

## TERMS OF USE AND SALE

EFFECTIVE DATE: **AUGUST 26, 2022**

**THIS IS A LEGAL CONTRACT BETWEEN GERTIE ENTERPRISES, LLC AND (A) PART BOOKS, LLC AND YOU.**

This TERMS OF USE AND SALE (this “**Agreement**”) is a legal contract between GERTIE ENTERPRISES, LLC AND (A) PART BOOKS, LLC, each a Delaware limited liability company, and you. The terms “**Gertie**”, “**we**”, “**us**” and “**our**” refer to Gertie Enterprises, LLC and (A) PART BOOKS, LLC. The terms “**you**”, “**your**”, and “**yours**” refer to the person using, visiting or accessing the Site and/or using or purchasing our products and services.

This Agreement contains the terms and conditions for access to and use of the website located at [www.gertie.co](http://www.gertie.co) (the “**Site**”) and your use and/or purchase of our products and services. This Agreement includes and hereby incorporates into its terms the GERTIE ENTERPRISES, LLC Privacy Policy (“**Privacy Policy**”).

**This Agreement contains a binding arbitration requirement and your waiver of your right to a jury trial for resolution of any dispute with us in Section 23. You may opt out of this binding arbitration by following the procedures in Section 23(e).**

### HOW YOU AGREE TO THIS AGREEMENT

- 11. THROUGH USE.** YOUR ACCESS TO THE SITE (other than to read this Agreement for the first time) OR YOUR PURCHASE OF OUR PRODUCTS AND/OR SERVICES OR PARTICIPATION IN OUR EVENTS CONSTITUTES YOUR ACCEPTANCE OF THIS AGREEMENT AND YOUR AGREEMENT TO BE BOUND BY THIS AGREEMENT. IN ADDITION, YOUR SIGN UP, REGISTRATION OR SUBSCRIPTION TO THIS SITE WILL CONSTITUTE YOUR ACCEPTANCE, CONFIRMATION AND REAFFIRMATION OF THIS AGREEMENT. **IF YOU DO NOT AGREE TO ANY TERM IN THIS AGREEMENT, DO NOT CONTINUE TO ACCESS AND USE THIS SITE.**

### TERMS OF SALE

- 21. BOOKS.** All book sales are final and nonrefundable. The books are copyrighted under the United States copyright laws and owned by us – all rights reserved. Purchase of our book by you or for you entitles you to possess a copy of the book for your personal use. You may copy parts of our books for your personal use only. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit any part of our books without our prior written consent.

### THE SITE

- 31. USE AND ACCESS.** This Site allows you to access content, purchase our products and/or services, read content posted to this Site and participate in our events, subject to the terms of this Agreement.
- 32. OUR CONTENT.** The Site contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound and the entire contents of the Site (“**Site Content**”). Site Content is copyrighted under the United States copyright laws. In addition, as between you and us, Site Content is proprietary to us and owned solely by us. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit any of the Site Content, in whole or in part. You may download copyrighted material for your personal use only. Except as otherwise expressly permitted under copyright law, you will not copy, redistribute, retransmit, publish or commercially exploit any Site Content without our and the copyright owner’s express, written permission. In the event of any permitted copying, redistribution or publication of Site Content, you will make no changes in or deletion of author attribution, trademark legend or copyright notice. You acknowledge that you do not acquire any ownership rights by downloading copyrighted material.
- 33. EQUIPMENT.** You will be responsible for obtaining and maintaining all telephone, computer hardware and other equipment needed for access to and use of the Site and all charges related thereto.



- 34. USE OF THE SITE.** You may use the Site solely for your personal use. You acknowledge and agree that we do not make any promises, guarantees or warranties with respect to any of the content, products, services, information, or materials featured or mentioned on the Site. You understand that, by using the Site, you may be exposed to content that is offensive, indecent or objectionable.

