

# Terms of Use

Last updated on May 12, 2023

ACCESS TO THIS WEBSITE AND THE SERVICES (DEFINED BELOW) ARE NOT OFFERED TO PERSONS OR ENTITIES WHO RESIDE IN, ARE CITIZENS OF, ARE LOCATED IN, ARE INCORPORATED IN, OR HAVE A REGISTERED OFFICE IN THE UNITED STATES OF AMERICA (COLLECTIVELY, "US PERSONS"). ACCESS TO PERPETUAL CONTRACTS ARE NOT OFFERED TO PERSONS OR ENTITIES WHO RESIDE IN, ARE CITIZENS OF, ARE LOCATED IN, ARE INCORPORATED IN, OR HAVE A REGISTERED OFFICE IN THE UNITED KINGDOM (COLLECTIVELY, "UK PERSONS") WHO ARE NOT PROFESSIONAL INVESTORS. MOREOVER, NO SERVICES (AS DEFINED BELOW) ARE OFFERED TO PERSONS OR ENTITIES WHO RESIDE IN, ARE CITIZENS OF, ARE LOCATED IN, ARE INCORPORATED IN, OR HAVE A REGISTERED OFFICE IN ANY RESTRICTED TERRITORY (AS DEFINED BELOW, AND ANY SUCH PERSON OR ENTITY FROM A RESTRICTED TERRITORY, A "RESTRICTED PERSON"). VERTEX DOES NOT MAKE EXCEPTIONS; THEREFORE, IF YOU ARE A US PERSON OR A RESTRICTED PERSON, THEN DO NOT ATTEMPT TO USE THIS WEBSITE OR THE SERVICES AND IF YOU ARE A UK PERSON WHO IS A RETAIL INVESTOR, THEN DO NOT ATTEMPT TO ENTER INTO PERPETUAL CONTRACTS. USE OF A VIRTUAL PRIVATE NETWORK ("VPN") TO CIRCUMVENT THE RESTRICTIONS SET FORTH HEREIN IS PROHIBITED.

These terms of use, together with any documents and additional terms they expressly incorporate by reference, which includes any other terms and conditions, agreement or other document that Unlimited Technologies Pte. Ltd., Vertex Protocol Foundation, VTX Technologies I Corp or Vertex Technologies II Corp (collectively, "Vertex") posts publicly or makes available to you or a company or other legal entity that you represent ("you" or "your") (collectively, these "Terms"), are entered into between Vertex and you concerning your use of, and access to, Vertex's websites (and their respective subdomains); web applications; mobile applications; and all associated sites linked thereto by Vertex (collectively with any materials and services available therein, and successor website(s) or application(s) thereto, the "Site").

Please read these Terms carefully, as these Terms govern your use of the Site to access the order book, matching engine, smart contracts, decentralized applications, APIs and all other software that Vertex or a third party has developed for trading cryptocurrencies and other blockchain-based assets (collectively, "Digital Assets"), including entering into perpetual contracts ("Perpetual Contracts") related to Digital Assets, exchanging one Digital Asset for another Digital Asset through a Vertex API, or lending or borrowing Digital Assets though the Vertex money market offering (collectively, the "Services"). These Terms expressly cover your rights and obligations, and the disclaimers and limitations of legal liability, relating to your use of, and access to, the Site and the Services. By clicking "I agree" to these Terms, acknowledging these Terms by other means, or otherwise accessing or using the Site or the Services, you accept and agree to be bound by and to comply with these Terms, including the mandatory arbitration provision in Section 15. If you do not agree to these Terms, then you must not access or use the Site or the Services.

Please carefully review the disclosures and disclaimers set forth in Section 12 in their entirety before using any software developed by Vertex. The information in Section 12 provides important details about the legal obligations associated with your use of the Services. By accessing or using the Site or the Services, you agree that Vertex does not provide execution, settlement, or clearing services of any kind and is not responsible for the execution, settlement, or clearing of transactions through the Services.

## **1. MODIFICATIONS TO THESE TERMS**

Vertex reserves the right, in its sole discretion, to modify these Terms from time to time. If Vertex makes changes, Vertex will provide you with notice of such changes, such as by providing notice through the Services or updating the "Last Updated" date at the top of these Terms. Unless Vertex states otherwise in a notice, all such modifications are effective immediately, and your continued use of the Site and the Services after Vertex provides that notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, then you must stop using the Site and the Services.

