

Note: If you have already registered for and started using a Prodigix hosting and services account but choose to not agree to all or any of the following terms and conditions after reading this agreement in full, please call Prodigix Software accounting to cancel your account.

Hosting and Services Agreement

Prodigix Software LLC: Terms and Conditions

You (the Prodigix Software customer and/or user, hereafter collectively referred to as "you") agree to purchase and/or use Prodigix Software services in accordance with the terms and conditions of this Service Agreement ("Agreement").

1. Prodigix Software LLC will exercise no control whatsoever over the content of any information passing through it.
2. Stated bandwidth(s) apply only to the customer-to-Prodigix Software LLC router port attachment. No guarantee of end-to-end bandwidth on the Internet is made.
3.
 - a. You will use Prodigix Software LLC services only for lawful purposes. Any transmission or re-transmission of material in violation of any Federal or State laws and/or regulations is expressly prohibited. This extends to include, but is not limited to: any copyrighted materials, materials or communications prohibited by trade secret.
 - b. As a customer of Prodigix Software LLC and a user of our services, you (as an individual, and/or officer or agent of a company, and/or company) agree to indemnify and to hold harmless Prodigix Software LLC from ANY and ALL claims resulting from the use of the service which causes damage to you or any other party. Prodigix Software LLC shall not be liable, either in contract or in tort, or for protection from unauthorized access of its customer's transmission facilities or customer-owned equipment on premises, or for unauthorized access to, alteration, theft or destruction of a customer's data files, programs, or information through accident, fraudulent means or devices, or any other method, even should such access occur as a result of Prodigix Software LLC's negligence. Prodigix Software LLC shall not be in any way responsible for claims or damages caused by a customer, through fault, negligence or failure to perform customer's responsibilities, claims against a customer by any other party; any act or omission of any party furnishing services and/or products; or for the installation and/or removal of any and all equipment supplied by any service provider or Prodigix Software LLC.
4. Prodigix Software LLC will not be responsible for any damages you or your business suffers. Prodigix Software LLC makes NO WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, for services we provide. Prodigix Software LLC also DISCLAIMS ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. This includes loss of data resulting from delays, non deliveries, wrong deliveries, and any and all service interruptions caused by Prodigix Software LLC and its employees by its own negligence or your errors or omissions.
5. Any and all information you obtain through Prodigix Software LLC data network services (public and or private) is at your own risk.
6. Any and all access to other networks via Prodigix Software LLC must be in compliance with all policies and rules of those networks. This applies to any other network that Prodigix Software LLC attaches to.
7. Rates: Rates are set forth on the Prodigix Software LLC Product and Service Order Form. Prodigix Software LLC will provide 30 days written notice prior to a change in our base prices. In the event that you do not wish to continue your account paying the changed base price, you, the customer, have 10 days from the date of notification of the effective increase to provide Prodigix Software LLC with a written request to terminate services and incur no termination liability. Otherwise, the existing service will be billed at the new base prices. However, you will continue to be responsible for all charges up to 30 days from the date the Prodigix Software LLC notice was received.
8. Payment: Installation fees and first and last month's service charges are required to be paid at the time your services are ordered. These fees and charges are non-refundable. Invoices for subsequent months are billed 30 days in advance based upon the previous month's unit volume. Invoices are due in full no later than 35 days after the bill date. After that your service is subject to interruption. If your service is interrupted for non-payment there will be a restoration fee (equal to the installation fee of the service type) to be paid in full and Prodigix Software LLC may take up to 30 days to restore service after payment. This policy will be strictly enforced. If you are not able to meet our payment terms please do not apply for services. You, the customer, will pay all sales and use taxes, as well as duties or levies on products and services.
9. In the event of default, Prodigix Software LLC may retake possession of any and all hardware and/or software it has supplied you, employees and/or agents (before, during and after any sanctions to recover sums of money). In such a case, you will provide Prodigix Software LLC full

and free access to the hardware and/or software for this purpose. Prodigix Software LLC will retain all payments made hereunder, and recover charges you owe as well as any damages Prodigix Software LLC may have sustained due to your default. Title and property rights, including all intellectual property rights to services, are and shall remain with Prodigix Software LLC whether or not they are embedded in any programming, software and/or hardware.

