



Backup Services Terms and Conditions

Autophone of Laredo Backup Services Terms And Conditions
Autophone of Laredo Products and Services Terms and Conditions of Use Updated and effective as of Sep 06, 2013.

READ THIS AGREEMENT CAREFULLY.

Autophone of Laredo (APL) is willing to provide APL Products or Services to you only if you accept all of the following terms and conditions, the APL Privacy Policy, as well as any operating rules, policies, price schedules, and other supplemental documents Published by APL from time to time, all of which are incorporated herein by reference (collectively, "Terms and Conditions of Use" or "this Agreement").

1. Definition of Terms

As used in these Terms and Conditions of Use: "Backup Data" includes any data you back up through Use of the APL Products or Services and any related data that are in the possession of APL or APL Affiliates. "APL," "we," "us," or "our" (whether or not capitalized) mean APL and its subsidiaries. "APL Affiliate" means persons or entities who have provided products, licenses, or services to APL and persons or entities with which APL has entered into an agreement to sublicense or to provide APL Products or Services to users. "APL Products or Services" means data backup services, websites (including without limitation, www.autophone.net), all other documentation, features, tools, APL Software, and any other products or services provided by APL or its authorized agents, distributors, and licensees. "APL Software" means software provided to you or for your use by APL. "Computer" (whether or not capitalized) means a desktop or laptop computer, server, network device, and any storage device attached to them in any fashion. "Days" (whether or not capitalized) means calendar days. "Personal Information" means information that you may provide at the time of registration or otherwise, such as name, physical location or address, IP address, e-mail address, employment, or similar information that identifies you as a specific individual. To "Publish" documents or information means to provide to or make them accessible to you by mailing, emailing, desktop messaging, faxing, or delivering them to you, or by posting them to www.autophone.net or any other website you visit to register for, subscribe to, license, buy, or Use APL Products or Services. The "Subscription Period" for any license to use APL Products or Services begins at purchase, regardless of the date of activation, and expires at the end of your specific purchased term. A specific purchased term may be monthly, yearly, multi-year or for another periodic metric. For example, if you are billed on a monthly basis, your Subscription Period is for the month billed. To "Use" or "Using" APL Products or Services means each time you visit a APL website, register with APL, download APL Software, use APL Software to encrypt or back up data, view the status of your Backup Data, store or restore Backup Data, access any Backup Data or request support. "You," "yourself", "user," and "customer" (whether or not capitalized) refer to the individual or legal entity registering for or using the APL Products or Services.

2. Acceptance of Terms and Conditions of Use; Modification; Cancellation

By registering to Use APL Products or Services, and each time you Use a APL Product or Service, you affirm your acceptance of these Terms and Conditions of Use and agree to comply with them now and throughout the period of your Use of the APL Products or Services and thereafter, as noted in Section 6 (APL License to You; Renewals, etc.) below. If you do not agree to these Terms and Conditions of Use in their entirety, do not Use APL Products or Services. APL may change the Terms and Conditions of Use at any time, without prior notice to you, and in its sole discretion. The new or modified Terms and Conditions of Use will be effective immediately after we publish them on our website at www.autophone.net. If you do not agree to be bound by APL's Terms and Conditions of Use as Published by APL from time to time, your sole and exclusive remedy is to discontinue using APL Products or Services. If you wish to cancel your APL license after a change in the Terms and Conditions of Use, you must do so in writing or by email within thirty (30) days after your next Use of a APL Product or Service following the change in the Terms and Conditions of Use. For this type of cancellation you will receive a pro-rated refund for the unused portion of your APL license as of your date of notice. You acknowledge and agree that if you do elect to cancel your license within this specified period after a change in the Terms and Conditions of Use, or if you cancel your license or fail to renew an expired or terminated license for any reason, APL may delete any information that APL has obtained through your Use of APL Products or Services, including without limitation, your Backup Data, and APL will not have any Backup Data available for your Use. Cancelled accounts will have all information deleted immediately upon cancelling.

3. Requirements for Registration or Use of APL Products

APL Products or Services are intended and offered only for lawful Use by individuals or organizations with the legal capacity and authority under applicable law to enter into a contract for such products or services. APL does not offer APL Products or Services to minors or where prohibited by law. By registering for and/or by Using APL Products or Services, you represent and warrant that you have the legal capacity and authority to enter into a binding agreement to adhere to the APL Terms and Conditions of Use and that you will Use APL Products or Services only in accordance with these Terms and Conditions of Use and with all applicable laws. If an individual is registering or Using APL Products or Services on behalf of an entity or organization, that individual warrants, represents, and covenants to APL that such individual is duly authorized to agree to these Terms and Conditions of Use on behalf of the organization and to bind the organization to them. If an individual uses APL Products or Services that are provided by any third party including any person, entity or organization, the individual Using the APL Products or Services, by virtue of such use, agrees that any information the individual provides to APL (including but not limited to the individual's Backup Data and Personal Information) will be accessible to, and may be viewed, changed, or deleted by the person, entity or organization that provided the APL Products or Services to the individual. You agree to provide accurate and complete information when you register for a APL Product or Service and you agree to keep such information accurate and complete during the entire time that you use APL Products or Services. We may ask you from time to time to establish a user name or password to access or Use the APL Products or Services. You are solely responsible for any consequences arising in whole or in part out of your failure to maintain the confidentiality of your username and/or password.