## **2. USE OF SERVICES**

### **2.1. As a condition to accessing or using the Services or the Site, you represent and warrant to Vertex the following:**

if you are entering into these Terms as an individual, then you are of legal age in the jurisdiction in which you reside and you have the legal capacity to enter into these Terms and be bound by them;

if you are entering into these Terms as an entity, then you must have the legal authority to accept these Terms on that entity's behalf, in which case "you" (except as used in this paragraph) will mean that entity;

if you are entering into these Terms to access Perpetual Contracts or will in the future access Perpetual Contracts, then you are not a UK Person who is a retail investor and are not, directly or indirectly, accessing the Perpetual Contracts from a United Kingdom IP address;

you do not reside in, are not located or incorporated in and do not have a registered office in the Belarus, Cuba, Iran, North Korea, Russia, Syria, Ukraine (Crimea, Donetsk, Kherson, Luhansk and Zaporizhzhia regions), or any other country or region that is the subject of comprehensive country-wide or region-wide economic sanctions by the United States or the United Kingdom (collectively, "Restricted Territories");

you are not the subject of economic or trade sanctions administered or enforced by any governmental authority or otherwise designated on any list of prohibited or restricted parties (including the list maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury) (collectively, "Sanctioned Person");

you do not intend to transact with or on behalf of any Restricted Person or Sanctioned Person;

you do not, and will not, use a VPN or any other privacy or anonymization tools or techniques to circumvent, or attempt to circumvent, any restrictions that apply to the Services; and

your access to the Services (a) is not prohibited by and does not otherwise violate or assist you to violate any law, rule, statute, regulation, by-law, order, protocol, code, decree, or another directive, requirement, or guideline, published or in force by any jurisdiction that applies to you or is otherwise intended to govern or regulate any person, property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any national, provincial or state, municipal, local or other governmental, regulatory, judicial or administrative authority having jurisdiction over Vertex, you, the Site or the Services, or as otherwise duly enacted, enforceable by law, the common law or equity (collectively, "Applicable Laws"); and (b) does not contribute to or facilitate any illegal activity.

**2.2 As a condition to accessing or using the Services or the Site, you acknowledge, understand, and agree to the following:**

from time to time, the Site and the Services may be inaccessible or inoperable for any reason, including: (a) equipment malfunctions; (b) periodic maintenance procedures or repairs that Vertex or any Vertex suppliers or contractors may undertake from time to time; (c) causes beyond Vertex's control or that Vertex could not reasonably foresee; (d) disruptions and temporary or permanent unavailability of underlying blockchain infrastructure; or (e) unavailability of third-party service providers or external partners for any reason;

Vertex reserves the right to disable or modify access to the Site and the Services (such as restricting features of the Services) at any time in the event of any breach of these Terms, including, if Vertex reasonably believes any of your representations and warranties may be untrue or inaccurate, and Vertex will not be liable to you for any losses or damages you may suffer as a result of or in connection with the Site or the Services being inaccessible to you at any time or for any reason;

the Site and the Services may evolve, which means Vertex may apply changes, replace, or discontinue (temporarily or permanently) the Services at any time in Vertex's sole discretion;

the pricing information and other data provided on the Site does not represent (i) an offer, a solicitation of an offer, or recommendation to enter into, a transaction with Vertex (other than the payment of fees to Vertex) or (ii) advice regarding a transaction entered into using the Site and the Services;

Vertex does not act as an agent for you or any other user of the Site or the Services; you are solely responsible for your use of the Services, including all of your transfers of Digital Assets;

to the fullest extent not prohibited by Applicable Law, Vertex owes no fiduciary duties or liabilities to you or any other party, and that to the extent any such duties or liabilities may exist at law or in equity, you hereby irrevocably disclaim, waive, and eliminate those duties and liabilities;

you are solely responsible for reporting and paying any taxes applicable to your use of the Services;

Vertex has no control over, or liability for, the delivery, quality, safety, legality, or any other aspect of any Digital Assets that you may transfer to or from a third party, and Vertex is not responsible for ensuring that an entity with whom you transact completes the transaction or is authorized to do so, and if you experience a problem with any transactions in Digital Assets using the Services, then you bear the entire risk;

Vertex may, from time to time, operate contests, promotions, sweepstakes or other activities or offer referral programs ("Promotions and Referrals"), which may be governed by separate terms and conditions and rules that may contain certain eligibility requirements; and you are responsible for reading all terms and conditions and rules relating to the Promotions and Referrals to determine whether you are eligible to participate; if you enter or participate in any Promotions and Referrals, then you agree to abide by and to comply with all terms and conditions and rules of such Promotions and Referrals; all Promotions and Referrals will be optional so you should not enter or participate in such Promotions and Referrals if you do not agree to abide by and comply with all such terms and conditions and rules; and

if you receive discounts on fees from any Promotions and Referrals that are not subject to separate terms and conditions and rules, then Vertex reserves the right to add to, modify or eliminate the discounts and any other aspect of such Promotions and Referrals.

