

## **IT RADIX DISCLAIMER & WEBSITE TERMS OF USE**

*Effective Date:* August 11, 2016

*Last Updated:* January 1, 2017

IT Radix, LLC (“**IT Radix**” or the “**Company**” or “**we**” or “**us**”), a New Jersey Limited Liability Company, appreciates your interest in the website <http://www.itradix.com/> (the “**Site**”). The Site is comprised of various web pages and is offered to you conditioned on your acceptance without modification of the terms, conditions, and disclaimers contained herein (the “**Terms**”).

The Terms are a legal contract between you and the Company regarding your use of the Site. **PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE SITE.**

**BY ACCESSING AND/OR USING THE SITE, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY, AND COMPLY WITH, THESE TERMS, INCLUDING THE RESOLUTION OF ANY DISPUTES THROUGH BINDING ARBITRATION AND WAITING YOUR WAIVE THE RIGHT TO LITIGATE IN COURT OR ARBITRATE ANY CLAIM OR DISPUTE AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.**

### **1. DISCLAIMER**

The Site’s information (the “Information”), Materials ( as defined below), and Services (which shall include, as defined below, the “Client Portal,” “Get Help Feature,” “Chat Feature,” and “Downloads”) provided on or through the Site are for general and non-commercial purposes only. The Information, Materials, and Services do not, and are not intended to, constitute professional, financial, and/or legal advice. You may not rely on them as such. Nothing on the Site shall be viewed as a guaranty of future results. Accessing or using this Site, or any feature or Service of the Site, does not create a customer relationship between you and the Company, and it is not intended to do so. Further, transmission to or receipt by the Company of any communications or transmissions does not create a customer relationship, unless you and the Company enter into a formal contract.

### **2. CLIENT PORTAL**

The Company provides a voluntary Client Portal (“Client Portal”) through ConnectWise that permits electronic transfer and access of information between the Company and its customers. Eligibility to use the Client Portal is not automatic, and all decisions regarding your eligibility to use the Client Portal, and which types of information can be uploaded or viewed on the Client Portal, are made solely and exclusively in the discretion of the Company. You agree not to contest any eligibility determination made by the Company. The Company may limit, modify, suspend, discontinue or restrict the use of any portion of the Client Portal, including the availability of any portion of the content at any time, without notice or liability.

Using the Client Portal and its related services requires the use of a user name and password, which will be assigned to you by the Company, and you agree to keep the user name and password secure and confidential. You further agree to notify the Company immediately of any unauthorized use of your user name, password, and/or account. Any use of another person’s username and/or password is expressly prohibited.

### **3. “GET HELP” FEATURE<sup>1</sup>**

The Company offers its “GET HELP” feature (the “Get Help Feature”) on the Site. Prior to using the Get Help feature, you are required to install and execute a software program on your computer called TeamViewer ([www.teamviewer.com](http://www.teamviewer.com)).

The Teamviewer software creates a secure connection between your computer and an IT Radix technical consultant that allows them to remotely see and control your machine so that they may assist you in problem resolution.

If you choose to download and execute, the TeamViewer software will load a one-time copy on to your computer, and you will have to share a unique number to the Company in order for us to provide the functionality of the Get Help Feature.

**DOWNLOADING THE TEAMVIEWER SOFTWARE IS ENTIRELY VOLUNTARY. BY DOWNLOADING THE TEAMVIEWER SOFTWARE, YOU EXPRESSLY AGREE AND CONSENT TO BE BOUND BY THE TERMS.**

#### **4. CHAT**

The Company provides a voluntary chat feature through the Site (“Chat Feature”) through Zopim to provide live chat messaging between you and the Company. You agree to use the Services only to post, send, and receive messages and material that are proper and permitted by applicable law. The Company reserves the right to limit, modify, suspend, discontinue or restrict the use of any portion of the Chat Feature at any time, without notice or liability.