10. You recognize and acknowledge that any and all Prodigix Software LLC services and/or products, programming and software used hereunder constitute valuable trade secrets of Prodigix Software LLC. You will use your best efforts to protect and keep confidential any and all programming and software used by you, your employees, and/or agents and shall never make any attempt to copy, examine in any way, alter or re-engineer, tamper with, or otherwise misuse such services, programs, hardware, etc.
11.
 - a. Cancellation: Prodigix Software may cancel and/or terminate service with 30 day written notice to you, the customer, for any reason.
 - b. Only a written request to terminate service, made in accordance with paragraph 11.c. or 11.d. as applicable to you, relieves you and/or your company from the obligation to pay your charges. An act of default will accelerate payment to be due at once, and any type of credit agreement will be immediately and automatically terminated.
 - c. Long-term service orders are considered to be anything extending over 3 months in length. To terminate long-term service, a company or an individual must provide Prodigix Software LLC with 45 days written notice. In case of early termination of any long-term order, the company or individual will pay a lump sum equal to six (6) months charges. There is NEVER a termination charge when a customer upgrades to a higher level of service.
 - d. To terminate month-to-month service, a company or an individual must provide Prodigix Software LLC with 30 days written notice. There is NEVER a termination charge when a customer upgrades to a higher level of service.
12. You shall provide all necessary preparations required to comply with Prodigix Software LLC's installation, maintenance and operational specifications. Customers will be responsible for all costs of relocation of service once installed by Prodigix Software LLC and/or its vendors, and will provide Prodigix Software LLC, and its suppliers of communication service and equipment, reasonable access to your premises to perform any acts required by this agreement.
13. Physical Equipment and/or Software products that are NOT provided by Prodigix Software LLC are the responsibility of the customer, company or individual or both as the limits of the law allows for. Prodigix Software LLC will not be responsible for the installation of and/or service on equipment and/or software not provided by Prodigix Software LLC. All customers are responsible for the use and compatibility of hardware and software not provided by Prodigix Software LLC. In the event that the customer uses hardware and/or software that does impair the customer's use of Prodigix Software LLC services, the customer shall nonetheless be liable for regular payment to Prodigix Software LLC. Upon notice from Prodigix Software LLC that the hardware and/or software not provided by Prodigix Software LLC is causing, or in the sole opinion of Prodigix Software LLC, is likely to cause hazard, interference's or service obstruction, the customer shall eliminate the hazard, interference or service obstruction at once. Customers will, if necessary, pay Prodigix Software LLC to troubleshoot problems caused by such equipment and/or software not provided by Prodigix Software LLC. Prodigix Software LLC will not be responsible if any changes in hardware, software or services cause equipment not provided by Prodigix Software LLC to become obsolete, require modification or alteration, or in any other way affect the total performance of Prodigix Software LLC on an end-to-end basis and protect the Prodigix Software LLC backbone network and those networks attached to the Prodigix Software LLC network. In the case of customer-owned hardware and/or software connected to the Prodigix Software LLC network, the customer is totally responsible for any and all service to that equipment. Prodigix Software LLC, at its option, may supply technical services in the form of consulting and/or service to Prodigix Software LLC customers at their request. Such services will be billed out at rates set on the Prodigix Software LLC pricing sheet and/or at rates in effect at the time such services are requested. Prodigix Software LLC has the right to refuse any such technical services at its sole option. On leased telephone lines, no matter who the leasing party is, Prodigix Software LLC must have free and open access to such lines.
14. Prodigix Software LLC always reserves the right to change its rates and otherwise modify these Terms and Conditions by notifying you 30 days in advance of the effective date of such changes. These Terms and Conditions hereby supersede all previous representations, understanding, or agreements and shall prevail notwithstanding any variance with terms and conditions of ANY and ALL orders submitted.
15. As a Prodigix Software LLC customer you may not sell, assign or transfer your service order without the prior written consent of Prodigix Software LLC. Prodigix Software LLC may at any time sell, assign or transfer this agreement with no notice.
16. Prodigix Software LLC will not be responsible for performance of its obligations thereunder where delayed or hindered by war, riots, embargoes, strikes or acts of its vendors and will attempt to

notify customers in the event of any of the foregoing occurrences. Should such occurrences continue for more than 90 days, Prodigix Software LLC or its customers may cancel service for the affected services and/or products with no further liability.