**2.3 As a condition to accessing or using the Services or the Site, you covenant to Vertex the following:**

in connection with using the Services, you only will transfer legally-obtained Digital Assets that belong to you;

you will obey all Applicable Laws in connection with using the Services, and you will not use the Site or the Services if the laws of your country, or any other Applicable Law, prohibit you from doing so;

any Digital Assets you use in connection with the Services are either owned by you or you are validly authorized to carry out actions using such Digital Assets; and

in addition to complying with all restrictions, prohibitions, and other provisions of these Terms, you will (a) ensure that, at all times, all information that you provide on the Site and during your use of the Services is current, complete, and accurate; and (b) maintain the security and confidentiality of your private keys associated with your public Ethereum address, passwords, API keys and other related credentials.

### **3. FEES AND PRICE ESTIMATES**

In connection with your use of the Services, unless expressly stated otherwise pursuant to a promotion operated by Vertex, you are required to pay all fees necessary for interacting with the Ethereum blockchain, including “gas” costs, as well as all other fees charged in connection with your use of the Site at the time of your use of the Services. Although Vertex attempts to provide accurate fee information, this information reflects Vertex’s estimates of fees, which may vary from the actual fees paid to use the Services and interact with the Ethereum blockchain.

### **4. NO PROFESSIONAL ADVICE OR FIDUCIARY DUTIES**

All information provided in connection with your access and use of the Site and the Services is for informational purposes only and should not be construed as professional advice. You should not take, or refrain from taking, any action based on any information contained on the Site or any other information that Vertex makes available at any time, including blog posts, data, articles, links to third-party content, discord content, news feeds, tutorials, tweets, and videos. Before you make any financial, legal, or other decisions involving the Services, you should seek independent professional advice from an individual who is licensed and qualified in the area for which such advice would be appropriate. The Terms are not intended to, and do not, create or impose any fiduciary duties on Vertex. You further agree that the only duties and obligations that Vertex owes you are those set out expressly in these Terms.

### **5. PROHIBITED ACTIVITY**

You may not use the Services to engage in the categories of activity set forth below (“Prohibited Uses”). The specific activities set forth below are representative, but not exhaustive, of Prohibited Uses. If you are uncertain as to whether your use of the Services involves a Prohibited Use you should not use the Services. If you have questions about how these requirements apply to you, then please contact Vertex at [legal@vertexprotocol.com](mailto:legal@vertexprotocol.com). By using the Site or the Services, you confirm that you will not use the Site or the Services to do any of the following:

violate any Applicable Laws including any relevant and applicable anti-money laundering and anti-terrorist financing laws and sanctions programs, such as the U.S. Bank Secrecy Act and any sanctions or rules related to the U.S. Department of Treasury’s Office of Foreign Asset Controls;

engage in transactions involving items that infringe or violate any copyright, trademark, right of publicity or privacy, or any other proprietary right under Applicable Law, including sales, distribution or access to counterfeit music, movies, software or other licensed materials without the appropriate authorization from the rights holder; use of Vertex's intellectual property, name or logo, including use of any Vertex trade, service or licensed marks, without express consent from Vertex or in a manner that otherwise harms Vertex (whether economically, by reputation or otherwise); any action that implies an untrue endorsement by or affiliation with Vertex;

engage in improper or abusive trading practices, including (a) any fraudulent act or scheme to defraud, deceive, trick or mislead; (b) trading ahead of another user of the Services or front-running; (c) fraudulent trading; (d) accommodation trading; (e) fictitious transactions; (f) pre-arranged or non-competitive transactions; (g) cornering, or attempted cornering, of any Perpetual Contracts; (h) violations of bids or offers; (i) spoofing; (j) manipulation; (k) knowingly making any bid or offer for the purpose of making a market price that does not reflect the true state of the market; (l) entering orders for the purpose of entering into transactions without a net change in either party's open positions but a resulting profit to one party and a loss to the other party, commonly known as a "money pass"; or (m) entering orders for the purpose or manipulating token reward programs, airdrops or other incentive programs;

use the Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Services, or that could damage, disable, overburden, or impair the functioning of the Site or the Services in any manner;

circumvent any content-filtering techniques, security measures or access controls that Vertex employs on the Site, including through the use of a VPN;

