

## General Terms and Conditions

[Listing Policy & Guidelines](#) [Privacy Policy](#)

The submission of information to, and use of, the real estate information services (collectively, the "Service") available through the LoopNet web site (located at <http://www.LoopNet.com>) is subject to the following terms and conditions (the "Terms and Conditions" or the "Agreement"). BY SUBMITTING INFORMATION to, or accessing information from, the Service, YOU, the end user customer ("Customer") AGREE TO THE FOLLOWING TERMS AND CONDITIONS. These Terms and Conditions are a legal agreement between you and LoopNet, Inc. ("LoopNet" or the "Company"). You also agree to the LoopNet Listing Policy & Guidelines (the "Listing Policies") and Privacy Policy, both of which are available by hyperlink at the top of this page.

If you do not agree to these Terms and Conditions and to the Listing Policies and Privacy Policy, do not submit information to, or access information from, the Service. All questions concerning this Agreement should be directed to: Chief Financial Officer, LoopNet, Inc., 181 W. Huntington Dr., Suite 208, Monrovia, CA 91016. LoopNet may update these terms and conditions at any time and without notice. The latest version of the terms and conditions is available on the LoopNet website.

### GENERAL PROVISIONS

#### Membership Privileges

Membership privileges are granted by LoopNet to individuals exclusively and are granted specifically to the subscribing registered member only. No employee, independent contractor, agent, or affiliate of a competing real estate information service is permitted to access any of the Password Protected Areas of the LoopNet web site without express written permission from LoopNet. Membership rights cannot be assigned, sublicensed, distributed, shared, viewed, accessed, or otherwise transferred to anyone other than the registered member without the express written permission of LoopNet. LoopNet requires that each registered user maintain a valid email address and a password, which shall be utilized for logging on to the LoopNet system. Members are not permitted to share their individual logon information with others. LoopNet has the right to refuse service to any member, individual, organization, or firm (and all members associated or affiliated with said organization or firm) that refuses to abide by the terms and conditions herein, refuses to abide by the Listing Policies as

posted and displayed on the LoopNet website, or abuses their rights related to the LoopNet service. Upon registration, which is free, Customer becomes a Basic Member. A Basic Member may search the LoopNet property listings Service, and will receive a subset of results of the available properties matching the Customer's designated search parameters. In order to view all the available results for a given search, the Customer must upgrade to a Premium Subscription. A Basic Member may also list properties on the Service, but such Customer's listings will only be able to be fully accessed and viewed in the search results of Premium Subscribers.

LoopNet utilizes email as a vital and primary communication channel with customers. As a registered user, Customers hereby acknowledge and grant LoopNet the permission to communicate with customers via email (as well as other communication channel such as phone and fax) for any purposes LoopNet determines to be relevant including, but not limited to, system messages, product updates, service announcements and other marketing messages. LoopNet will use best efforts to honor Customer's request to opt out of marketing messages, but under no circumstances will LoopNet have any liability for sending any email to its registered users/customers. By becoming a member of LoopNet, Inc., you acknowledge and agree that LoopNet, Inc. may record telephone and other electronic communications it has with you for LoopNet, Inc.'s internal business purposes, including but not limited to training and quality assurance purposes.

### **Submission and Administration of Listings**

Listings that are not modified or renewed within a 75-day period are automatically changed to "Off Market" and are no longer viewable on LoopNet.com. Customer agrees not to submit any property descriptions, photographs, financial, contact or other information contained in each Property's data to LoopNet unless the Customer has received all necessary rights and authorizations, including from the photographer and/or copyright owner of any photographs, to publish and advertise the Property on the Customer's website or on LoopNet's website. Specifically, Customer will not submit a photograph if Customer received the photograph from a third party information provider under the terms of a license that does not allow posting of such photograph on the LoopNet website. The Company may, in its sole discretion but without any obligation to search for such, remove Properties that are alleged to have been submitted in violation of this provision. In addition, the Company may require additional evidence of compliance with this provision from Customers who are alleged to have submitted Properties or other information in violation of this

