

Bigpoint Terms of Use

These Terms of Use govern your use of the Bigpoint website (the “Site”) and the each of the games offered on the Site (the “Games”). Please read them carefully before creating an account or playing any of the Games.

1. AGREEMENT TO TERMS

By creating an account on the Site or playing any of the Games on the Site, you agree to these Terms of Use and the Bigpoint Privacy Policy which is incorporated herein by reference. Each time you use the Site or play any of the Games, you reaffirm your acceptance of the then-current Terms of Use. If you do not wish to be bound by these Terms of Use, you may discontinue using the Site or playing the Games. You cannot play any of the Games until you have accepted these Terms of Use.

The Site is owned and operated by Bigpoint, Inc. (“Bigpoint”). Bigpoint may change these Terms of Use at any time and in its sole discretion. The modified Terms of Use will be effective immediately upon posting and you agree to the new posted Terms of Use by continuing your use of the Site or playing any Game. You are responsible for staying informed of any changes to these Terms of Use. If you do not agree with the modified Terms of Use, your only remedy is to discontinue using the Site or the Games.

2. ELIGIBILITY

To be eligible to play any of the Games, you must be (a) a United States resident, (b) of lawful age, (c) physically located within the United States when registering for an account or playing a Game, and (d) be physically located in a state in which the Game you are playing is not restricted by law. By registering to play, you are certifying that you meet these eligibility requirements.

Bigpoint may periodically offer skill-based tournaments on the Site in which players can pay a fee in order to have the opportunity to compete for prizes (the “Tournaments”). Notwithstanding the eligibility requirements set forth above, these Tournaments are not open to residents of the following states: Arkansas, Arizona, Connecticut, Florida, Delaware, Indiana, Iowa, Illinois, Louisiana, Maryland, Montana, South Dakota, South Carolina, Tennessee and Vermont. If you attempt to participate in any Tournament offered on the Site while located in one of the prohibited states, you will be in violation of these Terms of Use and your account may be terminated. Bigpoint reserves the right to request proof that you meet the requirements for play in any Tournament.

3. REGISTRATION

In order to play any Game, you must first register and create an account. To do so, you must complete the registration form on the Site and acknowledge your agreement to these Terms of Use. By creating an account, you represent and warrant that all information you submit is complete and accurate. Knowingly submitting incomplete or inaccurate information may result in the termination of your account and forfeiture of any benefit to which you may otherwise be entitled to on the Site. Upon registration, you will receive a confirmation of your registration via e-mail.

Unless otherwise permitted, you may establish only one (1) account. Bigpoint reserves the right to monitor any effort to establish multiple accounts. In the event Bigpoint discovers that you have opened more than one (1) account in violation of these Terms of Use, Bigpoint may terminate any of these accounts.

You are entirely responsible for ensuring that your account information is current and for maintaining the confidentiality of your account information. And you are entirely responsible for any actions taken by you or anyone you allow to use your account. Therefore, you agree to safeguard your account from access by others. If you believe that your account has been compromised, you must immediately notify Bigpoint. You agree to indemnify and hold harmless Bigpoint for losses incurred by Bigpoint or another party due to someone else using your account.

4. GAMES AND TOURNAMENTS

Each Game and each Tournament may be subject to additional terms and conditions which will be disclosed on the Game page or Tournament page. These additional terms and conditions are incorporated herein by reference and playing a Game or participating in a Tournament will be contingent upon acceptance of such additional terms and conditions. Bigpoint does not guarantee that any player in a Tournament will win a prize.

Bigpoint may, in its sole discretion, and at any time: (a) modify the Games, Tournaments, or features thereof; (b) add additional Games, Tournaments, or features; or (c) remove existing Games, Tournaments, or features. Although Bigpoint sometimes may provide you with notice of changes, Bigpoint reserves the right to make changes without notice.

5. PREMIUM FEATURES, FEES, AND PAYMENTS

5.1 BASIC VERSION

The basic version of each Game is free to play and upon creating an account, you may play the basic version of any Game. The basic version of any Game has no time limitations and is fully playable.

