

Terms of Service

Date of Last Revision: August 28, 2020

Aftermarket Websites™ is a licensed trademark for website services offered by Automotive Accessories Marketing USA, Inc., a Texas corporation, operated at 198 Industrial Park Rd., Piney Flats, Tennessee 37686 (“AAM”).

Acceptance. By establishing an Account (defined below) and authorizing the development of an “Aftermarket Website” (as defined below), you agree to be bound by the following terms and conditions (the “Terms of Service”). These Terms of Service govern your use of the Aftermarket Website and Services (defined below) and further govern the arrangement, relationship, and agreement between the parties. Continuing use of your Aftermarket Website represents your acceptance of these Terms of Service as modified, changed, altered, updated, or amended from time to time.

As used in these Terms of Service and depending on the context, “we”, “us,” and “AW” mean Aftermarket Websites™ and/or AAM. “You” or “your” refers to the company or individual who has entered into an agreement with AW to establish an Account. “AW Parties” mean all of AW’s past, present, or future officers, directors, shareholders, members, employees, agents, affiliated entities, subsidiaries, independent contractors, website hosts, website designers, successors, and/or assigns.

Scope. The services offered by AW under the Terms of Service include your website and related online services to help customers find your business and the products and services you offer and to help you sell those goods and services. Any such services offered by AW are referred to in these Terms of Service as the “Services,” “Service,” or as the “AW Services.” Any new features or tools which are added to the current Services shall be also subject to the Terms of Service. You can review the current version of the Terms of Service at any time at:

<https://aftermarketwebsites.com/terms>. You may also find a link to the Terms of Service in the footer of your user Admin Panel.

AW reserves the right to modify, change, alter, update, or amend the Terms of Service by posting such modifications, changes, alterations, updates, or amendments (collectively, “Modifications”) to the AW website. By entering into an agreement with AW to establish an Account and by agreeing to these Terms of Service, you also expressly authorize AW to make the Modifications to the Terms of Service from time to time without providing any additional or subsequent notice to you other than the notice set forth herein. You are solely and absolutely responsible for verifying the Modifications to the Terms of Service and for determining the impact, if any, of such Modifications upon you. If, for any reason, you do not accept the Modifications, then you must cease using the Services.

Your AW website offers access to Content provided by Supporting Brand Partners, Non-Supporting Brands, and Aftermarket Websites™–created data. These terms apply to the use of product data.

AW may offer or recommend optional Third-Party products or services. These Terms of Service do not apply to any Third-Party products or services that may be offered by, or available to use with, Aftermarket Websites™.

By entering into your agreement with AW to establish an Account and to receive AW Services, you expressly acknowledge that you have read the Terms of Service. Further, by entering into said agreement, you ratify, confirm, and approve the Terms of Service in all respects and you agree to comply with the Terms of Service in all respects.

A. Account Terms

1. As referenced above, to access and use the Services, you must agree to these Terms of Service and you must register for an AW Account (“Account”). To register for an Account, you must provide your business name, full legal name, business physical address, business phone number, a valid email address, and any other information indicated by us (from time to time) as being “required information” or as being “required.” Proof of business status may be required. AW, acting in its sole and absolute discretion, may reject your application for an Account or may cancel an existing Account for any reason and/or for no reason.
2. You will be required to submit and to maintain a valid means of payment for which you are authorized to purchase Services.
3. You confirm that you have read and understood the Aftermarket Websites™ Description and Glossary and agree to the definitions and deliverables, including defined limitations, included therein.
4. You confirm that you are receiving Services provided by AW for the purposes of carrying on a business activity from a physical business location and not for a business involved, or planned to be involved, primarily in e-commerce.
5. You acknowledge that you must obtain and maintain your company’s domain name.
6. You acknowledge that AW will use the email address that you provide for opening an Account, or as updated by you, as the primary method for communication with you.
7. You are responsible for keeping your User Account login and password secure. AW cannot and will not be liable for any loss or damage from your failure to maintain the security of your Account and password. You are prohibited from sharing your login and password with any third party.
8. In the event that AW, acting in its sole and absolute discretion, determines that you have breached or violated any one or more of the Terms of Service, then AW, also acting in its sole and absolute discretion, may immediately terminate your Services and your Account.

