

Terms and Conditions of Use and Service

(Effective August 1, 2020; Last Modified Mar 22, 2022)

Thank you for choosing Temp Fence USA. Please read these Terms and Conditions of Use and Service ("Terms") carefully as they describe the terms and conditions for the use of the www.tempefenceusa.com website, including all pages within this website (collectively referred to as "Site") and the services provided by Temp Fence USA and, as such, are incorporated and included into every Temp Fence USA Project Proposal. It is the responsibility of you, the user, client, or prospective client to read these Terms before proceeding to accept a Temp Fence USA Estimate, Proposal, and/or Contract.

These Terms expressly supersede prior agreements or arrangements with you. No other agreement whether verbal or written shall be in effect, except where agreed to and authorized in writing by Temp Fence USA. **By accessing, using, viewing, transmitting, caching or storing this Site or any of its services, functions, materials, or contents, or purchasing any products or Services from Temp Fence USA, you expressly agree to each and all terms, conditions, and notices on this Site without modification. This document is a legally binding contract between Temp Fence USA and you, the User (as defined below), for the use of the applications, software, products and services provided by Temp Fence USA (collectively, the "Services").** Certain terms, including but not limited to the arbitration clause and class action waiver clause, may restrict your rights to bring a claim in a court of law.

Temp Fence USA may make changes to these Terms at any time. Any changes Temp Fence USA makes will be effective immediately when Temp Fence USA posts a revised version of these Terms on the Site. The "Last Modified" date above will tell you when these Terms were last revised. By continuing to use this Site after that date, you agree to the changes. It is your responsibility to check this page periodically for changes in the Terms. Any new features or tools which are added to the Site shall also be subject to the then current Terms.

1. General Definitions

- a. **"Agreement"** refers, collectively, to all Terms and all other operating rules, policies, including Temp Fence USA's Privacy Policy, and procedures that we may publish from time to time on the Site, including, but not limited to, payments and refunds.
- b. **"Content"** refers to content featured or displayed through the Site, including without limitation text, data, articles, images, photographs, graphics, software, applications, designs, features, and other materials that are available on the Site or otherwise available through the Service.
- c. **"Us," "we," "our," "Installer," and "Specialist"** refers to Temp Fence USA, as well as our affiliates, directors, subsidiaries, contractors, licensors, officers, agents, and employees.
- d. **"User," "customer," "client(s)," "you," and "your"** refers to the individual person, company, or organization that has visited or is using the Site or Services; that accesses or uses any part of the account; or that directs the use of the account in the performance of its functions.

2. Agreement for Use

You warrant that you possess the legal authority to enter into this Agreement and to use this Site and Temp Fence USA's Services in accordance with all Terms herein. You must be at least 18 years or older to use and purchase Temp Fence USA's Services. You agree to be financially responsible for all of your use of this Site as well as for use of your account by others, including without limitation minors. You agree to supervise all usage by minors of this Site under your name or account. You also warrant that all information supplied by you or members of your household in using this Site is true and accurate. You agree that the Services offered by Temp Fence USA through the Site shall be used only to make legitimate purchases for you or for another person or entity for whom you are legally authorized to act.

You agree to abide by these Terms for the Services purchased, including, but not limited to, payment of all amounts when due and compliance with all rules and restrictions regarding availability of Services. You shall be completely responsible for all charges, fees, duties, taxes, and assessments arising out of the use of this Site and the Services.

3. Wireless Use

Functionality is not guaranteed with all types of mobile devices in using this Site. You should contact your service provider directly for technical assistance or any questions. Please note that security features vary by carrier/service provider and mobile device. Additional minutes/charges may apply and may be charged by your mobile carrier/service provider.

4. Purchase and Scope of Work of Temp Fence USA's Temporary Fencing Services

- a. **Scope of Temp Fence USA's Services.** Temp Fence USA offers the temporary rental of fences for construction sites, residential sites, outdoor storage, and emergency situations. Temp Fence USA delivers and installs the fences and picks up the fences at the end of the rental term.
- b. **Contract for Services.** The customer has the following options to place orders and purchase our Services:
 - (1) submit the free quote request on our Site at tempfenceusa.com/contact;
 - (2) request a Services estimate or place a Services order by calling us at 866-611-8771;
or
 - (3) request a Services estimate or place a Services order by emailing us at estimate@tempfenceusa.com.

