

## **Website Terms of Service.**

**1. Acceptance.** Use of the Financial Engines World Wide Web ("WWW") site and the services available from the Financial Engines WWW site (the "Service") are subject to the following Terms of Service and User License ("TOS"). Please read the TOS carefully before using the Service, as your use of the Service will signify your assent to be bound by these terms.

**2. Access and Registration.** In order to use the Service, you need the equipment necessary to connect to the World Wide Web, and the connection necessary to access the WWW. You are responsible for any fees associated with such connection or access (such as those charged by an Internet Service Provider (ISP) or other online service). You will also need an appropriate computer, related equipment, and software (your "Computer") to use the Software. You are responsible for installing, maintaining, and operating your Computer. Financial Engines is not responsible for any problems associated with your use of the software on your computer which are caused by your Computer, including any virus or related problems associated with your use of the Service on your Computer. You agree you will: (a) provide accurate and complete information when prompted to do so by any registration form, and (b) maintain and update such information so it remains accurate and complete.

**3. Security** You are responsible for all activity occurring through use of your account and/or password. You agree to immediately notify Financial Engines of any actual or suspected unauthorized use of your account. Financial Engines will not be responsible for any loss to you arising from your failure to comply with the above.

**4. User Conduct.** You may only use the Service and any data contained in the Service for your own personal and non-commercial purposes. You agree that you will not use the Service to: submit, post, upload, or otherwise transmit any content through the Service ("User Content") that is defamatory, libelous, abusive, tortuous, harassing, vulgar, obscene, or otherwise indecent; submit, post, upload or otherwise transmit any User Content that infringes or otherwise violates the rights of any third party, including without limitation privacy rights and proprietary rights; submit, post, upload or otherwise transmit User Content that contains viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer; advertise or offer to sell any goods or services for any commercial purpose; conduct, display, or forward surveys, contests, pyramid schemes, "spam" or chain letters; impersonate, or otherwise misrepresent your affiliation with, any other person or entity; falsify or delete any attributions, legends, or other proprietary designations of the origin or source of software or other content appearing on the Service or contained in a file that is uploaded; collect or store personal data about other members; or violate any applicable local, state, federal, or international law or regulation.

**5. Copyright; Restrictions on Use.** Certain content on the Service ("Service Content"), including data, news or information ("Third Party Data") provided by third parties ("Data Providers") and the technology underlying the Service ("Software") are protected by copyrights, trademarks, service marks, patents, or other intellectual property and proprietary rights and laws. Financial Engines and its licensors own all right, title and interest in and to the Service Content and the Software and the Data Providers retain their ownership rights in the Third Party Data. You acknowledge that the Service, the Software, and any underlying technology used in connection with the Service contain proprietary information of Financial Engines. You may not copy, duplicate, reproduce (except as stated below), publish, distribute, create derivative works of, modify, adapt, translate, rent, sublicense, assign, loan, sell, transfer, network, display to third parties other than family members or your advisers, not competing with Financial Engines, transmit, compile or collect in a database, or in any manner commercially exploit any part of the Software, the Service Content or the Service. You may not give copies of the Software to anyone. You may not decompile, reverse engineer, disassemble, or otherwise reduce the Software to human perceivable form. You must abide by all copyright notices, information, or restrictions contained in or attached to any Service Content or portion of the Service. Neither the TOS nor any other agreement pertaining to your use of the Service limits any of our or our affiliates' rights under trade secret, copyright, patent or other laws. Financial Engines reserves the right, without prior notice and at its sole discretion, to remove any User Content that is in violation of the TOS. You are licensing to Financial Engines and its service providers any information, data, passwords, materials or other content (collectively, "Your Content") you provide through or to the Service. Financial Engines and its service providers may use, modify, display, distribute and create new material using Your Content to provide the Service to you. By submitting Your Content, you automatically agree, or promise that the owner of Your Content has expressly agreed that, without any particular time limit, and without the payment of any fees, Financial Engines and its service providers may use Your Content for the purposes set out above.

**6. Trademarks.** Third party trademarks, service marks, logos, and trade names appearing on the Service are the property of their respective owners.

**7. E-mail Address.** We may contact you by e-mail if you or your employer has provided your e-mail address. You agree that you will accept all electronic communications from us at your e-mail address and will not make any claims against us if you do not receive any communications we send to your e-mail address. You agree to notify us promptly if your e-mail address changes.

