



## Terms of Service

### 1) Acceptance of the Terms of Service.

- a) Vrtly, Inc. ("Vrtly") operates a website (the "**Website**") available at Vrtly.ai that, among other things, may (i) allow users to make Brand Content (defined below) available to medical practices for their use, and (ii) allow medical practices to select Brand Content and display it on their premises (the Website, together with any content, functionality and services offered on or through Vrtly.ai, may be referred to as the "**Services**"). The following terms and conditions (together with any additional terms incorporated herein, the "**Terms of Service**") govern your access to and use of the Services, whether as a guest or a registered user.
- b) To access the Services, you may be asked to provide certain registration details or other information to create an account (an "**Account**", which may be a Company Account or a User Account as defined below). These Terms of Service apply to the organization that is creating an account for the Services (each a "**Company**") and any user (each an "**Authorized User**") of an account (each a "**User Account**") issued under Company's account (the "**Company Account**"). It is a condition of your use of the Services that all information you provide to Vrtly is correct, current, and complete.
- c) Please read the Terms of Service carefully before you use the Services. **By accessing or using the Services and/or by clicking to accept the Terms of Service, you accept and agree to be bound and abide by these Terms of Service and Vrtly's Privacy Policy, found at <https://www.vrtly.ai/privacy>, incorporated herein by reference. IF YOU ARE ESTABLISHING A COMPANY ACCOUNT AND/OR ARE AN ADMINISTRATOR OF A COMPANY ACCOUNT, YOU REPRESENT TO VRTLY THAT YOU HAVE AUTHORITY TO BIND COMPANY TO THESE TERMS OF SERVICE, AND YOU AGREE TO THESE TERMS OF SERVICE ON BEHALF OF COMPANY AND ON BEHALF OF YOURSELF.** If you do not agree to these Terms of Service or the Privacy Policy, you must not access or use the Services.

### 2) Changes to the Terms of Service.

- a) Vrtly may revise and update these Terms of Service from time to time in its sole discretion. All changes are effective immediately when it posts them and apply to all access to and use of the Services thereafter.
- b) Your continued use of the Services following the posting of revised Terms of Service means that you accept and agree to the changes. You are expected to review the Terms of Service each time you access this Website, so you are aware of any changes.

### 3) Accessing the Services and Account Security.

- a) Vrtly reserves the right to cease providing or amend the Services (including any service or material Vrtly provides on the Website) in its sole discretion without notice. Vrtly will not be liable if all or any part of the Services is unavailable at any time. Vrtly may restrict access to some parts of the Services, or the entire Services, to users, including Authorized Users.
- b) You shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers, a wi-fi network and the like (collectively, "**Equipment**"), except as expressly provided herein. You shall also be responsible for maintaining the security of the Equipment and passwords for your Accounts.
- c) Portions of the Services available to different Authorized Users may vary. No Authorized User has access to all portions of the Services. You agree not to use or access, or attempt to use or access, any portion of the Services for which you are not intentionally given access to by Vrtly and/or Company, as applicable.