4. Lawful Use of APL Products or Services

You may not Use APL Products or Services for any unlawful purpose. Without limiting the foregoing:

(a) APL Products or Services may not be Used to store, backup, or distribute child pornography and may not be Used in violation of U.S. export control laws or the export or import regulations of other countries. You agree to comply strictly with all such laws and regulations and

acknowledge that you have the responsibility to obtain licenses to export, re-export, or import as may be required.

(b) You may not Use APL Products or Services if you are a citizen, national, or resident of, or are under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, Iraq, Morocco, Nigeria, Tunisia, Pakistan, Algeria, Afghanistan, Saudi Arabia, or any other country to which the United States has prohibited export. Each time you Use APL Products or Services you represent, warrant, and covenant that: (i) You are not a citizen, national, or resident of, nor under the control of, any such country to which the United States has prohibited export; (ii) You will not download or otherwise export or re-export the APL Software, directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries; (iii) You are not listed on the U.S. Department of Treasury's Lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, the U.S. Department of State's List of Statutorily Debarred Parties, or the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List Table of Denial Orders; (iv) You will not download or otherwise export or re-export the APL Software, directly or indirectly, to persons on the above mentioned lists; (v) You will neither Use nor allow the APL Software to be Used for, any purposes prohibited by United States federal or state law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical, or biological weapons of mass destruction; (vi) The APL Software will not be exported, directly, or indirectly, in violation of these laws, nor will the APL Products or Services be Used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation; and (vii) You are not using or permitting others to Use APL Products or Services to create, store, backup, distribute, or provide access to child pornography.

(c) If Metadata checking (i.e. file names) reveals that an account has content relating to video piracy, software piracy or any copyrighted data with the intent to distribute (i.e. torrents)

5. Changes to the APL Products or Services

APL has the right at any time to change, modify, add to, discontinue, or retire any APL Product or Service and any aspect or feature of the APL Products or Services including, but not limited to, the software, hours of availability, equipment needed for access or Use, the types of files that are backed-up (not every file on your computer is backed-up), the maximum disk space that will be allotted on APL servers on your behalf either cumulatively or for any particular service, or the availability of APL Products or Services on any particular device or communications service. APL will provide notice of material changes to the APL Products or Services or changes to this Agreement by posting them to www.autophone.net. APL shall have no obligation to provide you with notice of any such changes in any other manner. It shall be your responsibility to check our website periodically to inform yourself of any such changes. From time to time, APL may issue new releases, revisions, or enhancements to the APL Products or Services available to you free of charge or for a fee. New releases, revisions or enhancements may be licensed, downloaded, and installed only to the extent that you hold a valid license to Use the APL Products or Services being updated or upgraded, and you may Use them only in accordance with the then-current Terms and Conditions of Use and any additional license terms that may accompany them. APL may automatically update APL Products or Services you have installed on your computer without your prior consent. If any automatic updates involve the payment of additional fees, we will provide you with the opportunity to approve such fees prior to the new functionality being enabled. If you fail or refuse to approve such fees, APL may, in its sole discretion, terminate your current license, continue to support your current APL Products or Services without the automatic update, or replace your APL Products or Services with other APL Products or Services. If APL terminates your current license on account of your failure or refusal to approve such fees, then APL will refund, on a pro-rata basis based on the remaining term of the current license, provided that the most recent license renewal or original license purchase was made less than 30 days prior, any fees related to the period during which you will not have access to

your APL Products or Services. If APL updates the APL Products or Services without requiring an additional fee and you object to such change, your sole remedy shall be to terminate your use of the APL Products and Services. These Terms and Conditions of Use (including any documents incorporated by reference) constitute the entirety of the agreement between us and you concerning the subject matters discussed herein. This Agreement supersedes any prior written or oral representations, understandings, or agreements, and may not be modified except by the posting of changes to www.autophone.net as provided in this Section 5. No written or oral statement, understanding, representation, or alleged agreement made outside the Terms and Conditions of Use posted to www.autophone.net may be used to modify, interpret, add to, supersede, or construe the terms of this Agreement, except by means of a written agreement signed by an officer of APL.

6. APL License to You; Renewals, Modifications, Limits

(a) Scope of License.

APL grants you a non-exclusive, non-transferable limited and revocable license to install the APL Software only on the computer(s) for which you have paid the applicable fees and taxes and from which you are licensed to access the APL Products or Services, and to Use the APL Products or Services for the sole and exclusive purposes of connecting to and Using the APL Products or Services for your personal or internal business purposes in accordance with these Terms and Conditions of Use. We reserve all other rights to the APL Products or Services. You may Use a license for the APL Products or Services with only one computer at a time unless the APL Products or Services you Use are explicitly designed and marketed to operate on more than one computer at a time concurrently. The type of license you have (including such variables as whether the license permits use of APL Products or Services on more than one computer, whether the licenses fees are based on the number of computers, volume of data, or both, and the length of the Subscription Periods, etc.) is set forth as part of the APL Product or Service description available at www.autophone.net. Should your license for the APL Product or Services you Use be designed for only one computer at a time you may transfer your license to another computer in the event that you cease to use the computer on which APL Software was originally installed. If you wish to protect multiple computers, you must obtain a separate paid license for each computer or you must obtain a multi-computer license which will be applicable to the number of computers stated in such license. You may not sub-license, or charge others to Use or access the APL Products or Services and you may not redistribute the APL Products or Services or provide others with access to or Use of them, unless you have entered into a separate Reseller Agreement or other agreement with APL that expressly authorizes you to engage in this activity. Without limiting the forgoing, you will not permit others to Use the APL Products or Services to access or decrypt data stored on servers provided by APL or APL Affiliates; you will not Use or permit others to Use the APL Products or Services to decrypt data encrypted by others; and you will not Use or permit others to Use the APL Products or Services to provide encryption or decryption services to others, whether or not such services are compensated.

