

volgistics

Service Agreement

Revised 12-9-2013

The Volgistics Service Agreement includes the following policies and terms:

- Security Statement
- Reliability Statement
- Support Policy
- Privacy Policy
- Terms of Use

The terms of this service agreement apply to all accounts from the time an account is created as a trial, until an account is cancelled and removed from the Volgistics system. After an account is cancelled, Volgistics protects and removes any data remaining in the system as described in *Terms of Use* and the *Privacy Policy*. In order to start a trial account, a Customer must accept the *Terms of Use*.

Security Statement

Security and privacy of Customers' data is Volgistics' number one priority. Volgistics incorporates many of the same mission-critical security and privacy protections as those used by online banking services.

Volgistics uses a layered approach to security, and strives to follow industry standard 'best practices' at each level. Security begins with the physical security of the Volgistics data center, continues to network security, and ends with the protection of the data itself.

Physical security

The Volgistics system is operated exclusively by Volgistics from a secure data center. The data center is located in the central United States. The physical environment is designed to keep data and equipment secure 24 hours a day, including 24x7 secured access, security alarms, video surveillance, smoke and fire detection, and fire suppression systems. Authorized Volgistics employees are the only people who have access to the Volgistics system.

- The Volgistics system is accessible only to Volgistics employees.
- All data center equipment is owned and operated by Volgistics.
- Third party vendors who require access to the system are escorted and supervised by a Volgistics engineer.

Network security

Volgistics strictly safeguards Customer data and transactions while they are in transit. Volgistics uses 256-bit secured-socket layer (SSL) data encryption—the same level of encryption used in most online banking. In legacy systems, 128-bit SSL encryption may be used.

With SSL, all of your volunteer information is encrypted – or scrambled – as it travels back and forth between your computer and the Volgistics data center. Even if someone were able to intercept the information as it traveled over the Internet, it would be meaningless to them in this encrypted form. This is a higher level of security than that used internally on most corporate networks.

Volgistics uses Extended Validation SSL Certificates, also known as EV Certificates, to provide strict validation requirements and strong visual signals to verify security. The certificates verify that all data claimed to have originated from the Volgistics web site did, in fact, originate from that site, and that it has not been tampered with along the way. A digital certificate is the industry standard, and can be neither forged nor decoded with current or foreseeable technology.

- All external Volgistics database transactions, including the transmission of volunteer data and reports, are conducted under 128 or 256 bit SSL. Consistent with common practices in the industry, email transmissions from Volgistics to other email service providers are not encrypted.
- Volgistics uses Cisco stateful-inspection hardware firewalls to prevent unauthorized access to the Volgistics network.
- Volgistics audits login events (including successes and failures) on servers and network devices that support auditing; and monitors these logs for unusual activity.

Data security

Designed expressly for secure Internet operations, the Volgistics database itself includes advanced security, data integrity, and encryption protections. Volgistics data never leaves the control of Volgistics. Backup data is encrypted for additional protection.

- Data stored in Volgistics is the sole property of Volgistics Customers. Customers define and control their own login credentials. Only the people you authorize have access to your data (see Privacy Policy for exceptions). Once you authorize a user to access the Volgistics system, user-specific permissions that you set determine which functions and data are available to them. Volgistics uses strict session management. Sessions expire automatically after a period of inactivity.
- Volgistics uses a three-part login procedure (account number, login name, and password) to control access to volunteer data. Only the people you give login credentials to can access your account (these people are known as 'system operators') (see Privacy Policy for exceptions).

- Each account has an event log that shows which system operators accessed the system, when, and the IP address used.
- Customers can set and enforce strong password policies, and password expirations for their accounts.
- Volgistics sessions expire automatically after a period of inactivity.
- Volgistics stores backup media in the secure data center, and a secure off-site location. Backup media never leave the control of Volgistics (they are never shipped by third party carriers). All backup data are stored in an encrypted format for additional security.
- Volgistics also protects your data with the strict privacy policy which is included in this document.

Assess & limit your risk

No matter what tools you use to track volunteer information, there's often a simple way to limit your risk when it comes to storing your volunteer's personal information.