**8. Changes to Service or TOS.** Financial Engines may modify, suspend or discontinue any portion or service of the Service at any time, with or without notice. Financial Engines reserves the right to modify the TOS at any time. You agree to review the TOS periodically so that you are aware of any modifications. Your continued use of or registration with the Service shall be deemed your acceptance of the modified TOS.

**9. Failure to Comply with TOS.** You acknowledge and agree that Financial Engines may suspend or terminate your account and/or deny you access to, use of, or submission of Service Content for all or part of the Service, without prior notice, if you engage in any conduct that Financial Engines believes, in its sole discretion: (a) violates any term or provision of the TOS, (b) violates the rights of Financial Engines or third parties, or (c) is otherwise inappropriate for continued access and use of the Service. You agree that upon termination, we may, but we are not required to, delete all information related to your account and may bar your access to your account and the Service.

**10. Links.** The Service may contain links to WWW sites operated by third parties. Financial Engines is not responsible for the content of these WWW sites or for your transactions with them. Inclusion of links to such WWW sites does not imply any endorsement of the material on such WWW sites by Financial Engines.

**11. Termination.** You may discontinue your participation in and access to the Service at any time. The TOS will continue to apply to all past use of the Service by you, even if you are no longer using it.

**12. Disclaimer.** THE SERVICE MAY CONTAIN OPINIONS, STATEMENTS, RECOMMENDATIONS, AND INFORMATION FROM THIRD PARTY INDIVIDUALS AND ORGANIZATIONS. FINANCIAL ENGINES DOES NOT ENDORSE OR MAKE ANY REPRESENTATIONS AS TO THE ACCURACY, TIMELINESS, COMPLETENESS OR CREDIBILITY OF ANY SUCH OPINION, STATEMENT, RECOMMENDATION OR OTHER THIRD PARTY CONTENT CONTAINED IN, UPLOADED TO, OR DISTRIBUTED THROUGH THE SERVICE. YOU ACKNOWLEDGE THAT YOU WILL RELY ON ANY SUCH OPINIONS, STATEMENTS, RECOMMENDATIONS, INFORMATION, AND SERVICE CONTENT SOLELY AT YOUR OWN RISK. THE SERVICE, THE SOFTWARE AND THIRD PARTY DATA ARE PROVIDED TO YOU "AS IS" AND "AS AVAILABLE" WITH NO WARRANTY. NEITHER FINANCIAL ENGINES NOR ANY DATA PROVIDER OR SERVICE PROVIDER PROVIDES ANY WARRANTIES AS TO THE ACCURACY, ADEQUACY, QUALITY OR FITNESS, TIMELINESS, NON-INFRINGEMENT OR TITLE OF ANY THIRD PARTY INFORMATION OR INFORMATION PROVIDED BY YOU FOR A PARTICULAR PURPOSE OR USE, AND ALL SUCH WARRANTIES ARE EXPRESSLY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FINANCIAL ENGINES AND ITS SUPPLIERS, DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICE AND THE SERVICE CONTENT, THE SOFTWARE, AND ALL INFORMATION DERIVED FROM THEM, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, NON-INFRINGEMENT, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. IN ADDITION, ALTHOUGH FINANCIAL ENGINES INTENDS TO TAKE REASONABLE STEPS TO PREVENT THE INTRODUCTION OF VIRUSES OR OTHER DESTRUCTIVE MATERIALS TO THE SERVICE, FINANCIAL ENGINES DOES NOT WARRANT THAT THE SOFTWARE, THE SERVICE OR CONTENT CONTAINED IN THEM WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY INFORMATION OR OTHER MATERIAL ACCESSIBLE THROUGH THE SERVICE IS FREE OF ERRORS, VIRUSES, WORMS, TROJAN HORSES, OR OTHER HARMFUL COMPONENTS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. IN THAT CASE, ANY IMPLIED WARRANTIES WILL END NINETY (90) DAYS AFTER YOU FIRST USE THE SOFTWARE. HOWEVER, SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. YOU MAY HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

**13. Limitation of Liability.** YOU UNDERSTAND THAT IN NO EVENT WILL FINANCIAL ENGINES OR ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR LICENSORS OR ANY DATA PROVIDER OR SERVICE PROVIDER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, LOSS OF BUSINESS REVENUE OR LOST PROFITS, WHETHER IN AN ACTION UNDER CONTRACT, NEGLIGENCE OR ANY OTHER THEORY, ARISING OUT OF: (I) YOUR USE