IN NO EVENT WILL WE BE LIABLE, DIRECTLY OR INDIRECTLY, TO YOU OR ANYONE FOR ANY DAMAGE OR LOSS OF ANY NATURE WHATSOEVER ARISING FROM OR RELATING TO ANY USE, CONTINUED USE OR RELIANCE ON ANY USER CONTENT, ANY ERROR OR OMISSION IN ANY USER CONTENT, ANY CLAIM THAT ANY USER CONTENT IS DEFAMATORY, LIBELOUS OR VIOLATES ANY RIGHT OF ANY THIRD PARTY, OR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF ANY USER OR THIRD PARTY. YOU EXPRESSLY AGREE THAT YOU BEAR ANY AND ALL RISKS ASSOCIATED WITH YOUR ACCESS TO, CONTRIBUTION TO, USE OF AND/OR RELIANCE ON CONTENT ON THE SITE.

- 35. RESTRICTIONS ON RIGHTS TO USE.** Without limiting the generality of other provisions of this Agreement, you agree that you will not (and you agree not to allow any other individual or entity to): (a) download, modify, reproduce, adapt, translate, reverse engineer, create derivative works based upon, publicly display, sell, rent, license or in any way commercially exploit any portion of the Site or Site Content, except and to the extent expressly permitted under this Agreement; (b) remove any copyright, trademark or other proprietary rights notice contained in or on the Site; (c) post to the Site any content that is false, inaccurate, misleading, defamatory, tortious or fraudulent; (d) access or collect data from our Site using automated means; (e) use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the Site; (f) not use the Site to advertise or perform any commercial solicitation, including, but not limited to, the solicitation of users to become subscribers of other online services, without our express written permission; (g) collect any information about other users (including usernames and/or email addresses) for any purpose other than to discuss and comment on postings of other users; (h) reformat or frame any portion of any web pages that are part of the Site; (i) create user accounts by automated means or under false or fraudulent pretenses; (j) create or transmit to other users unsolicited electronic communications, such as 'spam' or otherwise interfere with other users' enjoyment of the Site; (k) submit to the Site any content that falsely states or implies that such content is sponsored or endorsed by the Site; (l) transmit or upload to the Site any item containing or embodying any virus, worm, defect, Trojan horse, software bomb or other feature designed to damage or degrade in any manner the performance of the Site, any other web site, or any computer or other device or system or the enjoyment of the Site by any user; (m) use the Site to violate the security of or gain unauthorized access to any computer or computer network or other device or system (including unauthorized attempts to discover passwords or security encryption codes); (n) submit to the Site any content that is unlawful or facilitates, constitutes, promotes or encourages illegal activity; or otherwise use the Site to transfer or store illegal material, including any material deemed threatening or obscene; (o) copy or store any content offered on the Site other than for your personal use; (p) take any action that imposes, or may impose, in our sole discretion, an unreasonable or disproportionately large load on the Site; (q) misrepresent yourself on the Site, use fake accounts, pretend to be someone else, or engage in behaviors designed to humiliate another person; (r) post, upload or transmit any content that (i) infringes or otherwise violates any copyright, patent, trademark, trade secret, publicity or privacy right or other proprietary right of any party; or (ii) is proprietary to a third party, without such third party's prior written consent; (s) use the Site and/or any content available on the Site, intentionally or unintentionally, to violate any applicable local, state, federal or international law; or (t) collect or store personal data about other users in connection with the prohibited activities described in this Section.
- 36. YOUR PRIVACY.** See our Privacy Policy, which is incorporated by reference into, and made part of, this Agreement. We may change the Privacy Policy in the future. You should check the Privacy Policy frequently for changes.
- 37. DISCLOSURE OF INFORMATION.** As permitted by applicable law, we reserve the right to report any activity that we suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other third parties. In order to cooperate with information requests, to protect our systems and customers, to allow users to resolve disputes, or to ensure the integrity and operation of the Site or other purposes we deem

reasonable, we may access and disclose any information we consider necessary or appropriate, including, without limitation, user contact details, IP addresses and traffic information and usage history.

## OUR RIGHT TO TERMINATE.

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- 41. BREACH.** Without limiting other remedies, we may immediately issue a warning, temporarily suspend, indefinitely suspend or terminate your access to the Site and refuse to provide products or services to you: (a) if you breach this Agreement; (b) if we are unable to verify or authenticate any information you provide to us; or (c) if we believe that your actions may cause legal liability for you, other Site users or us.
- 42. TERMINATION.** We may terminate your access to the Site at any time in the event of any conduct by you which we, in our sole discretion, consider to be unacceptable.