- d) Company will be issued a Company Account that consists of one or more User Accounts that may be used to administer the applicable Company Account and to establish other User Accounts, subject to any limitations imposed by Vrtly on the number of User Accounts permitted for each Company Account.
  - e) Any use of a User Account comprising a Company Account shall be considered a use of such Company Account. Each User Account must be designated for use by a named individual, and Company may allow only such named individual to use the User Account designated for him or her. If an Authorized User is no longer authorized by Company to use and access a User Account, Company shall immediately notify Vrtly and submit a written request (an email to support@Vrtly.ai will suffice) that Vrtly deactivate such User Account. Company will be responsible for all access to, and use of, the Services by an Authorized User (and anyone that uses and/or accesses the Services through a Company Account or a User Account comprising the Company Account) and for any damage Vrtly incurs as a result of any act, error, or omission of any Authorized User (and anyone that uses and/or accesses the Services through a Company Account or a User Account comprising the Company Account). Any breach of these Terms of Service by an Authorized User (and anyone that uses and/or accesses the Services through a Company Account or a User Account comprising the Company Account) shall be considered a breach by Company.
  - f) Each Authorized User hereby acknowledges that Company may have submitted personally identifiable information about him/her to Vrtly. Each Authorized User further acknowledges that Company may control his/her access to the User Account and all content therein, including termination and/or suspension of access to the User Account.
  - g) If you choose, or are provided with, a username, password, or any other piece of information for an Account, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your Account is personal to you and agree not to provide any other person with access to the Services using your Account. You agree to notify Vrtly immediately of any unauthorized access to or use of your username or password or any other breach of security. You also agree to ensure that you exit from your Account at the end of each session. You should use caution when accessing your Account from a public or shared computer so that others are not able to view or record your password or other personal information.
  - h) Vrtly has the right to disable any username, password, or other identifier at any time in its sole discretion for any or no reason, including if, in its opinion, you have violated any provision of these Terms of Service.
- 4) **Advertisers.** If Vrtly authorizes you to use the Services to share Brand Content (defined below) with medical practices for their use and display, the terms of this Section 4 apply to you.
- a) Company may, from time to time, engage Vrtly to provide certain services (the “**Brand Services**”) as further detailed in one or more sequentially numbered insertion orders (e.g., Insertion Order #1, Insertion Order #2, etc.) agreed upon in writing by the parties (each an “**Insertion Order**”), all subject to these Terms of Service.
  - b) You may, as permitted by the functionality made available by Vrtly to You, use the Services to submit Brand Content to Vrtly, obtain and analyze data related to your Brand Content, and for the other purposes described in these Terms of Service and the applicable Insertion Order.
  - c) Company agrees to (i) provide Brand Content to Vrtly as required in these Terms of Service and applicable Insertion Order (e.g., by the deadline set forth in the applicable Insertion Order and in accordance with Content Standards), (ii) provide updated versions of Brand Content to Vrtly in the event that Company wishes to update the Brand Content used in connection with the Services, and (iii) obtain all permissions necessary for Vrtly to lawfully use the Brand Content (including, without limitation, all consents required by the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”), as applicable). Company acknowledges and agrees that Vrtly is not responsible, or liable to any third party, for the content or accuracy of any Brand Content provided by Company.
  - d) Company grants to Vrtly a non-exclusive, sub-licensable license to display, distribute, publish and reproduce the Brand Content provided to Vrtly via a Company Account or by any Authorized User in connection with (i) the Services (including, without limitation, the right to distribute the Brand Content to healthcare providers for them to display in their facilities) and (ii) case studies (as further detailed in Section 9 below); except for Brand Content which Company “deactivates”, which Vrtly shall not display, distribute, publish, or reproduce other than to make the Brand Content available to Company via the Services. Vrtly may deactivate Brand Content in its discretion. For Company to “deactivate” Brand Content, it shall (i) notify Vrtly in writing of the specific Brand Content that it

wishes to deactivate and the date by which such Brand Content should be deactivated, or (ii) as applicable, deactivate the Brand Content via the Services.

- e) Company grants to Vrtly the right to modify the Brand Content only (i) in accordance with Company's requests, and (ii) as required to display Brand Content as part of an ad campaign (e.g., for formatting) and to meet Vrtly's technical, creative, and formatting standards.
- f) Company agrees to pay Vrtly the fees set forth in the applicable Insertion Order (the "**Brand Fees**") for the Brand Services. All Brand Fees are non-refundable.

**5) Medical Practices.** If you are using the Services to obtain Brand Content from advertisers for display on the premises of your medical practice, the terms of this Section 5 apply to you.

