

Terms of Use

Effective: February the 1st of the year 2021

Welcome to Terra Del Mar, LLC d/b/a Palm Vertex, LLC and its subdomains, including the websites of Palm Vertex, LLC and its affiliates (collectively, the “Sites”). These Terms of Use (“Terms of Use” or “Terms”) constitute a legally binding agreement between you and Palm Vertex LLC (“Palm Vertex”) or its subsidiaries listed here (“Listed Subsidiaries”). Within these Terms, Palm Vertex together with its Listed Subsidiaries are referred to collectively as “Palm Vertex” “us”, “we”, or “our.” These Terms govern your use of the Sites, including without limitation any subdomains of the Sites, and the services made available through the Sites, including without limitation the software, tools, materials, and information (collectively, the “Service”). Palm Vertex's real estate brokerage services (“Real Estate Services”) are independently governed by the contract(s) that are executed by you and Palm Vertex. The Palm Vertex family of companies also includes other subsidiaries and joint ventures which are governed by their own terms and privacy policies, like Terra Del Mar, LLC d/b/a Palm Vertex, LLC. You may visit their respective websites for more information about each of these entities.

THIS TERMS OF USE CONTAINS A BINDING ARBITRATION CLAUSE AND A CLASS ACTION WAIVER WHICH MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS. PLEASE READ THESE TERMS CAREFULLY.

1. Acceptance of Terms

By accessing the Sites or using the Service, you: (a) acknowledge that you have read and understood these Terms; (b) accept and agree to be bound by these Terms; and (c) acknowledge that these Terms constitute a binding contract between Palm Vertex and you. The Sites and Service are not intended for use by individuals under the age of 18. By using the Sites or Service, you represent and warrant that you are at least 18 years of age, or over the age of majority in your jurisdiction and able to enter into these Terms. By using the Sites and Service, you represent that you will comply with these Terms and all applicable laws.

IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS, YOU MUST LEAVE THE SITES AND CEASE USING THE SERVICE IMMEDIATELY. YOUR FURTHER USE OF THE SITES AND/OR SERVICE WILL CONSTITUTE ACCEPTANCE OF THESE TERMS.

2. Account registration

To use the Service, you may register or create a user account (your “Account”) by providing all required data or information in a complete and truthful manner. You may also use the Service without registering or creating an Account; however, this may cause limited availability of certain

features or functions. By creating an Account or otherwise entering your email and telephone contact information on any form on the Sites you expressly consent to receive marketing communications about our Services at the email address and telephone number provided, which communications we may deliver via email, phone, and text messages, including using an automatic telephone dialing system and/or an artificial or prerecorded voice. You also certify that the provided number is your actual cell phone number and not that of anyone else. Your consent is not a condition of making any purchase or entering into a real estate transaction and you may revoke it at any time by replying "STOP" to any of our texts, unsubscribing from email communications using the unsubscribe link provided therein, or by emailing support@palmvertex.com. Standard message and data rates may apply.

You are responsible for any activity that occurs on your Account, regardless of whether such use was authorized by you. You must keep your login credentials confidential and safe from unauthorized use or disclosure.

By registering for an Account, you agree to be fully responsible for all activities that occur under your username and password. You understand you are prohibited from sharing your username and password with anyone, including other members of your household.

You are required to immediately and unambiguously inform Palm Vertex via the contact details set forth below of any suspicious or unauthorized use of your Account, or if you have reason to believe your Account credentials have been lost or stolen.

3. License and Restrictions

Palm Vertex hereby grants to you a limited, non-transferable, nonexclusive, revocable license to access and use the Sites, Service, and any information on the Sites or Service, including without limitation the text, photographs, drawings, graphics, software, audio, video, and other materials (collectively, the "Content") for your own personal purpose of buying, selling, or renting real property, assessing the real estate market, or other limited purposes expressly authorized by these Terms.

You may download a single copy of the Content for your sole personal and non-commercial use, provided that you do not remove any copyright or other proprietary notice in the Content.