B. Account Activation

B.1 Website Owner

1. Subject to section B.1(2), the person or entity applying for the Services by opening an Account will be the contracting party (“Website Owner”) for the purposes of our Terms of Service and will be the person who is authorized to use any corresponding Account that we may provide to the Website Owner in connection with the Service.

2. If you are applying for the Services on behalf of your employer or your company (collectively, “Employer”), then your Employer shall be the Website Owner. If you are applying for the Services on behalf of your Employer, then you must use your Employer-issued email address. Further, if you are applying for Services on behalf of your Employer, then you represent and warrant that you have the authority to bind your Employer to our Terms of Service.

B.2 Users

1. Your AW site Admin Panel allows you to create one or more User Accounts (“User Accounts”) allowing other people to access the Account. With User Accounts, the Website Owner can set permissions and let other people work in their Account while determining the level of access by User Accounts to specific business information (e.g., you can limit User Account access to sales information on the Reports page or prevent User Accounts from changing pricing).
2. The Website Owner is responsible and liable for the acts, omissions, and defaults arising from the use of User Accounts in the performance of obligations under these Terms of Service as if they were the Website Owner’s own acts, omissions, or defaults.
3. As used herein, the Website Owner and the users under User Accounts are each referred to as an “AW User.”
4. Technical support in respect of the Services is only provided to Website Owner’s designated AW Users.

C. General Conditions

1. The governing law of these Terms of Service is set forth in Paragraph P below.
2. You may not use the AW Services for any illegal or unauthorized purpose nor may you, in the use of the Service, violate any laws in your jurisdiction (including, but not limited to, copyright laws) or the laws applicable to you in your customer’s jurisdiction. You will comply with all applicable laws, rules, and regulations in your use of the Service and your performance of obligations under the Terms of Service.
3. You agree not to reproduce, duplicate, copy, sell, resell, or exploit any portion of the Service, use of the Services, or access to the Services without the express written permission by AW.
4. This is an agreement for Services, and you are not granted a license to any software by these Terms of Service. You will not directly or indirectly reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms included in the Services or any software, documentation, or data related to the Services. You will not directly or indirectly modify, translate, or create derivative works based on the Services or any software.
5. Questions about the Terms of Service should be sent to Customer Support through the Admin Panel of your Website.
6. You understand that your Content (defined below, not including credit card information) may be transferred unencrypted and involve: (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. Credit card information is always encrypted during transfer over networks.

7. You acknowledge and agree that your use of the Services, including information transmitted to or stored by AW, is governed by its Privacy Policy at <https://www.aftermarketwebsites.com/privacy>.
8. All the terms and provisions of the Terms of Service shall be binding upon and inure to the benefit of the parties to the Terms of Service and to their respective legal representatives, heirs, successors, and permitted assigns. AW shall be permitted to assign these Terms of Service without notice to you or consent from you. You shall have no right to assign or otherwise transfer the Terms of Service, or any of your rights or obligations hereunder, to any third party without AW's prior written consent, to be given or withheld at AW's sole discretion.
9. If any provision, or portion of the provision, in these Terms of Service is, for any reason, held to be invalid, illegal, or unenforceable in any respect, then such invalidity, illegality, or unenforceability will not affect any other provision (or the unaffected portion of the provision) of the Terms of Service, and the Terms of Service will be construed as if such invalid, illegal, or unenforceable provision, or portion of the provision, had never been contained within the Terms of Service.

