

# Vormittag Associates Inc.

## Terms of Use Agreement

THE FOLLOWING TERMS OF USE AGREEMENT (“AGREEMENT”) IS BINDING ON YOU AND WILL INURE TO THE BENEFIT OF VORMITTAG ASSOCIATES INC., ITS SUCCESSORS AND ASSIGNS. PLEASE READ THIS AGREEMENT CAREFULLY AND COMPLETELY BEFORE USING THIS SITE. BY USING THIS SITE, YOU EXPRESSLY AGREE TO BE BOUND BY THIS AGREEMENT. THESE TERMS, CONDITIONS AND POLICIES APPLY SOLELY TO THE USE OF [WWW.VALNET](http://WWW.VALNET) AND DO NOT EXTEND TO ANY AFFILIATED SITES OR LINKS TO THIRD PARTIES. YOU SHOULD PERIODICALLY REVIEW THESE THE TERMS, CONDITIONS AND POLICIES CONTAINED IN THIS AGREEMENT FOR ANY UPDATES OR CHANGES. YOUR CONTINUED USE OF THIS SITE SHALL CONSTITUTE NOTICE AND ACCEPTANCE OF ANY SUCH CHANGES.

Welcome to the Vormittag Associates Inc.’s (“VAI” or the “Company”) website (the "Company Website"). This Agreement explains the terms and conditions for using the Company Website (the "Terms of Use"). By using the Company Website, you consent to these Terms of Use and any new version of such posted since your last visit.

These Terms of Use apply to any person or entity using and/or browsing the Company Website ("User"), including Company customers who are authorized to register to use the customer portal (the "Customer Portal").

PLEASE NOTE THAT COMPANY CUSTOMERS WHO ARE AUTHORIZED TO REGISTER TO USE THE CUSTOMER PORTAL ARE SUBJECT TO ADDITIONAL TERMS OF USE WHICH GOVERN THE USE THEREOF (THE "CUSTOMER PORTAL TERMS OF USE"). THE CUSTOMER PORTAL TERMS OF USE ARE AVAILABLE ON THE CUSTOMER PORTAL REGISTRATION AREA AND MUST BE ACCEPTED BEFORE ACCESS TO THE CUSTOMER PORTAL IS PERMITTED.

### **COPYRIGHT.**

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### **USER PROFILE.**

If you register to receive VAI information or certain products through the Company Website, you are representing that you are at least 18 years old and that your registration VAI information is truthful, accurate, updated and complete. A user name and password (if required) will be assigned by us. You are responsible for maintaining the secrecy of your password and for activities occurring on the basis thereof.

Each User must register separately, although corporate entities may possess only one user name and password. Thus, only one registration is required for such corporate entities. You may not disclose your user name and password to non-authorized individuals within your organization or to outside third parties. You may not use another Users user name and password without their explicit authorization.

## **USING COMPANY CONTENT & SERVICE.**

1. Company Proprietary Rights . The Company Website may contain VAI information, data, software (including updates), images, video clips, music, links, logos and other material (collectively, the "Content") that are the copyright, trademark or other intellectual property of the Company, and/or its affiliates, subsidiaries, partners and/or third-party suppliers. The Content in the Company Website is copyrighted individually and as a collective work. You will ensure that all copyright, trademark or other proprietary rights notices appearing on any Content remain intact and legible. All licenses are non-exclusive.
2. Linking to the Company Website . If you operate a website, then you may not display the Content within a frame or border, or "deep link" or harvest Content located below the upper-most URL. You will not link to the Company Website or Content in a manner that suggests an endorsement or affiliation between the sites absent the written consent of the Company. You will remove any link to the Company Website that the Company finds objectionable promptly upon request.
3. Reservation of Rights . The Company reserves all rights not specifically granted to you. This means permission to use the Company Website and related intellectual property rights. Except as specifically authorized in these Terms of Use, you may not store, copy, reproduce, adapt, reformat, create derivative works of, transmit, disseminate, publicly display or perform any copyrighted material from this Company Website. To the fullest extent permitted by law, you may not decompile, disassemble or otherwise reverse engineer any products and/or software obtained through the Company Website.

