



Terms of Service Agreement

Customer agrees to use the service in a manner consistent with any and all applicable local, state, national and international laws. Use of any Wind Serve, LLC service for bulk and/or unsolicited email, commercial or otherwise, is prohibited and shall be cause for immediate account termination.

All Wind Serve, LLC subscribers agree to use only their actual Internet email address for their "Return" and/or "Reply-To" Internet email address. The use of a "fake" email address, email address belonging to another Internet user, or no email address as a "Return" and/or "Reply-To" Internet mail address is prohibited and such use shall be cause for immediate account termination.

Customer shall be held liable for any and all costs incurred by Wind Serve, LLC as a result of Customer violation of these terms and conditions: including but not limited to attorney fees and costs resulting from Postmaster responses to complaints from and cleanup of unsolicited commercial mailings and/or unauthorized bulk mailings and/or news server violations. Wind Serve, LLC's current hourly rate for Postmaster responses to complaints and cleanup of unsolicited commercial mailings and/or unauthorized bulk mailings and/or news server violations is US \$100 per hour, with a minimum one (1) hour charge.

The use of programs such as packet sniffers, host and/or service monitoring, and other similar programs without the express written permission of any and all parties affected by the use of such tool(s) is forbidden and shall be grounds for immediate account termination. Wind Serve, LLC monitors all network services around the clock.

The resale, transfer, or trade of any Wind Serve, LLC Account and/or Services without express written permission from a Wind Serve, LLC owner is strictly prohibited. Inquires regarding "Accounts for Resale" should be directed to the Wind Serve, LLC Sales Manager (sales@windserve.com).



Customer is responsible for use of account(s) and confidentiality of password(s).

Billing

Customer agrees to pay Wind Serve, LLC all charges relating to use of Customer's Account(s). Customer acknowledges that there is a 30-day minimum subscription period. Additionally, all cancellations become effective at the end of the current billing period. There are no refunds issued for a partial period of service.

Wind Serve, LLC reserves the right to change its rates and/or services by notifying you 30 days in advance of the effective date of change. Wind Serve, LLC reserves the right to change the terms of this agreement provided it gives Customer at least 30 days notice via publication on this page of its web site located at <http://www.windserve.com/tos.pdf>.

Your service activation date will be listed as the first day of your monthly, or yearly billing cycle, as appropriate. Customers will be invoiced one month prior to the end of their current billing cycle for all standard base service rates, and payment will be due not later than the first day of the next billing cycle.

If your payment instrument is returned unpaid for any reason, including but not limited to over limit, expired, or otherwise not available to make payment, you will be notified of such by telephone and/or email. Checks that are returned by the bank for any reason will incur a \$25 returned check fee. It is the sole responsibility of Customer to insure their payment instrument information is maintained current and available for payment of incurred fees.

Wind Serve, LLC reserves the right to suspend access to service for Customer's Account(s) upon an indication of credit problems including delinquent payments. A reconnection charge equivalent to applicable activation fees will apply after payment of any outstanding balance for accounts over thirty days past due.



If you default, you agree to pay Wind Serve, LLC its reasonable expenses, including attorney and collection-agency fees, incurred in enforcing its rights under these Terms and Conditions.

OWNERSHIP/COPYRIGHT

Information available on Wind Serve, LLC is the property of Wind Serve, LLC, its Information Providers, or other customers. Customer shall not redistribute, reproduce, or commercially exploit such information without express written permission of its owner.

Information Providers shall have the right to assert and enforce such copyright provisions directly on their own behalf.

Customer submitting information owned by Customer for distribution on Wind Serve, LLC grants Wind Serve, LLC non-exclusive permission to distribute the information product worldwide. Customer retains all rights Customer may have to such information and should expressly state such rights in conjunction with said information.

Upon IP address reassignment or cancellation, Customer shall release any applicable IP address(es) assigned by Wind Serve, LLC.

LIMITATION OF LIABILITY

ALL SERVICES ARE PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. NO WARRANTIES, EXCEPT THOSE SPECIFICALLY DESCRIBED IN THIS DOCUMENT, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE MADE WITH RESPECT TO THESE SERVICES OR ANY INFORMATION OR SOFTWARE PROVIDED THEREBY.

Neither Wind Serve, LLC nor its Information Providers are responsible for any damages arising from Customer's use of Wind Serve, LLC service(s) or inability to use Wind Serve, LLC service(s). There is no guarantee of message delivery. Email return receipts may be



requested, but there is no guarantee that the recipient's mail system will process or even acknowledge these requests. Unless otherwise stated, there is no guarantee of data integrity.

Wind Serve, LLC is not responsible for Customer's files. Customer is responsible for independent backup of all such data at a site determined by Customer.

Wind Serve, LLC cannot and does not exercise any control whatsoever over the information passing through its network or through the Internet.