(b) Trial Licenses.

You may have received as part of your APL license the opportunity to extend the expiration date of your license or trial through the Use of various marketing codes. If you do not enter these codes at the time you purchase your license or start your trial license, APL will not add this additional time to your license or trial at a later date. If you received a free trial or evaluation license for which you have not paid a license fee, APL grants to you a non-exclusive, non-transferable limited license to Use the APL Software during the trial or evaluation period in accordance with these Terms and Conditions of Use. If you wish to protect multiple computers with a free trial or evaluation license, you must obtain a separate license for each computer or you must obtain a multi-computer license which will be applicable to the number of computers stated in such license. You may only install one free trial or evaluation license in each calendar year per computer.

(c) Renewals.

You agree that APL shall have the right to automatically and without notice renew your license to continue to Use the APL Products or Services upon expiration of your then-current license, and that as part of such renewal APL shall have the right to charge the applicable renewal fees and any applicable taxes, which may be different than those you paid when you initially purchased or last renewed your license for APL Products or Services to any credit card you used to purchase your then-current license. You agree that if you elect to not permit APL the right to automatically renew your license to Use APL Products or Services or your credit card information on file with APL does not permit automatic renewal, then APL may terminate your license if you do not otherwise renew your license. If you received a discount in your initial sign up period this will be for the first term with APL only. We will renew your account at the listed non discount price.

First month discount promotions.

If you received a discount promotion on your initial months sign up, you agree that APL shall have the right to automatically and without notice renew your license at the listed non discounted monthly price. All other terms of service will still apply upon acceptance.

(d) Cancellation of Renewals.

You may cancel a renewal of a license only on the following terms: You may not Use APL Products or Services for any unlawful purpose. If your most recent original or renewal license of APL Products or Services was for a period of greater than thirty (30) days, you have thirty (30) days from the date that your license was last renewed to elect to discontinue your Use of APL Products or Services. If you elect to discontinue your Use of APL Products or Services within this period, you will be issued a full refund for the amount of your license renewal. If your most recent original or renewal license of APL Products or Services was for a period of greater than 30 days, and you beyond your original or renewal 30 days of that period, you shall will not be entitled to a refund. In addition all sales are final and not subject to a refund for the following products multiple computer extra, priority support, additional support, increased bandwidth and other additional products that may be offered from time to time by APL. That do not fall within the initial package purchased by you. All extras concerned are one time purchases for the period you selected and will not be eligible for a refund. In addition all sales are final and not subject to a refund for the following products: Should you fail to pay amounts invoiced and due within seven (7) days of being invoiced, or should your payment be otherwise rejected or denied, then APL may at its sole discretion begin collection proceedings to recover any and all amounts due. Should APL elect to refer your past due obligations for collection proceedings you will also become responsible for any costs associated with said collections and shall pay APL the greater of the then permissible interest rate on the past due balance or 1.5% per month calculated and due on a monthly basis. You are responsible for ensuring that APL has current and accurate records necessary, to renew your license, including without limitation, credit card data.

(e) Early Termination Fee

We will apply a termination charge of \$200.00 if you stop your service when still within your contract term. When you sign up for a minimum term service, the costs of that service are spread across the term period, for example over 1, 2 or 5 years. Discounts and any fees are also included in the agreed service costs. Early Termination charges are applied to recover the costs of the service provided to you over the minimum contract period.

Customer shall promptly pay APL the full amount of the Service Charges that Customer would have been charged for the remainder of the Initial Term or the then-current renewal term;

(f) Updates.

APL may in its sole discretion provide automatic updates to the APL Products or Services. These updates may not be consistent across all platforms and computers; and the performance and features offered by APL may vary depending on your computer and other equipment. You agree that we may automatically check your version of the APL Software and automatically update the APL Software on your computer. You agree to accept and to take no action to interfere with such automatic updates, scanning, and related activities and services. If you shut down your computer or the APL Software during an automatic update or otherwise interfere with the installation of the update, the software may be damaged and/or cease to operate.

(g) Refunds.

By purchasing a license, you acknowledge that you are aware of the opportunity to "try before you buy" by using a free or evaluation Autophone of Laredo Product or Service. Autophone of Laredo offers a pro-rated 30-day money back guarantee for Autophone of Laredo Products or Services. By purchasing any service with a setup fee you acknowledge that the setup fee is non-refundable where 'setup fee' is indicated in the plan or plan name.