## **COMPLIANCE WITH PATRIOT ACT.**

By using this site, you acknowledge and confirm that you are not currently, and will not become, a person (a) in violation of any statute, treaty, law (including common law), ordinance, regulation, rule, order, opinion, release, injunction, writ, decree or award of any governmental authority relating to terrorism or money laundering, including Executive Order No. 13224 and the USA Patriot Act (collectively, "Anti-Terrorism Law") or (b) engaged in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law. You are not any of the following (each a "Blocked Person"): (i) a person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224; (ii) a person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224; (iii) a person with which

VAI is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (iv) a person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order No. 13224; (v) a person that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or (vi) a person who is affiliated with a person listed above. You understand and agree that, by law, VAI may be obligated to "freeze" your transaction or your use of the Company Website in compliance with governmental regulations, and VAI may also be required to report such action and to disclose your identity to the Office of Foreign Asset Control.

### **THIRD PARTY LINKS AND ADVERTISERS.**

Content, goods or services may be offered by affiliates, partners and/or third parties through the Company Website. These are offered as a convenience to you. The Company has no control over and does not endorse this content, goods or services. The Company is a distributor and not a republisher of third party content and is an advertising channel for third party goods and services. Third party providers may change, add or discontinue their content or offerings at any time without notice. They may impose additional or different conditions on your use of their content or services (please read any additional terms that may be posted by such providers). THE COMPANY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, REGARDING CONTENT, GOODS OR SERVICES THAT YOU OBTAIN FROM THIRD PARTY PROVIDERS. YOU WILL LOOK SOLELY TO THE THIRD PARTY PROVIDER FOR ALL CLAIMS REGARDING SUCH MATTERS.

### **SYSTEM SECURITY.**

The Company may offer secure web pages to collect certain kinds of VAI information from Users, and it may store certain kinds of sensitive VAI information in encrypted form. The Company follows reasonable technical and management practices to help protect the confidentiality, security and integrity of data it collects. While no computer system is completely secure, the measures implemented by the Company Website help to reduce the likelihood of security problems to a level appropriate to the type of data involved.

### **PRIVACY POLICY.**

The privacy policy (the "Privacy Policy") for the Company Website is posted at the homepage. The terms of the Privacy Policy, and any future amendments to it, are hereby incorporated by reference in its entirety into these Terms of Use and subject to these terms. Third parties providing goods or services to you (including those advertising or providing links on the Company Website) may have privacy policies or practices that differ from the Privacy Policy. Please check third-party privacy disclosures for details.