5.2 PREMIUM FEATURES

Some Games have Premium Features which are available only upon payment of a fee. Premium Features may vary from Game to Game. Details on which Premium Features are available for a specific Game, the costs of such Premium Features, payment options, and any other requirements will be listed on the web page of each Game that offers a Premium Feature.

5.3 SUBSCRIPTION / AUTOMATIC RENEWAL

Some Premium Features may be offered and billed on a recurring basis (for example, a monthly basis). If you subscribe to any Premium Feature that is offered and billed on a recurring basis, your subscription will renew automatically unless you affirmatively cancel your subscription no less than fourteen (14) days before the end of your current billing cycle.

Fees for any Premium Feature will be collected from the bank, credit, or debit account you submit until and unless you choose another form of payment or cancel your subscription to such Premium Feature. The name “WWW.BIGPOINT.COM” will appear on your statement.

5.4 ADJUSTMENT OF FEES AND CHANGES TO PREMIUM SERVICES

Bigpoint may, at any time, modify the fees for Premium Features or introduce new Premium Features or forms of payment. In the event that Bigpoint modifies the fee for any Premium Feature, Bigpoint will provide notice to users six (6) weeks before the change will take place. The modified fee will take effect on the date indicated in the notice unless you elect to cancel your subscription to the Premium Service in accordance with the instructions set forth in the notice. If you cancel your subscription, Bigpoint will issue a reimbursement for the pre-paid fees related to that subscription on a pro-rata basis.

As the Games are developed and improved, Bigpoint reserves the right to discontinue any Premium Features and/or to offer them in the basic version of a Game. If you have paid for future access to Premium Features and cannot make use of these Premium Features, either because they are no longer offered or because they have been offered in the basic version as well, you will have the option to either (a) apply the payments to other Premium Features on a pro-rata basis or (b) obtain reimbursement for such fees on a pro-rata basis. You may notify us of your selection at stop@bigpoint.com. Please include the name of the Game and/or Premium Feature in the subject line. If you do not notify us of a selection, we will apply your payment to other Premium Features on a pro rata basis.

5.5 LATE PAYMENT

You are responsible for paying any fees that Bigpoint may incur as a result of attempting to bill you for any Premium Services to which you have subscribed. In case of late payment, Bigpoint is entitled to (a) collect an interest rate of 5% above the fee for the Premium Feature(s) and (b) discontinue your access to any Games until you have paid. No additional fees will be assessed during the period an account is deactivated. However, Bigpoint may assess a processing fee for deactivating the account, informing you about the deactivation, and for reactivating the account or creating a new account upon full payment. In addition, in case of a chargeback, Bigpoint will impose a service fee of \$13.00.

6. CODE OF CONDUCT

The following is a partial list of the kinds of conduct that are illegal or prohibited on the Site. Bigpoint reserves the right to investigate and take appropriate legal action against anyone who, in Bigpoint’s sole discretion, engages in any of the prohibited activities. Prohibited activities include — but are not limited to — the following:

- Using the Site for any purpose in violation of local, state, national, or international laws;
- Reproducing, duplicating, copying, selling, reselling, or exploiting for any commercial purposes, any portion of the Site or any Game;

- “Hacking,” “Cracking,” or otherwise attempting to circumvent any copyright protection, access control, or license-enforcement mechanisms associated with or related to the Site or any Game;
- Posting material that infringes the intellectual property rights, privacy rights, publicity rights, trade secret rights, or any other rights of any party;
- Posting material that is unlawful, obscene, defamatory, threatening, harassing, abusive, slanderous, hateful, or embarrassing to any other person or entity as determined by Bigpoint in its sole discretion or pursuant to local community standards. Bigpoint takes no responsibility for monitoring such content or in evaluating it;
- Posting advertisements or solicitations of business;
- After receiving a warning, continuing to disrupt the normal flow of dialogue, or posting comments that are not related to the topic being discussed (unless it is clear the discussion is free-form);
- Posting chain letters or pyramid schemes;
- Impersonating another person;
- Distributing viruses or other harmful computer code;
- Harvesting or otherwise collecting information about others, including e-mail addresses, without their consent;
- Allowing any other person or entity to use your identification for posting or viewing comments;
- Posting the same note more than once or “spamming”;
- Harassing, threatening, stalking, or abusing any person; or
- Engaging in any other conduct that restricts or inhibits any other person from using or enjoying the Site, or which, in the sole discretion of Bigpoint, exposes Bigpoint or any of its customers or suppliers to any liability or detriment of any type.

