

VIBRNZ, LLC

Terms of Use

Last Updated: May 2, 2018

These Terms of Use govern your access to and use of the Vibrnz website and mobile application known as Vibrnz (“Vibrnz”). This is a legal agreement between you and Vibrnz LLC, (“Company,” “we,” “us” or “our”).

By clicking the “I Agree” button on the account registration page or by using Vibrnz, you are agreeing that you have read, understood, and agree to be bound by these Terms of Use.

If you do not agree or are unable to agree to be bound by these Terms of Use, you must exit Vibrnz.

We may modify these Terms of Use from time to time. When changes are made, we will make the revised version available on this webpage and will indicate at the top of this page the date that revisions were last made. **Your use of Vibrnz after such posting will constitute acceptance by you of such changes.**

1 NATURE OF VIBRNZ

- 1.1 Vibrnz is a Venue. Vibrnz provides a venue for people seeking services in the creative arts (“Client Member”) to connect with people who want to provide those services (“Service Member,” and collectively with Client Member, “Users”).
 - 1.1.1 Company may perform a background vetting process on all of its Users and is able to review screen content submitted by a User (“User Content”) at Company’s discretion, including but not limited to User profiles and reviews.
 - 1.1.2 Company has no control over and bears no responsibility for the accuracy, reliability, completeness or timeliness of profiles, reviews, affiliations or other User Content on Vibrnz.
 - 1.1.3 Company further makes no representations about the Client Members or the Service Members. You should make your own assessments of the persons you decide to interact with, engage or provide services to.
- 1.2 Transactions are Solely between Users. Company is not involved in the transactions between Users. Users arrange for the services solely between themselves, and Company is not party to any of those arrangements. Company does not have control, supervise or provide any training or equipment to the Service Members, and has no control over the quality, timing, legality, failure to provide, or any other aspect whatsoever of the services provided by Service Members.
 - 1.2.1 Because we are not involved in user-to-user dealings and do not control the behavior of Users, Users must resolve any issues, disputes or concerns directly with each other, including any issues regarding payments to a Service Member or services received by a Client Member. As further set forth in Section 12, you

agree to release Company from any claims or liability that may arise from any disputes between you and other Users.

- 1.3 Company is not an Employer. Company is not a referral, matching or placement service and does not provide, refer, place, offer or seek to obtain employment or engagements for any of its Users. As such, Users are solely responsible (and Company is not responsible), for any tax, withholding or reporting, including, but not limited to, unemployment insurance, social security or payroll withholding tax or income reporting in connection with any services provided by Users. You understand and agree that if Company is found to be liable for any tax, withholding tax or reporting obligation in connection with any services provided or received by you, then you will immediately reimburse and indemnify Company for all costs, expenses and liabilities (including any interest and penalties) relating to the same.

2 ELIGIBILITY

By requesting to use, registering to use, or using Vibrnz, you represent and warrant the following provisions.

- 2.1 Legal Age. You are an individual at least 18 years of age.
- 2.2 Below Legal Age. If you are not 18 years of age then you must have your parent or guardian read these Terms of Use and agree to them for you, before you use Vibrnz or provide any information to us.
- 2.3 Background or Verification Checks. Company may conduct background or verification checks on its Users. We reserve the right to conduct such checks and to verify your account and registration information and the representations and warranties you have made, which may include, without limitation, our using third party service providers to conduct criminal background checks or identify verification checks or to perform other background or verification services, and, using available public records, including information available on online social networks and other online sources, each to the extent permitted by law.
- 2.3.1 User agrees to release Company and Company's Affiliated Parties from any claims regarding any misstatements and misrepresentations made by any Users of Vibrnz. ("Affiliated Parties" means Company's officers, directors, members, agents, assignees, representatives, marketing partners, licensors, independent contractors and employees.)

3 USE OF VIBRNZ

- 3.1 Registration and Account Information. When you register for Vibrnz, you will be asked to create an account and to provide us with certain information about yourself ("Personal Information"). Your Information will be used in accordance with Company's Privacy Policy, available at [PRIVACY POLICY](#). You are responsible for providing accurate, current and complete information in connection with your account registration, including information provided through any online social platform used to register with Vibrnz.

