

## INTERNET ADVERTISING TERMS AND CONDITIONS

**1. Definitions.** "[www.apartments.com](http://www.apartments.com) and/or [www.apartmentfinder.com](http://www.apartmentfinder.com) (and any natural evolution thereof) and any mobile, private-labeled, co-branded or other versions of the site, and any other web sites (regardless of URL), applications, or services owned or operated by or on behalf of Sellers. "**Advertisements**" means any form of advertising provided by CoStar Realty Information, Inc. ("CoStar"), the authorized reseller of Apartments, LLC's ("Apartments") and Network Communications, Inc.'s ("NCI", together with CoStar and Apartments, the "Sellers", each a "Seller") services in the United States, on behalf of Customer, including banner ads and listings of Customer's apartments and/or rental properties that are displayed by Seller and/or Sellers' partners. "**Content**" means all content and materials provided or made accessible by Customer to Sellers, including web sites (accessed either at the direction of the relevant property owner or, if this Agreement is entered into by a management company, at the direction of such management company), links, banner ads, videos, data, text, branding, photos and images. "**Laws**" means all federal, state and local laws, rules, and regulations, including all fair housing laws, the Federal Do-Not Call rules, and the Federal CAN-SPAM rules. "**Materials**" means all content, materials and services provided or made accessible by Sellers to Customer, including web sites, videos, photos, software, technology, and other intellectual property, registered or not. "**Product(s)**" means the services selected by Customer as set forth in the attached Order Form and as otherwise identified in any additional Order Form subject to this Agreement, as such services may be updated and improved from time to time. "**Sites**" means the web site located at User Data" means any personally identifiable information and financial information related to a user (including first name, last name, address, phone number, email address, social security number, and financial information) that is received by Customer through its use of a Product.

**2. Fees.** Sellers' performance is conditioned upon credit approval of Customer. Customer authorizes Sellers to obtain a credit report to determine creditworthiness. Unless payment is made by credit card or ACH, Customer agrees to pay all fees specified in the Order Form (the "Fees") within 30 days of date of invoice, all of which are priced in U.S. dollars and shall be paid in U.S. dollars. If payment is made by credit card or ACH, Customer expressly authorizes Sellers to automatically charge the applicable charge or debit the applicable account on a monthly basis during the term of this Agreement (unless otherwise agreed by the parties) and agrees that any fee increase made in accordance with this Section 2 may also be charged/debited in the same manner, and Customer shall be responsible for any third party fees. All payments received after the due date will incur a late payment charge from such due date until paid at a rate equal to the lesser of 1.5% per month or the maximum rate permitted under applicable law. Customer agrees to pay all of Sellers' costs, including attorneys' fees, court costs or other costs, incurred in collecting overdue amounts. The Fees do not include sales, use, excise or any other taxes or fees now or hereafter imposed by any governmental authority with respect to the Advertisement. In addition to anything set forth herein, CoStar may: (a) on each anniversary of the last day of the calendar month in which the Start Date occurred, increase the Fees by a percentage equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the previous twelve months; and (b) at any time during a Renewal Term increase the Fees or charge other fees for any portion of the Product or service provided by Sellers, provided, that if Customer does not agree to the increase or charge implemented solely under this Section 2(b), then Customer may give written notice of termination within sixty (60) days of Sellers' notice of such increase or charge, in which case Customer shall continue to pay the Fees in place before the proposed increase or charge until the last day of the calendar month in which Customer's notice of termination is delivered, and this Agreement shall terminate with respect to such portion of the Product on such date.