In the United States, most state and federal laws governing the protection of privacy define protected personal information as first and last name, plus any one of these:

- Social security number (SSN)
- Driver's license number
- Financial account or credit card number

While tracking a volunteer's first and last name is naturally important, it is often possible to operate a volunteer program successfully without asking volunteers to provide their social security number or driver's license number. If you can operate this way, and make it a policy to do so, you will have substantially reduced your vulnerability from the very start.

Some volunteer programs must collect and store social security and/or driver's license numbers. For example, organizations that perform background checks on prospective volunteers typically need one or both of these numbers. In these cases you should carefully examine how you collect and store this information.

If you choose to store social security and driver's license numbers in Volgistics, this information is protected by Volgistics as described in the Volgistics Security statement along with the other volunteer information you track.

If you prefer not to store social security number and driver's license numbers in Volgistics, you can still use Volgistics effectively for all other volunteer recruiting, tracking, and coordination functions.

You can use the Volgistics PIN number as a common key to associate each volunteer's Volgistics record with their social security number and/or driver's license numbers stored locally on your own computer or network. If you choose this approach, be sure you protect the information you store locally.

It is also a good idea to require strong passwords for the system operators who access your account. Volgistics allows you to customize the password strength rules for your account. Options include case sensitivity, password length requirements from 6 to 30 characters, password expirations in 30 day increments from 30 to 300 days, and mandatory inclusion of numeric characters and symbols. Strong password requirements can help eliminate security vulnerability caused by the human tendency to use simple, easy-to-guess passwords.

Volgistics was designed to track volunteer records, not patient information. Therefore, the system does not include Protected Health Information and Volgistics should not be considered a Covered Entity for HIPAA purposes.

Reliability Statement

Your ability to access your volunteer information as often as you choose, and whenever you choose, is one of the top priorities at Volgistics.

Redundancy

Volgistics is powered by a server farm that reduces 'single-points-of-failure.' Should one component fail, others take over. Critical components contain redundant power supplies and disk arrays. Dual high-speed data connections from separate Internet backbone providers connect the Volgistics data center to the Internet, ensuring operation even if one provider's network fails. Automatic emergency power systems ensure uninterrupted service during commercial power failures.

- Volgistics is powered by a redundant array of servers. Should a server fail, others in the array are available to take over.
- All network components, including routers, switches, network interface cards (NICs) and firewalls are configured in pairs for full network redundancy.
- Internet connectivity is achieved through direct connection to the Metro Ethernet fiber networks of two separate backbone providers. Volgistics uses this dual provider connectivity and Cisco's Border Gateway Protocol to provide the world with two routes to the Volgistics system. Should either provider experience a network failure, the surviving route will support the service automatically.

- Automatic emergency power systems ensure uninterrupted service during commercial power failures. The primary and standby data centers can operate for a period of days without commercial power.

24/7 Monitoring

Volgistics monitors key system performances around the clock. Volgistics engineers can see many important network and system conditions as they occur, enabling a prompt response should any system adjustments be required.

- Volgistics probes the operation of its own system from a remote network. These remote Probes alert Volgistics engineers of failures automatically within minutes.
- Monitoring devices automatically notify data center staff of commercial power failures or out-of-bounds environmental conditions in the data centers.

Data backup

Volgistics protects your data through a series of backup procedures without disrupting system operation.

- Full daily backups are made automatically.
- Backups include all database content, Customer uploaded graphic images, and Customer report files. All backup data is stored in an encrypted format.
- To protect against a loss of the primary data center, backups are stored in a secure off-site location.

Disaster planning

A Volgistics disaster response plan is in place for handling possible eventualities that range from the loss of the primary data center to spikes in bandwidth demand that might occur following a national emergency.

- Recovery from network components and commercial power failures are documented.
- Continuity of business procedures are in place for a variety of potential business challenges.
- Additional system bandwidth has been reserved should a local or national disaster cause a spike in system demand. The existing network infrastructure will support Internet bandwidth of up to twice the current peak hour load.