To use the Chat Feature, you must identify yourself by providing your name and email address, or logging in to the Chat Feature through a social media account. The social networking site may collect certain information about you, including but not limited to your IP address. Please see the privacy policy and terms of use for the applicable social networking site to learn more about how these social networking sites share your personal information, which practices may differ from ours.

#### **5. SOCIAL MEDIA & SUBMITTED MATERIAL**

Our social media pages, which include but may not be limited to Facebook, Twitter, LinkedIn, Google+, and YouTube (collectively "Social Media"), are delivered to you in accordance with these Terms and the terms of use of each of the Social Media operators.

Any information, pictures, creative works, ideas, testimonials, suggestions, concepts, methods, systems, designs, plans, techniques or other materials submitted that you send to us or post on or through the Site, Services, or Social Media (including, for example items that you submit or post on our Facebook page, on our blogs, or send to us by e-mail) ("Submitted Materials") shall be deemed not to be confidential or secret, and may be used by us in any manner consistent with these Terms and the terms of use of each of the Social Media operators.

By submitting or sending Submitted Materials to us or posting it on or through the Site, Services, or Social Media, you represent and warrant that the Submitted Materials are original to you, that no other party has any rights thereto, and that any "moral rights" in Submitted Materials have been waived. We are not responsible for maintaining any Submitted Material that you provide to us, and we may delete or destroy any such Submitted Material at any time and for any reason and without advance notice to you.

By submitting or sending Submitted Materials to us or posting it on or through the Site, Services, or Social Media, you grant us and our subsidiaries and affiliates a royalty-free, unrestricted, worldwide, perpetual, irrevocable, non-exclusive and fully transferable, assignable and sublicensable right and license to use, copy, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, display and incorporate in other works any Submitted Materials (in whole or part) in any form, media, or technology now known or later developed, including for promotional and/or commercial purposes. You agree that we may use, or permit others to use, without charge, your name, biography, picture and likeness with the content you submit and otherwise in materials promoting, marketing or advertising the Services, or Social Media, or our goods or services, in any media, without any compensation or advance notice to you.

We reserve the right, but do not have an obligation, to monitor and review all materials posted by you to the Site, Services, or Social Media. We are not responsible for the content of any materials posted by users. Please govern your use of that content accordingly. We reserve the right to edit, refuse to post or to remove any content you post for any reason, at any time and without advance notice to you. Our reasons for edit, removing or refusing to post content include, that such content is objectionable to us in our sole discretion, that it violates these Terms, or that it violates any applicable law, ordinance or regulation. We may also limit your access to all or certain portions of the Site, Services, or Social Media without notice to you for any reason.

## **6. TESTIMONIALS**

Testimonials appearing on this Site are received via email submission, regular mail or interviews. They are individual experiences, reflecting real life experiences of those who have used Company products and/or services. However, they are individual results and results vary. The Company does not guaranty that they are typical results that customers will achieve. The testimonials are not necessarily representative of all of those who will use Company products and/or services. The testimonials displayed are given verbatim except for correction of grammatical or typing errors. Some have been shortened, meaning; not the whole message received by the testimony provider is displayed. The Company is not responsible for any of the opinions or comments posted to our Site or Social Media. The Company is not a forum for testimonials; however, the Site provides testimonials as a means for customers to share their experiences with one another. To prevent against abuse, all testimonials appear after they have been reviewed by management of the Company. The Company does not adopt the opinions, views or commentary of any testimonials on this site, and they are strictly the views of the testimony provider.

## **7. DOWNLOADS**

Through the Site, you may download certain content, including but not limited to software, electronic books, and newsletters (individually or collectively referred to as the "Content").

**DOWNLOADING CONTENT IS ENTIRELY VOLUNTARY. BY DOWNLOADING CONTENT, YOU EXPRESSLY AGREE AND CONSENT TO BE BOUND BY THE TERMS.**

You acknowledge that your use of the Content may require the use of other hardware and software products and that such hardware and software is your responsibility. Once Content is downloaded, it is your responsibility not to lose, destroy, or damage the Content, and the Company shall be without liability to you in the event of any loss, destruction, or damage.