## WARRANTIES; LIABILITIES.

1. Warranty Disclaimer. THE COMPANY WEBSITE (INCLUDING ALL VAI INFORMATION, CONTENT, COMMUNICATIONS, FEATURES, PRODUCTS, SOFTWARE AND SERVICES) MAY INCLUDE INACCURACIES, ERRORS AND DEFECTS AND IS PROVIDED AS-IS AND AS-AVAILABLE WITHOUT WARRANTY OF ANY KIND. ALL WARRANTIES, INCLUDING MERCHANTABILITY, QUALITY, INTEGRATION, ACCURACY, WORKMANLIKE EFFORT, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT ARE DISCLAIMED. THE COMPANY IS NOT RESPONSIBLE FOR UNAUTHORIZED ACCESS TO OR DISRUPTION OF YOUR COMMUNICATIONS, CONTENT OR TRANSACTIONS ENTERED INTO WITH OR THROUGH THE COMPANY WEBSITE. THE COMPANY IS NOT RESPONSIBLE FOR ANY HARASSING, DEFAMATORY, ILLEGAL OR IMPROPER CONDUCT OR CONTENT OF THIRD PARTIES, OR FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY THIRD PARTIES.
2. Limitation of Liability. IN NO EVENT IS THE COMPANY LIABLE WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST SAVINGS, LOST PROFIT, LOST GOODWILL, LOST OR CORRUPTED DATA OR BUSINESS INTERRUPTION) EVEN IF NOTIFIED IN ADVANCE OF SUCH POSSIBILITY. THIS LIMITATION IS A MATERIAL CONDITION TO THESE TERMS OF USE, IS COMMERCIALY REASONABLE AND HAS BEEN FACTORED INTO THESE TERMS OF USE AS A WHOLE. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND IN THAT CASE THE FOREGOING LIMITATION MAY NOT APPLY TO YOU. BY USING THIS SITE AND SUBMITTING PROPERTY, YOU EXPRESSLY ACCEPT THIS LIMITATION OF LIABILITY. THIS LIMITATION OF LIABILITY SHALL BE BINDING ON YOU AND ANY AND ALL THIRD PARTIES, INCLUDING BUT NOT LIMITED TO, YOUR HEIRS, SUCCESSORS, ASSIGNS, LEGATEES, INSURANCE CARRIERS AND ANY OTHER INDIVIDUAL OR ENTITY ASSERTING ANY RIGHT OR CLAIM RELATING TO THIS TRANSACTION.
3. Indemnification. You agree to defend, indemnify and hold harmless the Company and its officers, directors, shareholders, owners, agents, employees, advisers, representatives and consultants, from and against any claims, actions, demands, liability, damages (including legal and professional fees) asserted by any third party and arising from your use of the Company Website, your conduct, content, communications, alleged infringement of third-party intellectual property or privacy rights, or violation of these Terms of Use.
4. Protected Parties. THE WARRANTY DISCLAIMERS, LIABILITY LIMITS, INDEMNITIES AND RESERVATION OF RIGHTS CONTAINED IN THESE TERMS OF USE PROTECT THE OWNER OF THE COMPANY WEBSITE, THE COMPANY,

ITS OFFICERS, DIRECTORS, OWNERS, AGENTS, CONSULTANTS, ADVISERS, EMPLOYEES, AFFILIATES, ADVERTISERS, DISTRIBUTORS, RESELLERS, SUPPLIERS, PUBLISHERS AND PROMOTERS.

### **FORCE MAJEURE.**

The Company is not responsible for any delay or failure in performance of the Company Website in whole or in part for any reason including, without limitation: fires, floods, storms, earthquakes, civil disturbances, disruption of telecommunications, transportation, utilities, services or supplies, governmental action, computer viruses, corruption of data, hacker attack, incompatible or defective equipment, software or services or otherwise. Nothing herein enlarges any warranty or diminishes any disclaimer under these Terms of Use.

### **INJUNCTIVE RELIEF.**

If you violate or exceed the scope of these Terms of Use or infringe any proprietary rights in connection therewith, then you agree the Company would be irreparably harmed and may (in addition to other relief and without having to post bond) obtain a court order enjoining your infringing activity.

### **GOVERNING LAW AND FORUM.**

THESE TERMS OF USE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. YOU AGREE TO INITIATE AND MAINTAIN ANY LEGAL ACTION IN THE STATE OR FEDERAL COURTS OF NEW YORK, AND IRREVOCABLY CONSENT TO EXCLUSIVE PERSONAL JURISDICTION AND VENUE THEREIN.

YOU ARE RESPONSIBLE FOR COMPLYING WITH YOUR OWN LOCAL LAWS, WHICH MAY VARY WITH RESPECT TO CERTAIN ACTIVITIES OR PEOPLE. Should you bring legal action against the Company, then you irrevocably agree that it will be brought and maintained within one (1) year after the claim arises or be barred. You further agree to compensate the Company for all costs and fees associated with any such legal action, including, without limitation, any and all attorneys fees. If the Company must enforce these Terms of Use, then you agree to accept electronic service at your stated e-mail address.