Fence Temp USA will provide a Project Estimate and Proposal in response to the customer's request. The customer can then accept the Project Estimate and Proposal. The Project Estimate and Proposal expires 14 calendar days after being submitted to the customer unless other terms have been stated and agreed upon by all parties included. If the Project Estimate and Proposal expires, Temp Fence USA may modify the Project Proposal and Estimate and resubmit it to the customer. The customer's acceptance of Temp Fence USA's Project Estimate and Proposal constitutes the customer's agreement to be bound by these Terms, which establishes a

contractual relationship between the customer and Temp Fence USA. If you do not agree to these Terms, you may not access, make use of, and/or order and accept Temp Fence USA's Services.

- c. Limitations and Restrictions of Service.** Temp Fence USA reserves the right to refuse service to anyone for any reason at any time. Temp Fence USA reserves the right to refuse any order you place with Temp Fence USA through this Site. Temp Fence USA may, in its sole discretion, limit or cancel Services purchased per person, per household, per business, per customer or per order. Temp Fence USA reserves the right, but is not obligated, to limit the sales of its Services to any person, geographic region or jurisdiction. Temp Fence USA may exercise this right on a case-by-case basis. Temp Fence USA reserves the right to limit the quantities of any Services it offers. In the event that Temp Fence USA makes a change to or cancels an order, Temp Fence USA may attempt to notify you by contacting the e-mail and/or billing address/phone number provided at the time the order was made.
- d. Prices and Product Availability.** All descriptions of Services and Services pricing are subject to change at any time without notice, at the sole discretion of Temp Fence. Temp Fence USA reserves the right to modify or discontinue any Services at any time without notice. Temp Fence USA shall not be liable to you or to any third-party for any modification, price change, suspension or discontinuance of Services. Any offer for any Services made on this Site is void where prohibited.
- e. Payment and Currency Disclaimer.** All transfers conducted through Temp Fence USA are handled and transacted via cash, check, or credit card. Please read the terms & conditions for PayPal as they are responsible for any transactions made and are liable for any loss or damage you may suffer as a result of using their payment gateway. All payment amounts are represented in USD. All currency conversions and their calculations through payment are made via PayPal.
- f. Payment for Services.** Client agrees to pay Temp Fence USA the fees listed in the Project Estimate and Proposal, including all taxes. Pricing in the Project Estimate and Proposal includes only Temp Fence USA's fees for the scope of work requested by customer. Any other costs, such as additional materials, additional requests, labor done outside the scope of the Project Estimate and Proposal, will be billed to customer separately during the project. Customer agrees to pay for the Services at the rates and at the times indicated in the Project Estimate and Proposal. All payments are final. If the customer chooses a payment plan, the customer's credit card will automatically be charged on the dates set forth in the accepted Project Estimate and Proposal. The initial payment is due before any labor, set-up, material purchasing, project preparations, and installation. If the customer chooses a payment plan, customer hereby authorizes Temp Fence USA's continued access to customer's financial information stored by Temp Fence USA's third-party financial processing company until customer's payment plan is complete. Customer's failure to pay any amount by its due date shall be in breach of this agreement and Temp Fence USA shall have the following rights:

 - (1) to terminate this agreement and discontinue providing Services and retrieve any materials used within the scope of the project;
 - (2) to charge \$500 per day upon any outstanding sum left unpaid for up to 30 calendar days from the due date. After 30 days of outstanding payment, Temp Fence USA

reserves the right to send you to collections, upon which you will owe the total amount of any outstanding payments plus any collection costs including reasonable attorney's fees.

For any purchased materials or workbook sales, all purchases are final. Temp Fence USA accepts payment via cash, check, PayPal, Net terms, or credit card. All returned checks will be charged a \$25.00 service fee.