- a) Vrtly may, from time-to-time, deliver an automated in-practice marketing platform to approved medical aesthetic practices at the point of care and may provide related web and mobile software applications (collectively, the "**In-Practice Services**") to such practices. Any agreement between Company and Vrtly governing such In-Practice Services shall be in one or more sequentially numbered amendments (e.g., Premium Amendment # 1 to Terms of Service, Premium Amendment # 2 to Terms of Service, etc.) agreed upon in writing by the parties (each a "Premium Amendment"), all subject to these Terms of Service. Company is responsible for obtaining and maintaining all Equipment necessary to use the In-Practice Services, as identified by Vrtly from time-to-time. Company shall not use the In-Practice Services if it is not approved by Vrtly to use such Services or if such approval is withdrawn.
- b) Subject to these Terms of Service, you may use the Services to select Brand Content to be displayed via your Equipment on the premises of your medical practice; provided that you display the Brand Content as provided by Vrtly (without modification), do not use the Brand Content for any other purpose, and do not display the Brand Content via any means other than the Equipment specified by Vrtly (as applicable).
- c) Subject to these Terms of Service, Vrtly will provide Company with reasonable technical support services for the In-Practice Services (e.g., certain software applications specified by Vrtly) in accordance with Vrtly's standard practice. You may contact support by emailing support@Vrtly.ai (or such other means as Vrtly may specify from time-to-time).
- d) Unless otherwise agreed in writing (e.g., for the purchase of "premium" services), Vrtly does not currently charge medical practices fees for the In-Practice Services, but Vrtly reserves the right to institute new charges and fees at any time upon thirty (30) days prior notice to Company; such fees are non-refundable.

**6) Prohibited Uses.**

- a) You may use the Services only for lawful purposes and in accordance with these Terms of Service. You agree not to use the Services:
  - (i) In any way that violates any applicable law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
  - (ii) To send, knowingly receive, upload, download, or use any material which does not comply with the Content Standards (defined below).
  - (iii) To impersonate or attempt to impersonate Vrtly, a Vrtly employee, another user or any other person or entity (including, without limitation, by using e-mail addresses associated with any of the foregoing).
  - (iv) To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by Vrtly, may harm Vrtly or any third party, or expose them to liability.
- b) Additionally, you agree not to:
  - (i) Use the Services in any manner that could disable, overburden, damage, or impair the Services or interfere with any other party's use of the Services.
  - (ii) Use any process or means to access the Services for any purpose, including monitoring or copying any of the material on the Services.

- (iii) Use any device, software or routine that interferes with the proper working of the Services.
  - (iv) Introduce any viruses, trojan horses, worms, or other material which is malicious or technologically harmful.
  - (v) Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Services, the server on which the Services are stored, or any server, computer or database connected to the Services.
  - (vi) Attack the Services via a denial-of-service attack or a distributed denial-of-service attack.
  - (vii) Otherwise attempt to interfere with the proper working of the Services.
- c) You will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, or algorithms related to the Services or Vrtly Content; modify, translate, or create derivative works based on the Services or Vrtly Content (except to the extent expressly permitted by Vrtly or authorized within the Services); use the Services for timesharing or service bureau purposes; use the Services, Vrtly Content or User Contributions of others for the benefit of a third party; or remove any proprietary notices or labels.

## 7) **Intellectual Property Rights.**

- a) As between you and Vrtly, Vrtly shall own all right, title, and interest in and to (i) the Services, including the Website and its contents, features and functionality (except for your User Contributions) and any other Vrtly software, technology and inventions used in connection therewith, and all improvements, enhancements, or modifications thereto (collectively, the “**Vrtly Content**”), and (ii) all intellectual property rights related to any of the foregoing and any derivative works thereof.
- b) These Terms of Service permit you to use the Services for your internal business use only. You must not access or use for any commercial purposes any part of the Services or Vrtly Content except as expressly authorized in writing by Vrtly. If you wish to make any use of material on the Services other than that authorized in these Terms of Service, please address your request to support@Vrtly.ai.
- c) Except as expressly provided in the Terms of Service (or, as applicable, as authorized in any written agreement with Vrtly), you must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any Vrtly Content or third-party User Contributions, except as follows:
  - (i) Your computer may temporarily store copies of such content incidental to your accessing and viewing those materials.
  - (ii) You may store files that are automatically cached by your Web browser for display enhancement purposes.
  - (iii) You may print or download one copy of a reasonable number of pages of the Vrtly Content for internal business use and not for further reproduction, publication, or distribution.
  - (iv) If Vrtly provides desktop, mobile or other applications for download, you may download a single copy to your computer or mobile device solely for your own internal business use, provided you agree to be bound by Vrtly’s end user license agreement for such applications.
  - (v) You may use and display third-party User Contributions as expressly authorized in the Terms of Service or on the Service.
- d) You must not:
  - (i) Modify Vrtly Content or third-party User Contributions.
  - (ii) Use any illustrations, photographs, video or audio sequences or any graphics from the Services separately from the accompanying text.
  - (iii) Delete or alter any copyright, trademark, or other proprietary rights notices from Vrtly Content or third-party User Contributions.
- e) If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Services in breach of the Terms of Service, your right to use the Services will cease immediately and you must, at