use any robot, spider, crawler, scraper or other automated means or interface not provided by Vertex to access the Services, to extract data, or to introduce any malware, virus, Trojan horse, worm, logic bomb, drop-dead device, backdoor, shutdown mechanism or other harmful material into the Site or the Services;

provide false, inaccurate, or misleading information while using the Site or the Services or engage in activity that operates to defraud Vertex, other users of the Services or any other person; use or access the Site or the Services to transmit or exchange Digital Assets that are the direct or indirect proceeds of any criminal or fraudulent activity, including money laundering, terrorism or tax evasion;

use the Site in any way that is, in Vertex's sole discretion, libelous, defamatory, profane, obscene, pornographic, sexually explicit, indecent, lewd, vulgar, suggestive, harassing, stalking, hateful, threatening, offensive, discriminatory, bigoted, abusive, inflammatory, fraudulent, deceptive or otherwise objectionable, or likely or intended to incite, threaten, facilitate, promote, or encourage hate, racial intolerance or violent acts against others;

use the Site or the Services from a jurisdiction (including, directly or indirectly, an IP address in a jurisdiction) that Vertex has, in Vertex's sole discretion, determined is a jurisdiction where the use of the Site or the Services is prohibited, including the United States of America, the United Kingdom or any Restricted Territory;

harass, abuse or harm another person, including Vertex's employees and service providers;

impersonate another user of the Services or otherwise misrepresent yourself; or

engage or attempt to engage, or encourage, induce or assist any third party to engage or attempt to engage in any of the activities prohibited under this Section 5 or any other provision of these Terms.

## **6. CONTENT**

You hereby grant to Vertex a royalty-free, fully paid-up, sublicensable (through multiple tiers), transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, copy, modify, create derivative works of, display, perform, publish and distribute, in any form, medium or manner, any content that is available to other users as a result of your use of the Site or the Services (collectively, "Your Content"), including for promoting Vertex, the Services or the Site. You represent and warrant that (a) you own Your Content or have the right to grant the rights and licenses in these Terms; and (b) Your Content and Vertex's use of Your Content, as licensed herein, does not and will not violate, misappropriate or infringe on any third party's rights.

## **7. PROPRIETARY RIGHTS**

**7.1** You acknowledge that certain aspects of the Site or the Services may use, incorporate or link to certain open-source components and that your use of the Site or Services is subject to, and you will comply with, any applicable open-source licenses that govern any such open-source components (collectively, the "Open-Source Licenses"). Without limiting the generality of the foregoing, you may not (a) resell, lease, lend, share, distribute, or otherwise permit any third party to use the Site or the Services; (b) use the Site or the Services for time-sharing or service bureau purposes; or (c) otherwise use the Site or the Services in a manner that violates the Open-Source Licenses.

**7.2** Excluding third-party software that the Site or the Services incorporates, as between you and Vertex, Vertex owns the Site and the Services, including all technology, content and other materials used, displayed or provided on the Site or in connection with the Services (including all intellectual property rights subsisting therein, whether or not subject to the Open-Source Licenses), and hereby grants you a limited, non-exclusive, revocable, non-transferable, non-sublicensable license to access and use those portions of the Site and the Services that are proprietary to Vertex and not available pursuant to the Open-Source Licenses.

**7.3** Any of Vertex's product or service names, logos, and other marks used on the Site or as a part of the Services, including Vertex's name and logo, are trademarks owned by Vertex or its licensors. You may not copy, imitate, or use them without the prior written consent of Vertex or the applicable licensors, and these Terms do not grant you any rights in those trademarks. You may not remove, obscure, or alter any legal notices displayed in or along with the Site or the Services.

**7.4** The Services are non-custodial. When you deposit Digital Assets into any Vertex-developed smart contract, you retain control over those Digital Assets at all times. The private key associated with the Ethereum address from which you transfer Digital Assets is the only private key that can control the Digital Assets you transfer into the Vertex-developed smart contracts. In some cases, you may withdraw Digital Assets from any Vertex-developed smart contract only to the Ethereum address from which you deposited the Digital Assets.

## **8. LINKS**

The Services provide, or third parties may provide, links to other World Wide Web or accessible sites, applications, or resources. You acknowledge and agree that Vertex is not responsible for the availability of such external sites, applications or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that Company will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods, or services available on or through any such site or resource.