- g. Changes to Project Scope of Work.** If customer wants to change the scope of work after acceptance of the Project Estimate and Proposal, customer shall send Temp Fence USA a written change order describing the requested changes in detail. Within five (5) business days of receiving a change order, Temp Fence USA will respond with a statement proposing Temp Fence USA's availability, additional fees, changes to delivery/installation dates, and any modification to the terms and conditions. Temp Fence USA will evaluate each change order at its standard rate and charges. Temp Fence USA may extend or modify any delivery schedule or deadlines as may be required by such changes. Customer will have five (5) business days to respond in writing accepting or rejecting the new Project Estimate and Proposal. If customer rejects the new Project Estimate and Proposal, Temp Fence USA will not be obligated to perform any services beyond those in the original Project Estimate and Proposal.
- h. Delays.** Customer shall use all reasonable efforts to provide information, materials and approval(s) needed to complete a project. In the event of customer's failure to meet deadlines, Temp Fence USA has the right to terminate the project, at the discretion of Temp Fence USA, and keep all payments made until then. Temp Fence USA agrees to use reasonable and diligent efforts to complete the Services in a timely fashion, subject to adjustments or extensions of time for conditions or circumstances beyond the control of Temp Fence USA, including, but not limited to, delays in deliveries of materials, changes to the scope of the Services by customer, the failure by customer to timely provide instructions or information or any other cause beyond the control of Temp Fence USA. Customer expressly acknowledges and agrees that any estimate of an anticipated completion date is a good faith estimate only and shall not be considered a representation or guarantee of a completion date.
- i. Evaluation and Acceptance of Services by Customer.** Customer shall, within five (5) business days after receiving any deliverable, notify Temp Fence USA in writing of any failure to comply with the specification of the Project Estimate and Proposal, or of any other objections, corrections or changes required. Temp Fence USA shall, within five (5) business days of receiving customer's notification, and if customer's objections are warranted, correct deliverable to customer. Customer shall, within five (5) business days of receiving a revised deliverable, either approve the corrected project or make further changes. If customer fails to provide approval or comments during any approval period, those deliverables will be considered approved and accepted. All objections, corrections and changes shall be subject to the terms and conditions of this Agreement.
- j. Alterations.** Alteration of any deliverable by customer is prohibited without the express permission of Temp Fence USA. Temp Fence USA will be given the first opportunity to make the required alterations. Unauthorized alterations shall constitute additional use and will be billed accordingly. Temp Fence USA is not responsible for correcting any alterations of materials, installed materials, or any supplies owned or provided by Temp Fence USA made

by parties other than Temp Fence USA. Temp Fence USA is not liable for any injury or damages if alterations to a Project have been made by parties other than Temp Fence USA without the consent of Temp Fence USA.

- k. Rental Extension.** If the rental of any equipment owned by Temp Fence USA is extended beyond the pickup date agreed upon and stated in Project Estimate and Proposal, the customer will be charged at the monthly rate expressed in the Project Estimate and Proposal until the customer requests a new pick-up date, or, until all materials owned by Temp Fence USA are removed from the project location by a Temp Fence USA representative. If a customer pays the full rental fee upfront and requests an extension of the rental term, Temp Fence USA is authorized to charge customer a monthly rental fee at the then current standard monthly rental rate determined by Temp Fence USA until the customer requests a new pick-up date, or, until all materials owned by Temp Fence USA are removed from the project location by a Temp Fence USA representative.
- l. Accreditation and Promotion.** Temp Fence USA retains the right to reproduce, publish and display the deliverables in Temp Fence USA's portfolios, case studies, websites, analytics, graphic media, promotional galleries, blogs, design periodicals, marketing materials, other client websites or media, and all other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the deliverables in connection with such uses.
- m. Rights to Preliminary Works.** Temp Fence USA retains all rights in and to all preliminary works. If requested, customer shall return all preliminary works to Temp Fence USA within ten (10) business days of completion of the Services. All of Temp Fence USA's tools are and shall remain the exclusive property of Temp Fence USA unless otherwise explicitly and in writing specified and agreed upon in the Project Estimate and Proposal prior to the completion of the project installment.
- n. Independent Contractor.** Temp Fence USA is an independent contractor. Temp Fence USA shall determine, in its sole discretion, the manner and means by which the Services are accomplished. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this agreement. Temp Fence USA and the work product or deliverables prepared by Temp Fence USA shall not be deemed a work for hire as defined under copyright law. All rights granted to customer are contractual in nature and are expressly defined by this agreement.
- o. Term and Termination.** This agreement shall begin when the customer accepts the Project Estimate and Proposal. The agreement shall continue until all Services are completed and delivered, or until the agreement is terminated. Either Temp Fence USA or the customer may terminate this agreement at any time, on written notice to the other party, under the following conditions:

