

Vertix Networks Terms and Conditions

HiWAAY Information Services, Inc., dba Vertix Networks, (the "Vertix Networks") is pleased to provide you, the subscriber (hereinafter referred to as a "Member"), with the services you have selected (the "Service"). By establishing an account or using the Service, you agree to be bound by Vertix Networks' Terms and Conditions (the "Terms and Conditions"), which are incorporated into the Vertix Networks' Service Agreements (the "Agreements") by reference. Should you have any questions regarding the agreements or terms, call Vertix Networks at 888-244-9229.

I. GENERAL TERMS OF AGREEMENT.

A. For each type of Service you purchase from Vertix Networks, these Terms and Conditions are incorporated by reference into a Service Agreement and a subscriber agreement (or sale contract), which, along with Vertix Networks' other product-specific policies and procedures posted on its Website, www.VertixNetworks.net, (the "Website") comprise the entire agreement between Vertix Networks and the Member. The Service Agreement for your Service describes additional terms and conditions particular to the Service you have purchased. Together, the Terms and Conditions and applicable Service Agreement are hereinafter referred to as the "Agreement."

B. You understand and agree that Vertix Networks may revise, discontinue or modify any and all aspects of the Service in its sole discretion and without prior notice.

C. You agree that by using the Service you represent that you are at least eighteen (18) years old and that you are legally able to enter into this agreement under current laws. You further agree to provide Vertix Networks with an accurate and complete legal name, address, telephone number, and other information that may be required for your Service. You understand that if you fail to provide Vertix Networks with accurate information your Service may be terminated immediately.

D. You understand and agree that you will be the only user of your account or Service username and password. You further agree that you will not disclose either your account or Service ID or password to any other person (except that you may at your own risk and on your own responsibility permit other members of your family or business associates to access the Service using your username and password), and that you will be responsible for all usage of the Service and any other services accessed through the Service using your username and password whether or not authorized by you.

E. You understand and agree NOT to abuse in any way nor attempt to access any of Vertix Networks' systems and services by unauthorized means.

F. You understand and agree that Vertix Networks has the right, but not the obligation, to monitor or disclose the contents of any private communication, if Vertix Networks, in its sole discretion, reasonably believes that such action is necessary:

(i) to comply with applicable law or valid legal process;

(ii) to protect Vertix Networks rights or property;

(iii) in emergencies when a person's physical safety is at issue;

(iv) to research network abuse complaints; or

(v) to protect Vertix Networks' network infrastructure. You further agree that Vertix Networks reserves the right to disclose the identity of a member to third parties in response to a valid legal subpoena and to otherwise cooperate with legitimate police inquiries and lawful civil proceedings.

G. All product and service marks contained on or associated with the Service that are not Vertix Networks marks are the trademarks of their respective owners. References to any names, marks, products or services of third parties or hypertext links to third party sites or information do not necessarily constitute or imply Vertix Networks' endorsement, sponsorship or recommendation of the third party, information, product or service. You agree that use of third party information, products or services is done so at your own risk.

II. ACCOUNT CHARGES.

A. You understand and agree that all payment for Service is due on receipt of your bill.

B. You agree that all charges are considered valid unless disputed in writing within thirty (30) days of the billing date. Adjustments will not be made for charges that are more than thirty (30) days old.

C. You agree that if you pay by credit or debit card you provide Vertix Networks with a valid credit or debit card number and other specified account information from the card issuer. You authorize Vertix Networks to automatically charge the credit or debit card account number associated with your account for any Service charges that accrue from month to month. This authorization will remain valid until you terminate your authorization in writing. Vertix Networks is not responsible for any penalty charges or expenses resulting from charges billed by Vertix Networks.

D. You understand and agree that if your account is unpaid within thirty (30) days from the invoice date or due to reversals of payments, declined credit cards or debit cards, returned instruments or any other non-payment of account charges, your account will be in default. You agree Vertix Networks reserves the right to block or terminate any account that is in default.

You further agree if your account is in default, you will pay Vertex Networks its reasonable expenses, including any returned check fees, attorneys' fees and collection agency fees incurred in enforcing Vertex Networks' rights under this Agreement.

III. TERMINATION.

A. You understand and agree that Vertex Networks retains the right to terminate your Service for any reason with 30 days prior notice.