(h) Chargebacks:

Please do not attempt a chargeback. We will make every effort to assist you, please contact our office by phone or at support@autophone.net.

(i) Duration of Agreement.

You agree that you shall be bound by these Terms & Conditions of Use beginning on the earlier of when you first install APL Products or Services or when you first agree to the APL Terms and Conditions of Use until the later of the dates when (i) your license and any renewal thereof terminates, ii) your Backup Data is deleted, or iii) you have your last contact with APL for customer support.

7. Assignment and Delegation by APL

APL may, in its sole discretion, transfer or assign all or any part of its rights in the APL Software, the APL Products or Services, and any license or contract related thereto, and may delegate all or any portion of its duties, if any, under any such APL Products or Services, licenses, or other contracts.

8. No Transfers or Modifications by You

You may not sell, assign, grant a security interest in or otherwise transfer any right in the APL Products or Services, nor incorporate them (or any portion of them) into another product or service. You may not copy the APL Products or Services. You may not translate, reverse-engineer or reverse-compile or decompile, disassemble, make derivative works from, or otherwise attempt to discover any source code in the APL Software or decrypt any files that are not associated with your computer. You may not modify the APL Software or use it in any way not expressly authorized by these Terms and Conditions of Use. You may not obtain the communications protocol for accessing the APL Products. You may not authorize or assist any third party to do any of the foregoing.

9. Protection of Files

You are solely responsible for protecting the information on your computer such as by installing anti-virus software, updating your applications, password protecting your files, and not permitting third party access to your computer. You understand that the APL Products or Services may back-up files that are no longer usable due to corruption from viruses, software malfunctions or other causes. This might result in you restoring files that are no longer usable.

10. Retention or Deletion of Backup Data and Personal Information

APL Software saves to a server operated by APL or an APL Affiliate an encrypted copy of each file you designate. The APL Software scans for changes or additions to these files and then periodically creates an encrypted copy of a modified or newly designated file. You will not be able to restore files that APL has not completed copying, files that have been changed but not yet been backed up, or files or folders or disc drives that are not eligible for back up. APL does not maintain a secondary copy of your data that you have Backed Up to our servers. Should your data be lost by APL we will undertake commercially reasonable efforts to create a replacement back-up from the files stored on your computer. If your license to Use APL Products or Services expires, is terminated, is not renewed, or is otherwise discontinued for any reason, APL and the APL Affiliates may, without notice, delete or deny you access to any of your Backup Data that may remain in our possession or control. You agree that if i) you mark a file to no longer be backed-up, ii) you delete a file from your computer, iii) move a file to a location on your computer that is not marked for back-up, iv) you delete a computer from your APL Products or Services account, v) your computer is unable to access APL, or vi) you terminate or allow your trial or license to terminate, non-renew, or otherwise lapse for any reason, that the files you have marked, deleted, moved or stored on a deleted, inaccessible, or unlicensed computer may not be available to you should you wish to restore them. You agree that APL and APL Affiliates may retain (but shall have no obligation to retain) your Backup Data for a period after your trial or license has been terminated, expired, or otherwise lapsed, as part of APL's marketing to you of the opportunity to purchase, renew, or extend a license. You also agree that APL may retain your Personal Information and related account information for a reasonable time after your license has been terminated.

11. Customer Support

APL may, in its sole discretion, provide customer support or service to you. This service may be available only on selected days and during a limited number of hours. Service may also only be made available through certain delivery vehicles such as email or telephone and some services may only be available for the payment of an additional fee or charge. As part of the delivery of services, APL may employ a variety of tools to aid in the process of resolving your issues as a user. You grant APL the right to use these tools and hold APL harmless for the use of these tools as well as the guidance provided by its customer support staff who, you acknowledge, cannot be fully aware of all of the complexities associated with the APL Products or Services, your computer, or all of the related or associated infrastructure that may affect the performance of your systems or the encryption and backup of your files. You agree and understand that certain programs, files, information or data you restore may require that you have access to or retain license keys that APL may not have backed up and that you will retain any needed copies of such information. You agree and understand that certain programs, applications or utilities will require configuration in order to access data restored from your APL Products or Services and that APL has no obligation to assist, and may not be able to assist, you with such configurations.

12. Restrictions on Access to APL Products or Service

You may access APL Products or Services only through the interfaces and protocols provided or authorized by APL. You agree that you will not access APL Products through unauthorized means, such as unlicensed software clients. Certain APL Products or Services backup only certain types of files. You agree not to circumvent these limitations in any way, including but not limited to, changing file extensions or header information.

13. Communications

You are responsible for obtaining and maintaining all of the hardware, software, and services that you may need to access and Use APL Products or Services. Without limiting the foregoing, you must pay all charges, taxes, and other costs and fees related to obtaining your own Internet

access, telephone, computer, and other equipment, and any communications or other charges incurred by you to access APL Products or Services.