D. Content and Intellectual Property

1. Your AW website will utilize Content provided by AW, Supporting Brand Partners, Non-Supporting Brands, data service providers, and You. "Content" refers to all product information, images, logos, media, artwork and designs, and other information ("Product Data"), brand logos, images, and identifying information, artwork, and designs ("Brand Data"), store logo, images, artwork and designs, and identifying information ("Store Data"), and AW's images, logos, media, artwork and designs, and other information ("AW Data").
2. Your AW website offers access to Product Data and Brand Data provided by Supporting Brand Partners, Non-Supporting Brands, and AW-created data. This data is the Intellectual Property (defined below) of the respective associated brands. These Terms of Service give you no rights of ownership or right to use this data outside of your AW website.
3. Product Data provided by AW has been created by the associated brands or their data service providers. AW publishes the data as provided by the brands. We make no claim as to the completeness, currency, or accuracy of Product Data, and are not responsible for any data deficiencies.
4. AW supports the rights of brands to limit the use of brand icons, images, and other brand or product information ("Intellectual Property") to authorized sellers and sellers which are abiding by brands' terms and policies. Some Product Data and Brand Data offered with your AW website are available only to brands' authorized resellers; you may be required to provide proof of authorization to add those brands to your website. Violation of brands' policies or wrongful use of Intellectual Property may result in loss of rights to use Content and offer a brand or brands. AW reserves the right to terminate Services for Accounts which fail to remedy violations of intellectual properties or authorized seller programs.
5. AW websites utilize data built upon the Auto Care Association's ACES/PIES standards. AW is an authorized and licensed user of this data format. This AW Account does not convey an Auto Care license to the Account.

6. AW has entered into arrangements with one or more third parties for hosting services that host our software and product data. These hosting parties are essential to the Services, incorporated within the Services, and without which the Services could not be provided to you.
7. We do not claim any Intellectual Property rights over the Content you provide to AW. When providing Content using the Services, you grant us a non-exclusive, worldwide, royalty-free right to utilize that data with your Website. By making your Website public, you agree to allow others to view Content that you post publicly to your Website. You are responsible for compliance of the Content with any applicable laws or regulations.
8. By uploading Content, you agree: (a) to allow other Internet users to view the Content you post publicly to your website; (b) to allow AW to store and, in the case of Content you post publicly, display and use your Content; and (c) that AW can, but has no obligation to, review and delete all the Content submitted to its Service, at any time.
9. Where the data you provide includes the Intellectual Property of others, you represent that you are an authorized user of such Intellectual Property. If an Intellectual Property owner notifies AW that you are not authorized to use their Intellectual Property or that you have violated their policies, then we, acting in our sole and absolute discretion, reserve the right to: (a) delete and/or remove such data from your Website; or (b) terminate your Account and delete your Website.
10. AW shall have the non-exclusive right and license to use the names, trademarks, service marks, and logos associated with your Website to promote the Service.

E. AW Rights

1. We reserve the right to modify or terminate the Services for any reason or for no reason, with or without notice, at any time.
2. So long as our actions do not, in any manner, violate any applicable laws, we reserve the right to refuse service to anyone, for any reason or for no reason, at any time.
3. We may, but have no obligation to, remove Content and suspend or terminate Accounts if we determine, in our sole and absolute discretion, that the goods or services offered via a Website, or the Content uploaded or posted to a Website, violate our Terms of Service.
4. Verbal or written abuse of any kind (including, but not limited to, threats of abuse or retribution) of any AW customer, AW employee, member, or officer will result in immediate Account termination.
5. AW does not pre-screen Content you load to your Website. We, acting in our sole and absolute discretion, may refuse or remove any Content from the Service including, but not limited to, your Website.
6. We reserve the right to provide our services to any suitable business and make no promise of exclusivity based on market geography, business type, or any other factor.
7. In the event of a dispute regarding Account ownership, we reserve the right to request documentation to determine or confirm Account ownership. Documentation may include, but is not limited to, a scanned copy of your business license, government issued photo ID, the last four digits of the credit card on file, or your status as an employee of an entity.
8. AW retains the right to determine, in our sole judgment, rightful Account ownership and transfer an Account to the rightful Website Owner. If we are unable to reasonably determine the rightful Website Owner, without prejudice to our other rights and remedies,

AW reserves the right to temporarily disable an Account until resolution has been determined between the disputing parties.