 - (1) If a party breaches any of its material responsibilities and obligations under this agreement;
 - (2) If a party ceases to conduct business in its normal course;
 - (3) If a party makes an assignment for the benefit of creditors;
 - (4) If a party is liquidated or otherwise dissolved;
 - (5) If a party becomes insolvent;

(6) If a party files a petition in bankruptcy and a receiver, trustee, or custodian is appointed for it; and

(7) If a party commits any acts that is in violation of federal, state, or local laws.

In the event of termination, the customer shall pay Temp Fence USA for the Services performed through the date of termination in the amount of a prorated portion of the fees due. Customer shall pay all other expenses, fees, and additional costs incurred through the date of termination. If this agreement is terminated by the customer, Temp Fence USA is not responsible for the return of any payments made by the customer up to the time of termination. In the event of termination, the customer shall return all preliminary works and all of Temp Fence USA's tools to Temp Fence USA. Further, the customer will no longer have license to use any preliminary works and Temp Fence USA's tools, materials, or deliverables.

p. Early Rental Termination. If the customer requests pickup of any materials owned by Temp Fence USA prior to the pickup date stated in the Project Estimate and Proposal, the customer will be required to fulfill 80% of the full rental period price stated in the Project Estimate and Proposal. No early termination fees will apply if 80% of the rental period has been fulfilled and paid for.

q. Refund Policy. All payments are final. Temp Fence USA does not offer any refunds.

r. Customer Information. Customer agrees to provide current, complete and accurate purchase and contact information for all purchases and orders made through the Site. Customer understands that the information (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.

5. Notices

All notices under this agreement shall be given in writing either by email with return confirmation of receipt or by certified or registered mail with return receipt requested. Notice will be effective when received. The notices will be sent to the contact information reflected in the customer's executed Temp Fence USA Project Estimate and Proposal.

6. Image Display

Temp Fence USA has made every effort to display as accurately as possible the colors and images of its products and Services on the Site. Temp Fence USA cannot guarantee that your computer monitor's display of any color will be accurate.

7. Prohibited Conduct

You may not interfere with the content or functioning of this Site. You are expressly restricted and prohibited from all of the following:

- (a) Copy, display, modify, reproduce, or otherwise transfer any of the Site materials to any third party
- (b) Interfere or disrupt networks connected to the Site

- (c) Use or attempt to use any device, software or routine which interferes with the proper functioning of the Site or any transactions being offered through the Site
- (d) Reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Site, documentation or data related to the Services
- (e) Transmit files, data or other materials containing a computer virus, corrupted data, worms, "Trojan horses" or other instructions or design that would erase data or programming or cause the Site or any equipment or system to become inoperable or incapable of being used in the full manner for which it was designed
- (f) Deliver any communication to or through the Site which violates any local, state, federal or international law
- (g) Deliver any communication to or through the Site that contains defamatory, libelous, abusive or obscene material
- (h) Deliver any communication to or through the Site that will infringe upon the rights of any third party;
- (i) Publishing any Site material in any media;
- (j) Selling, sublicensing, and/or otherwise commercializing any Site material;
- (k) Publicly performing and/or showing any Site material;
- (l) Using this Site in any way that is, or may be, damaging to this Site;
- (m) Using this Site in any way that impacts user access to this Site;
- (n) Using this Site contrary to applicable laws and regulations, or in any way that causes, or may cause, harm to the Site, or to any person or business entity;
- (o) Engaging in any data mining, data harvesting, data extracting or any other similar activity in relation to this Site, or while using this Site;
- (p) Using this Site to engage in any advertising or marketing.