Vrtly's option, return or destroy any copies of the Vrtly Content and third-party User Contributions. No right, title, or interest in or to the Services or any Vrtly Content or third-party User Contributions is transferred to you, and all rights not expressly granted are reserved by Vrtly. Any use of the Services not expressly permitted by these Terms of Service is a breach thereof and may violate copyright, trademark, and other laws.

- f) As between you and Vrtly, you shall own all right, title and interest in and to your User Contributions (including Brand Content).

## 8) Trademarks.

- a) The term Vrtly, and all related names, logos, product and service names, designs and slogans are trademarks of Vrtly or its affiliates or licensors. You must not use such marks without the prior written permission of Vrtly. All other names, logos, product, and service names, designs and slogans on the Services are the trademarks of their respective owners.

## 9) User Contributions/Brand Content.

- a) The Services may allow users to post, submit, publish, display, or transmit to Vrtly or to others (hereinafter, "**post**") content or materials (collectively, "**User Contributions**"), including advertisements and other content provided in connection with Brand Services for distribution to participating healthcare providers or at healthcare provider locations ("**Brand Content**") as part of a campaign or other program.
- b) All User Contributions must comply with the content standards set out in these Terms of Service, on the Services (e.g., those portions of the Website that allow for the submission of Brand Content) and in any applicable agreement with Vrtly (collectively, "**Content Standards**").
- c) Notwithstanding anything to the contrary in these Terms of Service, any User Contribution you post on the Website or provide as Brand Content will be considered non-confidential and non-proprietary.
- d) By providing any User Contribution, you grant Vrtly and Vrtly's affiliates and service providers, and each of their and Vrtly's respective licensees, successors and assigns, the sublicensable right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material for any purpose (subject, as applicable, to the terms and conditions of any applicable Insertion Order between you and Vrtly and the terms in Section 4). Without limiting the generality of the foregoing, you understand and agree that Vrtly is authorized to license to medical practices the right to publicly display Brand Content in connection with the In-Practice Services Vrtly provides to them.
- e) Company authorizes Vrtly to (i) prepare and distribute case study materials that describe the Services provided to Company, including ad campaign performance, and (ii) use Company's name and logo in such case study materials. Vrtly (i) shall not include any Confidential Information of Company in the case study materials without obtaining Company's written consent, and (ii) shall provide a draft of the case study materials to Company for its review. The parties shall work together to finalize the case study materials for distribution. Vrtly authorizes Company to reproduce and distribute the case study in the final format provided by Vrtly.
- f) You represent and warrant that:
  - (i) You (or the Company on whose behalf you are submitting them) own or control all rights in and to the User Contributions and have the right to grant the license granted above.
  - (ii) All of your User Contributions do and will comply with these Terms of Service and applicable laws, will be approved for distribution pursuant to any applicable medical, regulatory, and legal processes, and will not violate the Federal Food and Drug Cosmetic Act, Prescription Drug Marketing Act, Federal Trade Commission Act or other law governing advertising, labeling, patient privacy, or other aspects of prescription and over the counter drug promotion (including implementing regulations or guidance for the aforementioned).
- g) You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and any User Contributions submitted via your Account (and, if you are a Company, for the User Contributions submitted via your Account or otherwise submitted by any of your Authorized Users) and you, not Vrtly, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness. In the event any

User Contribution requires amendment, removal, or destruction because of errors, omissions or corrections required by applicable laws or government regulatory body, you shall promptly undertake such amendment or removal.