## **9. MODIFICATION, SUSPENSION, AND TERMINATION**

Vertex may, at its sole discretion, from time to time and with or without prior notice to you, modify, suspend or disable (temporarily or permanently) the Services, in whole or in part, for any reason whatsoever, including to only allow open Perpetual Contracts to be closed. Upon termination of your access, your right to use the Services will immediately cease. Vertex will not be liable for any losses suffered by you resulting from any modification to any Services or from any modification, suspension or termination, for any reason, of your access to all or any portion of the Site or the Services. The following sections of these Terms will survive any termination of your access to the Site or the Services, regardless of the reasons for its expiration or termination, in addition to any other provision which by law or by its nature should survive: Section 7 and Section 9 through Section 17.

## **10. RISKS**

**10.1** By utilizing the Services or interacting with the Site in any way, you understand and agree to the inherent risks associated with cryptographic systems and blockchain-based networks; Digital Assets, including the usage and intricacies of native Digital Assets, like ether (ETH); smart contract-based tokens, including fungible tokens and NFTs; and systems that interact with blockchain-based networks. Vertex does not own or control any of the underlying software through which blockchain networks are formed. In general, the software underlying blockchain networks, including the Ethereum blockchain, is open source, such that anyone can use, copy, modify, and distribute it. By using the Services, you acknowledge and agree (a) that Vertex is not responsible for the operation of the blockchain-based software and networks underlying the Services, (b) that there exists no guarantee of the functionality, security, or availability of that software and networks, and (c) that the underlying blockchain-based networks are subject to sudden changes in operating rules, such as those commonly referred to as "forks," which may materially affect the Services. Blockchain networks use public and private key cryptography. You alone are responsible for securing your private key(s). Vertex does not have access to your private key(s). Losing control of your private key(s) will permanently and irreversibly deny you access to Digital Assets on the Ethereum blockchain or other blockchain-based network. Neither Vertex nor any other person or entity will be able to retrieve or protect your Digital Assets. If your private key(s) are lost, then you will not be able to transfer your Digital Assets to any other blockchain address or wallet. If this occurs, then you will not be able to realize any value or utility from the Digital Assets that you may hold.

**10.2** The Services and your Digital Assets could be impacted by one or more regulatory inquiries or regulatory actions, which could impede or limit the ability of Vertex to continue to make available Vertex's proprietary software and could impede or limit your ability to access or use the Services.

**10.3** You acknowledge and understand that cryptography is a developing field with advances in code cracking or other technical advancements, such as the development of quantum computers, which may present risks to Digital Assets and the Services, and could result in the theft or loss of your Digital Assets. To the extent possible, Vertex intends to update Vertex-developed smart contracts related to the Services to account for any advances in cryptography and to incorporate additional security measures necessary to address risks presented from technological advancements, but that intention does not guarantee or otherwise ensure full security of the Services.

**10.4** You understand that the Ethereum blockchain remains under development, which creates technological and security risks when using the Services in addition to uncertainty relating to Digital Assets and transactions therein. You acknowledge that the cost of transacting on the Ethereum blockchain is variable and may increase at any time causing impact to any activities taking place on the Ethereum blockchain, which may result in price fluctuations or increased costs when using the Services.

**10.5** You acknowledge that the Services are subject to flaws and that you are solely responsible for evaluating any code provided by the Services or Site. This warning and other warnings that Vertex provides in these Terms are in no way evidence or represent an on-going duty to alert you to all of the potential risks of utilizing the Services or accessing the Site.

**10.6** Although Vertex intends to provide accurate and timely information and data on the Site and during your use of the Services, the Site and other information available when using the Services may not always be entirely accurate, complete, or current and may also include technical inaccuracies or typographical errors. To continue to provide you with as complete and accurate information as possible, information may be changed or updated from time to time without notice, including information regarding Vertex's policies. Accordingly, you should verify all information before relying on it, and all decisions based on information contained on the Site or as part of the Services are your sole responsibility. No representation is made as to the accuracy, completeness, or appropriateness for any particular purpose of any pricing information distributed via the Site or otherwise when using the Services. Prices and pricing information may be higher or lower than prices available on platforms providing similar services.

**10.7** Any use or interaction with the Services requires a comprehensive understanding of applied cryptography and computer science to appreciate the inherent risks, including those listed above. You represent and warrant that you possess relevant knowledge and skills to understand the cryptography and computer associated with the Services. Any reference to a type of Digital Asset on the Site or otherwise during the use of the Services does not indicate Vertex's approval or disapproval of the technology on which the Digital Asset relies, and should not be used as a substitute for your understanding of the risks specific to each type of Digital Asset.