14. Termination and Fair Use Policy

APL SHALL HAVE THE ABSOLUTE AND UNILATERAL RIGHT IN ITS SOLE DISCRETION TO DENY USE OF AND ACCESS TO ALL OR ANY PORTION OF APL PRODUCTS OR SERVICES TO USERS WHO ARE DEEMED BY APL TO BE USING THE APL PRODUCTS OR SERVICES IN A MANNER NOT REASONABLY INTENDED BY APL OR IN VIOLATION OF LAW, INCLUDING BUT NOT LIMITED TO SUSPENDING OR TERMINATING A USER'S ACCOUNT WITH APL AND THE LICENSE TO USE THE APL PRODUCTS OR SERVICES.

APL Products or Services are designed to serve the needs of particular types of users, such as individual consumers or small businesses. If you have purchased a APL Product or Service that is inappropriate for your actual usage, for example if APL believes that you are using our service for business or commercial use, APL will require you to switch to an appropriate APL Product or Service. This may result in you having to pay APL additional fees for use of the appropriate product or to terminate your purchased APL Products or Services and refund, on a prorated basis, any fees paid you may have paid on the unused portion of your APL subscription, provided that the most recent license renewal or original license purchase was made less than 30 days prior. For example: If APL believes that you are using our service for business or commercial use, APL has the sole discretion to amend your service to our Business service which may require you paying additional fees or termination of your account. APL may, in our sole discretion and from time to time, establish or amend general operating practices to maximize the operation and availability of APL Products or Services and to prevent abuses. As part of these practices, we reserve the right to monitor our system to identify excessive consumption of network resources and to take such technical and other remedies as we deem appropriate. Your consumption of APL Products or Services may be deemed excessive if, within any month, your usage greatly exceeds the average level of monthly usage of APL's customers, generally. In the event you are deemed to have violated this policy, we reserve the right to offer an alternative pricing plan or APL Product or Service that will permit you to continue to use APL Products or Services. Although violations of this policy have been infrequent, we reserve the right to terminate or suspend your license to use APL Products or Services and any license to use the APL Software, without prior notice in the event of a violation of this policy. If Metadata checking (i.e. file names) reveals that an account has content relating to video piracy, software piracy or any copyrighted data with the intent to distribute (i.e. torrents) the account will be immediately terminated. If APL believes that you are breached our Fair Use Policy and the user has not switched to a Business Service, APL we will allow the user 30 days from date of first communication to retrieve their data before deletion of the users account and data. 1st notice will be sent 30days before account deletion, 2nd notice will be sent 20days before account deletion and the 3rd final notice will be sent 2days before account deletion. All communications will be sent to the email address attached to the users account.

15. Data Collection, Encryption, Privacy, and Disclosure

APL will collect and use Personal Information in accord with the terms of our APL Privacy Policy, which is incorporated into and made a part of these Terms and Conditions of Use. You hereby consent to APL's use of your Personal Information under the terms of the APL Privacy Policy, as it may be amended from time to time. To provide its services, APL Software routinely scans your computer in order to detect new, modified, or deleted data files that require further action to complete backup and restore operations. APL Software also catalogs the number and total storage size of various file types on your computer. APL Software inspects file headers and related information in order to confirm that each file's type is properly represented by its file extension. The contents of your files are encrypted before they are transmitted to APL's data center. APL may have the ability to decrypt your data files. However, APL will not decrypt your files unless i) it reasonably believes that it must do so to troubleshoot problems with the APL Services or ii) it reasonably believes it must do so in order to comply with a law, subpoena,

warrant, order, or regulation, including, without limitation, the requirement of a certification that complies with 18 U.S.C. - 2703. APL may also provide access to your data to government authorities if APL suspects or believes that the data contains child pornography or other prohibited data or that the data is being used for illegal purposes. You acknowledge that APL or APL Affiliates may use servers and other equipment to provide the APL Products or Services that are located in the United States or in other countries where litigants, law enforcement, courts, and other agencies of the government may have the right to access data stored within their jurisdictions upon terms and conditions provided by local law, and that as a result, they may gain access to your Backup Data as provided by applicable local law. You may elect to Use APL Products or Service that permit you to decrypt and download Backup Data from any Internet enabled computer. You understand that by electing to access your files from a computer other than the one you used to create the Backup Data, that your Backup Data will be decrypted by APL in its data center and sent to you in a decrypted format via public infrastructure. You acknowledge that this may cause the contents of these files to become accessible to individuals other than you and that you accept this risk. You further acknowledge that depending upon the APL Product or Service you use or the features of the APL Product or Service you use, accessing your Backup Data from any Internet enabled computer may not be possible. If Metadata checking (i.e. file names) reveals that an account has content relating to video piracy, software piracy or any copyrighted data with the intent to distribute (i.e. torrents) the account will be immediately terminated.

16. Warranties

(a) **WARRANTY.** APL warrants that the APL Products or Services will perform substantially as specified in the applicable APL documentation for a period of thirty (30) days from the date of registration or payment. If you satisfactorily demonstrate to APL within such thirty (30) day period that a APL Product or Service contains errors, then as APL's sole and exclusive liability and as your sole and exclusive remedy, APL shall at its sole option either use commercially reasonable efforts to correct the errors reported by you, replace the APL Product or Services affected with a substantially conforming product or service, or refund the fee you paid for the APL Product or Service and terminate your license under the Terms and Conditions of Use. APL does not warrant the results of its correction or replacement APL Products or Services. Correction or replacement under this Section 16 (Warranties), and the issuance of any corrections, patches, bug fixes, workarounds, extras, enhancements, or updates by APL to you, shall not be deemed to begin a new, extended, or additional license, Subscription Period, or warranty period.