Scheduled maintenance

System maintenance that would prevent you from accessing the system is infrequent, performed during periods of low demand, and announced in advance on the Volgistics web site.

Saving your data locally

You can retrieve copies of your volunteer data in Excel spread sheet formats whenever you'd like, and store these on your own computer or network. Help topic 2164 shows you how, here: <http://www.volgistics.com/ex/Help.dll?ACT=21&TOPIC=2164>.

Privacy Policy

Your privacy is very important to us, and we carefully protect the information you manage through Volgistics. This privacy policy explains what information we collect, how we use it, and the measures we take to protect it. If, after reviewing this policy, you have additional questions, please contact the Volgistics team through your Volgistics mailbox, or the 'Support' menu at www.volgistics.com.

What information we collect and how we use it

In order to use Volgistics, we ask you to provide your name, title, and email address, and the name and address of your organization. We collect this information when you initially sign-up for a free Volgistics trial account. If you choose to turn your trial account into a paid Volgistics account, we also ask for the email address of the person responsible for your account's payment arrangements, and your payment information and billing address.

We use this information as the basis for identifying you as the owner of the data you track in the system. We use your payment information to process your payment of service fees, and we use your billing contact's email address if we need assistance processing a payment. We may use your email address, or the email address of others you identify as 'Volgistics administrators' to communicate with you about the status of your Volgistics account.

We do not sell, rent, or otherwise provide information about you, your volunteers or your organization to others for any reason. This includes personal information such as your name, address, or email address, and the name and address of your organization.

From time to time we may release collective statistics about the Volgistics system, such as the average number of volunteers organizations track, or the percentage of Volgistics Customers who fall into general organization classifications. These aggregate statistics never reveal information identifiable as that of an individual Customer.

Who can access your information

Only people you identify as 'system operators' in your Volgistics account, and who you give access to 'Setup' can view or change your organization information (see also "What can Volgistics access" below). You view or change your organization information under 'Account management' in the Setup area.

Once you initially enter payment information for your account, no one can see your complete credit card or bank account number in Volgistics. Volgistics displays only the last four digits of these numbers, and only where it is necessary for you to identify the card or account used to pay for your service. (see also "What can Volgistics access" below).

About the information you store in your Volgistics database

Your database includes all of the volunteer, coordinator, and assignment information you enter in your account, as well as all records related to those, including service records, history records, and contact records.

The information you store in your database belongs solely to you, and Volgistics carefully safeguards the privacy and security of this data. Volgistics never discloses the content of your database to anyone. Volgistics uses procedural and technical safeguards to protect your database against loss or theft as well as unauthorized access, including encryption, firewalls, and Secure Socket Layers. All data is stored in a secure data center. Volgistics uses many different security techniques to protect your data from unauthorized access by users internal and external, however it must be recognized that "perfect security" does not exist on the Internet.

What happens to your information if you close your account

We will continue to protect your information under the terms of this privacy policy even if you close your Volgistics account. If you cancel your Volgistics account, we delete your account information from our system within 30 days. If you allow your account to be automatically cancelled due to lack of payment, your account will first be put on a Hold status for 30 days beyond your Paid Through date and will be deleted 30 days after the Hold period expires. Trial accounts will be deleted 60 days after the trial account expires.

Who can access the information you store in your Volgistics database

Access to the information you store in your database is carefully controlled through a three part credentialing system. This includes an account number, login name, and password. People you allow to access the system by giving them credentials are known as 'system operators.' Only people you authorize as system operators have online access to your database.

The person who initially signs-up for your trial account chooses a login name and password at the time they sign-up, becoming your organization's first system operator. Thereafter, that individual may create additional system operators for your account, and authorize others to use the system by providing them

with system operator credentials. You can see who the current system operators are for your account at any time under 'System Operators' in the Setup area.

Only system operators in your organization with access to the setup page can create system operator credentials for your account. You are responsible for all actions taken with your Volgistics system operator credentials. Give system operator credentials only to those you wish to have access to your database. If you know or suspect that a system operator's credentials have been compromised, you should disable that system operator's access to the system immediately under 'System Operators' in the Setup area.

What can Volgistics access?