Except as authorized by Palm Vertex in writing, you understand and agree you shall not, and shall not allow any third-party to:

- a. copy, reproduce, host, frame, download, distribute modify, translate, transform, publish, transmit, sell, sublicense, edit, transfer/assign to third parties, or create derivative works from the Sites, Service, or Content;
- b. decompile, disassemble, deconstruct, or reverse engineer the Service;

- c. commercially exploit or use the Sites, Service, or Content to create a substantially similar product, service, or offering competitive products with the Sites or Service;
- d. use the Sites or Service to upload or distribute any Trojan horses, worms, bots, spiders, scrapers, or other malicious software, program, script, algorithm, or similar process;
- e. use the Sites or Service to send unsolicited bulk or commercial email ("spam"), junk mail, or other solicitous communications, or taking any action that imposes an unreasonable or disproportionately large load on the Sites' servers; or
- f. using the Sites, Service, or Content for any unlawful, obscene, defamatory, threatening, harassing, abusive, or otherwise objectionable purpose, as determined in Palm Vertex's sole discretion.

4. User Content

Throughout your use of the Sites and Service, you may enter information or content, such as your Account information, property search criteria, communications to your contacts, Palm Vertex, or our agents (collectively, "User Content"). By entering any User Content, you grant Palm Vertex a nonexclusive, royalty-free, worldwide license to use your User Content in accordance with our Privacy Policy and Data Processing Policy, as may be amended from time to time (the "Palm Vertex Privacy Policy"), and for the purpose for which you provided the User Content. You represent and warrant to Palm Vertex, and its affiliates, subsidiaries, and users that:

- a. you own your User Content or are authorized to provide the User Content to Palm Vertex;
- b. your User Content is true and accurate, to the best of your knowledge;
- c. your User Content will not infringe the proprietary or contract rights of any third-party;
- d. your User Content does not violate any applicable laws or these Terms; and
- e. your User Content does not include any unlawful, harassing, abusive, threatening, obscene, defamatory, false, or otherwise objectionable material, as determined in Palm Vertex's sole discretion.

5. Liability for User Content

You are solely liable for User Content you upload, post, share, or provide, including without limitation any claims, damages, liabilities, or actions that result from your User Content. Palm Vertex shall have the right, but not the obligation, to remove, delete, block, disable, or correct User Content at its own discretion without notice or liability to you.

Palm Vertex has the right, but not the obligation, to review your User Content and to disable access to or remove any User Content that violates these Terms or applicable law without notice or liability to you. You may remove or edit your User Content at any time via your User Account.

6. Feedback.

Throughout your use of the Sites and/or Service, you may provide, or we may request, feedback, comments, reviews, or other information about your experience (collectively, the “Feedback”). Where you provide Feedback to us, you grant us a nonexclusive, sublicensable perpetual license to use your Feedback for any purpose permitted by applicable law, including without limitation to publish, reproduce, display, transform, translate, market and use in promotional materials, and create derivatives of your Feedback, without compensation to you. If your Feedback contains personal information about you, we will use it in accordance with our Privacy Policy.

7. Third-party resources

Through the Sites or the Service, you may have access to websites, software, content, or other external resources provided by third parties. You acknowledge and accept that third parties control those external resources. Palm Vertex has no control over and does not warrant or endorse such resources and is therefore not responsible for their function, content, accuracy, or availability. You use any external resources available through the Sites or Service at your own risk.

8. Intellectual Property Rights

All title, interest, and intellectual property rights, including without limitation all copyrights, trademark rights, patent rights, trade secrets, right of publicity, and design rights, related to the Sites, the Content, or the Service and all data, software, programs, source code, algorithms, processes, documentation, and functionality contained within the Sites or Service, in all translations, media, and formats, are the exclusive property of Palm Vertex or its licensors and are subject to the protection granted by applicable laws or international treaties relating to intellectual property. The Sites, Content, and Service cannot be copied, reproduced, altered, or modified without the express written consent of Palm Vertex.

You acknowledge you only receive a license to use the Sites, Content, and Service and do not acquire any interest in, and shall not claim any right to, the Sites, Content, or Service.