Temp Fence USA may restrict access by you to any areas of this Site, at any time, in our sole and absolute discretion.

8. User Comments, Feedback and Other Submissions

If, at our request, you send certain specific submissions or without a request from us send creative ideas, suggestions, proposals, plans, or other materials, whether online, by email, by postal mail, or otherwise (collectively, "Comments"), you agree that Temp Fence USA may, at any time, without restriction, edit, copy, publish, distribute, translate and otherwise use in any medium any Comments that you forward to us. Temp Fence USA is and shall be under no obligation (1) to maintain any Comments in confidence; (2) to pay compensation for any Comments; or (3) to respond to any Comments.

You agree that your Comments will not violate any right of any third-party, including copyright, trademark, privacy, personality or other personal or proprietary right. You further agree that your Comments will not contain libelous or otherwise unlawful, abusive or obscene material, or contain any computer virus or other malware that could in any way affect the operation of the Site. You may not use a false e-mail address, pretend to be someone other than yourself, or

otherwise mislead Temp Fence USA or third-parties as to the origin of any Comments. You are solely responsible and liable for any Comments you make and their accuracy.

9. Ownership of Materials and Intellectual Property Rights

This Site and the materials contained therein may reference trademarks, patents, trade secrets, technologies, products, processes or other proprietary rights and intellectual property of Temp Fence USA and/or other parties. No license or right to or in any such trademarks, patents, trade secrets, technologies, products, processes and other proprietary rights of Temp Fence USA and/or other parties is granted to or conferred upon you. You are granted a limited, non-transferable, revocable license only, subject to the restrictions in these Terms, for purposes of viewing the materials contained on this Site for your personal use only.

All contents of this Site are protected by United States and international copyright laws. No materials on this Site may be reproduced, distributed, posted, displayed, uploaded, or transmitted except as expressly permitted herein. You may not use the materials on this Site for anything other than informational purposes. The use of any materials from the Site on any other internet, intranet, web or other site or computer environment is prohibited. You may not utilize framing techniques to frame any Temp Fence USA trademarks, logos, or other proprietary information (including images and text). You may not use any meta tags or any other "hidden text" utilizing Temp Fence USA's name, trademarks or other proprietary information. Trademarks owned by Temp Fence USA may not be used or displayed publicly without the prior written permission of the owner of the marks. Any rights not expressly granted herein are reserved.

10. Copyright Policy

If you are a copyright owner and you believe your work has been copied in a way that constitutes copyright infringement, please contact us and provide the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right of copyright that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity, and information reasonably sufficient to permit us to locate the material;
- Information reasonably sufficient to permit us to contact the complaining party (for example, the complaining party's physical address, email address, and telephone number);
- A statement that the complaining party has a good faith belief that use of the material is unauthorized; and
- A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Notifications of claimed infringement should be sent to Copyright Officer at justin@tempfenceusa.com.