F. Confidentiality

1. “Confidential Information” shall include, but shall not be limited to, any and all information associated with a party’s business which is not publicly known, including, but not limited to, specific business information, technical processes and formulas, software, customer lists, prospective customer lists, names, addresses and other information regarding customers and prospective customers, product designs, sales, costs, price lists, and other unpublished financial information, business plans and marketing data, and any other confidential and proprietary information, whether or not marked as confidential or proprietary. AW’s Confidential Information includes all information that you receive relating to us, or to the Services, that is not known to the general public including information related to our security program and practices.
2. Each party agrees to use the other party’s Confidential Information solely as necessary for performing its obligations under these Terms of Service and in accordance with any other obligations in these Terms of Service including this Section F. Each party agrees that it shall take all reasonable steps (or at least steps which are substantially equivalent to the steps it takes to protect its own proprietary information) to prevent the duplication, disclosure, or use of any such Confidential Information, other than:
 - (i) by or to its employees, agents, and subcontractors who must have access to such Confidential Information to perform such party’s obligations hereunder, who each shall treat such Confidential Information as provided in Section F, and who are each subject to obligations of confidentiality to such party that are at least as stringent as those contained herein; or
 - (ii) as required by any law, regulation, or order of any court of proper jurisdiction over the parties and the subject matter contained in these Terms of Service, provided that, if legally permitted, the receiving party shall give the disclosing party prompt written notice and use commercially reasonable efforts to ensure that such disclosure is accorded confidential treatment.
3. Confidential Information shall not include any information that the receiving party can prove: (A) was already in the public domain, or was already known by or in the possession of the receiving party, at the time of disclosure of such information; (B) is independently developed by the receiving party without use of or reference to the other party’s Confidential Information, and without breaching any provisions of these Terms of Service; or (C) is thereafter rightly obtained by the receiving party from a source other than the disclosing party without breaching any provision of these Terms of Service.

G. Payment of Fees

1. You will pay the Fees applicable to your Service subscription.

2. You must keep a valid payment method on file with us to pay for all Fees. AW will charge applicable Fees to any valid payment method that you authorize (“Authorized Payment Method”), and AW will continue to charge the Authorized Payment Method for applicable Fees until the Services are terminated, and any and all outstanding Fees have been paid in full. All Fees are in U.S. dollars, and all payments shall be in U.S. currency.
3. Subscription Fees are paid in advance and will be billed in 30 day intervals (each such date being a “Billing Date”). Fees will appear on an invoice which will be sent to the Website Owner via the email provided.
4. If we are not able to process payment of Fees using an Authorized Payment Method, we will make a second attempt to process payment using the Authorized Payment Method three (3) days following our first attempt. If the second attempt is not successful, we will send an email to the Website Owner’s email address identifying the second failed payment attempt. Following the submission of such second email, you will have three (3) days to respond with a replacement payment method. Thereafter, upon receipt of the replacement payment method, we will make a final attempt for payment. If our final attempt is not successful, we may suspend and revoke access to your Account and the Services. Further and without limiting the generality of the foregoing, AW reserves the right to terminate any Account which fails to make payment within 30 days from and after the Billing Date. Following any such termination, your Account will only be reactivated upon your full payment of all outstanding fees and all other charges within 30 days from Billing Date and upon your performance of any and all such other requirements or obligations that AW may impose. All Website information and data will be permanently deleted by us unless you pay a reinstatement fee (along with all other outstanding Fees and/or obligations) within 30 days of termination. Further and notwithstanding any other provision contained herein to the contrary, AW, acting in its sole and absolute discretion, also expressly reserves the right to terminate your Account and to cease providing Services to you under your agreement with AW if you fail to satisfy any outstanding Fees due and owing to us within 30 days from the Billing Date.
5. You are responsible for all applicable taxes that arise from or as a result of the use of your AW Services. To the extent that AW charges these taxes, they are calculated using the tax rates that apply based on the billing address you provide to us. If you are not charged taxes by AW, you are responsible for determining if taxes are payable, and if so, self-remitting taxes to the appropriate tax authorities in your jurisdiction.
6. AW will not provide refunds for any reason whatsoever.

H. Rights of Third Parties

The rights afforded herein are for AW, AW’s affiliates, AW Users, your approved assignees, your approved transferees, and others accessing AW Services pursuant to these Terms of Service. Unless expressly set forth above or unless otherwise expressly provided elsewhere in these Terms of Service, no person or entity who is not a party to these Terms of Service shall have any right to enforce any term of these Terms of Service regardless as to whether such person or entity has been identified by name as a member of a class or as answering a particular description.

I. Privacy & Data Protection

AW is firmly committed to protecting the privacy of your personal information and the personal information of your customers. By using the Service, you acknowledge and agree that AW's collection, usage, and disclosure of this personal information is governed by our Privacy Policy at <https://aftermarketwebsites.com/privacy>.