The Palm Vertex name, logo, and other marks, trade names, service marks, taglines, or logos (collectively, the “Trademarks”) appearing in connection with the Sites or the Service are, and remain, the exclusive property of Palm Vertex or its licensors and are subject to the protection granted by applicable laws or international treaties related to intellectual property. You are prohibited from using the Trademarks to advertise your services, suggest Palm Vertex endorses or guarantees you or your business, or for any other purpose without the prior written consent of Palm Vertex.

9. Termination by You

You can stop using the Sites and Service at any time. If you wish to terminate your Account, contact Palm Vertex as set forth below.

10. Termination by Palm Vertex

Palm Vertex reserves the right, at its sole discretion, to disable, suspend, or terminate your access to and use of the Sites and Service, and your Account, if applicable, at any time and without notice or liability, if Palm Vertex determines you are in violation of these Terms or applicable law. Upon termination of your access to the Sites and Service, you are prohibited from using any Content or other materials from the Sites or Service, including, but not limited to any copies, documents, or other downloads stored on your computer or device.

The suspension or deletion of your Account due to your violation of these Terms or applicable law does not exempt you from paying any applicable fees or prices.

We may disclose information we have about you or your use of the Sites and/or Service to the proper authorities if: (a) you have breached these Terms, (b) you are in violation of applicable law, (c) necessary for any investigation or complaint about your use of the Sites or Service, or (d) if we determine it is necessary to protect the property or rights of Palm Vertex or users of the Sites or Service.

11. Service Interruption and Changes

Palm Vertex reserves the right to interrupt the availability of the Sites or Service for maintenance, system updates, or any other changes. Where possible, you will be notified in advance of the interruption.

Palm Vertex may alter, remove, suspend, disable, or terminate the Sites or Service, or portions of the Sites or Service, their Content, products, or other materials at any time without notice or obligation to you.

Additionally, the Sites or Service may be unavailable due to reasons outside Palm Vertex's reasonable control, such as "force majeure" events, including, but not limited to, labor actions, infrastructural breakdowns, blackouts, power failures, or telecommunication line failures.

12. Disclaimer of Warranties

THE SITES, SERVICE, AND CONTENT ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SITES AND SERVICE IS AT YOUR OWN RISK. TO THE

MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXPRESSLY DISCLAIMS ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES — WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF ACCURACY, AVAILABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. PALM VERTEX DISCLAIMS ANY WARRANTIES THAT THE CONTENT OR SERVICE WILL BE ACCURATE, CURRENT, COMPLETE, OR ERROR-FREE, OR THAT TRANSMISSION TO OR FROM THE SITES WILL BE UNINTERRUPTED.

WITHOUT LIMITING THE FOREGOING, PALM VERTEX, ITS SUBSIDIARIES, AFFILIATES, LICENSORS, OFFICERS, DIRECTORS, AGENTS, PARTNERS, SUPPLIERS, AND EMPLOYEES DO NOT WARRANT THAT (A) THE CONTENT IS ACCURATE, RELIABLE, CURRENT, COMPLETE, OR CORRECT; (B) THE SERVICE WILL MEET YOUR REQUIREMENTS; (C) THE SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; (D) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (E) THE SERVICE WILL OPERATE ON A PARTICULAR HARDWARE OR SOFTWARE CONFIGURATION; OR (F) THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DOWNLOADED AT YOUR OWN RISK AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR USE OF THE SERVICE.

PALM VERTEX DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD-PARTY THROUGH THE SERVICE OR ANY HYPERLINKED SITE OR SERVICE, AND PALM VERTEX SHALL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

FEDERAL LAW, SOME STATES, AND OTHER JURISDICTIONS, DO NOT ALLOW THE EXCLUSION AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES. THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THE DISCLAIMERS AND EXCLUSIONS UNDER THIS AGREEMENT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

13. Limitations of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PALM VERTEX, AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, LICENSORS, AGENTS, PARTNERS, SUPPLIERS, AND EMPLOYEES BE LIABLE FOR: (A) ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY

DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF SUBSTITUTE SERVICE, OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OF, OR INABILITY TO USE, THE SERVICE; (B) THE ACTIONS OR OMISSIONS OF ANY THIRD-PARTY, INCLUDING WITHOUT LIMITATION ANY SERVICE PROVIDER OR USER; (C) ANY ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (D) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM ACCESS TO OR USE OF THE SERVICE; (E) ANY DELAY, INTERRUPTION, OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (F) ANY BUGS, VIRUSES, TROJAN HORSES, OR SIMILAR HARMFUL CODE OR PROCESS THAT MAY BE TRANSMITTED TO OR THROUGH THE SERVICE; OR (G) ANY USER CONTENT.

IN NO EVENT SHALL PALM VERTEX AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, LICENSORS, AGENTS, PARTNERS, SUPPLIERS AND EMPLOYEES BE LIABLE FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT PAID BY YOU TO PALM VERTEX HEREUNDER IN THE PRECEDING TWELVE (12) MONTHS, OR THE PERIOD OF DURATION OF THESE TERMS BETWEEN PALM VERTEX AND YOU, WHICHEVER IS SHORTER. THIS LIMITATION OF LIABILITY SECTION SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF PALM VERTEX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES; THEREFORE, THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

14. Indemnification

You agree to defend, indemnify, and hold Palm Vertex and its subsidiaries, affiliates, officers, directors, shareholders, licensors, agents, partners, suppliers and employees harmless from and against any and all claims or demands, damages, obligations, losses, liabilities, costs, and expenses, including, but not limited to, legal fees and expenses, arising from or related to: (a) your use of the Sites, Content, and/or Service; (b) your violation of these Terms, including, but not limited to, your breach of any of the representations and warranties set forth in these Terms; (c) your violation of any third-party rights, including, but not limited to, any right of privacy or intellectual property rights; (d) your violation of any statutory law, rule, or regulation; (e) your User Content or Account information, including, but not limited to, misleading, false, inaccurate, or infringing information; (f) your willful misconduct; or (g) unauthorized access to the Sites or Service that results from sharing or disclosing your username and password.

15. No Professional Advice

The Sites and Service are provided for information purposes only and do not constitute legal, accounting, tax, employment, real estate, or other professional advice. You should engage the services of qualified professionals prior to making any decisions based on the Sites, Service, or Content.

16. Arbitration; Class Action Waiver

YOU AGREE THAT ALL DISPUTES BETWEEN YOU AND PALM VERTEX ARISING OUT OF OR RELATING TO THESE TERMS, YOUR USE OF THE SITES OR SERVICE, YOUR RIGHTS OF PRIVACY, OR OUR RELATIONSHIP WILL BE RESOLVED BY BINDING ARBITRATION. Arbitration shall be conducted by the American Arbitration Association (AAA) in conjunction with its Consumer Arbitration Rules. You hereby expressly and knowingly waive your right to file a lawsuit in court or have a trial by jury. Arbitration shall be conducted in Whatcom County, Washington by a single arbitrator. Any cause of action you may have under these Terms must be commenced within one (1) year after the claim or cause of action arises. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. Each of us shall be responsible for the costs of our own legal counsel at the arbitration.

Either you or Palm Vertex may start arbitration at any time. You and Palm Vertex agree to first send a notice of the dispute, to Palm Vertex at the address set forth below, or to you at your address on file with Palm Vertex, by certified mail or reputable courier. The notice must include the party's contact information and the details of the dispute. We will attempt to resolve the dispute in good faith without the need for arbitration. If we are unable to resolve the dispute within thirty (30) days of receipt of the notice, either of us may start arbitration by filing a case with the AAA.

Nothing in this section shall limit Palm Vertex's right to seek alternative remedies, including without limitation, injunctive relief in a court of law.

Class Action Waiver

By accessing and using the Sites and/or Service, you agree any claims you bring against Palm Vertex will be conducted only on an individual basis and not as part of a class, consolidated, or representative action. You hereby waive your right to participate in a class-action lawsuit or class-wide arbitration for any claims covered by this agreement to arbitrate.

