, expert witness fees and all other expenses) incurred in connection therewith. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for injunctive or other equitable relief pending a final decision by the arbitrator. For all purposes of this Agreement, the parties consent to exclusive jurisdiction and venue in the United States Federal Courts located in the county in the state of Massachusetts having jurisdiction over Company’s offices. Use of the Service is not authorized in any jurisdiction that does not give effect to all provisions of the Terms of Use, including without limitation, this section.

## **Integration and Severability**

The Terms of Use are the entire agreement between you and Company with respect to the Service and use of the Site, and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and Company with respect to the Site. If any provision of the Terms of Use is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Terms of Use will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

## **Miscellaneous**

Company shall not be liable for any failure to deliver products or otherwise perform its obligations hereunder where such failure results from any cause beyond Company’s reasonable control. The Terms of Use are personal to you, and are not assignable, transferable or sub-licensable by you except with Company’s prior written consent. Company may assign, transfer or delegate any of its rights and obligations hereunder without consent. No agency, partnership, joint venture, or employment relationship is created as a result of the Terms of Use and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under the Terms of Use, the prevailing party will be entitled to recover costs and attorneys’ fees. All notices under the Terms of Use will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service.

## **Digital Millennium Copyright Act Notice**

Company has adopted the following general policy toward copyright infringement in accordance with the Digital Millennium Copyright Act (<http://lcweb.loc.gov/copyright/legislation/dmca.pdf>). The address of Company’s Designated Agent to Receive Notification of Claimed Infringement (“Designated Agent”) is listed at the end of this policy.

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It is Company's policy to (1) block access to or remove Content that it believes in good faith to be copyrighted material that has been illegally copied and distributed by any of our advertisers, affiliates, content providers, members or users; and (2) remove and discontinue service to repeat offenders.

## *A. Procedure for Reporting Copyright Infringements:*

If you believe that Content residing on or accessible through the Company web site or service infringes a copyright, please send a notice of copyright infringement containing the following information to the Designated Agent listed below:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed;
2. Identification of works or materials being infringed;
3. Identification of the Content that is claimed to be infringing including information regarding the location of the Content that the copyright owner seeks to have removed, with sufficient detail so that Company is capable of finding and verifying its existence;
4. Contact information about the notifier including address, telephone number and, if available, e-mail address;
5. A statement that the notifier has a good faith belief that the Content is not authorized by the copyright owner, its agent, or the law; and
6. A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.

## *B. Once Proper Bona Fide Infringement Notification is Received by the Designated Agent:*

It is Company's policy:

1. to remove or disable access to the infringing Content;
2. to notify the Content provider, member or user that it has removed or disabled access to the Content; and
3. that repeat offenders will have the infringing Content removed from the system and that Company will terminate such content provider's, member's or user's access to the service.

## *C. Procedure to Supply a Counter-Notice to the Designated Agent:*

If the Content provider, member or user believes that the Content that was removed or to which access was disabled is either not infringing, or the Content provider, member or user believes that it has the right to post and use such Content from the copyright owner, the copyright owner's agent, or pursuant to the law, the content provider, member or user must send a counter-notice containing the following information to the Designated Agent listed below:

1. A physical or electronic signature of the Content provider, member or user;
2. Identification of the Content that has been removed or to which access has been disabled and the location at which the Content appeared before it was removed or disabled;

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3. A statement that the Content provider, member or user has a good faith belief that the Content was removed or disabled as a result of mistake or a misidentification of the Content; and
4. Content provider's, member's or user's name, address, telephone number, and, if available, e-mail address and a statement that such person or entity consents to the jurisdiction of the Federal Court for the judicial district in which the content provider's, member's or user's address is located, or if the Content provider's, member's or user's address is located outside the United States, for any judicial district in which Company is located, and that such person or entity will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Designated Agent, Company's may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed Content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the Content provider, member or user, the removed Content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at Company's discretion.

Please contact Company's Designated Agent to Receive Notification of Claimed Infringement at the following address:

**VertitechIT, Inc.**

4 Open Square Way, Suite 310  
Holyoke, MA 01040  
United States of America

*Last Updated Date: November 22, 2017*