- h) Vrtly is not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by you or any other third party.

**10) Monitoring and Enforcement; Termination.**

- a) Vrtly has the right, in its discretion, to:
  - (i) Remove (including removal from any Account) or refuse to post or distribute any User Contributions for any or no reason.
  - (ii) Take any action with respect to any User Contribution that Vrtly deems necessary or appropriate, including if Vrtly believes that such User Contribution violates the Terms of Service (including the Content Standards), infringes any intellectual property or other right of any third party, or threatens the personal safety of or could create liability for Vrtly or any third party.
  - (iii) Disclose your identity or other information about you to any third party who claims that your User Contribution violates their rights, including their intellectual property rights or their right to privacy.
  - (iv) Take appropriate legal action (including, without limitation, referral to law enforcement) for any illegal activity or unauthorized use of the Services.
  - (v) Terminate or suspend your access to all or part of the Services for any or no reason, including without limitation, any violation of these Terms of Service (except that the termination of any services subject to an Insertion Order or a Premium Amendment is subject to the terms of any such agreement).
- b) Without limiting the foregoing, Vrtly has the right to fully cooperate with any law enforcement authorities or court or governmental order requesting or directing Vrtly to disclose the identity or other information about any user of the Services. YOU WAIVE AND HOLD HARMLESS Vrtly AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.
- c) However, Vrtly does not undertake to review each User Contribution before it is posted on the Services, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, Vrtly assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or other third party. Vrtly has no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

**11) Content Standards.** These content standards apply to all User Contributions. User Contributions must comply with all applicable federal, state, local and international laws and regulations, and must not:

- a) Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable;
- b) Contain sexually explicit or pornographic material;
- c) Promote violence;
- d) Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, age, or any other protected class;
- e) Infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person or entity;
- f) Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may conflict with these Terms of Service;

- g) Be likely to deceive any person;
- h) Promote any illegal activity, or advocate, promote or assist any unlawful act;
- i) Impersonate any person, or misrepresent any person's or entity's identity or affiliation with any person or organization; or
- j) Give the impression that they emanate from or are endorsed by Vrtly or any other person or entity if this is not the case.

**12) Copyright Infringement.**

- a) Vrtly take claims of copyright infringement seriously. Vrtly will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any materials accessible on or from the Services infringe your copyright, you may request removal of those materials (or of access to them) from the Services by submitting written notification to Vrtly's copyright agent designated below. The written notification ("DMCA Notice") should comply with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) ("DMCA").

Vrtly's designated copyright agent to receive DMCA Notices is:

Copyright Manager  
 Vrtly, Inc.  
 2603 Camino Ramon, Suite 260  
 Legal@vrtly.ai

**If you fail to comply with all the requirements of the DMCA, your DMCA Notice may not be effective.**

- b) Please be aware that if you knowingly materially misrepresent that material or activity on the Services is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.
- c) It is Vrtly's policy to disable and/or terminate the Accounts of repeat infringers.

**13) Reliance on Information Posted.**

- a) The information presented on or through the Services is made available solely for general information purposes. Vrtly does not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. Vrtly disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other user of the Services, or by anyone who may be informed of any of its contents.
- b) The Services may include content provided by third parties, including materials provided by other users and third-party licensors. All statements and/or opinions expressed in these materials are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Vrtly. Vrtly is not responsible or liable to you or any third party for the content or accuracy of any User Contribution.