- 3.1.1 Company may, either during or after the registration process, request further information from you or use third party services to verify your account or registration information.
- 3.1.2 As a User, you are responsible for maintaining the confidentiality of your password and account login, and you are solely responsible for all activities that occur under your password or account. You agree to immediately notify us of any unauthorized use of your password or account.
- 3.2 Personal Use Only. Your account is for your own personal use, and you may not permit anyone else to use your account. Vibrnz is intended to be used by people who want to find, select, review and connect with other Users so they can receive, provide or share information about, creative arts services. Any use of Vibrnz for any other purpose, including but not limited to using Vibrnz or information obtained from Vibrnz to solicit, advertise to or contact Users for any other purpose is prohibited.
 - 3.2.1 You may not transmit any chain letters, junk or spam e-mail to other Users, or use any information obtained from Vibrnz to harass, abuse or harm another person. To protect Users from such activity, we reserve the right to take appropriate actions, including but not limited to terminating accounts or blocking Users with certain IP addresses from accessing Vibrnz.
- 3.3 Use of Other Users' Personal Information. You may from time to time receive Personal Information of another User. For example, upon confirmation of a booking, Users will be provided with each other's contact information. Any Personal Information you receive may only be used for the specific purpose it was provided to you in connection with Vibrnz. Service Members may not contact Client Members, and Client Members may not contact Service Members, for any purpose other than asking a question, providing information, or making arrangements related to a booking on Vibrnz.
- 3.4 Prohibited Uses. You are prohibited from violating or attempting to violate any security features of Vibrnz, including, without limitation:
 - 3.4.1 Accessing content or data not intended for you or logging onto a server or account that you are not authorized to access;
 - 3.4.2 Attempting to probe, scan, or test the vulnerability of Vibrnz or to breach security or authentication measures without proper authorization;
 - 3.4.3 Interfering or attempting to interfere with service to any User, host or network, including without limitation by means of malware, overloading, flooding, spamming, mail bombing or crashing;
 - 3.4.4 Using Vibrnz to send unsolicited e-mail, including without limitation, promotions, or advertisements for products or services;
 - 3.4.5 Forging any TCP/IP packet header or any part of the header information in any e-mail or in any posting; or
 - 3.4.6 Attempting to modify, reverse-engineer, decompile, disassemble, or otherwise reduce or attempt to reduce to a human-perceivable form any of the source code

used by Company in providing Vibrnz. Any violation of system or network security may subject you to civil and/or criminal liability.

- 3.5 Risk Assumption and Precautions. You assume all risk when using Vibrnz, including but not limited to, all of the risks associated with any online or offline interaction with others. You agree to take all necessary precautions when meeting other Users.
- 3.6 Privacy Policy. You represent that you have read and understood our Privacy Policy, available at [PRIVACY POLICY](#)
- 3.7 No Violation of Laws. Your use of Vibrnz must be in accordance with all applicable laws and regulations.
- 3.8 Reporting of Violations. You agree to report to us promptly any violation of these Terms of Use or any alleged improprieties of any Users. Contact information is provided in Section 15.5.
- 3.9 Beta Features. From time to time, we may offer new “beta” features or tools with which Users may experiment on Vibrnz. Such features or tools are offered solely for experimental purposes and may be modified or discontinued at Company’s sole discretion.
- 3.10 Group Affiliations. Users may have the option to list certain school or local group affiliations as part of their profile, and Company may add Users into these groups from time to time. Unless expressly stated otherwise, Company is not affiliated with any of these listed organizations nor does Company verify the User’s membership with such listed organization.

4 USER CONTENT AND COMMUNICATION RULES AND GUIDELINES

As a User of Vibrnz, you may have the opportunity to post or transmit User Content, such as User profiles (“Profiles”), reviews of Service Member (“Reviews”), and messages to other Users or on group forums. You are solely responsible for any User Content you post on Vibrnz or transmit to other Users, and once posted or transmitted, cannot always be withdrawn.