You acknowledge that the Content may contain security technology that limits your usage of Content, and, whether or not the Content is limited by security technology, you agree to use the Content in compliance with these Terms.

You are entitled to download, export, burn, or copy Content solely for non-commercial personal use in accordance with these Terms. Any burning or exporting capabilities are solely an accommodation to you and shall not constitute a grant or waiver of any rights of the copyright owners in any of the Content. No right, title, or interest in any downloaded Content is transferred to you as a result of any downloading or copying or otherwise. All rights in the Content are owned by the Company or its licensors and you only have the right to use the Content for personal use in accordance with the Terms.

## **8. CONFIDENTIALITY OF COMMUNICATIONS**

You agree and acknowledge that e-mail and the Internet are not secure methods of transmitting information. The Company does not guarantee or warrant the confidentiality or security of any communications or information sent through email, the Site, any Services, Social Media, or left in voicemail messages on our telephones. You should not send any confidential, proprietary or other information to us unless otherwise agreed to by the Company. Unsolicited information and material may not be treated as confidential and will not be protected by any confidentiality.

## **9. PRIVACY**

Use of the Site, Services, and Social Media is governed by our Privacy Policy, available at <http://www.itradix.com/privacy-policy> (the “Privacy Policy”), which is incorporated into these Terms by reference. Please review the Privacy Policy carefully for information relating to our collection, use, and disclosure of information. You agree to be bound by these Terms and explicitly consent to the collection, use, and storage of your information as outlined in the Privacy Policy.

## **10. INTELLECTUAL PROPERTY RIGHTS**

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The Site is owned and operated by IT Radix. The Content, visual interfaces, trademarks, logos, service marks, graphics, design, compilation, information, computer code (including source code or object code), products, software, services, and all other elements of the Site provided by IT Radix (the “Materials”) are protected by United States copyright, trade dress, patent, and/or trademark laws, international conventions, and all other relevant intellectual property and proprietary rights, and applicable laws.

All Materials contained on the Site are the property of IT Radix. All trademarks, service marks, and trade names are proprietary to IT Radix or its affiliates and/or third-party licensors.

Nothing contained on the Site should be construed as granting, by implication, or otherwise, any license or right to use any of the Materials displayed on the Site without the written permission of the Company. Your use of any of the Materials displayed on the Site is strictly prohibited, except that you are authorized to view one copy of the Material for your personal, non-commercial use only, subject to the following provisions: (a) the copyright, trademark, and other proprietary notices are kept intact; and (b) the information is not altered in any way. Any other use of the Materials is strictly prohibited. IT Radix reserves all rights to the Materials not expressly granted in the Terms.

## **11. RESTRICTIONS**

By accessing and/or using the Site, Services, or Social Media, you shall not:

(a) use, copy, sell, post, display, print, publish, reproduce, distribute, transmit, modify, perform, broadcast, re-broadcast, translate, sell, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Site, Information, Materials, or Social Media, or any part thereof, except as expressly permitted by these Terms for your own personal, non-commercial, non-promotional use;

(b) use the Site, Information, Materials, or Social Media in a manner that: (i) violates any law, statute, ordinance, or regulation; (ii) violates, exploits, or harms, or attempts to violate, exploit, or harm, the legal rights (including the patent, trademark, copyright, privacy, or publicity rights) of any person or third party; (iii) promotes any illegal activity, or advocates, promotes or assists any unlawful act; (iv) causes annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any person or third party; (v) defames, abuses, threatens, stalks, harasses, intimidates, or harms any person or third party; (vi) tracks any person or third party without their explicit consent; or (vii) could give rise to any civil or criminal liability under any applicable local, state, national or international laws, statutes, ordinances, rules, regulations or ethical codes governing your jurisdiction, including confidentiality, data protection, and intellectual property laws;

(c) edit, remove, delete, alter, change or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Site, Information, Materials, or Social Media, including any copy thereof;

(d) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Site, Information, Materials, or Social Media.