(b) **DISCLAIMER OF OTHER WARRANTIES.** THE LIMITED WARRANTY IN THE PRECEDING PARAGRAPH IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. APL and the APL Affiliates do not warrant that the functions contained in the APL Products or Services will meet your requirements, that the operation of the APL Products or Services will be uninterrupted or error-free, or that defects in the APL Products or Services will be corrected. APL and APL Affiliates do not warrant or make any representations regarding the use or the results of the use of the APL Products or Services in terms of their correctness, accuracy, reliability or otherwise. APL and APL Affiliates do not represent or warrant that users will be able to access or use the APL Products or Services at times or locations of their choosing, or that APL and APL Affiliates will have adequate capacity for any user's requirements. No oral or written statement, information or advice given by APL, APL Affiliates, or their respective employees, distributors, dealers, or agents shall create any warranties in addition to those express warranties set forth in this Section 16 (Warranties). You may have other statutory rights. However, to the full extent permitted by law, the duration of statutorily required warranties, if any, shall be limited to the warranty period.

17. Limitation of Liability

With respect to defects or deficiencies in the APL Products or Services, the liability of APL and APL Affiliates will be limited to performance of its responsibilities under Section 16 (Warranties) above. With respect to other breaches of contract, the liability of APL and APL Affiliates shall be limited to your actual damages with respect to the computer affected by the breach, and in no event will such liability exceed the total amount received by APL from you under these Terms and Conditions of Use for your current Subscription Period. IN NO EVENT WILL APL, THE APL CONTRACTORS, APL DISTRIBUTORS OR APL SUPPLIERS BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE APL PRODUCTS OR SERVICES OR TO USE OR RETRIEVE ANY BACKUP DATA, WHETHER FOR BREACH OF WARRANTY OR OTHER CONTRACT BREACH, NEGLIGENCE OR OTHER TORT, OR ON ANY STRICT LIABILITY THEORY, EVEN IF APL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES OR A REMEDY SET FORTH IN THESE TERMS OF USE IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE. Neither APL nor any APL Affiliate assumes any liability to any party other than you arising out of your Use or inability to Use the APL Products or Services. The limitations of damages set forth above are fundamental elements of the bargain between APL and you. APL would not be able to provide the APL Products or Services to you without such limitations.

18. Indemnification

YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS APL, APL AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, AND EXPENSES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES, ARISING OUT OF YOUR USE OF THE APL PRODUCTS OR SERVICES AND/OR YOUR VIOLATION OF ANY TERM OF THESE TERMS AND CONDITIONS OF USE. Should you bear financial responsibility for payment to APL for APL Products or Services or have otherwise made payment for APL Products or Services, you agree to indemnify any Users of APL Products or Services that you have paid for with respect to any and all matters. If you are a beneficiary of another party having paid for said APL Products or Services, whether or not the paying party(s) is a user of APL Products and Services, your sole source of recourse, for any and all claims, is to the party that bears financial responsibility to APL for APL Products and Services. APL RESERVES THE RIGHT, AT ITS OWN EXPENSE AND IN ITS SOLE DISCRETION, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU. IN THAT EVENT, AND ONLY IN SUCH EVENT, YOU SHALL HAVE NO FURTHER OBLIGATION TO PROVIDE A DEFENSE FOR APL IN THAT MATTER. If APL chooses to provide its own defense in connection with any matter subject to indemnification under these Terms and Conditions of Use, you shall participate and cooperate in the defense of APL and APL Affiliates, at your own expense, to the full extent requested by APL.

19. Trademarks, Service Marks, and Other Intellectual Property

All trademarks, service marks or other similar items appearing on the APL Products or Service are the property of their respective owners, including, without limitation, Autophone of Laredo. The APL Products or Services are protected by copyright and other intellectual property laws, title, ownership rights, and intellectual property rights in the APL Products or Services and shall remain with APL and its licensors. You agree not to take any action to jeopardize, limit, or interfere in any manner with APL's or its licensor's ownership of or rights with respect to the APL Products or Services.

20. U.S. Government Restricted Right

The APL Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the APL Software with only those rights set forth therein.

21. High Risk Activity

You acknowledge and agree that the APL Products or Services are not intended for use with any high risk or strict liability activity, including, without limitation, air or space travel, technical building or structural design, power plant design or operation, life support or emergency medical operations or uses, and that APL makes no warranty and shall have no liability arising from any Use of the APL Products or Services in any high risk or strict liability activities.

22. Dispute Resolution, Arbitration, Governing Law, and Venue

The interpretation, validity and enforcement of the Agreement, and all legal actions brought under or in connection with the subject matter of the Agreement, shall be governed by the law of the State of Texas (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). Any legal action brought under or in connection with the subject matter of the Master Agreement shall be brought only in Webb County, Texas or, if such court would not have jurisdiction over the matter, then only in Aa U.S. federal district court in Laredo, Texas. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Master Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Master Agreement in the Federal or state courts sitting in Laredo, Webb County, Texas, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Master Agreement must be initiated not later than one (1) year after the claim arose.