Due to the potential threat of viral attack, Wind Serve, LLC highly recommends the practice of safer computing to protect against computer viruses. Wind Serve, LLC is in no way responsible for any data loss or damage arising from viral infection from the Internet. Customers undertake browsing and downloading of Internet files at their own risk. Consult with your local computer reseller, systems analyst, consultant, and/or management information systems personnel to determine the anti-viral protection program best suited to your needs.

Customer is hereby warned that some Internet sites accessible via Wind Serve, LLC allow posting, retrieval, and/or electronic mailing of materials that may be considered obscene or objectionable. Wind Serve, LLC not responsible for inadvertent or deliberate access to such material and cannot prevent access of such material. It is recommended that each customer closely monitors use of his/her account especially in the case of potential use or misuse by minor children. Accounts for minor children must be opened by a parent or legal guardian with their explicit consent.

Wind Serve, LLC services may be used only for lawful purposes. Transmittal of any material in violation of any international, federal or state regulation is prohibited. This includes, but is not limited to: copyrighted materials, material legally judged to be threatening or obscene, or material protected by trade secret. You agree to indemnify and hold harmless Wind Serve, LLC (AKA Wind Serve, windserve.com,



windserve.net) from any claims resulting from your use of the service which damages you or another party.

Any access to other networks through Wind Serve, LLC must comply with the rules associated with those networks. Violation of the rules of other networks is grounds for account cancellation. This includes, but is not limited to, mass Usenet posting, Usenet cross-posting, mass emailing, and/or the sending of unsolicited commercial email.

Wind Serve, LLC and its affiliates shall not be liable under any legal theory (including tort or contract) for any direct, indirect, incidental, special or consequential damages in any way related to the product or services provided.

Wind Serve, LLC is not responsible for any hardware or software conflicts or failures that may occur on customer owned equipment. Wind Serve, LLC is not liable for any third party software, websites, or website contents.

Service Level Credits

Upon Customer's request, Wind Serve, LLC will credit Customer's account an amount equal to the service charges for four times the length of any unscheduled service outage of at least two hours duration. This is known as a service level credit. Service level credits for any service shall not exceed the amount normally billed for 30 days of such service in any 30-day period.

For the purpose of calculating the duration of a service outage, a service outage is considered to begin when custom notifies Wind Serve, LLC by phone of a service outage. Customer may also notify Wind Serve, LLC of a service outage by email or fax, but in these cases, Wind Serve, LLC is not considered to be notified until a Wind Serve, LLC technician has read the message.

All service level credit requests must be made via email or in writing within one week of service restoration.



If Wind Serve, LLC is unable to restore a service within seven days of being notified of an outage, Customer may cancel service without incurring any cancellation fees. Customer will then be eligible for a refund for unused services on a pro-rata basis.

OPERATION

Wind Serve, LLC reserves the right to change its services without notice including but not limited to access procedures, hours of operation, menu structures, commands, documentation, and services offered. Notice of modifications to these Terms and Conditions will be posted to the Wind Serve, LLC web page located at <http://www.windserve.com/tos.pdf>. Customers are encouraged to review the current Terms and Conditions on a regular basis. Customer's use of Wind Serve, LLC services after such notice shall constitute Customer's acceptance of such modifications.

Customer understands that Wind Serve, LLC services may be interrupted for several reasons, including but not limited to malfunctions, maintenance, improvement or as required to protect network resources in the event of malfunctions or misuse. Customer understands that it may not receive advance notification of any such interruption of service. Notification of scheduled outages will be posted to the Network Status portion of Wind Serve, LLC's web site located at <http://www.windserve.com/status/>. Wind Serve, LLC shall not be liable for any delay in or failure to perform the services caused by circumstances entirely beyond its control such as those occasioned by acts of God or other causes or which it could not have reasonably foreseen or any other cause which similarly impedes the providing of service.

Customer hereby agrees that any material submitted for distribution on Wind Serve, LLC service(s) through Customer's Account(s) does not violate or infringe upon any copyright, trademark, patent, statutory, common law or proprietary rights of others, or contain anything obscene, objectionable, or libelous.



Wind Serve, LLC at its sole discretion and judgment may immediately suspend Customer's access to the service upon any breach of any of the Terms and Conditions by Customer, including, but not limited to, refusal or failure to pay for services provided or disruptive on-line behavior.

Wind Serve, LLC reserves the right at its sole discretion to delete any information entered into Wind Serve, LLC computer systems by Customer. Wind Serve, LLC and its authorized representatives shall retain the right, but shall not be obligated, to review/accept/reject publicly viewable information.

Wind Serve, LLC reserves the right to delete Customer's files for which a storage fee has not been paid.

Wind Serve, LLC reserves the right to terminate access to service for any Customer Account(s) which have been inactive for two (2) months or longer.

Wind Serve, LLC reserves the right to refuse and/or terminate service to anyone or any entity for any reason at its sole discretion with or without notice.