7. TERMINATION OF ACCOUNT

Bigpoint reserves the right in its sole discretion to disqualify and terminate the account of any individual for any reason including, but not limited to: (a) violation of these Terms of Use; (b) disrupting the play of any Game or acting in an unsportsmanlike manner; (c) failure to pay fees in a timely manner; or (d) failure to log on to an account for more than four (4) weeks.

8. CANCELLATION OF ACCOUNT

Many Game pages will offer an option for users to cancel their subscriptions to Games and/or

Premium Features. If you want to cancel a subscription for a Game or Premium feature and no such option is specifically offered on a Game page, you may cancel by sending a message to Bigpoint via by mail to accounting@bigpoint.com or by e-mail to stop@bigpoint.com. Please include the name of the Game and/or Premium Feature in the subject line.

9. TECHNICAL REQUIREMENTS

Technical requirements, instructions, and rules for each Game will be listed on each Game's page within the Site. Bigpoint does not provide, install, or support any third-party software that may be necessary to run any Game. You are solely responsible for obtaining and installing any third-party software that may be necessary to run any Game. Bigpoint is not liable for damages or loss of data that may be caused by the installation or use of any third-party software.

10. ACKNOWLEDGEMENT OF PROPRIETARY RIGHTS

By registering for an account, you acknowledge that all information contained on the Site may be protected, in all forms and media, by one or more valid copyrights, patents, trademarks, trade secrets, or other proprietary rights, and that all such rights are owned by Bigpoint. You may not modify, publish, participate in the transfer or sale of, create derivative works from, or in any way exploit this information, except that you may download one copy of a Game for your personal, non-commercial home use only, provided you keep all copyright and other proprietary notices intact. Bigpoint neither warrants nor represents that your use of materials contained on the Site will not infringe rights of third parties.

The trademarks, logos, and service marks (collectively the "Trademarks") displayed on the Site, including the names of all games, are registered and unregistered Trademarks of Bigpoint and/or other parties. Nothing contained on the Site should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademark displayed on the Site without the written permission of the Bigpoint or any other Trademark owner. Your misuse of any Trademark displayed on the Site, or any other content on the Site, except as provided in these Terms of Use, is strictly prohibited. Bigpoint will aggressively enforce its intellectual property rights to the fullest extent of the law, including the seeking of criminal prosecution, where appropriate.

11. SUBMISSIONS BY YOU

Any communication or material you send to Bigpoint or post on the Site by electronic mail or otherwise, including any data, questions, comments, suggestions, is and will be treated as non-confidential and non-proprietary. Anything you transmit or post may be used by Bigpoint for any purpose, including, but not limited to, reproduction, disclosure, transmission, publication, broadcast, and posting. Bigpoint may, in its sole discretion, remove or edit any content that it deems to be inappropriate, inoffensive, or otherwise in violation of these Terms of Use. Furthermore, Bigpoint is free to use any ideas, concepts, know-how, or techniques contained in any communication you send to Bigpoint or post on the Site for any purpose whatsoever including, but not limited to, developing, manufacturing, and marketing products using such information, without obtaining your permission and without any compensation to you.