11. Disclaimers and No Warranties

- a. Warranties Disclaimer.** This Site is provided “as is,” and Temp Fence USA makes no express or implied representations or warranties of any kind related to this Site or the materials contained on this Site. While Temp Fence USA tries to maintain current information, Temp Fence USA does not guarantee the currency, accuracy or completeness of the information. Temp Fence USA denies responsibility or liability for damages which may result from your access to or use of information on this Site. While some links on this Site may lead you to other sites, Temp Fence USA does not endorse those sites or approve their content. Temp Fence USA does not have control over those sites, is not responsible for their content, and does not verify or warrant the information on them. Temp Fence USA provides such links solely as a convenience to you and for informational purposes only. If you go to such third-party sites, you assume any risk of doing so and you will be subject to the terms, conditions of use and privacy policies of the third-party sites. Other websites may include links to this Site. The inclusion of such links does not indicate the other website’s endorsement, support or approval of the content, advertising, products, services, policies or other materials on or available from this Site. Temp Fence USA does not guarantee, represent or warrant that your use of our Services will be uninterrupted, timely, secure or error-free. You agree that from time to time Temp Fence USA may remove its Services for indefinite periods of time or cancel the Services at any time, without notice to you. You expressly agree that your use of, or inability to use, the Site is at your sole risk. The Services and all products and services delivered to you through the Site are (except as expressly stated by us) provided as is and as available for your use, without any representation, warranties or conditions of any kind, either express or implied, including all implied warranties or conditions of merchantability, merchantable quality, fitness for a particular purpose, durability, title, and non-infringement.
- b. Errors, Inaccuracies and Omissions.** Occasionally there may be information on this Site that contains typographical errors, inaccuracies or omissions that may relate to product descriptions, pricing, promotions, offers, product shipping charges, transit times and availability. Temp Fence USA reserves the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information on the Site is inaccurate at any time without prior notice (including after you have submitted your order). Temp Fence USA undertakes no obligation to update, amend or clarify information on the Site, including without limitation, pricing information, except as required by law.
- c. Technology Disclaimer.** We try to ensure that the availability and delivery of our Site is uninterrupted and error-free. However, we cannot guarantee that your access will not be suspended or restricted from time to time, including to allow for repairs, maintenance or updates, although, of course, we will try to limit the frequency and duration of suspension or restriction. To the fullest extent permitted by law, we will not be liable to you for damages or refunds, or for any other recourse, should our Site become unavailable or access to it becomes slow or incomplete due to any

reason, such as system back-up procedures, internet traffic volume, upgrades, overload of requests to the servers, general network failures or delays, or any other cause which may from time to time make our Site inaccessible to you.

- d. **Earnings Disclaimer.** You agree that you understand that individual outcomes will vary. Case studies or testimonials are not indicative of typical results. Each individual approaches our Services with different backgrounds, disposable income levels, motivation and other factors that are outside of our control. Therefore, we cannot guarantee your success merely upon access or purchase of our Services or related materials.

12. Liability and Limitations

- a. **Customer's Liability.** If Temp Fence USA's fencing material and equipment is damaged and/or destroyed during the rental period regardless of whether the damage is due to customers' fault or negligence, the customer is responsible for the replacement of the material and equipment along with any fees required to replace the equipment and costs incurred by Temp Fence USA associated with the replacement of the damaged or destroyed materials and equipment.
- b. **Liability Disclaimer.** Temp Fence USA is not responsible or liable in any way for any damage or injury caused by the fencing products and equipment to any third party or the customer during the rental term. Temp Fence USA is not liable for any third party conduct, accidents, delays, harm or injury resulting from providing its Services to customer.
- c. **Liability Limitation.** IN NO EVENT SHALL TEMP FENCE USA, NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, INTERNS, SUPPLIERS, SERVICE PROVIDERS OR LICENSORS BE LIABLE TO YOU FOR ANYTHING ARISING OUT OF OR IN ANY WAY CONNECTED WITH YOUR USE OF THIS SITE, INCLUDING YOUR SERVICE PURCHASES AND ORDERS MADE THROUGH THIS SITE AND THE USE OF SUCH SERVICES, WHETHER SUCH LIABILITY IS UNDER CONTRACT, TORT OR OTHERWISE, AND TEMP FENCE USA, INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, INTERNS, SUPPLIERS, SERVICE PROVIDERS AND LICENSORS, SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR DATA, LOST REVENUE, LOST SAVINGS, REPLACEMENT COSTS, OR ANY OTHER DAMAGES IN THE AGGREGATE EXCEEDING THE AMOUNT OF TEMP FENCE USA'S NET PROFITS FROM PROVIDING SERVICES TO CUSTOMER ARISING OUT OF OR IN ANY WAY RELATED TO YOUR USE OF THIS SITE AND THE SERVICES. 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, Temp Fence USA's liability shall be limited to the maximum extent permitted by law.

13. Indemnification

You agree to indemnify Temp Fence USA to the fullest extent from and against any and all liabilities, costs, demands, causes of action, damages and expenses (including reasonable attorneys' fees and costs) arising out of or in any way related to your use of this Site or your breach of any of the provisions of these Terms.