In the course of managing the database, managing file system components and creating and testing system enhancements, authorized Volgistics developers will have access to the database. Volgistics customer service employees will have access to customer data as needed for the purpose of answering customer support inquiries. Volgistics employees may also access the 'event log' for your account for the purpose of answering your support inquiries or assisting you with system operation issues. This log contains a record of system setting changes, system errors, and related system events. You can view the event log for your account under 'Account management' in the Setup area.

The Volgistics accounting staff can only see part of your credit card information. The complete card number is not viewable.

The security of your data is extremely important to us and therefore all Volgistics staff work under strict Nondisclosure, Non-Competition and Non-Solicitation agreements and this Privacy Policy. In addition, all employees are subject to pre-employment and periodic background checks.

Changes to this policy

We may amend this Privacy Policy from time to time by posting a notification of amended terms on the Welcome screen you view when you access your account. All amended terms will automatically become effective ten (10) days after they are posted on the Site. By using the Software or the Services after such revised terms are posted, you agree to be bound by any such amended provisions. Therefore, you agree to periodically visit the Site to examine the then-current Agreement.

Support Policy

Timely support for the most common needs of Volgistics system operators and system administrators is included at no extra cost.

Volgistics provides support to Customers through online documentation and support. To obtain online support, Customers post and receive messages in their Volgistics Mailbox. The Service does not include technical support by phone.

Volgistics can assist Customers with questions related to their account, billing, costs, service availability, questions related to the use of Service features, and assistance related to the resolution of Service conditions that would prevent it from functioning in accordance with its specifications. Support for Internet connectivity, external software such as web browsers, word processors, spread sheets, and PDF readers, including the use of printers with such programs, are outside the scope of Volgistics support services. Organizations that use the optional VicNet and VicTouch modules are responsible for answering questions that their volunteers may have about how to access and use these modules. Volgistics does not limit the number of support inquiries a Customer may make, however it may answer inquiries by referring the Customer to the location in the online documentation where the answer to an inquiry is located.

Volgistics strives to respond to all inquiries right away. Some technical inquiries and questions for the business office may take longer. Our support team is available to answer your questions weekdays from 8am to 9pm Eastern. On Saturday, we are available from 11am to 4pm Eastern. Additionally, a support team member(s) will log in at least once Saturday evening and three times throughout the day on Sunday.

Terms of Use

The Volgistics online volunteer tracking and coordinating service ("Service"), owned and operated by Volgistics, Inc. ("Volgistics"), is provided to the organization or entity registered in this process, its authorized users, and the owner of the account used for registration purposes (collectively, the "Customer") under the terms of this agreement and any operating rules or policies (collectively, the "Agreement"). If Customer is using this site on behalf of an organization or other entity, Customer confirms that it has the legal authority to enter into this agreement on behalf of such organization or other entity.

REGISTRATION FOR THIS SERVICE REQUIRES (a) ACCEPTANCE OF THE TERMS CONTAINED IN THIS AGREEMENT; (b) THAT CUSTOMER IS AT LEAST EIGHTEEN (18) YEARS OF AGE. BY COMPLETING THE REGISTRATION PROCESS AND CLICKING THE "I ACCEPT" BUTTON, YOU AGREE TO BE BOUND BY THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE CLICKING THE "I ACCEPT" BUTTON. IF YOU DO NOT AGREE WITH THESE TERMS, YOU SHOULD CANCEL THE REGISTRATION.

1.0 RESERVATION OF RIGHTS Volgistics reserves the right to change the following terms, or the policies incorporated in it by reference, or to add additional terms or policies at any time, and such changes or additions shall become effective ten (10) days after they are posted. Volgistics posts notices in advance of such changes on the Welcome screen you view when you access your account. The Customer is advised to review these terms and the incorporated policies periodically.

2.0 OWNERSHIP

2.1 Data stored within the Volgistics system by the Customer is the sole property of the Customer. Title and ownership of the volunteer data entered by the Customer remains with the Customer. No transfer of ownership shall occur under this Agreement.