**14) Confidentiality.**

- a) **You shall not provide any Confidential Information to Vrtly except as reasonably required for Vrtly to provide the Brand Services and/or In-Practice Services to you, which Confidential Information shall be governed by the terms of this Section 14; the terms of this Section 14 do not apply to any other Confidential Information provided to Vrtly.**
- b) Subject to Section 9 above, "Confidential Information" means: (i) any information (including any and all combinations of individual items of information) disclosed by the disclosing Party (the "Discloser") to the other party (the "Recipient") pursuant to these Terms of Service that is in written, graphic, machine readable or other tangible form (including, without limitation, research, product plans, products, services, customer list(s) and other customer information, markets, software, inventions, discoveries, ideas, processes, designs, drawings, formulations,

specifications, product configuration information, marketing and finance documents, prototypes, samples, data sets, and equipment) and is marked “**Confidential**,” “**Proprietary**” or in some other manner to indicate its confidential nature; (ii) oral information disclosed by Discloser to Recipient pursuant to these Terms of Service, provided that such information is designated as confidential at the time of its initial disclosure and reduced to a written summary by Discloser that is marked in a manner to indicate its confidential nature and delivered to Recipient within thirty (30) days after its initial disclosure; and (iii) information of Vrtly otherwise reasonably expected to be treated in a confidential manner under the circumstances of disclosure under these Terms of Service or by the nature of the information itself including, without limitation, information about the operation of the Services, the manner in which Vrtly collects data, and its relationships with its business partners and customers. Confidential Information may include information of a third party that is in the possession of Discloser and is disclosed to Recipient under these Terms of Service. Confidential Information shall not, however, include any information that: (i) was publicly known or made generally available without a duty of confidentiality prior to the time of disclosure by Discloser to Recipient; (ii) becomes publicly known or made generally available without a duty of confidentiality after disclosure by Discloser to Recipient through no wrongful action or inaction of Recipient; (iii) is in the rightful possession of Recipient without confidentiality obligations at the time of disclosure by Discloser to Recipient as shown by Recipient’s then-contemporaneous written files and records kept in the ordinary course of business; (iv) is obtained by Recipient from a third party without an accompanying duty of confidentiality and without a breach of such third party’s obligations of confidentiality; or (v) is independently developed by Recipient without use of or reference to Discloser’s Confidential Information, as shown by written records and other competent evidence prepared contemporaneously with such independent development.

- c) Recipient shall not use Discloser’s Confidential Information for any purpose except to perform its obligations or exercise its rights under these Terms of Service. Recipient shall not disclose Discloser’s Confidential Information to third parties or to Recipient’s consultants or employees, except that, subject to Section 14(e) below, Recipient may disclose Discloser’s Confidential Information to those consultants and employees of Recipient who are required to have such information in connection with the Services.
- d) If Recipient becomes legally compelled to disclose any Confidential Information, other than pursuant to a confidentiality agreement at least as protective as this Section 14, Recipient will provide Discloser prompt written notice, if legally permissible, and will use its best efforts to assist Discloser in seeking a protective order or another appropriate remedy. If Discloser waives Recipient’s compliance with these Terms of Service or fails to obtain a protective order or other appropriate remedy, Recipient will furnish only that portion of the Confidential Information that is legally required to be disclosed, provided that any Confidential Information so disclosed shall maintain its confidentiality protection for all purposes other than such legally compelled disclosure.
- e) Recipient shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of Discloser. Without limiting the foregoing, Recipient shall take at least those measures that it employs to protect its own confidential information of a similar nature and shall ensure that its consultants and employees who have access to Confidential Information of Discloser have signed a confidentiality agreement at least as protective of Discloser and its Confidential Information as the provisions of these Terms of Service, prior to any disclosure of Discloser’s Confidential Information to such consultants or employees. Recipient shall promptly notify Discloser of any actual or suspected unauthorized use or disclosure of Discloser’s Confidential Information of which Recipient becomes aware.
- f) ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS OR PERFORMANCE OF ANY CONFIDENTIAL INFORMATION.
- g) All documents and other tangible objects containing or representing Confidential Information that have been disclosed by Discloser to Recipient, and all copies or extracts thereof or notes derived therefrom that are in the possession of Recipient, shall be and remain the property of Discloser and shall be promptly returned to Discloser or destroyed (with proof of such destruction), each upon Discloser’s written request.
- h) Nothing in these Terms of Service is intended to grant any rights to Recipient in any patent, copyright, or Confidential Information of Discloser, except as expressly set forth in these Terms of Service.