12. WARRANTIES

The Site and the content are provided on an “as is” basis. TO THE FULLEST EXTENT PERMITTED BY LAW, BIGPOINT, ITS LICENSORS, AND ITS SUPPLIERS, DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES’ RIGHTS, AND FITNESS FOR PARTICULAR PURPOSE. Bigpoint makes no warranty as to the reliability, accuracy, timeliness, usefulness, adequacy, completeness or suitability of the Site. Bigpoint cannot and does not warrant against human and machine errors, omissions, delays, interruptions or losses, including loss of data. Bigpoint cannot and does not guarantee or warrant that files available for downloading from this Site will be free of defects or of infection by viruses, worms, Trojan horses, or other codes that manifest contaminating or destructive properties. Bigpoint cannot and does not guarantee or warrant that any content you post on the Site will remain on the Site. Bigpoint does not warrant or guarantee that the functions or services performed on the Site will be uninterrupted or error-free or that defects in the Site will be corrected.

13. LIMITATION OF LIABILITY

BIGPOINT’S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY DISPUTE WITH BIGPOINT IS TO DISCONTINUE YOUR USE OF THE SITE OR ANY GAMES. BIGPOINT AND ITS VENDORS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGE ARISING FROM YOUR USE OF THE SITE OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE SITE. THESE EXCLUSIONS FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, AND EXEMPLARY DAMAGES INCLUDE, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER OR PHONE FAILURE OR MALFUNCTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF BIGPOINT HAD BEEN ADVISED OF THE POSSIBILITY THEREOF AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY UPON WHICH THE CLAIM IS BASED. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, BIGPOINT’S AND ITS VENDORS’ LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

14. PRIVACY

Unless otherwise required by law or permitted by you, Bigpoint will collect, process, or use personally identifiable information for the purposes of allowing you to register for the Site, to play Games, to participate in Tournaments, to bill you for services and to contact you with information or promotional material we believe will be of interest. Bigpoint reserves the right to collect and share general demographic information and other market information that does not personally identify you without additional consent. Bigpoint, its subsidiaries or affiliates or its marketing partners may send you information about new Games, or other features on the Site. However, you will have the opportunity to opt-out of receiving any commercial e-mail messages. You will find the Privacy Policy at

http://bigpoint.com/privacy/bigpoint_privacypolicy_en_v1.pdf.

15. COPYRIGHT PROTECTION

If you believe any materials accessible on or from the Site infringe your copyright, you may request removal of those materials (or access thereto) from this web site by contacting Bigpoint (as set forth below) and providing the following information:

- Identification of the copyrighted work that you believe to be infringed. Please describe the work, and where possible, include a copy or the location (e.g., URL) of an authorized version of the work.
- Identification of the material that you believe to be infringing and its location. Please describe the material, and provide us with its URL or any other pertinent information that will allow us to locate the material.
- Your name, address, telephone number, and e-mail address.
- A statement that you have a good faith belief that the complained of use of the materials is not authorized by the copyright owner, its agent, or the law.
- A statement that the information that you have supplied is accurate, and indicating that “under penalty of perjury,” you are the copyright owner or are authorized to act on the copyright owner’s behalf.
- A signature or the electronic equivalent from the copyright holder or authorized representative.

Send this information by mail to stop@bigpoint.com.

In an effort to protect the rights of copyright owners, Bigpoint maintains a policy for the termination, in appropriate circumstances, of subscribers and account holders of the Site who are repeat infringers.

16. GOVERNING LAW

These Terms of Use shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of laws rules. You expressly agree that the exclusive jurisdiction for any claim or dispute under the Terms of Use and or your use of the Site resides in the courts located in the Commonwealth of Virginia, and you further expressly agree to submit to the personal jurisdiction of such courts for the purpose of litigating any such claim or action.

Except where prohibited, you agree that any and all disputes, claims and causes of action arising out of, or connected with, your play of any Game or participation in any Tournament shall be resolved individually, without resort to any form of class action, and exclusively by the appropriate court located in the Commonwealth of Virginia.

If any provision of these Terms of Use is found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect. No waiver of any provision in these Terms of Use shall be deemed a further or continuing waiver of such provision or any other provision.