Customer further agrees to indemnify, defend, and hold harmless Temp Fence USA and its directors, officers, employees, agents, partners, and affiliates from any and all damages, liabilities, costs, losses, expenses or attorney fees arising out of any claim, demand, or action by a third party due to materials included in deliverables at the request of the customer. This indemnification shall be applicable without regard to the negligence of any party, including any indemnified person.

14. Arbitration and Class Action Waiver

If a dispute arises from or relates to these Terms, you agree to first contact Temp Fence USA to attempt to resolve the issue. If the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures before resorting to arbitration. The parties further agree that, except with respect to any claim or dispute involving the ownership, validity or use of any of our trademarks or service marks, any unresolved dispute arising out of or related to these Terms or to the products and services sold or distributed through this Site, will be submitted for arbitration to the AAA. Temp Fence USA shall have the right in a proper case to obtain temporary restraining orders, temporary or preliminary injunctive relief and/or declaratory relief (other than declarations with respect to the amount of money damages) from a court of competent jurisdiction.

The arbitration proceedings shall be heard by one independent arbitrator who shall be an attorney or retired judge. The arbitration shall be held in Colorado Springs, Colorado and in accordance with the then-existing Commercial Arbitration Rules of the AAA. All matters within the scope of the Federal Arbitration Act (9 U.S.C. 1, et seq.) will be governed by it and not by any state arbitration law. You and Temp Fence USA waive any rights to maintain other available resolution processes for such disputes, such as a court action or administrative proceeding. You and Temp Fence USA waive any right to a jury trial for such disputes.

In reaching a decision, the arbitrator shall follow these Terms, shall be bound to apply the applicable law and shall not rule inconsistently with the applicable law. The arbitration shall be conducted on an individual basis, and not as a consolidated, common, representative, group or class. The arbitrator shall include in the arbitration award any relief the arbitrator deems proper in terms of money damages (with interest on unpaid amounts from the date due at the maximum rate allowed by law), and attorneys' fees and costs. The award of the arbitrator shall be conclusive and binding upon all parties hereto and judgment upon the award may be entered in any court of competent jurisdiction.

Other than as may be required by law, the entire arbitration proceedings (including, but not limited to, any rulings, decisions or orders of the arbitrator), shall remain confidential and not be disclosed to anyone other than the parties to this Agreement.

Any and all claims and actions arising out of or relating to these Terms shall be commenced within one (1) year from the occurrence of the facts giving rise to such claim or action, or such claim or action shall be barred.

You agree that you will not file a class action against Temp Fence USA, or participate in a class action against Temp Fence USA. You agree that you will not file or seek a class arbitration, or participate in a class arbitration, against Temp Fence USA.

15. Severability

If any provision of these Terms is found to be unenforceable or invalid under any applicable law, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and such provisions shall be deleted without affecting the remaining provisions herein.

16. Revision of Terms

Temp Fence USA expressly reserves the right to revise these Terms at any time as it sees fit and, by using this Site, you are expected to review such Terms on a regular basis to ensure you understand all terms and conditions governing the use of this Site.

17. Assignment

Temp Fence USA is permitted to assign, transfer, and subcontract its rights and/or obligations under these Terms without notification or consent required. You, however, are not permitted to assign, transfer, or subcontract any of your rights and/or obligations under these Terms.

18. Entire Agreement and No Waiver

These Terms, including any legal notices and disclaimers contained on this Site as well as our Privacy Policy, constitute the entire agreement between Temp Fence USA and you in relation to your use of this Site and the Services, and supersede all prior agreements and understandings with respect to the same.

The failure of Temp Fence USA to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

19. Governing Law and Jurisdiction

These Terms will be governed by, construed and enforced in accordance with the laws of the State of Colorado without regard to its conflicts of law rules. The exclusive jurisdiction for any

dispute not covered by the terms of the Arbitration provision set forth in these Terms may be filed only in the state or federal courts located in the State of Colorado, County of El Paso.

20. Contact Information

Questions about these Terms should be sent to us at Justin@tempfenceusa.com.