Agreement. The Company will, in its sole discretion, terminate the accounts of, and refuse service to, any Customer who repeatedly or knowingly violates this Agreement. Customer agrees to maintain accurate contact information (specifically, a valid phone number and email address) in order to submit and maintain active property listings on the LoopNet website. Additionally, the Customer agrees to allow submitted Property listing(s), or any part therein, to be searched, displayed, accessed, downloaded, copied, and otherwise referred to by users of the Customer's website, the LoopNet website and other LoopNet partner websites. The Company shall have the sole authority to choose the manner in which any Property will be searched, displayed, accessed, downloaded, copied, and otherwise used on the LoopNet website and Company shall have the right to modify the property listing in the exercise of its rights under this Agreement. The Customer (a) represents and warrants that all Properties and associated information provided by the Customer will be accurate; (b) agrees that the Customer will not permit the posting of a property on the LoopNet system under a name other than the named licensed real estate agents that have been engaged by the property owner to market the property under the terms of a duly executed listing agreement with the owner; (c) agrees to administer the Properties provided by the Customer and maintain their accuracy at all times.

The Company reserves, in a manner consistent with reasonable commercial business practices, the right to remove all or any part of the Properties posted on the Customer's website or on the LoopNet website. The Company accepts no responsibility for checking the accuracy of reports or data files submitted by the Customer. While the Company shall take all reasonable efforts for data backup and business resumption, the Customer will be solely responsible for retaining back-up copies of all information, photographs and other materials it provides to LoopNet. LoopNet may add digital watermarks to certain parts of your property listing, including photographs. We add these digital watermarks to protect against the copying or further distribution of your photographs without your permission.

### **Use of Information**

Customer agrees to treat all information obtained from the Service, including listings, member directory, historical transaction information ("RecentSales"), and any information otherwise made available to Customer in the Service (individually and collectively, the "Content") as proprietary to LoopNet. Customer agrees that Content reserved for members will be maintained as confidential and shall be protected as a trade secret of LoopNet. LoopNet does not ensure the accuracy of, endorse or recommend any Content and Customer uses such Content

at the Customer's own risk. Customer may access the active property listings in the Service and/or the RecentSales information solely to obtain initial information from which further evaluation and investigation may commence.

LoopNet Investment Market Reports and other similar information, reports and services (individually and collectively "LoopNet Market Reports"), the Service, and any and all Content offered by LoopNet to Customer ARE PROVIDED SOLELY FOR GENERAL INFORMATION, AND DO NOT CONSTITUTE REAL ESTATE, LEGAL, TAX, ACCOUNTING, OR OTHER PROFESSIONAL ADVICE. BEFORE ACTING ON ANY INFORMATION PROVIDED BY LOOPNET, CUSTOMER SHOULD CONSULT AN APPROPRIATE PROFESSIONAL.

Customer shall limit access to and use of active property listings, member directory, LoopNet Market Reports, and RecentSales information to personal and internal use, and shall not use any information obtained from the Service for further distribution, publication, public display, or preparation of derivative works or facilitate any of these activities in any way. Customer shall not use or reproduce any Content that is obtained from the Service, or that is otherwise made available to Customer in the Service, for or in connection with any other listing service or device. Customer further shall not use the Service in any other manner for or in connection with any other listing service or device. Customer shall not use the LoopNet Service as part of any effort to compete with LoopNet, including without limitation using the LoopNet Service to provide, alone or in combination with any other product or service, any database services to any third party or any use that causes a reduction or loss from an existing or potential LoopNet customer, nor shall Customer remove, erase, or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the LoopNet Service. Customer shall not use any robot, spider or other automated process to monitor, data mine or copy LoopNet products, services or information; decompile, decode or reverse engineer LoopNet software; or use LoopNet products or services in an unlawful manner, such as for offensive, abusive, tortious, libelous, defamatory or other illegal purposes. Customers violating these specific terms, specifically those customers searching the Service in an abusive or excessive manner, by automated or manual means, shall be subject to immediate termination of their membership and will be assessed an excessive use fee of \$500.