**10.8** Use of the Services, in particular for trading Digital Assets and entering into Perpetual Contracts, may carry financial risk. Digital Assets, especially in connection with Perpetual Contracts, are, by their nature, highly experimental, risky, and volatile. Transactions entered into in connection with the Services are irreversible, final and there are no refunds. You acknowledge and agree that you will access and use the Site and the Services at your own risk. The risk of loss in trading Digital Assets, especially entering into Perpetual Contracts, can be substantial. You should, therefore, carefully consider whether such trading is suitable for you in light of your circumstances and financial resources. By using the Services, you represent and warrant that you have been, are, and will be solely responsible for making your independent appraisal and investigations into the risks of a given transaction and the underlying Digital Assets, including Perpetual Contracts. You represent that you have sufficient knowledge, market sophistication, professional advice, and experience to make your evaluation of the merits and risks of any transaction conducted in connection with the Services or any Digital Asset. You accept all consequences of using the Services, including the risk that you may lose access to your Digital Assets indefinitely. All transaction decisions are made solely by you. Notwithstanding anything in these Terms, Vertex accepts no responsibility whatsoever for, and will in no circumstances be liable to you in connection with, your use of the Services for performing Digital Asset transactions, including entering into Perpetual Contracts.

**10.9** Vertex must comply with Applicable Law, which may require Vertex to, upon request by government agencies, take certain actions or provide information, which may not be in your best interests.

**10.10** You understand that you are responsible for all trades you place, including any erroneous orders that may be filled. Vertex does not take any action to resolve erroneous trades that result from your errors.

**10.11** You hereby assume and agree that Vertex will have no responsibility or liability for the risks set forth in this Section 10. You hereby irrevocably waive, release and discharge all claims, whether known or unknown to you, against Vertex and Vertex's affiliates, shareholders, members, directors, officers, employees, agents, and representatives, suppliers, and contractors related to any of the risks set forth in this Section 10.

**10.12** You hereby acknowledge that borrowing money to invest is risky. If you are considering borrowing money used purchase digital assets You should only consider you hereby represent that: you have a stable income and are comfortable with taking investment risks; you are comfortable taking on debt to buy investments that may go up or down in value; and you are investing for the long-term. You agree that you will NOT borrow to invest if: you have a low tolerance for risk; you are investing for a short period of time; you intend to rely on returns from the investments to pay living expenses; you intend to rely on returns from the investments to repay the loan; if you lose money on leveraged investments you may not be able to pay back the loan.

**10.13** You hereby acknowledge that you can end up losing money if investments go down in value and that, if you have borrowed money, your losses would be larger than had you invested using your own money. (i.e. If a \$100,000 investment is purchased and paid for with \$25,000 from available cash and \$75,000 with borrowed monies, and the value of the investment declines by 10% to \$90,000, your equity interest (the difference between the value of the investment and the amount borrowed) has declined by 40%, i.e. from \$25,000 to \$15,000.).

**10.14** You hereby acknowledge that whether your investment makes money or not you are still required to pay back borrowed money plus interest; you may have to sell other assets or use money you had set aside for other purposes to pay back the loan; and even if the investments go up in value, you may not make enough money to cover the costs of borrowing.

## **11. INDEMNIFICATION**

You will defend, indemnify, and hold harmless Vertex and its affiliates, stockholders, members, directors, officers, managers, employees, attorneys, agents, representatives, suppliers, and contractors (collectively, "Indemnified Parties") from any claim, demand, lawsuit, action, proceeding, investigation, liability, damage, loss, cost or expense, including reasonable attorneys' fees, arising out of or relating to (a) your use of, or conduct in connection with, the Site or the Services; (b) Digital Assets associated with your Ethereum address; (c) any feedback or user content you provide to Vertex, if any, concerning the Site or the Services; (d) your violation of these Terms; or (e) your infringement or misappropriation of the rights of any other person or entity. If you are obligated to indemnify any Indemnified Party, Vertex (or, at Vertex's sole discretion, the applicable Indemnified Party) will have the right, in Vertex's or its sole discretion, to control any action or proceeding and to determine whether Vertex wishes to settle, and if so, on what terms, and you agree to cooperate with Vertex in the defense.

## **12. DISCLOSURES; DISCLAIMERS**

Vertex is a developer of software. Vertex does not operate a Digital Asset or derivatives exchange platform or offer trade execution or clearing services and has no oversight, involvement, or control concerning your transactions using the Services. All transactions between users of Vertex-developed software are executed peer-to-peer directly between the users' Ethereum addresses through a smart contract.

You are responsible for complying with all Applicable Laws that govern your Perpetual Contracts. As a result of restrictions implemented by the UK Financial Conduct Authority, no UK Person who is a retail investor may enter into Perpetual Contracts using the Services.

You understand that Vertex is not registered or licensed by any regulatory agency or authority. No such agency or authority has reviewed or approved the use of the Vertex-developed software.