**3. Term and Termination.** The term for each Product shall begin on the date of signature by CoStar, shall continue through the date the Product is uploaded and available for viewing on the Site and shall continue for the initial term specified on the Order Form (the "Initial Term"). The term of the Agreement shall continue for successive periods equal to the Initial Term (each such successive period being a "Renewal Term") commencing on the last day of the Initial Term or the Renewal Term, unless at least 60 days prior to the last day of the Initial Term or the Renewal Term, either party has provided the other written notice of an intent not to renew. Customer acknowledges that it is responsible for payment of the Fees for the entire Renewal Term unless the Agreement is cancelled in accordance with the notice provisions of this Section. Sellers reserve the right, in their reasonable discretion, to reject or discontinue any Advertisements at any time. Sellers reserve the right to refuse to provide the Advertisements to anyone for competitive and/or other business reasons including non-payment, and Customer agrees to pay for all Advertisements rendered, prorated if partially completed. If Customer cancels any Product prior to the end of the Initial Term or any Renewal Term, then Customer shall pay a cancellation fee equal to the number of unpaid months remaining in the Initial Term or Renewal Term, multiplied by the monthly Fee for such Product. Either party may immediately terminate this Agreement in the event the other party commits a material breach of this Agreement and such breach is not cured by the breaching party within 30 days of its receipt of notice of such breach from the non-breaching party. **To be effective, terminations under this Section must be emailed to [cancel@apartments.com](mailto:cancel@apartments.com) for Apartments.com and [cancel@apartmentfinder.com](mailto:cancel@apartmentfinder.com) for Apartment Finder.** Sellers and Customer may agree to revoke any termination, in which case, this Agreement will remain in effect.

**4. Content.** Customer grants Sellers a perpetual, irrevocable, royalty-free, transferable, license to access, edit, store, enhance, modify, adapt, translate, copy, reproduce, distribute, transmit, broadcast, publish, perform and display publicly, prepare derivative works of, and otherwise use Content, and to sublicense such rights through multiple tiers. Sellers may use Content and any data

aggregated with and/or derived from the Content for any purpose. Sellers reserve the right to modify the Sites and Products, and to remove or reject any Content or portion thereof from use on the Sites or Products, in their sole discretion without notice. Customer understands and acknowledges that it is responsible for obtaining all permissions necessary to allow any Content it submits to Sellers to be used in accordance with this Agreement.

**5. Materials, Products and User Data.** Customer acknowledges that Sellers and their licensors have and shall retain exclusive ownership of all proprietary rights to all Materials. Customer may use the Materials solely as provided by Sellers and as necessary for Customer to use the Products for their intended purpose in accordance with this Agreement. Customer may display solely within its own marketing collateral or on its own web site photographs from the Materials that depict properties that Customer owns or manages, provided, that under no circumstances shall any photographs from the Materials be posted on any website that may compete with Sellers' business of providing internet listing services featuring apartments or other properties for rent. Customer shall not be entitled to such use of any photographs from the Materials that depict properties that are not actively marketed or advertised using a paid CoStar or Seller product or service and Customer must delete or remove any such photographs used in Customer's marketing materials or website once the subject property ceases to be advertised using such products and services. Customer shall not use or permit the use of the Products in any unauthorized manner. The Sites, Materials and Products will remain the sole and exclusive property of Sellers and their licensors. Customer agrees to protect User Data in accordance with the Law and use User Data solely to fulfill user requests and to provide customer service to the user.

**6. Representations.** Each party represents and warrants to the other party that it has the right and full power and authority to enter into this Agreement and fully perform its obligations hereunder. Customer represents and warrants that: (a) it will comply with all applicable Laws, (b) it has all rights necessary to grant the rights herein with respect to the Content, (c) it will provide all necessary information for the Advertisement, (d) the Content is free of any viruses, Trojan horses, or other malware, and (e) the Content and any Customer website linked directly to Advertisements do not and will not contain any information or material that: (i) is false, deceptive, misleading, libelous, defamatory, outdated, inaccurate, obscene, or otherwise inappropriate, (ii) infringe or violate any right of a third party, including intellectual property rights, rights of privacy and publicity, and contractual rights, and/or (iii) violate any applicable Laws.

**7. Indemnification.** Each party will defend and indemnify the other party and its respective member(s), parent(s), subsidiaries, directors, officers, employees, agents, and vendors from and against any and all claims, demands, liabilities, costs and/or expenses, including reasonable attorney's fees, arising out of or related to any third party claims alleging breach of its respective representations and warranties hereunder.