2.2 Volgistics either owns or has licensed the rights to the software, content, graphics, online documentation, reports formats, and demonstration records, including modifications, updates, revisions or enhancements thereto, located on this web site (the "Site") and offered through the Service .

3.0 LICENSE

3.1 Use. The Customer (including all users authorized by the Customer) is hereby granted a non-exclusive, non-transferable license to use the Service in accordance with the terms of this Agreement and the instructions on the Site for the single company or entity defined in this registration process.

3.2 Restrictions. Customer's use of the Service is subject to the following restrictions. Customer shall not, and shall not permit others to, (a) modify, copy, or otherwise reproduce the Service in whole or in part; (b) reverse engineer, recompile, disassemble, or otherwise attempt to derive the source code form or structure of the software used in the Service; (c) sublicense, assign, share, timeshare, sell, rent, or otherwise convey in any manner the Service to others; (d) remove any proprietary notices or labels displayed on the Site; and (e) use the Service or Site for any unlawful purpose. All rights not expressly granted to Customer are reserved by Volgistics. There are no implied rights.

3.3 Stored Information. Customer is solely responsible for the content of any information or data stored in Volgistics ("Stored Information"). Customer warrants that the Stored Information will not contain content that is libelous, obscene, scandalous or defamatory, and that the Stored Information will not contain content that violates the personal, proprietary, or intellectual property rights of any third party.

3.4 Email/SMS. Customer agrees not to use Volgistics for the purpose of sending unsolicited bulk email or SMS messages, or that promotes any commercial activity unrelated to the mission of the Customer's organization. Unsolicited bulk-email and SMS messaging is defined as messages sent to multiple individuals who have not previously established a relationship with the Customer (for example, through the submission of an application or registration form, request for additional information, or a business association) or who have asked to be removed from the Customer's email list or opted out of receiving SMS messages.

4.0 SERVICE FEATURES

4.1 Service suitability. Volgistics provides a variety of freely available tools to help Customer understand Service features and capabilities, including a free trial and sample accounts. The Customer will use these tools to determine that the Service suits their needs before paying for the service. Customer acknowledges these tools, and their responsibility for using them to determine that the Service works in a way which will suit their needs.

4.2 New features or modification of existing features. While Volgistics may periodically make, announce, or document proposed enhancements to the Service, Customer agrees that the Service may include only the features available at the time they sign-up. Customer also acknowledges that, if the Service is enhanced, there may be changes in the way existing features work. When major changes are made, Volgistics alerts Customers by posting a description of the change before implementation.

5.0 FEES AND PAYMENTS

5.1 Volgistics fees. The Customer is completely responsible for all charges, fees and taxes (including but not limited to sales and use taxes) arising out of use of the Service. Volgistics reserves the right to change fees or institute new fees at any time, and such changes or new fees shall become effective as defined in the Payment Terms. Changes in fees or new fees shall be posted on this site in advance of their effective date.

5.2 Billing. Customer agrees to the Payment Terms posted on the Site at <http://www.volgistics.com/payment-options.htm>. Customers pay for the Volgistics service online by credit card, by check or by electronic transfer. Customers may review their accounts at any time the Service is available. Customers may cancel the Service at any time, as described below. Volgistics has the right to suspend use of the Service in cases where service fees have not been paid by Customer until such time as the service fee is paid.

5.3 Identification. For the purpose of identification and billing, Customer agrees to provide Volgistics with and maintain accurate Customer information, including, without limitation, Customer legal name, address, email address; and credit card or bank account information. Failure to maintain this information may, at Volgistics' option, result in suspension or termination of Customer's right to use the Service.

5.4 Third party fees and costs. In addition to the charges set forth above, Customer is responsible for all expenses and charges associated with accessing the Internet and connecting to the Service, any service fees associated with such access and connection, and for providing all equipment necessary for Customer to make the connection.

5.5 Cancellation. Customer may cancel this Agreement and use of the Service at any time using the 'Cancel' option under Account management in the Setup area. Thereafter, Volgistics will cease billing the Customer's credit card for the monthly service fee if the Customer paid through Automatic Monthly Billing. There is no refund of any fees that the Customer may have already paid, or credit balances from

credits previously issued. If Customer wishes to obtain its volunteer data, the Customer is responsible for retrieving their volunteer data from the Site prior to their cancellation. Customer grants Volgistics the right to destroy information left in cancelled accounts. Volgistics will remove Customer data from the Site after 30 days of Customer cancellation.