**Passwords/Logins** Members, registered users and Customers are required to maintain the confidentiality of all logins and passwords. You are responsible for the activities that occur under your account, login or password. LoopNet is not responsible for any loss or damage arising from your failure to maintain the confidentiality of your account, logon information or password and/or failure to comply with the terms and conditions set forth in the Membership Privileges, Use of Information or Ownership and License Grant sections of this agreement that relate to confidentiality of account, logon or password information.

### **Nature of Customer's Business**

If Customer or an Affiliate of Customer owns properties and intends to market them directly via the Service, ProspectList (formerly PropertyPush) or LoopLink, such Customer represents to LoopNet that it either (a) markets, using its own facilities, more than 2/3 of those properties which it owns and controls, or (b) markets properties for third parties where such third party brokerage services account for more than twenty percent (20%) of the total revenues of the entity.

### **Payment Terms**

Customer agrees to pay for all products ordered through the LoopNet web site or via the LoopNet sales team using the payment method indicated, and provides LoopNet express authorization to charge said fees to the Customer's payment provider at time of purchase or renewal. Fees owed depend on the specific type and quantity of LoopNet products, services, information, or deliverables (collectively "Deliverables") ordered. Payment of fees shall not be contingent on any events other than the delivery of the ordered Deliverables. Any attorney fees, court costs, or other costs incurred in collection of delinquent undisputed amounts shall be the responsibility of and paid for by Customer. If payment is not current, LoopNet may immediately cease to provide any and all Deliverables to the customer. The fees paid for monthly subscriptions are non-refundable, regardless of whether the subscription is terminated prior to the end of the then-current monthly billing period. Prepaid fees will be refunded based on the number of months remaining on the contract period, beginning with the month following receipt of written cancellation, but may be subject to adjustment according to current monthly product pricing and subject to adjustment for any incentives or discounts provided for said prepayment. A customer choosing to cancel a prepaid subscription prior to the end of its prepaid term may also be subject to a \$15 processing fee. No partial month refunds will be provided.

Subscriptions will automatically renew using the Customer's current credit card account number unless Customer cancels their subscription on the LoopNet Web site at <http://www.LoopNet.com/ProductCancellations> three (3) days prior to the renewal date to cancel such subscription. All cancellation requests will be processed within five (5) business days. Once the cancellation is processed, a confirmation email will be sent via the customer's email account on record with LoopNet. If Customer has a question about a cancellation, Customer should contact LoopNet Client Services at [Help@LoopNet.com](mailto:Help@LoopNet.com) or at 888-567-7442. The Company reserves the right to change its fees or billing methods at any time. The Company will provide timely notice to the affected Customers of any such changes.

It is the Customer's responsibility to promptly provide the Company with any contact or billing information changes or updates (including phone number, email address, credit card numbers, etc.). Account updates should be made online via the "My Account" tab within the "My LoopNet" section, once Customer has logged into [www.LoopNet.com](http://www.LoopNet.com). LoopNet does not validate all credit card information required by the Customer's payment provider to secure payment.

The Customer must notify LoopNet about any billing problems or discrepancies within 90 days after charges first appear on their Account statement. If it is not brought to LoopNet's attention within 90 days, Customer agrees to waive their right to dispute such problems or discrepancies.