To the maximum extent permitted under Applicable Law, the Site and the Services (and any of their content or functionality) provided by or on behalf of Vertex are provided on an "AS IS" and "AS AVAILABLE" basis, and Vertex expressly disclaims, and you hereby waive, any representations, conditions or warranties of any kind, whether express or implied, legal, statutory or otherwise, or arising from statute, otherwise in law, course of dealing, or usage of trade, including the implied or legal warranties and conditions of merchantability, merchantable quality, quality or fitness for a particular purpose, title, security, availability, reliability, accuracy, quiet enjoyment and non-infringement of third party rights. Without limiting the foregoing, Vertex does not represent or warrant that the Site or the Services (including any data relating thereto) will be uninterrupted, available at any particular time, or error-free. Further, Vertex does not warrant that errors in the Site or the Service are correctable or will be correctable.

You acknowledge that your data on the Site may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, and agree that, to the maximum extent permitted under Applicable Law, Vertex will not be liable for any loss or damage caused by denial-of-service attacks, software failures, viruses or other technologically harmful materials (including those which may infect your computer equipment), protocol changes by third-party providers, Internet outages, force majeure events or other disasters, scheduled or unscheduled maintenance, or other causes either within or outside of Vertex's control.

The disclaimer of implied warranties contained herein may not apply if and to the extent such warranties cannot be excluded or limited under the Applicable Law of the jurisdiction in which you reside.

### **13. EXCLUSION OF CONSEQUENTIAL AND RELATED CLAIMS**

In no event will Vertex, its suppliers and contractors, and Vertex's and its suppliers' and contractors' respective stockholders, members, directors, officers, managers, employees, attorneys, agents, representatives, suppliers and contractors (collectively, the "Risk Limited Parties") be liable for any incidental, indirect, special, punitive, consequential or similar damages or liabilities whatsoever (including damages for loss of fiat, assets, data, information, revenue, opportunities, use, goodwill, profits or other business or financial benefit) arising out of or in connection with the Site and the Services (and any of their content and functionality), any execution or settlement of a transaction, any performance or non-performance of the Services, your Digital Assets, Perpetual Contracts or any other product, service or other item provided by or on behalf of Vertex, whether under contract, tort (including negligence), civil liability, statute, strict liability, breach of warranties, or under any other theory of liability, and whether or not Vertex has been advised of, knew of or should have known of the possibility of such damages and, notwithstanding any failure of the essential purpose of these Terms or any limited remedy hereunder, nor is Vertex in any way responsible for the execution or settlement of transactions between users of Vertex-developed software.

### **14. LIMITATION OF LIABILITY**

In no event will Vertex's aggregate liability (together with its affiliates, stockholders, members, directors, managers, officers, employees, attorneys, agents, representatives, suppliers, or contractors) arising out of or in connection with the Site and the Services (and any of their content and functionality), any performance or nonperformance of the Services, your Digital Assets, Perpetual Contracts or any other product, service or other item provided by or on behalf of Vertex, whether under contract, tort (including negligence), civil liability, statute, strict liability or other theory of liability exceed the amount of fees paid by you to Vertex under these Terms, if any, in the two (2) month period immediately preceding the event giving rise to the claim for liability.

## **15. DISPUTE RESOLUTION & ARBITRATION**

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with Vertex and limits how you can seek relief from Vertex. Also, arbitration precludes you from suing in court or having a jury trial.

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

Except for small claims disputes in which you or Vertex seeks to bring an individual action in small claims court located in the county of your billing address or disputes in which you or Vertex seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, you and Vertex waive your rights to a jury trial and to have any dispute arising out of or related to these Terms or the Services resolved in court. Instead, for any dispute or claim that you have against Vertex or relating in any way to the Services, you agree to first contact Vertex and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to Vertex by email at [legal@vertexprotocol.com](mailto:legal@vertexprotocol.com). The Notice must (a) include your name, residence address, email address, and telephone number; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. Vertex's notice to you will be similar in form to that described above (although it may not be identical). If you and Vertex cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may submit the dispute to binding arbitration administered by JAMS or, under the limited circumstances set forth above, in court. All disputes submitted to JAMS will be resolved through confidential, binding arbitration before one arbitrator. Arbitration proceedings will be held in the Cayman Islands, under the JAMS Streamlined Arbitration Rules and Procedures ("JAMS Rules"). The most recent version of the JAMS Rules are available on the JAMS website and are hereby incorporated by reference. You either acknowledge and agree that you have read and understand the JAMS Rules or waive your opportunity to read the JAMS Rules and waive any claim that the JAMS Rules are unfair or should not apply for any reason.