5.6 Lack of payment. If Customer allows its account to be automatically cancelled due to lack of payment, their account will first be put on a Hold status for 30 days beyond the Paid Through date and will be deleted 30 days after the Hold period expires. Trial accounts are deleted from the system 60 days after the trial account expires.

5.7 Extended inactivity. If an account is setup for automatic monthly payments and has no activity for a 10 month period, we will discontinue billing the credit card on file as a courtesy. The account will be put on hold for up to 30 days while we email notices to the billing contact and account Administrators for further instruction. If we do not receive a response from the account holders within 30 days of the end of the 30 day hold period, the account will be cancelled and the Customer data will be removed from the system without further notification to the Customer.

6.0 CONFIDENTIALITY

6.1 Confidentiality. Only the Customer can enter, edit, and use its data. Volgistics can access Customer data only as defined in the Volgistics' Privacy Policy, which can be found at <http://www.volgistics.com/privacy-policy.htm>.

6.2 Security. Volgistics uses commercially reasonable practices, including encryption and firewalls, to ensure that Customer information is disclosed only to Customer authorized users. These practices are more fully explained at <http://www.volgistics.com/security.htm>. However, Customer acknowledges that the Internet is an open system and Volgistics cannot and does not warrant or guarantee that third parties cannot or will not intercept or modify Customer data.

6.3 Credentials. Access to Customer data is protected by a three part credential system (account number, login name, and password). Customer selects their own login names and passwords, and issues credentials to the individuals they authorize to use the Service. The Customer is responsible for maintaining the confidentiality of these credentials, and agrees that Volgistics has no obligations with regard to the use of such credentials by third parties. The Customer is responsible for any and all activities in the Customer's account. The Customer agrees to notify Volgistics immediately if Customer has any reason to believe that the security of the Customer's account has been compromised.

6.4 Forgotten credentials. To retrieve forgotten passwords, Customers must provide the account number and the e-mail address associated with the forgotten password. Forgotten passwords are sent only to the Customer email address associated with the password. For Customer protection, assistance with the recovery of any other lost or forgotten account credentials (account numbers or login names) is strictly controlled, available only after positive identification of the account holder has been established by Volgistics.

7.0 AVAILABILITY

7.1 Availability. Volgistics uses commercially reasonable efforts to maintain availability of the Service twenty-four (24) hours per day, seven (7) days per week. These efforts are more fully described at <http://www.volgistics.com/reliability.htm>. However, scheduled and unscheduled interruptions may occur, and Volgistics does not warrant or guarantee totally uninterrupted availability of the Service. Scheduled maintenance is normally conducted during nights or weekends, to cause minimum inconvenience to Customers. Notifications of such interruptions are posted in advance. In the event that an unscheduled interruption occurs, Volgistics will apply appropriate resources to resolve the problem and return the Service to availability as soon as possible. During these scheduled and unscheduled interruptions, the Customer may be unable to use the Service.

7.2 Reliability. Volgistics uses commercially reasonable practices, including redundancy, fail-over and backup practices, to provide the Service with no unplanned interruptions of service and no loss of Customer data, as more fully described at <http://www.volgistics.com/reliability.htm>. However Volgistics does not warrant or guarantee that such events will not occur. Volgistics' sole and exclusive obligation for any loss or damage to the Service or data is to use reasonable efforts to provide Customer with the most recent available backup of the Service or data.

8.0 SUPPORT SERVICES

8.1 Methods. Volgistics provides support to Customers through online documentation and support. To obtain online support, Customers post and receive messages in their Volgistics Mailbox. The Service does not include technical support by phone.