The administrative expenses, arbitrator fees, and facility charges associated with the arbitration, shall be split equally between the parties; provided that, in cases involving Consumer Licensees, the Consumer Licensee shall not be required to bear such expenses, fees, and charges in excess of One Thousand U.S. Dollars (\$1,000), and APL shall bear the remainder of such expenses, fees, and charges. Each party shall be solely responsible for its attorney fees, expert witness fees, and other costs, fees, and expenses, except as may otherwise be provided in Section 18 (Indemnification).

The parties shall be entitled to such discovery as is appropriate in the judgment of the arbitrator, in light of the nature and objectives of arbitration and to ensure that each party has an adequate opportunity to determine the factual bases for its claims and defenses. Class actions and other procedural devices, however denominated, that allow pursuit in a single proceeding of claims of more than one claimant unrelated by blood or marriage shall not be permitted in the case of arbitrations hereunder involving either Consumer Licensees or Commercial Licensees or both.

23. Termination, Expiration, Cancellation

(a) Trial and Evaluation Licenses. If this Agreement pertains to a trial, beta, or evaluation license (such as a license that provides a limited amount or an unlimited amount of back-up for free, for which you have not paid a fee and/or for which you do not pay a fee and associated taxes on or prior to expiration), the license granted under these Terms and Conditions of Use will terminate upon the expiration or cancellation of the trial or evaluation period, when the APL Product or Service you are using is no longer made available, one (1) year from the date you first installed the APL Product and Service, or when APL cancels or terminates the license, whichever is shorter. You agree to Use the APL Products or Services for no longer than the trial or evaluation

period unless you enter into another license and pay a license fee and associated taxes as applicable, or APL allows your license to roll over for another one (1) year period which APL may elect to do at its sole discretion and without notice to you.

(b) All Other Licenses; Limited Term. Your license will end upon the sooner to occur of (i) expiration of your Subscription Period, (ii) upon your non-renewal of the license, (iii) upon your cancellation of the license, (iv) when APL elects to discontinue the product, (v) upon your breach of these Terms and Conditions of Use (if such breach is not cured within the time indicated below in this Section 23 (Termination, Expiration, Cancellation), or (vi) when APL cancels or terminates your license, (any such expiration, cancellation, discontinuation, or termination are referred to hereafter as "termination").

(c) Termination for Unlawful or Abusive Use, Other Breach. APL may block your access to your Backup Data and/or terminate your Use of the APL Products or Services if APL reasonably believes that the Backup Data may contain child pornography, pirated video files, pirated software, copyrighted data with the intent to distribute or is being used to support other types of illegal activities, if providing APL Products or Services to a person located in a particular country would violate U.S. or other applicable law, or if your continued Use of APL Products or Services may damage, disable, overburden, or impair our servers or networks. If you breach these Terms and Conditions of Use termination will be without notice and without any right to cure. Upon termination: i) you shall immediately cease any and all Use of the APL Products or Services and delete all copies of them; ii) the APL Software may be disabled by APL without notice to you; and iii) you will no longer have the right to access or retrieve your Backup Data; you hereby grant APL at its sole discretion the unrestricted right to delete data without notice.

24. Survival

In the event of any termination, expiration, or cancellation, the restrictions on your Use of the Software and the other applicable restrictions as set forth in Section 4 (Lawful Use), Section 6 (APL License), Section 8 (No Transfers or Modifications by You), Section 16 (Warranties), Section 17 (Limitation of Liability), Section 18 (Indemnification), Section 19 (Trademarks, Service Marks, and Other Intellectual Property), Section 20 (U.S. Government Restricted Right), Section 21 (High Risk Activity), Section 22 (Dispute Resolution, Governing Law, Venue), Section 24 (Survival), Section 25 (Notice), Section 28 (Limitation on Actions), Section 30 (Miscellaneous) and Section 31 (Severability) shall survive such termination, expiration, or cancellation, and you agree to remain bound by those terms.

25. Notice

Any notice that may or must be given by APL in connection with this Agreement or in connection with the Use of the APL Products or Services, may be given by sending it to the email address provided by you upon registering for the APL Products or Services or as you may provide from time to time thereafter by modifying your user profile at www.autophone.net. You are responsible for ensuring that your accurate email address is available to APL and provide any needed updates. APL may, in its sole discretion, use other means of providing notice, such as: desktop notification; regular, certified, or registered mail; fax; commercial delivery service; or messenger. All such notices shall be deemed given when dispatched with payment of delivery charges made or arranged. You hereby consent to receiving notice by any such means. Notwithstanding the foregoing, APL has no obligation to provide notice or attempt to locate a customer other than through the email address provided.

26. English Language

These Terms and Conditions of Use were negotiated and written in English. Any inconsistency between the Terms and Conditions of Use as expressed in English and any other language shall, to the full extent permitted by applicable law, be resolved by reference to the English version. Les parties ont convenu de rédiger cette entente en anglais.