## DISCLAIMERS.

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- 51. NO WARRANTIES.** THE SITE AND EACH OF OUR PRODUCTS AND SERVICES INCLUDING WITHOUT LIMITATION BOOKS AND EVENTS (all of the foregoing sometimes referred to herein as “**GERTIE WORKS**”) ARE EACH PROVIDED ON AN “**AS IS**” BASIS. YOUR USE OF OR ACCESS TO ANY GERTIE WORK IS AT YOUR OWN, SOLE RISK. WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION: (A) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT; (B) THAT ANY GERTIE WORK WILL MEET YOUR REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR; (C) ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE; AND (D) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM OUR NEGLIGENCE. TO THE FULL EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WE DISCLAIM ANY AND ALL SUCH WARRANTIES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, WHICH YOU OBTAIN FROM US OR THROUGH THE USE OF OR ACCESS TO ANY GERTIE WORK WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.
- 52. YOUR SOLE RISK.** YOU EXPRESSLY AGREE THAT USE OF OR ACCESS TO ANY GERTIE WORK IS AT YOUR SOLE RISK. THIS DISCLAIMER OF LIABILITY APPLIES TO ANY DAMAGES OR INJURY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORD, WHETHER FOR BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, OR UNDER ANY OTHER CAUSE OF ACTION. YOU SPECIFICALLY ACKNOWLEDGE THAT WE ARE NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD-PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU.
- 53. 3<sup>RD</sup> PARTY LINKS.** The information posted on or in any Gertie Work includes information copyrighted by others, as well as hypertext links or pointers that will lead to other websites. These linked websites are developed and maintained independently of the Site and are not a part of this Site. The inclusion of any link does not imply affiliation, endorsement or adoption by us of the linked site or any warranty of any of any of the information provided on those other sites. You agree that we shall not be responsible for any loss or damage of any sort incurred as a result of any such links or as the result of the presence of such links on this site. It is up to you to take precautions to ensure that whatever linked material you select is free of items such as viruses, worms, Trojan horses and other destructive items.
- 54. NO SPECIAL DAMAGES, ET AL.** IN NO EVENT WILL WE BE LIABLE FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR LOST PROFITS ARISING OUT OF YOUR USE, OF OR INABILITY TO USE OR ACCESS A GERTIE WORK.
- 55. MAXIMUM LIABILITY.** Our aggregate liability arising out of or relating to this Agreement or the (A) Part Site will not exceed the greater of \$100 or the amount you have paid us in the past twelve months.

- 56. NO INTERNET DAMAGES.** IN ADDITION TO THE TERMS SET FORTH ABOVE, NEITHER WE, NOR OUR AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS WILL BE LIABLE REGARDLESS OF THE CAUSE OR DURATION, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION CONTAINED ON THE SITE, OR FOR ANY DELAY OR INTERRUPTION IN THE TRANSMISSION THEREOF TO THE USER, OR FOR ANY CLAIMS OR LOSSES ARISING THEREFROM OR OCCASIONED THEREBY.
- 57. INDEMNITY.** YOU AGREE TO DEFEND, INDEMNIFY AND HOLD US AND OUR SUBSIDIARIES, PARENTS, OWNERS, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, LIABILITIES, COSTS AND EXPENSES (INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES AND COSTS) ARISING FROM OR IN CONNECTION WITH (A) YOUR BREACH OF THIS AGREEMENT; (B) YOUR VIOLATION OF ANY STATE, FEDERAL FOREIGN OR INTERNATIONAL LAWS, CODES OR REGULATIONS; AND/OR (C) YOUR VIOLATION OF ANY THIRD PARTY'S RIGHTS, INCLUDING, BUT NOT LIMITED TO, INFRINGEMENT OF ANY COPYRIGHT, VIOLATION OF ANY PROPRIETARY RIGHT AND INVASION OF ANY PRIVACY RIGHTS OR PUBLICITY RIGHTS. THIS OBLIGATION WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.