8.2 Scope. Volgistics can assist Customers with questions related to their account, billing, costs, service availability, questions related to the use of Service features, and assistance related to the resolution of Service conditions that would prevent it from functioning in accordance with its specifications. Support for Internet connectivity, external software such as web browsers, word processors, spread sheets, and PDF readers, including the use of printers with such programs, are outside the scope of Volgistics support services. Organizations that use the optional VicNet and VicTouch modules are responsible for answering questions that their volunteers may have about how to access and use these modules. Volgistics does not limit the number of support inquiries a Customer may make, however it may answer inquiries by referring the Customer to the location in the online documentation where the answer to an inquiry is located.

8.3 Timeliness. Volgistics strives to respond to all inquiries right away. Some technical inquiries and questions for the business office may take longer. Our support team is available to answer your questions weekdays from 8am to 9pm Eastern. On Saturday, we are available from 11am to 4pm Eastern. Additionally, a support team member(s) will log in at least once Saturday evening and three times throughout the day on Sunday.

9.0 WARRANTY

9.1 Warranty. Volgistics warrants that the Service functions in accordance with the specifications described on the Site.

9.2 DISCLAIMER OF ALL OTHER WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, VOLGISTICS HEREBY EXCLUDES ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW, COURSE OF DEALING, TRADE USAGE, REPRESENTATION STATEMENT OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL VOLGISTICS BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGE, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY ARISING IN ANY WAY OUT OF THIS AGREEMENT, EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE. VOLGISTICS' AGGREGATE LIABILITY TO THE CUSTOMER FOR DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION AND WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY THE CUSTOMER TO VOLGISTICS FOR THE SERVICE DURING THE PRIOR TWELVE (12) MONTHS.

10.0 MISCELLANEOUS

10.1 Termination. Volgistics reserves the right to restrict, suspend or terminate Customer access to the Service in whole or part without notice and without liability, in the event of any Customer breach or threatened breach of this Agreement. In addition, Volgistics may terminate this Agreement, for any reason or for no reason, with thirty (30) days' notice to Customer. If this Agreement is terminated by Volgistics for reasons other than Customer breach, Customer volunteer data will be made available by Volgistics for Customer downloading for up to ninety (90) days after termination. After ninety (90) days Volgistics shall destroy remaining data in Customer's account.

10.2 Governing Law and venue. The terms and conditions of this Agreement shall be governed, construed, interpreted, and enforced in accordance with the domestic laws of the State of Michigan, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Michigan. Any and all actions concerning any dispute arising under this Agreement shall be filed and maintained in a court of Kent County, Michigan or the federal district court for the Western District of Michigan, and in no other court. The parties irrevocably consent and submit to the jurisdiction and venue of such state or federal court and waive, to the fullest extent permitted, the defense of an inconvenient forum.

10.3 Headings; Construction. Headings in this Agreement are for reference purposes only and shall not affect the interpretation or meaning of this Agreement. No provision of this Agreement or any related document shall be interpreted or construed for or against any party because such party (or such party's attorney) actually or purportedly prepared or requested such provision, any other provision, or the Agreement as a whole.

10.4 Severability; Survival. If any provision of this Agreement is held by court of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement will remain in full force and effect. The payment obligations contained in article 5, the provisions of Paragraph 9.2, and the provisions of Paragraphs 10.2 through 10.6 shall survive the expiration, cancellation or other termination of this Agreement for any reason.

10.5 Attorneys' Fees and Costs. In the event of a breach of this agreement or any other breach by Customer or its employees, agents, or representatives, Volgistics shall be entitled to recover costs and attorneys' fees incurred. No other parties shall be entitled to collect attorney fees or costs associated with any legal action related to this Agreement or the Service.

10.6 Force Majeure. Notwithstanding any provision contained in this Agreement, Volgistics shall not be liable to the extent performance of any terms or provisions of this Agreement is delayed or prevented by civil disorders; wars; acts of enemies; strikes; lack of available resources from persons other than parties to this Agreement; labor disputes; electrical equipment or availability failure; fires; floods; acts of God; or federal, state or municipal action, statute, ordinance or regulation.

Terms of use last revised 12-15-2013

Contact

To contact Volgistics, visit www.volgistics.com, click the Support menu, and post your inquiry.

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www.volgistics.com