- 4.1 Content and Communication Restrictions. You will not post on Vibrnz, transmit to other Users, communicate any content (including links to content), or otherwise engage in any activity on Vibrnz, that:
 - 4.1.1 Contains photographs or images of another person, unless you are that person’s parent or legal guardian;
 - 4.1.2 Contains others’ copyrighted content unless you have written permission from the copyright owner;
 - 4.1.3 Contains or discloses another person’s personal information without his or her written permission, or collects or solicits another person’s personal information for commercial or unlawful purposes;
 - 4.1.4 Implies that the User Content is in any way endorsed or sponsored by Company;

- 4.1.5 Is implicitly or explicitly offensive, such as User Content that engages in, endorses or promotes racism, bigotry, discrimination, hatred or physical harm of any kind;
 - 4.1.6 Is intended to harass, annoy, threaten or intimidate any other Users of Vibrnz;
 - 4.1.7 Is false, misleading, defamatory, inaccurate, abusive, obscene, profane, sexually oriented, or otherwise objectionable;
 - 4.1.8 Involves the transmission of junk mail, chain letters, or unsolicited mass mailing or spamming, phishing, trolling or other similar activities;
 - 4.1.9 Contains any malware (including but not limited to viruses, time bombs, Trojan horses, cancelbots, worms or other harmful, or disruptive codes, components or devices);
 - 4.1.10 Is off-topic, meaningless, or otherwise intended to annoy or interfere with others' use of Vibrnz;
 - 4.1.11 Uses scripts, bots or other automated technology to access Vibrnz;
 - 4.1.12 Attempts to circumvent Company's messaging tools or booking tools, or attempts to avoid applicable Company fees;
 - 4.1.13 Otherwise violates (i) the rights of third parties, including rights of privacy or publicity, or (ii) violates applicable laws and regulations.
- 4.2 Content Removal. We may, but we have no obligation to, monitor User Content submitted on Vibrnz, including Profiles, Reviews or other User Content. We may remove any such information, and material that in our sole opinion either (i) violates, or may violate, any applicable law or either the letter or spirit of these Terms of Use, (ii) might be offensive, illegal or that might violate the rights, harm, or threaten the safety of Users or others, or (iii) is determined to be inappropriate for any other reason at the sole discretion of Company.
- 4.3 Our Right to Use Your User Content. By posting User Content to Vibrnz, you grant, and you represent and warrant that you have the right to grant, to Company, its Affiliated Parties, licensees and successors, an irrevocable, perpetual, non-exclusive, fully paid, worldwide license to use, copy, perform, display, reproduce, adapt, modify and distribute such information and content and to prepare derivative works of, or incorporate into other works, such information and content, and to grant and authorize sublicenses of the foregoing.
- 4.4 Review Guidelines. Client Members will have the opportunity to provide Reviews about Service Members they have engaged. Reviews should not include any personal information about a Service Member that is not disclosed in the Service Member's public Profile (for example, the Review should not include or reference a Service Member's address or phone number). Reviews should be limited to your firsthand experience (not what you heard from someone else) and should be factually accurate. You should avoid broad generalizations and exaggerations. If appropriate, you should update your Reviews

to reflect new experiences. As with other User Content, we reserve the right to remove any Review that we feel, in our sole discretion, violates these guidelines.

5 TERMINATION

- 5.1 By Company. Company may, in its sole discretion, for any reason or no reason, with or without notice (i) terminate or suspend your account and your access to Vibrnz, and/or (ii) remove your Profile and/or any content posted by or about you, from Vibrnz. Unless otherwise decided by Company, such termination, suspension, and/or removal will be effective immediately. Following any termination or suspension of any User's account, Company may send a notice of the termination or suspension to other Users you have corresponded with. If your account has been terminated by Company, you may not re-register without Company's consent (and if you are permitted to re-register, your previous information and activity, including any fee credits, may no longer be available).
- 5.2 By User. As a User, you may terminate your account at any time by going to My Account and then Settings and then clicking on "Deactivate my account." You may re-register at any time, but your previous information and activity, including any fee credits and any User Content you may have created, may no longer be available.
- 5.3 Effect of Termination. Upon the termination of your account, you will no longer have access to the portions of Vibrnz that requires account registration. If your account is terminated, your Profile will no longer be displayed, but other User Content you have posted or transmitted (e.g., Reviews, messages to other Users) may or may not (in our sole discretion) remain on Vibrnz. Any User Content associated with your account after your account's termination may not be available to you if you re-register with Company. If following the termination or cancellation of your account, you continue to access and use other portions of Vibrnz, your use will continue to be governed by these Terms of Use. In addition, regardless of your discontinuation to use or access Vibrnz, Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of these Terms of Use will continue in full force and effect.