17. The provision of Prodigix Software LLC services and/or products are subject to Prodigix Software LLC's continuing approval of customer credit-worthiness. All Prodigix Software LLC customers shall furnish financial information upon request as Prodigix Software LLC may from time to time choose to re-determine a customer's credit-worthiness.
18. Any legal action arising out of failure, malfunction or defects in Prodigix Software LLC's services or goods shall be brought within a period of one year of the occurrence or is deemed waived.
19. If you are declared in default, Prodigix Software LLC will have all rights and remedies provided by law. Prodigix Software LLC may terminate your account and take any physical equipment and/or software products provided by Prodigix Software LLC subject to applicable state law, including the right to enter the premises where the physical equipment and/or software is kept in order to repossess it. You agree to pay Prodigix Software LLC's costs on demand as well as any reasonable attorney's fees and legal expenses incurred as a result of Prodigix Software LLC's exercise of any default remedies under this agreement.
20. Severability. If any provision of this Agreement is not valid according to the law, all other provisions will remain in force. If any provision is stricken, both parties agree to negotiate a mutually acceptable substitute provision.
21. Waiver. Prodigix Software LLC's failure to insist upon your complying with any term or provision of this lease or it's waiver of any default shall not be construed as waiving any such term or provision and shall not preclude Prodigix Software LLC from taking action regarding any subsequent default.
22. Governing laws. This agreement shall be governed by the internal laws of the State of Utah.
23. THESE TERMS AND CONDITIONS CANNOT BE MODIFIED EXCEPT BY WRITTEN AMENDMENT BY THE PARTIES. NO AGENT, EMPLOYEE OR REPRESENTATIVE OF PRODIGIX SOFTWARE LLC HAS THE AUTHORITY TO BIND THE PARTIES TO ANY REPRESENTATION OR WARRANTY UNLESS SUCH IS SPECIFICALLY INCLUDED IN THESE TERMS AND CONDITIONS, THE PRODIGIX SOFTWARE LLC INTERNET SERVICE ORDER FORM OR WITH A WRITTEN AMENDMENT THERETO. NOTICE TO PARTIES OF DISPUTES ARISING UNDER THIS AGREEMENT SHALL BE SENT BY REGISTERED MAIL TO THE PARTIES AT THE ADDRESS SHOWN ON THE MOST RECENT SERVICE ORDER. THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF UTAH.
24. Prodigix Software is a member of the Utah division of the Better Business Bureau and is committed to arbitration and mediation.
25. Any and all data and information created by you and input, entered and/or transmitted into the Prodigix Software is a) your exclusive property, b) recognized as valuable trade secret information, and c) shall be treated as confidential and not disclosed to anyone other than you.
26. Prodigix Software, LLC creates a backup copy of your data every day. If you desire to have Prodigix provide you with a full backup database you must be a licensed Office Automation user. If you desire Prodigix to provide you with a predetermined dataset, in ASCII/CSV format, a setup fee will be required based upon time required to create a custom export routine and set up a process for remote retrieval.
27. If you decide to terminate your account, Prodigix Software, LLC will provide you with a final data export in CSV/ASCII file format, with each respective file representing the data tables used by the Prodigix software program. A reasonable fee will be charged for this service, based upon the time required to setup and process the export.
28. If Prodigix becomes insolvent or unable to continue to support you, Prodigix will provide you with your data in ASCII/CSV format at no cost.
29. Use of Prodigix Software LLC services by you as a company and/or an individual constitutes acceptance of these Terms and Conditions in full.