- i) Recipient agrees that any violation or threatened violation of this Section 14 may cause irreparable injury to Discloser, entitling Discloser to seek injunctive relief in addition to all legal remedies.
  - j) Vrtly shall have the right to collect and analyze data and other information relating to the provision, use and performance of the Services (including related systems and technologies) in accordance with the terms of its Privacy Policy (as updated from time-to-time), and Vrtly will be free to use such information and data in accordance with the terms of such Privacy Policy.
- 15) Changes to the Services.** Vrtly may update the content on the Services from time to time, but the content is not necessarily complete or up to date. Any of the material on the Services may be out of date at any given time, and Vrtly is under no obligation to update such material.
- 16) Feedback.** If you provide feedback regarding the Services (e.g., suggestions or recommended changes for the Services) (collectively “**Feedback**”), all such Feedback is and will be treated as non-confidential (and is not subject to the terms of the confidentiality provisions set forth in Section 14). Company hereby assigns to Vrtly all right, title, and interest in, and acknowledges Vrtly is free to use (without any attribution or compensation to Company or any third party), any ideas, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever. For the avoidance of doubt, Vrtly is not required to use any Feedback.
- 17) Information About You and Your Use of the Services.** All information Vrtly collects on this Website is subject to Vrtly’s Privacy Policy. By using the Website, you consent to all actions taken by Vrtly with respect to your information in compliance with the Privacy Policy.
- 18) Other Terms and Conditions.** Additional terms and conditions may also apply to specific portions, services or features of the Services. All such additional terms and conditions are hereby incorporated by this reference into these Terms of Service.
- 19) Linking to the Website.**
- a) You may link to the homepage for Vrtly.com, provided you do so in a way that is fair and legal and does not damage Vrtly’s reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval, or endorsement by Vrtly.
  - b) You must not:
    - (i) Establish a link from any website that is not owned by you.
    - (ii) Cause the Services or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
    - (iii) Link to any part of the Services other than the Website homepage.
    - (iv) Otherwise take any action with respect to the materials available via the Services that is inconsistent with any other provision of these Terms of Service.
  - c) The website from which you are linking, or on which you make certain content accessible, must comply in all respects with the Content Standards set out in these Terms of Service.
  - d) You agree to cooperate with Vrtly in causing any unauthorized framing or linking immediately to cease. Vrtly reserves the right to withdraw linking permission without notice.
- 20) Links from the Website.** If the Services contain links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements. Vrtly has no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to the Services, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.
- 21) Geographic Restrictions.** Vrtly is based in the United States and provides the Services for use only by persons located in the United States. Vrtly makes no claims that the Services or any of their content is accessible or appropriate outside of the United States. Access to the Services may not be legal by certain persons or in certain countries. If you access

the Services from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

**22) Disclaimer of Warranties.**

- a) EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS OF SERVICE, YOUR USE OF THE SERVICES (INCLUDING, FOR THE AVOIDANCE OF DOUBT, THE WEBSITE AND ITS CONTENT) IS AT YOUR OWN RISK. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS OF SERVICE, THEY ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER Vrtly NOR ANY PERSON ASSOCIATED WITH Vrtly MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER Vrtly NOR ANYONE ASSOCIATED WITH Vrtly REPRESENTS OR WARRANTS THAT THE SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS IN THE SERVICES WILL BE CORRECTED, THAT THE SERVICES OR THE SERVER THAT MAKES THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SERVICES WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.
- b) EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS OF SERVICE, Vrtly HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE.
- c) THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**23) Limitation on Liability and Indemnification.**

- a) TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT WILL THE COLLECTIVE LIABILITY OF Vrtly AND ANY RELATED ENTITIES, AND THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS, TO ANY PARTY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE GREATER OF \$100 OR THE AMOUNT YOU HAVE PAID TO Vrtly IN THE LAST 12 MONTHS FOR THE APPLICABLE SERVICE OUT OF WHICH LIABILITY AROSE.
- b) THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**24) Governing Law and Jurisdiction.**