**8. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6 ABOVE, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. SELLERS DO NOT REPRESENT OR WARRANT THAT PRODUCTS OR ADVERTISEMENTS WILL BE FREE OF ERRORS. IN NO EVENT SHALL SELLERS OR THEIR AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS OR VENDORS (THE "SELLER PARTIES") BE LIABLE FOR ANY LOSS, COST OR DAMAGE SUFFERED OR INCURRED BY THE CUSTOMER OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE ADVERTISEMENT OR ANY FAULT, INACCURACY, ERROR, OMISSION, INTERRUPTION OR DELAY IN THE ADVERTISEMENT, REGARDLESS OF HOW SUCH LOSS, COST OR DAMAGE ARISES. UNDER NO CIRCUMSTANCE WILL ANY OF THE SELLER PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS, EVEN IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF THE SELLER PARTIES EXCEED THE AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT IN THE 3 MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. SELLERS MAKE NO GUARANTEE WITH RESPECT TO THE SECURITY OR THE EFFECTIVENESS OF THE PRODUCTS.

**9. Confidentiality.** Customer agrees not to disclose to any party or use for any purpose any non-public business, technical, or other information relating to or provided by Sellers, including the terms of this Agreement and Sellers' trade secrets, marketing plans, business plans, product plans, pricing, financial information, software, and intellectual property, and further agrees not to disclose any User Data to third parties. Customer will not sell, lease, license, rent, transfer, or otherwise provide User Data to third parties (other than disclosing User Data to third parties as necessary for such parties to provide the services to users referenced in Section 5 on Customer's behalf), or use User Data in any other manner, including spam emails or texts, junk mail, or direct marketing.

**10. Call Recording.** If Customer has requested incoming call recording services ("Recording Services"), Customer hereby acknowledges and agrees that incoming calls to Customer's properties' toll-free and other telephone numbers provided by Sellers may be recorded and monitored by Sellers, and each of Customer's properties hereby consents to such recording or monitoring. Customer shall notify and obtain the express consent of each person answering or participating in such calls at its properties utilizing Recording Services. Customer agrees that it will utilize the Recording Services solely for lawful purposes in the ordinary course of

its business. Customer shall defend, indemnify, and hold Sellers and their respective members, officers, directors, employees, representatives, agents and contractors harmless from and against any and all claims, indemnification obligations, suits, damages, expenses, and liability (including reasonable attorneys' fees) arising from Customer's use of the Recording Services.

**11. General.** Each party shall be and act as an independent contractor. Customer shall not assign all or any part of this Agreement without CoStar's prior written consent. The parties' obligations hereunder are binding on their successors, legal representatives and assigns. Subject to the right to opt-out as provided by Law, Customer consents to receipt of marketing and promotional materials from Sellers via facsimile, email or otherwise. This Agreement (which includes all Order Forms subject to this Agreement) contains the entire agreement of the parties regarding the subject matter hereof and supersedes all prior agreements, amendments, representations, and understandings of the parties, whether written or oral, with respect to the subject matter hereof. The terms of this Agreement shall not otherwise be waived, altered, modified, amended or supplemented except by a written instrument signed by a duly authorized representative of each party. Handwritten changes to the Agreement made by Customer shall have no effect, even if the Agreement is accepted by CoStar for processing and services are subsequently delivered to Customer hereunder. Failure of either party to insist upon strict compliance with this Agreement shall not be considered a waiver of such terms and conditions or any other terms and conditions, which may be enforced at any later date. If any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable, that provision shall be eliminated and the remaining provisions shall remain in full force and effect. Except for payment obligations, neither party shall be liable to the other party for failure to perform by reason of a force majeure event or any other cause beyond such party's reasonable control. This Agreement is governed in all respects by the laws of the District of Columbia, without reference to its conflicts of laws principles. The parties hereby agree that all claims arising under or related to this Agreement shall be brought exclusively in a federal or state court in the District of Columbia and hereby irrevocably consent to the personal jurisdiction of such courts. Sections 2, 4, 5 (all but 2<sup>nd</sup> sentence), 6, 7, 8, 9, 10 and 11 shall survive any termination or expiration of this Agreement. As used herein, the term "including" means "including without limitation."

Last updated June 15, 2015