(g) damage, disable, or overburden the Company’s servers or network; impair the or interfere with any other party’s use of the Site, Information, Materials, or Social Media; hack, mine passwords, transmit malware or spam, or use means to gain unauthorized access to the Site, the Company’s networks, or Services.

The Company will cooperate with any law enforcement authorities or court order requesting or directing the Company to disclose the identity of anyone violating these restrictions.

## **12. MODIFICATIONS AND INTERRUPTIONS**

The Company makes no representation or warranty that the Site, Information, Materials, Services, or Social Media will be available at all times. You acknowledge and accept that the Company does not guarantee continuous, uninterrupted or secure access to the Site, Information, Materials, Services, or Social Media, and the Site, Information, Materials, Services, and Social Media may be interfered with or adversely affected by numerous factors or circumstances outside of our control.

The Company reserves the right to limit, suspend, modify, or discontinue the Site, Information, Materials, Services, or Social Media with or without notice to you, and you agree that the Company shall not be liable to you or any third party should the Company exercise its right to limit, suspend, modify, or discontinue the Site, Information, Materials, Services, or Social Media.

## **13. NO REPRESENTATIONS, WARRANTIES, OR GUARANTIES**

THE SITE, INFORMATION, MATERIALS, SERVICES, AND SOCIAL MEDIA ARE PROVIDED "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND.

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SITE, INFORMATION, MATERIALS, SERVICES, AND SOCIAL MEDIA, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE.

WITHOUT LIMITATION TO THE FOREGOING, THE COMPANY PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SITE, INFORMATION, MATERIALS, SERVICES, OR SOCIAL MEDIA WILL MEET YOUR REQUIREMENTS, BE ACCURATE, COMPLETE, OR CURRENT, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, BE COMPLETELY SECURE, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED, INCLUDING, WITHOUT LIMITATION THE CONTENT AND ANY ERRORS CONTAINED THAT ARE PROVIDED BY THIRD PARTIES.

Your decision to access the Site, or use the Information, Materials, Services, Or Social Media, any other websites or internet services accessible from the Site is at your own risk.

You acknowledge and agree that you will be solely responsible for any damage to your property (including your computer system) or loss of data that results from access of the Site, or use of the Information, Materials, Services, or Social Media.

SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE LIMITATION OF CERTAIN TYPES OF LIABILITY AND DAMAGES AND, AS A RESULT, SOME OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. If any part of these warranty disclaimers is found to be invalid or unenforceable for any reason or if we are otherwise found to be liable to you in any manner, then our aggregate liability for all claims under such circumstances for all liabilities, shall not exceed one hundred dollars (\$100).

## **14. INDEMNITY**

You agree to indemnify, defend and hold harmless the Company and its members officers, directors, employees, agents, affiliates, successors and assigns from and against any and all damages, losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising from or relating to: (a) your misuse of the Site, Information, Materials, Services, or Social Media; (b) your breach of these Terms; or (c) a violation by you of any applicable law or regulation, or agreement or obligation to a third party.

#### **15. LIMITATION OF LIABILITY AND LIMITATION ON DAMAGES**

IN NO EVENT, AND UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, SHALL THE COMPANY, ITS MEMBERS, ATTORNEYS, EMPLOYEES, AGENTS OR OTHER THIRD PARTIES MENTIONED ON THIS SITE BE LIABLE FOR ANY DAMAGES WHATSOEVER IN EXCESS OF FIFTY DOLLARS (\$50).