### **TECHNOLOGY & DATA TRANSFER.**

1. Technology Transfer. The transport of technology, technical data and VAI information across national boundaries is regulated by the U.S. and by certain foreign governments. You agree not to directly or indirectly export or re-export any VAI information, software or technology obtained from or through the Company Website that requires an export license or governmental approval without first obtaining that license or approval. This provision will survive termination of the Terms of Use.

2. European Union Residents . If you reside in the European Union (EU) or if any transfer of VAI information between you and the Company Website is governed by the European Union Data Protection Directive or national laws implementing that Directive, then you consent to the transfer of such VAI information outside of the European Union to your country and to such other countries as may be contemplated by the features and activities provided by the Company Website.

#### **RELATIONSHIP OF PARTIES.**

There are no third-party beneficiaries of these Terms of Use. The parties are independent to one another and are not related by agency, franchise, partnership, employment, joint venture or otherwise. The Company and this Company Website are not a party to any transaction between you and any third party advertisers or suppliers. You will look solely to the third party for all claims regarding their goods, services or VAI information.

#### **RIGHT TO RELY ON INSTRUCTIONS.**

The Company may act in reliance upon any instruction, VAI information, document, filing, name, email address or user password that meets the Company Websites automated criteria or which is believed by the Company Websites personnel to be genuine. For any password protected areas, the Company may assume a person entering a user name address and associated password is, in fact, that user or is authorized by that user to act on its behalf. The Company may assume the latest email addresses and registration VAI information on file with the Company Website are accurate and current. When programmed to do so, the Company Website may take prescribed actions in the absence of receiving proper and complete contrary instructions.

#### **CHANGES TO SERVICE.**

The Company reserves the right to modify, change or discontinue the Company Website or any feature at any time without notice. You agree that the Company is not liable to you or to any third party as a result of any such action. The Company invites Users to make suggestions for ways that the Company Website can be improved. If you make a suggestion, then you authorize the Company to use the idea and to publish your name in connection with the submission. The Company does not compensate for the use or publication of such submissions.

#### **NOTICE TO CALIFORNIA RESIDENTS.**

Under California Civil Code Section 1789.3, California residents are entitled to the following specific consumer rights VAI information.

1. Pricing VAI information . The Company does not currently charge separate fees to use this Company Website. The Company reserves the right to change fees, surcharges or to institute new fees at any time, as provided in these Terms of Use.

2. Complaints. The Complaint Assistance Unit of the Division of Consumer Websites of the California Department of Consumer Affairs may be contacted in writing at 1020 North Street, Suite 501, Sacramento, CA 95814, or by telephone at (916) 445-1254.

#### **MISCELLANEOUS.**

This Agreement reflects the entire and exclusive agreement between the parties concerning your use of the Company Website and supersedes all other agreements in relation thereto, whether written or verbal. Customers of the Company who use the Customer Portal are subject to the additional Customer Portal Terms of Use governing such use. The Company reserves the right to change these Terms of Use at any time by posting a new version on the Company Website. Your continued use of the Company Website after the effective date of such amendment will constitute your acceptance of such change. This electronic Agreement or a hardcopy duplicate in good form shall be considered an original document admissible into evidence unless the document's authenticity is genuinely placed in question. The Company reserves the right to assign these Terms of Use or delegate responsibility to any third party, including a party acquiring any of the operating assets or ownership interests of the Company. All licenses or permissions granted to you by these Terms of Use are personal in nature and may not be assigned, sublicensed or otherwise transferred and any attempt to the contrary is void, absent the Company's written consent. Any provision of these Terms of Use found by a court to be illegal or unenforceable shall automatically be deemed conformed to the minimum requirements of law and shall thereupon be given full force and effect as so modified. Any waiver by the Company of a provision in one instance shall not preclude enforcement of it on future occasions. Headings are for reference purposes only and have no substantive effect.