27. Entire Agreement; Applicability of Terms; Construction; Limit to Modifications; Conflicts in Terms

These Terms and Conditions of Use (including the items incorporated by reference and modifications that may be made from time to time), constitute the entire agreement between APL and you regarding APL Products or Services, and supersedes all prior agreements between you and APL regarding the subject matters hereof. Any item or service furnished by APL in furtherance of these Terms and Conditions of Use, although not specifically identified in them, shall nevertheless be covered by these Terms and Conditions of Use unless specifically covered by some other agreement entered into in written or electronic form between you and us. Any modification or change in these Terms and Conditions of Use proposed or offered by you shall not become a part of these Terms and Conditions of Use unless accepted in a writing dated after the effective date of the applicable Terms and Conditions of Use and signed by an authorized officer of APL. Should there be any conflict in terms between this Agreement and any other document, the terms and conditions set forth in this Agreement shall govern. Any references that are singular or plural and any references that are masculine, feminine, or neuter in gender, are meant to be used interchangeably as the context of the sentence might imply.

28. Limitation on Actions

Unless otherwise required by law, an action or proceeding by you to enforce an obligation, duty, or right arising under this Agreement or by law must be commenced within one year after the cause of action accrues.

29. Copyright Infringement Notification

As provided in the Digital Millennium Copyright Act of 1998, we have designated the following individual for notification of potential copyright infringement regarding Web sites hosted by APL: abuse@autophone.net If you believe content hosted by APL infringes a copyright, please provide the following information to the person identified above (17 U.S.C. 512): (i) A physical or electronic signature of the copyright owner or authorized agent; (ii) Identification of the copyrighted work(s) claimed to have been infringed; (iii) Identification of the material that is claimed to be infringing or to be the subject of the infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material; (iv) Information regarding how we may contact you (e.g., mailing address, telephone number, e-mail address); (v) A statement that the copyright owner or its authorized agent has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (vi) A statement that the information in the notification is accurate, and made under penalty of perjury, and, if an agent is providing the notification, a statement that the agent is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

30. Miscellaneous

You agree to reimburse APL for any costs or fees related to its enforcement of this Agreement, including without limitation the expert fees and attorney fees regularly charged by the experts and legal counsel chosen by APL. APL is not responsible for misprints, errors or omissions in its advertising and promotional materials. If you have designated a person (whether by email, orally, by registering such person with APL, by granting such person access to your username and password or by having your computer registered for APL Products or Services where another party is paying for the backup of your files) to have access to your Backup Data, you hereby authorize APL to give such designated person access to your Backup Data, including without limitation in the event of your death or incapacity.

31. Severability

This Agreement will be enforced to the fullest extent permitted by applicable law. If for any reason any provision of this Agreement is held to be invalid or unenforceable under applicable law to any extent, then (i) such provision will be interpreted, construed, or reformed to the extent

reasonably required to render it valid, enforceable, and consistent with the original intent underlying such provision and ii) such invalidity or unenforceability will not affect the validity or enforceability of any other provision of this Agreement and all such provisions shall remain in full force and effect.

32. No Waiver

The Company reserves its right to take all legal steps available to enforce these Terms and Conditions of Use. The Company's failure to enforce these Terms and Conditions of Use in every instance in which they might apply, or the failure to require at any time performance of any provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions or of the Company's rights to enforce such provisions. No waiver of any provisions of this or any other Agreement with the Company shall be effective unless expressly stated to be such in writing and signed by both parties.

33. Billing Process

Some licenses for APL Products or Services are based on the number of computers registered, the volume of storage used, or both, as well as for ancillary or related services. Where your license fees are based in full or in part upon the amount of storage you use, your bill for APL Products or Services will be based upon the greater of the storage amount shown on your computer or the storage amount maintained by APL, excluding the benefits of any data compression, file duplication or similar techniques performed by APL. The calculation of a storage bill will be based upon the price(s) for the APL Products or Service licensed and may be based upon the average storage used during the Subscription Period, the storage as of the end of the Subscription Period, or another storage measure taken during the Subscription Period, depending on which services you have selected at the time of registration or renewal. Should APL bill you for your APL Product or Service on a monthly or periodic basis you agree that APL will bill you exclusively in full month or periodic increments and that there will be no billing for partial months or periods for any reason. Any amounts billed are fully due and payable at the time the bill is rendered to you.

34. Billing Issues

You must notify us about any billing problems or discrepancies within thirty (30) days after they first appear on the statement you receive from your bank or credit card company or other billing company. Send such notification to us at the APL Contact Information indicated in Section 35 (APL Contact Information) below. If you do not bring such problems or discrepancies to our attention within that thirty (30) days period, you agree that you waive the right to dispute such problems or discrepancies.

35. Managing Your APL Product or Service

You acknowledge and agree that where APL licenses APL Products or Services to an entity or organization, or where an entity or organization makes the APL Products or Services available to you, the entity or organization so licensed or giving you access may grant multiple individuals rights related to the management and Use of the APL Products or Services and the Backup Data, without any notice to you. These rights may enable one or more persons to: view, access or change Backup Data or Personal Information; determine who can access the account, Backup Data, and Personal Information; determine who is responsible financially for the account; and other similar actions.

36. APL Contact information

If you have any questions or comments, please contact us at support@autophone.net.
Although we strongly prefer email communication, you may also send regular postal mail to:

Autophone of Laredo
1816 Pappas St.
Laredo Texas, USA 78041