J. Term

Term. The Services will be provided to you on a month-to-month basis until such time as such Services are terminated by either you or AW. You may terminate your Services and your agreement with AW at any time, with or without cause, upon written notice to AW (including, but not limited to, email notice). We may also terminate your Services and your agreement with us at any time, with or without cause, upon written notice to you (including, but not limited to, email notice). Upon any such termination, your Services under your agreement with us or under the provisions set forth herein shall immediately terminate and end. AW will have no liability to you or any third party because of such termination.

Effect of Termination. Upon termination of these Terms by either party for any reason, or cancellation of your Services: **(i)** AW will cease providing the Services; **(ii)** you will not be entitled to any refunds of any subscription or usage fees, or any other fees, pro rata or otherwise; **(iii)** any fees you owe to AW will immediately become due and payable in full; and **(iv)** AW may delete your archived data within 30 days. Notwithstanding any provision contained in this Section J to the contrary, all sections of the Terms of Service that expressly provide for survival, or by their nature should survive, will survive termination of the Terms of Service, including, but not limited to, confidentiality, indemnification, warranty disclaimers, and limitations of liability.

K. No Warranties

AW MAKES NO EXPRESS WARRANTIES OF ANY NATURE PERTAINING TO OR RELATING TO THE WEBSITE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AW DOES NOT WARRANT: (1) THE ACCURACY, CORRECTNESS, EFFECTIVENESS, OR USEFULNESS OF THE WEBSITE; (2) THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (3) THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; AND/OR (4) THAT YOU SHALL RECEIVE ANY DIRECT OR INDIRECT BENEFIT FROM THE WEBSITE. THE WEBSITE IS DEVELOPED FOR YOU AND OFFERED TO YOU ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS BASIS." YOU SHALL USE THE SERVICES AND THE WEBSITE AT YOUR SOLE RISK. AW FURTHER EXCLUDES AND DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO (AND TO THE EXTENT APPLICABLE), THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. BY APPROVING OF THE TERMS OF SERVICE AND BY ESTABLISHING AN ACCOUNT, SUBSCRIBER ACKNOWLEDGES THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES.

L. Limitation of Liabilities

1. IN NO EVENT SHALL AW OR ANY ONE OR MORE OF THE AW PARTIES BE LIABLE TO YOU FOR ANY INDIRECT DAMAGES, SPECIAL DAMAGES, INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF DATA, AND/OR OTHER INTANGIBLE LOSSES ARISING OUT OF OR RELATING TO THE AGREEMENT BETWEEN THE PARTIES, THE PERFORMANCE OR BREACH THEREOF, THE WEBSITE, THE PERFORMANCE OF THE WEBSITE, THE ACCURACY OR CORRECTNESS OF THE WEBSITE, YOUR ACCOUNT, OR ANY OTHER MATTERS PERTAINING TO OR ARISING FROM THE AGREEMENT BETWEEN THE PARTIES, THE WEBSITE, AND/OR THE RELATIONSHIP OF THE PARTIES.

2. AW'S LIABILITY AND THE LIABILITY OF ANY ONE OR MORE OF THE AW PARTIES TO YOU, IF ANY, FOR ANY DIRECT DAMAGES SHALL, IN NO EVENT, EXCEED THE TOTAL AMOUNT OF FEES PAID BY YOU TO AW DURING THE CALENDAR YEAR IN WHICH THE ALLEGED ACTION, EVENT, TRANSACTION, AND/OR OCCURRENCE GIVING RISE TO SAID ALLEGED LIABILITY OR SAID ALLEGED CAUSE OF ACTION OCCURRED.

3. WITHOUT, IN ANY MANNER, LIMITING THE GENERALITY OF THE FOREGOING PROVISIONS SET FORTH ABOVE, IN NO EVENT SHALL AW AND/OR ANY ONE OR MORE OF THE AW PARTIES BE LIABLE TO YOU FOR ANY DAMAGES RESULTING FROM OR RELATED TO: (a.) ANY FAILURE OR DELAY OF AW IN PROVIDING ACCESS TO THE WEBSITE; (b.) THE ACCURACY AND/OR CORRECTNESS OF THE WEBSITE AND THE INFORMATION CONTAINED THEREIN; (c.) THE PERFORMANCE OF THE WEBSITE; AND/OR (d.) THE FAILURE OF THE WEBSITE TO GENERATE A POSITIVE ECONOMIC RESULT (AND/OR INCREASED BUSINESS) FOR YOU.