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, WARRANTY, OR TORT (INCLUDING NEGLIGENCE) REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **16. THIRD PARTY SITES**

The Site may contain links to other websites, products, or services solely as a convenience to you ("Linked Sites"). The Linked Sites are not under the control of the Company and the Company is not responsible for, and does not endorse, the contents, information, materials, products, or services contained on or accessible through any Linked Site. Access and use of Linked Sites, including the information, materials, products, and services on or available through Linked Sites is solely at your own risk.

#### **17. INTERNATIONAL USERS**

The Site is controlled, operated and administered by the Company from our office within the United States. If you access the Site from a location outside the United States, you are responsible for compliance with all local laws. You agree that you will not use the Site in any country or in any manner prohibited by any applicable laws, restrictions, or regulations.

#### **18. CHANGES TO THESE TERMS**

The Company reserves the right, at its discretion, to change, modify, add, or remove portions of the Terms at any time by posting the amended Terms or Privacy Policy on the Site. You will be deemed to have accepted any changes by continuing to use the Site or Service. Except as otherwise stated, all amended terms shall automatically be effective thirty (30) days after they are initially posted.

The Terms may not be otherwise amended except in a writing hand signed by you and the Company. For purposes of this section, "writing" does not include an e-mail message and a signature does not include an electronic signature. The most current version of the Terms will supersede all previous versions. Please check the Terms periodically for changes.

Any dispute arising under the Terms will be resolved in accordance with the version of the Terms in place at the time the dispute arose. If at any point you do not agree to any portion of the then-current version of the Terms, you must immediately stop using the Site and/or Service. The Company reserves the right to terminate these Terms and your access to the Site, Service, the Information and/or the Materials at any time, for any or no reason.

#### **19. GENERAL**

**GOVERNING LAW:** These Terms are governed by, and construed in accordance with, the laws of the State of New Jersey, without regard to its conflicts of law principles, and the laws of the United States of America.

**BINDING ARBITRATION:** In the event of a dispute arising under or relating to this Agreement, such dispute shall be finally and exclusively resolved by binding arbitration. NEITHER YOU NOR WE SHALL HAVE THE RIGHT TO LITIGATE ANY CLAIM IN COURT OR TO HAVE THE CLAIM DECIDED BY A JUDGE OR JURY. DISCOVERY RIGHTS, SUCH AS EACH PARTY'S RIGHT TO THE EXCHANGE OF PREHEARING INFORMATION OR PREHEARING TAKING OF SWORN TESTIMONY, MAY ALSO BE LIMITED IN ARBITRATION. All disputes shall be resolved before a single arbitrator, chosen by the Company in its sole discretion, whose decision will be final except for a limited right of appeal under the Federal Arbitration Act. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (AAA), which are available at the AAA website [www.adr.org](http://www.adr.org). The arbitration may be conducted in person, through the submission of documents, by phone or online. If conducted in person, the arbitration shall take place in Morris County, New Jersey. The parties may litigate in court to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. The Federal Arbitration Act and federal arbitration law shall apply to this Agreement.

**CLASS ACTION WAIVER:** Any arbitration or proceeding shall be limited to the dispute between the Parties. To the full extent permitted by law, (1) no arbitration or proceeding shall be joined with any other; (2) there shall be no right or authority for any dispute to be arbitrated or resolved on a class action basis or to utilize class action procedures; and (3) there shall be no right or authority for any dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST THE COMPANY ONLY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

**SEVERABILITY:** If any provision of these Terms shall be unenforceable for any reason, then that provision shall be deemed severable from these terms and shall not affect the validity and enforceability of any remaining provisions.

**ENTIRE AGREEMENT:** This is the entire agreement between us relating to your access to the Site and use of the Service, and supersedes any prior agreement or understanding you have with the Company regarding the Site and the Service.

## **20. CONTACT**

IT Radix welcomes your questions or comments regarding the Terms. Please contact us at the following email: [webmaster@it-radix.com](mailto:webmaster@it-radix.com), or at the following address:

IT Radix LLC  
49 S. Jefferson Rd.  
Whippany, NJ 07981  
Attention: Webmaster