6 THIRD PARTY SITES

- 6.1 Use of Third Party Sites. Vibrnz may include links to other websites (including other sites that are framed within Vibrnz) or applications, or functionality to connect with other websites such as Facebook (each, a "Third Party Site") or advertisements. We do not control or endorse any Third Party Site or advertisements, and we are not responsible for any content, product, advertising and other materials presented in or provided by such Third Party Site or advertisement. Your use and access of a Third Party Site is at your own risk, and is subject to the terms and conditions for such Third Party Site.

7 PAYMENT

- 7.1 Service Provider. Marketplace payment processing services for Users on Vibrnz are provided by third party companies (e.g., PayPal, Stripe) and not through Company ("Payment Processor"). COMPANY HAS NO ABILITY TO CONTROL SUCH PAYMENT PROCESSING SERVICES AND DISCLAIMS ANY AND ALL LIABILITY RELATING THERETO.

7.1.1 By agreeing to these Terms of Use or continuing to operate as a User on Vibrnz, you agree to be bound by Payment Processor's Terms and Conditions, as the same may be modified by Payment Processor from time to time.

7.2 Service Provider Failure. Company is not responsible for any malfunction, error, or failure in payment processing between Users and Payment Processor. If a payment processing dispute should arise, Users shall look solely to Payment Processor for resolution.

8 TEXT MESSAGE COMMUNICATIONS AND MOBILE PUSH NOTIFICATIONS

8.1 Company Contact. Users provide Company with their mobile phone number as part of the registration process or in their account settings. Users who provide Company with their mobile phone number may receive text message communications from Company on their cellular phones and/or mobile devices. By providing Company with your mobile phone number, you consent to Company sending text messages to your cellular phone and/or mobile device. Company does not charge for sending text messages, but your carrier may charge you.

8.1.1 Users of Company's mobile applications may have the option to receive push notification alerts from Company. If push notification alerts are available, you will be given an option to consent to receiving them after you download the application. You may also adjust your push notification settings after you have downloaded the application in your mobile device settings.

9 INTELLECTUAL PROPERTY RIGHTS

9.1 Copyright. All materials on Vibrnz other than User Content are owned by Company. You may not use these materials except as we give you written permission to do so.

9.2 Trademarks. The service marks, trademarks, and logo are owned by Company. Any other trademarks, service marks, logos and/or trade names appearing on Vibrnz are the property of their respective owners. You agree that you recognize the rights of Company and the respective third parties in those marks. You may not copy or use any of these marks, logos or trade names without the written permission of the owner.

9.3 Ownership and Use. Company retains ownership of its intellectual property rights and you have no rights to Company's intellectual property or Company's rights in its intellectual property. Except to the extent you are actually reading materials on Vibrnz (or downloading or printing such materials for your personal reference), you have no right to use, copy, display, perform, create derivative works from, distribute, have distributed, transmit or sublicense from materials or content available on Vibrnz, other than User Content you create.

9.4 Your Content. Other than the non-exclusive license granted to Company with respect to User Content (described in Section 4.3), Company will not acquire any ownership interest in the User Content you post.

10 DIGITAL MILLENNIUM COPYRIGHT ACT

10.1 Digital Millennium Copyright Act Notice. If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible on Vibrnz, please contact us and also notify our designated agent (“DMCA Agent”), as set forth in the Digital Millennium Copyright Act of 1998 (17 U.S.C. §512).

10.1.1 Company may remove content that, in its sole discretion, appears to infringe the intellectual property rights of others. In addition, Company, in its sole and absolute discretion, may terminate the accounts of Users who infringe the intellectual property rights of others.