M. Indemnity

You shall forever indemnify and shall forever hold AW and the AW Parties harmless from all claims, rights, actions, causes of action, losses, damages, liabilities, and costs (including, but not limited to, all applicable attorneys' fees and court costs) whether known or unknown, whether contingent or matured, whether sounding in contract or in tort, that relate to or arise from, the agreement between you and us, any alleged breach of said agreement, the Website, and/or the relationship of the parties. Notwithstanding the foregoing, AW, for itself and for the AW Parties, expressly reserves the right, at their own expense, to assume the exclusive defense of and control of any matter subject to such indemnification. Notwithstanding any other provision contained herein to the contrary, the provisions of this Paragraph M shall survive the termination of the agreement and the termination of the relationship between the parties.

N. Default

1. Default is defined as the failure of any party to comply with the terms and provisions of the agreement between the parties and/or these Terms of Service. In the event of any such Default, the non-defaulting party, subject only to the limitations set forth herein, may pursue all remedies available under the agreement between the parties, under these Terms or Service, or at law or in equity.

2. Without limiting the generality of the foregoing provisions set forth in subparagraph 1 above, in the event that you commit a Default, then AW may terminate the agreement between us, terminate the Website, and terminate your ability to access and to use the Website. Upon the occurrence of any such Default by you, then all monies due and owing from you under the agreement between us shall become immediately due and payable. The foregoing rights and remedies of AW shall be cumulative and in addition to all other rights and remedies available to it at law and in equity.

3. In addition to the foregoing provisions, you also commit a Default under this Agreement if you: (a) seek protection, voluntarily or involuntarily, under any bankruptcy law; (b) seek the appointment of a receiver; (c) have a receiver appointed; or (d) otherwise become insolvent.

O. Notice

Unless otherwise prohibited by applicable law, all notices to you hereunder may be sent, via email, to: the email address supplied by you upon creation of the Account; any subsequent email addresses supplied by you. Unless otherwise prohibited by applicable law, all notices to us may be sent, via email, to the applicable email address posted on our website. Each such notice sent via email shall be deemed effective (or delivered) when sent. If such email notice is not allowed under applicable law, then notice shall be delivered or sent via hand delivery, via reliable overnight courier (i.e., UPS or FedEx), or via certified mail (return receipt requested) to the applicable address on file for you or for us (whichever is applicable) and all such notices will be effective, when delivered if in person, and otherwise when sent, even if refused or unclaimed. Such addresses may be changed upon written notice.

P. Miscellaneous Provisions

The captions or paragraph headings used herein are for convenience and reference purposes only and will in no event add to, limit, or in any manner affect the subject matter. The provisions set forth herein are severable. If any provision is found to be void, illegal, or unenforceable, then the remaining provisions will continue in full force and effect and will be so construed as to give effect, as nearly as possible, to the original intent of the parties. The laws of the State of Tennessee govern the agreement between us, the Terms of Service, and the relationship between us; provided, however, that any law of the State of Tennessee making applicable the law of any state other than Tennessee shall not apply. Any cause of action which arises in connection with the agreement between us, any alleged breach thereof, and/or the relationship between the parties shall be brought

in a state court of competent jurisdiction located in Sullivan County, Tennessee. Except as otherwise provided herein, the failure of any party to enforce any of provisions set forth herein shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision set forth herein. The provisions set forth herein shall be binding upon and inure to the benefit of the parties, their respective legal representatives, heirs, successors, and permitted assigns. In the event attorneys' fees or other costs are incurred by either party in securing performance of any of the covenants or obligations contained herein, or in establishing damages for the breach of the agreement between us, or in obtaining any other appropriate relief, whether by way of prosecution or defense, the prevailing party will recover its reasonable attorneys' fees and costs incurred. The provisions of these Terms of Service contain the entire agreement between us. All prior written and oral agreements, if any, are hereby expressly revoked.