OF OR INABILITY TO USE THE SERVICE, (II) YOUR RELIANCE ON ANY CONTENT, OR (III) ANY GOODS OR SERVICES ADVERTISED ON THE SERVICE; EVEN IF FINANCIAL ENGINES OR ANY RELATED PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER FINANCIAL ENGINES NOR ANY DATA PROVIDER OR SERVICE PROVIDER SHALL BE LIABLE TO YOU FOR ANY LOSS OR DAMAGE, DIRECT, INDIRECT OR CONSEQUENTIAL, ARISING FROM (i) ANY INACCURACY OR INCOMPLETENESS IN, OR DELAYS, INTERRUPTIONS, ERRORS OR OMISSIONS IN THE DELIVERY OF THE THIRD PARTY DATA OR ANY OTHER INFORMATION SUPPLIED TO YOU THROUGH THE SERVICE OR ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, (ii) ANY DECISION MADE OR ACTION TAKEN BY YOU OR ANY THIRD PARTY IN RELIANCE UPON THE THIRD PARTY DATA, OR (iii) THE USE, INABILITY TO USE, UNAUTHORIZED USE, PERFORMANCE OR NON-PERFORMANCE OF ANY THIRD PARTY ACCOUNT PROVIDER SITE, EVEN IF THE PROVIDER HAS BEEN ADVISED PREVIOUSLY OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

**14. Indemnification.** You agree to indemnify, defend and hold harmless Financial Engines and its affiliates, officers, directors, employees, consultants, agents and licensors from any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorneys' fees) arising from your failure to comply with the TOS, your infringement or violation of any intellectual property or other right of a third party, your User Content, or from your violation of any applicable law.

**15. Applicable Law.** The TOS is entered into in Sunnyvale, California and governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of laws provisions. Federal law governs copyright, patent, and trademark matters. You agree that the proper forum for claims under the TOS will be the courts of the State of California for the County of Santa Clara or the U.S. District Court for the Northern District of California, and you agree to submit to the jurisdiction of these courts. The prevailing party in any action will be entitled to recover reasonable expenses, including attorneys' fees.

**16. Data Aggregation Service.** The Service may include a service that links your outside financial accounts to your plan account (the "Aggregation Service"). If you choose to use the Aggregation Service, the following additional terms apply to you, and by using the Aggregation Service, you agree with these terms. You agree to provide true, accurate, current and complete information about yourself and your accounts maintained at other web sites ("Account Data") and you agree to not misrepresent your identity or your Account Data. You agree to keep your Account Data up to date and accurate. By using the Aggregation Service, you authorize Financial Engines and its service providers to access third party sites designated by you, on your behalf, to retrieve information requested by you. For all purposes hereof, you hereby grant Financial Engines and its service providers a limited power of attorney, and you hereby appoint Financial Engines and its service providers as your true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for you and in your name, place and stead, in any and all capacities, to access third party sites, retrieve information, and use your information, all as described above, with the full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with such activities, as fully to all intents and purposes as you might or could do in person. YOU ACKNOWLEDGE AND AGREE THAT WHEN FINANCIAL ENGINES OR ITS SERVICE PROVIDERS ACCESS AND RETRIEVE INFORMATION FROM THIRD PARTY SITES, FINANCIAL ENGINES AND ITS SERVICE PROVIDERS ARE ACTING AS YOUR AGENT, AND NOT THE AGENT OR ON BEHALF OF THE THIRD PARTY. You agree that third party account providers shall be entitled to rely on the foregoing authorization, agency and power of attorney granted by you. You understand and agree that the Aggregation Service is not endorsed or sponsored by any third party account providers accessible through the Aggregation Service. FINANCIAL ENGINES AND ITS SERVICE PROVIDERS MAKE NO WARRANTY THAT (i) THE AGGREGATION SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE AGGREGATION SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE AGGREGATION SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY INFORMATION OR OTHER MATERIAL OBTAINED BY YOU THROUGH THE AGGREGATION SERVICE WILL MEET YOUR EXPECTATIONS, OR (v) ANY ERRORS IN THE TECHNOLOGY WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE AGGREGATION SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. TO THE EXTENT THAT ANY PART OF THIS SECTION IS NOT CONSISTENT WITH ANY OTHER PART OF THE TOS, THEN THIS SECTION WILL CONTROL.