B. You also understand and agree that Vertex Networks retains the right, but not the obligation, to restrict or terminate your Service at any time with or without notice, if Vertex Networks, in its sole discretion, determines that you are in violation of this Agreement, a Service's Service Agreement or for non-payment or other default. You agree that Vertex Networks will have no liability to you for any restriction or termination of your Service.

C. You may terminate your Service at any time by providing notice of intent to terminate to Vertex Networks according to the following policies:

(i) ALL Business Services require a minimum of 30 days prior written notice for cancellation signed by an authorized person representing your company sent by postal mail addressed to Vertex Networks Information Services, Inc., 2705 Artie St., Bldg 500, Ste 37, Huntsville, Alabama 35805; or by fax to: 256-650-4986, marked Attn: Corporate Sales, Cancellation. Cancellation requests must specify the specific product or Service you wish to cancel and the requested termination date.

(ii) Business Services not covered by the above or by additional termination provisions in the Service's particular Service Agreement, may terminate service with a written request signed by an authorized person representing your company sent by postal mail addressed to Vertex Networks Information Services, Inc., 2705 Artie St., Bldg. 500, Ste 37, Huntsville, Alabama 35805; or by fax to: 256-650-4986, marked Attn: Corporate Sales, Cancellation. Cancellation requests must specify the specific product or service you wish to cancel and the requested termination date.

(iv) You agree that if you cancel a term agreement prior to the end of the term, the balance of said term and any applicable cancellation fees will be due upon cancellation.

(v) All term agreements of 12, 24, or 36 months shall automatically renew for 12 months upon expiration of the term, unless Vertex Networks receives customer cancellation written notice at least 30 days before term expiration date.

(vi) All cancellations take place on the 1st of every month. Cancellations submitted after the 28th day of the month will take place the next billing month, whereby you will be billed for one additional month of Service.

D. You agree and understand that (i) cancelled Services will be terminated by Vertix Networks no later than the last full business day of the month in which the Service is cancelled. (ii) You further agree and understand that Vertix Networks has the right, but not the obligation, to delete all program, data, or other files on Vertix Networks' computer servers and to disconnect any Internet or other network connections associated with your Service at the time of termination without further notice to you.

IV. COPYRIGHT AND USE OF INFORMATION, MATERIALS AND MARKS.

A. You may use, copy and distribute materials found on the Service for noncommercial, internal informational use only. All copies you make of this material must bear the copyright, trademark or other proprietary notices, pertaining to the copied material. Except as authorized above, you are not granted licenses or rights to the material described therein. All such rights are retained by Vertix Networks, its affiliates and/or any third party owner of such rights.

B. Vertix Networks logos, company names and all related product and service names, marks and slogans are the property of Vertix Networks or its affiliates. You are not authorized to use any Vertix Networks name, mark or other Vertix Networks copyrighted material in any advertising, publicity or in any other commercial manner without the prior written consent of Vertix Networks.

C. All data, feedback, answers, questions, comments, suggestions, ideas or the like, which you send to Vertix Networks will be treated as non-confidential and nonproprietary. Vertix Networks is under no obligation to protect this information from disclosure and further, will be free to reproduce, use, and distribute the information to others without restriction. Vertix Networks is also free to use any ideas, concepts, know-how or techniques contained in such information for any purpose whatsoever. Vertix Networks reserves the right to market to you, as a subscriber, other Vertix Networks products and services.

D. You further understand and agree that Vertix Networks' intellectual property items such as usernames, passwords, IP addresses, URLs (Uniform Resource Locators), domain names and email addresses that are provided for your use in connection with the Service are Vertix Networks' property, and Vertix Networks may alter or replace them at any time.

E. You agree that by posting, transmitting or otherwise distributing material to any public area, to the extent that such material is subject to any Rights of yours or a third party, you automatically

(i) grant, and/or represent that owner of any such material has expressly authorized you to grant, Vertix Networks a royalty-free, perpetual, irrevocable, non-exclusive, world-wide, right and license to reproduce, publish, distribute, perform and display such material (in whole or in part), or

(ii) represent that the publication, distribution, performance and display of such material (in whole or in part) by Vertex Networks, is otherwise authorized by law.

V. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.

In addition to the disclaimer of warranties and limitation of liability contained in your service agreement, the following disclaimer of warranties and limitation of liability apply:

A. You assume full responsibility and risk for use of the service and the Internet and are solely responsible for evaluating the accuracy, completeness, and usefulness of all services, products, and other information, and the quality and merchantability of all merchandise provided through the service or the Internet.