#### AMENDMENTS AND CHANGES.

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- 61. CHANGES TO SITE.** We have the right at any time to change or discontinue any aspect or feature of the Site or any Gertie Work, including, but not limited to, access rights, services, products, content, hours of availability, and equipment needed for access or use and all other features we determine.
- 62. CHANGES TO AGREEMENT TERMS.** We may change, modify, add or delete terms and conditions to or under this Agreement ("**Changes**"). We will provide notice of Changes by posting them on the Site. All Changes will be effective immediately when we provide notice of them. YOUR CONTINUED USE OF THE SITE OR ANY GERTIE WORK FOLLOWING OUR POSTING OF ANY CHANGES WILL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGES. IF YOU DO NOT AGREE TO ANY CHANGES TO THIS AGREEMENT, DO NOT CONTINUE TO USE THE SITE OR ANY GERTIE WORK.

#### INTELLECTUAL PROPERTY.

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- 71. TRADEMARKS.** All names, logos and tag lines associated with the Site are trademarks of GERTIE ENTERPRISES, LLC OR (A) PART BOOKS, LLC and/or their affiliates and subsidiaries. All rights reserved. All other trademarks appearing on the Site are the property of their respective owners. This Agreement does not constitute a license to use any such trademarks.

#### DISPUTES AND GOVERNING LAW

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- 81. GOVERNING LAW/CONSENT TO JURISDICTION.** Any actions arising out of, or in any manner affecting the interpretation of, this Agreement or the Site, any other service or product or any Gertie Work, whether under this Agreement or otherwise will be governed by, and construed in accordance with, the laws of the United States and State of Illinois, excluding (i) conflict of laws principles; (ii) the United Nations Convention on Contracts for the International Sale of Goods; (iii) the 1974 Convention on the Limitation Period in the International Sale of Goods; and (iv) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980. If for any reason a Dispute (defined below) proceeds in court rather than in arbitration (as prescribed below), YOU HEREBY IRREVOCABLY AND UNCONDITIONALLY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF COURTS LOCATED IN CHICAGO, ILLINOIS OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF THESE TERMS AND CONDITIONS OR YOUR USE OF THE SITE.
- 82. DISPUTE RESOLUTION.** By using, accessing, participating in, purchasing rights to or otherwise using the Site or any other Gertie Work, you hereby agree to the following:
- (a) "**Dispute**" means any dispute, controversy or claim arising out of, relating to, or in connection with:
- (A) this Agreement, or the formation, meaning, breach, termination, enforceability or validity thereof;
- or (B) your use, purchase or access to the Site, any third-party site you access through this Site or to

purchase our products or services; or (C) your use, purchase, participation in, or access to, our products or services or any Gertie Work.

- (b) **Discussions.** Any Dispute will be resolved, to the extent possible, within forty-five (45) days through discussions held in good faith between you and us or your and our appropriate representatives.
- (c) **Mediation.** If the Dispute has not been resolved after the 45-day discussion period, either party may refer the Dispute or claim to the American Arbitration Association under its Commercial Mediation Procedures, for mediation in CHICAGO, ILLINOIS or virtually for a period of one hundred twenty (120) days.
- (d) **Arbitration.** If the Dispute is not settled by mediation within the 120-day period, litigation of such Dispute will be handled exclusively and entirely through arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules. Claims will be heard by a single arbitrator. Hearings may be conducted in-person, but they may be held virtually with the prior written consent of both parties to this Agreement. **Any hearings conducted in person will take place in CHICAGO, ILLINOIS.** An arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages). We and you agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. The arbitration and any proceedings conducted hereunder will be governed by the laws of the State of Illinois, Title 9 (Arbitration) of the United States Code and by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958. Each party will bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. Notwithstanding any language to the contrary, the parties hereby agree that the arbitrator's decision will be final and nonappealable. The arbitrator's decision may be entered in any court having jurisdiction thereof for enforcement.
- (e) **30-Day Right to Opt Out of Arbitration.** You have the right to opt out of the provisions of this arbitration agreement by sending written notice of your decision to opt out to: [info@gertie.co](mailto:info@gertie.co), within 30 days after first becoming subject to this arbitration agreement. Your notice must include your name and address, your Gertie username (if any), the email address you used to set up your Gertie account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this arbitration agreement, all other parts of this Agreement will continue to apply to you. Opting out of this arbitration agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.
- (f) **Sole Exceptions to Mediation and Arbitration.** The only exceptions to the previous requirement to arbitrate are that: (a) either party may bring individual claims in small claims court in Chicago, Illinois if they qualify for small claims court in Chicago, Illinois and as long as the matter remains in such court and advances only on an individual (non-class, non-representative basis); and (b) either party may bring claims in court in Chicago, Illinois to enjoin infringement or other misuse of intellectual property rights or to enforce the decisions by arbitrator, provided that such suits advance only on an individual (non-class, non-representative basis).
- (g) **Waive Jury Trial.** If, for any reason, a claim proceeds in court rather than in arbitration you and we each waive any right to a jury trial.