The arbitrator, Vertex, and you will maintain the confidentiality of any arbitration proceedings, judgments and awards, including all information gathered, prepared, and presented for purposes of the arbitration or related to the dispute(s) therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

You and Vertex agree that for any arbitration you initiate, you will pay the filing fee and all other JAMS fees and costs. For any arbitration initiated by Vertex, Vertex will pay all JAMS fees and costs. You and Vertex agree that the courts of the Cayman Islands have exclusive jurisdiction over the enforcement of an arbitration award.

Any claim arising out of or related to these Terms or the Services must be filed within one (1) year after such claim arose; otherwise, the claim is permanently barred, which means that you and Vertex will not have the right to assert the claim.

If any portion of this Section 15 is found to be unenforceable or unlawful for any reason, (a) the unenforceable or unlawful provision will be severed from these Terms; (b) severance of the unenforceable or unlawful provision will have no impact whatsoever on the remainder of this Section 15 or the parties' ability to compel arbitration of any remaining claims on an individual basis under this Section 15; and (c) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims will be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 15 is found to prohibit an individual claim seeking public injunctive relief, then that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 15 will be enforceable.

## **16. GOVERNING LAW**

The interpretation and enforcement of these Terms, and any dispute related to these Terms, the Site or the Services, will be governed by and construed and enforced under the laws of the Cayman Islands, as applicable, without regard to conflict of law rules or principles (whether of the Cayman Islands or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. You agree that Vertex may initiate a proceeding related to the enforcement or validity of its intellectual property rights in any court having jurisdiction. For any other proceeding that is not subject to arbitration under these Terms, the courts located in the Cayman Islands will have exclusive jurisdiction. You waive any objection to venue in any such courts.

## **17. GENERAL INFORMATION**

**17.1** Please refer to the [Vertex privacy policy](#) for information about how Vertex collects, uses, share and otherwise process information about you.

**17.2** You consent to receive all communications, agreements, documents, receipts, notices, and disclosures electronically (collectively, Vertex's "Communications") that Vertex provide in connection with these Terms, the Site or any Services. You agree that Vertex may provide Communications to you by posting them on the Site, by emailing them to you at the email address you provide in connection with using the Services, if any, or by Telegram at the username you provided to Vertex during the course of your use of the Site or the Services.

You should maintain copies of Vertex's Communications by printing a paper copy or saving an electronic copy. You may also contact Vertex with questions, complaints, or claims concerning the Services at [legal@vertexprotocol.com](mailto:legal@vertexprotocol.com)

**17.3** Any right or remedy of Vertex set forth in these Terms is in addition to, and not in lieu of, any other right or remedy whether described in these Terms, under Applicable Law, at law, or in equity. The failure or delay of Vertex in exercising any right, power, or privilege under these Terms will not operate as a waiver thereof.

**17.4** The invalidity or unenforceability of any of these Terms will not affect the validity or enforceability of any other of these Terms, all of which will remain in full force and effect.

**17.5** Vertex will have no responsibility or liability for any failure or delay in performance of the Site or any of the Services, or any loss or damage that you may incur, due to any circumstance or event beyond its control, including any flood, extraordinary weather conditions, earthquake, or other act of God, pandemic or other health emergency, fire, war, insurrection, riot, labor dispute, accident, action of government, communications, power failure, or equipment or software malfunction.

**17.6** You may not assign or transfer any right to use the Site or the Services, or any of your rights or obligations under these Terms, without Vertex's express prior written consent, including by operation of law or in connection with any change of control. Vertex may assign or transfer any or all of its rights or obligations under these Terms, in whole or in part, with or without notice or obtaining your consent or approval.

**17.7** Except to the extent otherwise provided or unless the context otherwise requires, for the purposes of these Terms: (a) headings of sections are for convenience only and will not be used to limit or construe such sections; (b) whenever the words "include," "includes" or "including" are used in these Terms, they are deemed to be followed by the words "without limitation"; and (c) the use of "or" is not intended to be exclusive.

**17.8** These Terms contain the entire agreement between you and Vertex, and supersede all prior and contemporaneous understandings between the parties with respect to the Site and the Services.

**17.9** In the event of any conflict between these Terms and any other agreement you may have with Vertex, these Terms will control unless such other agreement specifically identifies these Terms and declares that such other agreement supersedes these Terms.

**17.10** You agree that, except as otherwise expressly provided in this Agreement, there is no third-party beneficiaries to the Agreement other than the Indemnified Parties.