10.1.2 If you believe any materials on Vibrnz infringe your copyright, you may request removal of those materials from Vibrnz by contacting Company’s DMCA Agent (identified below) and providing the following information:

10.1.2.1 Identification of the copyrighted work that you believe to be infringed. Please describe the work, and where possible include a copy or the location (e.g., URL) of an authorized version of the work.

10.1.2.2 Identification of the material that you believe to be infringing and its location. Please describe the material and provide us with its URL or any other pertinent information that will allow us to locate the material.

10.1.2.3 Your name, address, telephone number and (if available) e-mail address.

10.1.2.4 A statement that you have a good faith belief that the complained of use of the materials is not authorized by the copyright owner, its agent, or the law.

10.1.2.5 A statement that the information that you have supplied is accurate, and indicating that “under penalty of perjury,” you are the copyright owner or are authorized to act on the copyright owner’s behalf.

10.1.2.6 A signature or the electronic equivalent from the copyright holder or authorized representative.

10.2 DMCA Agent. Company’s DMCA Agent is: Mrinalini Ayachit

11 DISPUTES

If any disputes or disagreements arise between a Client Member and a Service Member relating to the services provided by Service Member or payments made by or due from Client Member, the Client Member and Service Member are responsible for resolving any such disputes directly with each other. Company will not be a party to any such dispute, and Company will not be obligated to take any action toward resolving the dispute.

12 DISCLAIMER OF WARRANTY AND LIMITATIONS OF LIABILITY

PLEASE READ THIS SECTION CAREFULLY. THIS SECTION LIMITS THE LIABILITY OF COMPANY AND ITS AFFILIATED PARTIES. EACH OF THE SUBSECTIONS BELOW APPLIES UP TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.

- 12.1 “As-Is” Basis. Company provides Vibrnz on an “as-is” and “as-available” basis. YOUR USE OF VIBRNZ IS AT YOUR OWN DISCRETION AND RISK.
- 12.2 No Warranties; Release. Company grants no warranties of any kind, whether express or implied, statutory or otherwise with respect to the Users or Vibrnz (or any information contained in Vibrnz). Company does not grant any implied warranties of merchantability, fitness for a particular purpose, or non-infringement. COMPANY DOES NOT WARRANT THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY INFORMATION AND MATERIALS ON VIBRNZ OR PROVIDED OR OBTAINED IN CONNECTION THEREWITH. Company does not warrant that your use of Vibrnz or that information on Vibrnz will be secure, uninterrupted, error-free, available, accurate, or that any defects in Vibrnz will be corrected. Company makes no warranties about the connectivity and continued availability of Vibrnz.
- YOU AGREE TO RELEASE COMPANY AND ITS AFFILIATED PARTIES FROM ANY CLAIMS, DEMANDS, DAMAGES, LIABILITY, COSTS OR EXPENSES, OF EVERY KIND AND NATURE, KNOWN OR UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH (I) YOUR USE OF VIBRNZ, OR (II) ANY CLAIM OR CONTROVERSY THAT MAY ARISE FROM ANY DISPUTES BETWEEN YOU AND OTHER USERS.
- 12.3 User Content. Company makes no claims or promises about (i) the opinions, advice, statements, reviews, or other information or content made available on Vibrnz by Users, or (ii) the accuracy, completeness, or usefulness of any information on Vibrnz.
- 12.4 Limitation of Liability. IN NO EVENT WILL COMPANY OR ITS AFFILIATED PARTIES BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT, INDIRECT, GENERAL, SPECIAL, COMPENSATORY, CONSEQUENTIAL, AND/OR INCIDENTAL, ARISING OUT OF OR RELATING TO THE CONDUCT OF YOU OR ANYONE ELSE IN CONNECTION WITH THE USE OF VIBRNZ, INCLUDING WITHOUT LIMITATION, BODILY INJURY, EMOTIONAL DISTRESS, AND/OR ANY OTHER DAMAGES RESULTING FROM (I) INTERACTIONS WITH OTHER USERS OF VIBRNZ, WHETHER ONLINE OR OFFLINE, (II) YOUR RELIANCE ON INFORMATION OR OTHER CONTENT POSTED ON VIBRNZ OR TRANSMITTED TO OR BY ANY USER OF VIBRNZ, AND (III) REVIEWS OR COMMENTS MADE ABOUT YOU ON THE SITE BY OTHER USERS.
- 12.5 No Consequential Damages. YOU AGREE THAT NEITHER COMPANY NOR ITS AFFILIATED PARTIES HAS ANY LIABILITY FOR ANY (I) INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, (II) LOSS OF PROFITS, (III) BUSINESS INTERRUPTION, (IV) LOSS OF OR DAMAGE TO REPUTATION, OR (V) LOSS OF INFORMATION OR DATA.
- 12.6 Maximum Liability. WITHOUT LIMITING ANY OTHER PROVISION IN THESE TERMS OF USE, COMPANY’S MAXIMUM AGGREGATE LIABILITY TO YOU FOR LOSSES OR DAMAGES YOU SUFFER IN CONNECTION WITH VIBRNZ, OR