**YOU AND GERTIE HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT (OTHER THAN AS OTHERWISE PERMITTED HEREIN) AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY.**

#### INTERPRETATIVE PARTS.

- 91. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and cancels all prior and contemporaneous agreements, claims,

representations and understandings of the parties in connection with the subject matter hereof. This Agreement will be binding upon the parties, their heirs, executors, beneficiaries and successors. If the provisions of this Agreement conflict with those in the Privacy Policy or any other terms incorporated into this Agreement, the terms of this Agreement will control. The section headings used herein are for convenience only and will not be given any legal import.

- 92. SEVERABILITY.** If any provision of this Agreement will be deemed unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these terms and conditions and will not affect the validity and enforceability of any remaining provisions.
- 93. NO WAIVER.** Our failure to enforce the strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provisions of this Agreement.
- 94. ASSIGNMENT AND DELEGATION.** We may assign all or any part of this Agreement and delegate all or any part of our obligations hereunder to, any third party, any successor, any assign in our discretion without notice to you and without your consent. This Agreement will bear on your successors and assigns.
- 95. CONSTRUCTION.** In this Agreement, unless the context otherwise requires: (a) references to sections, exhibits, attachments and schedules are to those in, of and to this Agreement; (b) words importing the plural will include the singular, and vice versa; (c) references to a 'person' will be construed as including references to an individual, company, enterprise, firm, partnership, joint venture, association or organization, whether or not having separate legal personality; (d) use of the word 'will' as an action attributable to a party means the party agrees to, will, promises to and covenants to take the actions following or connected to the use of the word 'will;' (e) use of the word 'may' as an action attributable to a party means that party has the right, but not the obligation, to take the action following or connected to use of the word 'may;' (f) references to 'it,' 'its,' 'they,' 'their,' and 'them,' will be construed as including any generic, singular or plural omni-gender pronoun such as she, hers, her, he, his, him, it, its, they, their and them; and (g) all references to 'days' mean calendar days unless the text specifically refers to "**Business Days**".

## NOTICES AND CONSENTS

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- 101. YOUR CONSENT TO RECEIVE TEXT MESSAGES.** If you send us a message through our Site, by email or by text message telling us you would like to receive marketing messages from us by text, that message will serve as your prior express written consent to receive recurring marketing or promotional text messages from us via SMS (each, a "**Text Message**"). We vary the frequency of our marketing messages. Text Messages may also include cart abandon messages. Consenting to receive text marketing messages from us is optional and is not a condition for purchase. You can opt out of receiving any further Text Messages from us at any time. You may incur charges from your wireless carrier due to our Text Messages. We cannot be responsible to pay for any Text messaging or wireless charges incurred by you or by a person that has access to your wireless device or telephone number. If you do not want to incur these costs, please opt out of our Text Messages. If your carrier does not permit Text Messages, you may not receive our Text Messages. We cannot be responsible for any delays in the receipt of, or failure to deliver, any Text Messages. Text Message services are provided on an "AS IS" basis. For more information on how we use telephone numbers, please read our Privacy Policy.
- 102. NOTICES.** You are responsible to provide Gertie with your current e-mail address. If you given us an invalid email address, or if we cannot reach you to deliver notices to you under this Agreement, then our dispatch of any notice will nevertheless constitute effective notice to you. Except as otherwise described in this Agreement, you may give us effective notice at the following address:

GERTIE ENTERPRISES, LLC  
Attn: Legal  
150 North Riverside Plaza, Suite 3300  
Chicago, Illinois 60606

Notice will be deemed given to us when received by letter delivered by nationally recognized overnight delivery service or first-class postage prepaid mail at the above address.