If a court rules that this class action waiver is void or unenforceable for any reason, or that an arbitration can proceed as a class action, then the arbitration provision set forth above shall be deemed null and void in its entirety and the dispute shall be brought in the federal or state courts.

YOU UNDERSTAND THAT IN THE ABSENCE OF THIS SECTION, YOU WOULD HAVE HAD A RIGHT TO LITIGATE THROUGH A COURT, TO HAVE A JUDGE OR JURY DECIDE YOUR CASE, AND TO BE A PARTY TO A CLASS OR REPRESENTATIVE ACTION. YOU

EXPRESSLY AGREE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY, THROUGH ARBITRATION.

Small Claims Court

This agreement to arbitrate does not preclude you from resolving any disputes that meet the jurisdictional requirements for small claims court in such court.

17. Claims of Copyright Infringement (Digital Millennium Copyright Act)

Palm Vertex respects the intellectual property rights of others. We comply with the applicable provisions of the Digital Millennium Copyright Act (DMCA) (17 U.S.C. § 512, as amended). It is our policy to respond to Palm Vertex Seditious to any notice that any content posted on our Sites infringes the copyright rights of others. All claims of copyright infringement will be investigated and appropriate action will be taken, including but not limited to removal of the infringing content and termination of user access, if applicable. If you believe any information posted on our Site or contained in the Service violates your copyright rights, send a notice to Palm Vertex as described in our DMCA Statement.

18. Accessibility.

Palm Vertex is committed to making the Sites and Service accessible for all to use. We have taken steps and regularly assess the Sites and Service to achieve compliance with generally recognized and accepted standards for accessibility. Should you experience difficulty in accessing any portion of the Sites and/or Service, please contact us at support@palmvertex.com.

19. Governing Law; Venue

These Terms shall be governed by and interpreted in accordance with the laws of the State of Washington without giving effect to any choice or conflict of law provision or rule.

20. Privacy Policy and Data Processing Policy

We may collect, use, and disclose personal information we receive about you through your use of the Sites or Service, as described in the Palm Vertex Privacy Policy which is hereby incorporated into and made a part of these Terms by reference. To learn more about how we use your personal information, please refer to the Palm Vertex Privacy Policy.

21. Changes to these Terms

Palm Vertex reserves the right to amend or otherwise modify these Terms at any time. We will notify you of changes to these Terms by posting the new Terms here and updating the effective date above. Those changes will become effective as of the date the new Terms are posted.

Your continued use of the Sites and/or Service will signify your acceptance of the revised Terms. If you do not wish to be bound by the changes, you must immediately stop using the Sites and Service.

22. General Provisions

Palm Vertex's failure to assert any right or provision under these Terms shall not constitute a waiver of any such right or provision. Palm Vertex reserves the right to transfer, assign, dispose of by novation, or subcontract any or all rights or obligations under these Terms without prior notice to you. You may not assign or transfer your rights or obligations under these Terms in any way, without the written permission of Palm Vertex. Nothing in these Terms creates a joint venture, partnership, employment, beneficiary, or agency relationship between you and Palm Vertex. Should any provision of these Terms be deemed or become invalid or unenforceable under applicable law, the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions, which shall remain in full force and effect. These Terms may only be modified by Palm Vertex in writing. These Terms, the Palm Vertex Privacy Policy, and any other Palm Vertex policy constitute the entire Agreement between you and Palm Vertex with respect to the subject matter hereof. These Terms will be enforced to the fullest extent permitted by law.

23. Electronic Signature

You acknowledge and understand that the affirmative act of using the Sites or Service or clicking to accept these Terms signifies your electronic signature to these Terms, and your electronic signature creates a legally binding agreement. You acknowledge other legal documents available through the Sites and/or Service may also be executed electronically and you consent to providing your signature electronically and agree to be bound by the terms and conditions of those documents.

24. Contact Us

Palm Vertex, LLC
C / O Privacy Officer
611 Anton Blvd Suite 970
Costa Mesa, CA 92626
support@palmvertex.com