THESE TERMS OF USE IS LIMITED TO THE GREATER OF THE AMOUNT PAID, IF ANY, BY YOU TO COMPANY IN CONNECTION WITH VIBRNZ IN THE 12 MONTHS PRIOR TO THE ACTION GIVING RISE TO THE LIABILITY.

- 12.7 Sole and Exclusive Remedy. Your only right and remedy in case of dissatisfaction with Vibrnz or any other grievance shall be your termination of your account.

13 INDEMNIFICATION

You agree to indemnify, defend and hold harmless Company and its Affiliated Parties from and against any and all claims, losses, expenses, demands or liability, including attorneys' fees and costs incurred by Company and its Affiliated Parties in connection with any claim by a third party (including an intellectual property claim) arising out of (i) your use or misuse of, or inability to use, Vibrnz, (ii) any materials and content you submit, post or transmit through Vibrnz, (iii) your violation of these Terms of Use or your violation of any rights of a third party, (iv) your interactions with or conduct towards any other Users, or (v) your violation of any applicable law, rules or regulations. You agree that you will cooperate as reasonably requested by Company in the defense of such claims. Company and its Affiliated Parties reserve the right, at their own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Users.

14 DISPUTE RESOLUTION AND MEDIATION

- 14.1 Dispute Resolution Policy. Any dispute arising from this Terms of Use which cannot be resolved by the parties in good faith after making the best effort for a period of not less than 15 days, shall first be submitted to mediation with a neutral mediator agreed upon by the parties, with the cost of the mediator to be borne equally by them.
- 14.1.1 If a dispute cannot be resolved through mediation, the parties agree to submit to binding arbitration with a neutral arbitrator mutually agreed upon by the parties. The cost of binding arbitration will be borne by the parties equally.
- 14.1.2 In the event the parties are unable to mutually agree upon an arbitrator, we have the exclusive right to select the arbitrator. The place of arbitration shall be the state of New Jersey and New Jersey law shall apply. The parties further agree that the parties will perform any award rendered by the arbitrator, and that a judgment of any court having jurisdiction may be entered on the award.

15 MISCELLANEOUS

- 15.1 Governing Law; Venue. New Jersey law governs these Terms of Use, as well as any claim, cause of action or dispute that might arise between you and Company, without regard to conflict of law provisions. For any such claim, cause of action or dispute, you agree and consent to the exclusive jurisdiction and venue of the state and federal courts of the State of New Jersey.
- 15.2 No Joint Venture or Partnership. Nothing in these Terms of Use may be construed as making either party the partner, joint venture, agent, legal representative, employer, contractor or employee of the other.

- 15.3 Severability. If any provision of these Terms of Use is held unenforceable, then such provision will be modified to reflect the parties' intention, and all remaining provisions of these Terms of Use shall remain in full force and effect.
- 15.4 Entire Agreement. These Terms of Use contains the entire agreement between you and Company regarding the use of Vibrnz and supersedes any prior agreement between you and us on such subject matter. The parties acknowledge that no reliance is placed on any representation made but not contained in these Terms of Use.
- 15.5 Headings. The headings contained in these Terms of Use are for the convenience of reference only and are not to be considered in construing these Terms of Use.
- 15.6 Contact Information. If you have any questions or need further information as to Vibrnz, or need to notify Company as to any matters relating to Vibrnz, please contact Company at: info@vibrnz.com