B. The service is provided on an "as is" and "as available" basis. Vertex Networks does not warrant that any of the products will be uninterrupted, error-free, or free of viruses or other harmful components. Vertex Networks makes no express warranties and waives all implied warranties including, but not limited to, warranties of title, non-infringement, merchantability, and fitness for a particular purpose regarding any merchandise, information, or service provided through the products or the Internet generally. No advice or information given by Vertex Networks or its representatives shall create a warranty. Vertex Networks and its agents and employees are not liable for any costs or damages arising directly or indirectly from your use of the products or the Internet including any indirect, incidental, exemplary, multiple, special, punitive, or consequential damages. In any event, Vertex Networks' cumulative liability to any member for any and all claims relating to the use of any of the products shall not exceed the total amount of service fees paid during a one-month period. Except to the extent that such disclaimers are expressly prohibited by law, Vertex Networks disclaims any and all loss, damage or liability arising out of or relating to your use of the products, including, but not limited to, any loss, damage or liability relating to:

- (a) loss or corruption of data;
- (b) loss of or damage to software or hardware;
- (c) access delays or access interruptions;
- (d) computer viruses;
- (e) non-delivery or mis-delivery of data;
- (f) the negligent acts and/or omissions of Vertex Networks or Vertex Networks members;
- (g) any defects, failures, errors, omissions, or misstatements in any and all information, goods, or services obtained on or through the Internet service; and

(h) loss or liability resulting from acts beyond Vertex Networks' control.

C. Your rights and Vertex Networks' responsibilities are limited to the warranties that are expressed in these written terms and conditions that have been established by Vertex Networks to govern the use of the Service.

VI. INDEMNIFICATION.

A. You agree to defend, release, indemnify, and hold Vertex Networks, its affiliated companies and licensors, and their respective officers, directors, employees, agents, authorized representatives, and subcontractors harmless from all liabilities, claims and expenses, including without limitation reasonable attorney's fees, arising from breach of the Agreement by use of, or in connection with the posting or transmission of any Content or other material by or through your account on the Service.

B. You agree that Vertex Networks has the right, but not the obligation, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you pursuant to Paragraph (A) of this Section. In such event, you shall have no further obligations pursuant to Paragraph (A) of this Section.

VII. MISCELLANEOUS.

A. You agree that this Agreement comprises the entire understanding between Vertex Networks and you, and supersedes any prior agreements or correspondence between you and Vertex Networks and/or any prior postings or other notices from Vertex Networks with respect to the subject matter of this Agreement.

B. You agree that any controversy or claim arising out of or relating to this Agreement or breach thereof shall be settled by final and binding arbitration in Huntsville, Alabama, in accordance with the rules then in effect of the American Arbitration Association, and judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction. In reaching a decision, the arbitrator shall have no authority to change or modify any provision of this Agreement, including, without limitation, the liquidated damages provisions. Notwithstanding the rules then in effect of the American Arbitration Association, if only one arbitrator is appointed, then the arbitrator shall, in all cases, be an attorney-at-law, or if more than one arbitrator is appointed, then at least one of the arbitrators shall be an attorney-at-law.

C. The Service is offered without regard to race, color, religion, disability, national origin, gender, age, sexual orientation, marital or veteran status, or any other legally protected status.

D. This Agreement is governed by the laws of the State of Alabama, without regard to principles concerning choice of law. You agree that proper venue for any action arising out of or in connection with this Agreement shall be Madison County, Alabama, or if such action is brought in federal court, the Northern District of Alabama.

E. You agree that, if any portion of this Agreement is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible to reflect the original intentions of the parties, and the remaining portions will remain in full force and effect.

F. Vertix Networks may revise, amend, or modify this Agreement, its billing rates and account surcharges, the Service, and any other user policies and agreements. All revisions, amendments, or modifications will be posted on Vertix Networks' Website. You agree that by continuing to use the Service following any revision to the Terms and Conditions, the Service Agreements, Vertix Networks' billing rates, Vertix Networks' account surcharges, the Service, or any other user policies or agreements, you accept any such revisions and agree to abide by any such revisions. If any revision to this Agreement, Vertix Networks' billing rates, Vertix Networks' account surcharges, the Service, or any other user policies or agreements, is unacceptable to you, you may terminate your service as specified under these terms and under the additional cancellation terms specified for your Service(s).