- a) All matters relating to the Services and these Terms of Service, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).
- b) Any legal suit, action or proceeding arising out of, or related to, these Terms of Service or the Services shall be instituted exclusively in the federal courts of the United States or the courts of the State of California, in each case located in Contra Costa County. You waive all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

**25) Limitation on Time to File Claims.** ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

**26) Waiver and Severability.**

- a) No waiver by Vrtly of any term or condition set forth in these Terms of Service shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Vrtly to assert a right or provision under these Terms of Service shall not constitute a waiver of such right or provision.
- b) If any provision of these Terms of Service is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Service will continue in full force and effect.

**27) Entire Agreement.** The Terms of Service (including the additional terms incorporated herein), Privacy Policy, and, as applicable, any Insertion Order or Premium Amendment, and any amendment to the Terms of Service that Company entered with Vrtly, constitute the sole and entire agreement between you and Vrtly, Inc. with respect to the Services and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Services. In the event of a conflict between the terms of these Terms of Service and any Insertion Order or Premium Amendment, these Terms of Service shall control except (a) the termination of any services subject to an Insertion Order or a Premium Amendment is subject to the terms of any such agreement, and (b) to the extent the Insertion Order or Premium Amendment specifically identifies the Section of the Terms of Service over which it controls.

**28) General Terms.**

- a) Any software and other technical information disclosed to you in connection with the Services may be subject to restrictions and controls imposed by the Export Administration Act, Export Administration Regulations and other laws and regulations of the United States and any other applicable government or jurisdiction, as enacted from time to time (the “Acts”). Company shall comply with all restrictions and controls imposed by the Acts.
- b) The Agreement will be binding upon Company’s successors and permitted assigns, and will be for the benefit of Vrtly, its successors, and its assigns. There are no intended third-party beneficiaries to these Terms of Service, except as expressly stated. Company may not assign or otherwise transfer any rights or obligations under these Terms of Service, by operation of law or otherwise, and any such attempted assignment or transfer shall be null and void; except that Company may assign these Terms of Service and its rights and obligations under these Terms of Service to any successor to all or substantially all of Company’s assets, whether by merger, consolidation, reorganization, reincorporation, sale of assets or stock, change of control or otherwise. Vrtly may freely assign or transfer any rights or obligations under these Terms of Service to any third party.
- c) Vrtly shall be excused from and not be liable for delays in performing or for failing to perform its obligations under these Terms of Service if such delays or failures results from causes beyond its reasonable control including, but not limited to: acts of God or public entity; US or foreign governmental actions; strikes or other labor disputes; network/internet connection; utility interruption or failure; fire; epidemic or pandemic; riots or civil unrest; and/or natural disasters.
- d) In any court action at law or equity that is brought by one of the parties to enforce or interpret the provisions of these Terms of Service, the prevailing party will be entitled to reasonable attorneys’ fees, in addition to any other relief to which that party may be entitled.

**29) Miscellaneous.**

- a) The parties may amend these Terms of Service only in a signed, written agreement the specifically references the sections of these Terms of Service to be amended and any section to be added to these Terms of Service (but, for the avoidance of doubt, may not amend these Terms of Service by a purchase order or similar form). If any provision of these Terms of Service is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms of Service will otherwise remain in full force and effect and enforceable. The parties to these Terms of Service are independent contractors to each other. No agency, partnership, joint venture, or employment is created as a result of these Terms of Service and Company does not have any authority of any kind to bind Vrtly in any respect whatsoever.

**30) Your Comments and Concerns.**

- a) The Services are operated by Vrtly, Inc., 2603 Camino Ramon, Suite 460, San Ramon, California 94583.

- b) All other feedback, comments, requests for technical support and other communications relating to the Services should be directed to: support@Vrtly.ai.

**AGREED TO AND ACCEPTED BY COMPANY:**

BY: \_\_\_\_\_

PRINT NAME AND TITLE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

DATE: \_\_\_\_\_