### **Premium Subscriptions**

LoopNet offers two distinct paid subscription membership products to its active commercial property listing service: (i) a paid subscription product for those Customers who primarily utilize the Service to actively list and market commercial properties available for sale and/or for lease ("Premium Membership for Professionals" or "Premium Professional Membership"), and (ii) a paid subscription product for those Customers who primarily utilize the Service to actively search for commercial properties available for sale and/or for lease ("Premium Membership for Searchers" or "Premium Search Membership") (Premium Membership for Professionals and Premium Membership for Searchers collectively, "Premium Subscriptions"). A Customer who purchases either a Premium Professional Membership or a Premium Search Membership is a "Premium User." Premium Subscription privileges are granted by LoopNet to individuals exclusively and are

granted specifically to the subscribing Premium User only. Premium Subscription rights can not be assigned, sublicensed, distributed, shared, viewed, accessed, or otherwise transferred to anyone other than the subscribing Premium User without the express written permission of LoopNet. Premium Subscription privileges are subject to change from time to time and may be subject to property listing, property searching, and member directory searching limitations. Under Premium Professional Membership, one (1), four (4) and ten (10)

Premium Listing Plans are available for purchase online; higher Premium Listing Plans are available for purchase by calling (888) 567-7442 or emailing [MemberServices@LoopNet.com](mailto:MemberServices@LoopNet.com). Any listing on which the Primary Contact is a Premium Professional Member and is within Plan will receive Premium exposure; listings above Plan will receive exposure as Basic listings. Two-week Premium Professional Membership trials will receive a four (4) Premium Listing Plan.

Customer acknowledges that LoopNet (in addition to its other remedies) can cancel and prohibit Premium Subscription privileges to any individual, organization, or group that does not abide by the terms and conditions set forth herein and/or can refuse any or all membership privileges. LoopNet also has the right to refuse service to any customer or company that has delinquent charges that remain unpaid and to impose additional charges to reactivate Premium Subscription or other membership privileges. Premium Membership subscriptions continue to renew at the prevailing level regardless of Customer's listing or searching activity on LoopNet.com. Premium Subscriptions will automatically renew to the credit card number provided for initial payment unless the Customer cancels their subscription on the LoopNet Web site at <http://www.LoopNet.com/ProductCancellations> three (3) days prior to the renewal date to cancel such subscription. The Company reserves the right to change its fees, payment frequency, or billing methods at any time. The Company will provide timely notice of any such changes.

After adding a listing at the Basic exposure level, the Customer will have the option to change current membership level to a Premium Professional Membership with a Premium Listing Plan which will provide Premium exposure for the listing. For all Plan changes submitted online, the Customer will be charged a prorated change plan fee for the remaining days in current billing cycle, and Customer's subscription rate will be adjusted commencing with the next bill date. If Customer was above Plan, Service will upgrade the most recently created Basic Listings to Premium until Customer is within Plan. Prepaid fees on such Premium Search Memberships when converted to a Premium Professional Membership will be allocated based on the

number of months remaining on the contract period, beginning with the month following receipt of the Premium User's request to change from Premium Search Membership to Premium Professional Membership, but may be subject to adjustment according to current monthly product pricing and subject to adjustment for any incentives or discounts provided for said prepayment. No partial month refunds will be provided. Premium Users may change current membership level to a lower Premium Listing Plan or to a Premium Search Membership by clicking to "Change Plan or Cancel Membership" under "My Account". Service will downgrade the earliest created Premium Listing to a Basic Listing until Customer is within Plan or there are no additional listings to downgrade. Prepaid fees will be refunded based on the number of months remaining on the contract period, beginning with the month following receipt of online request submission to change membership level, but may be subject to adjustment according to current monthly product pricing and subject to adjustment for any incentives or discounts provided for said prepayment. No partial month refunds will be provided.

Premium Users have the right to purchase certain other LoopNet products or services on the LoopNet website at a price of ten percent (10%) less than the then-prevailing list price for these products or services ("Premium Discount Price"). In order to be eligible for the Premium Discount Price, your Premium Subscription must be current and active, in good standing, and not have any outstanding delinquent charges. LoopNet products and services offered on the LoopNet website available for the Premium Discount Price include: RecentSales subscriptions; Professional Profile. The Premium Discount Price does not apply to any other LoopNet products or services. Customers who purchase two-week Premium Professional Membership trials and Single 24-Hour Premium Searching are not eligible for the Premium Discount Price on additional purchases. Premium Users who have existing subscriptions for RecentSales (in accordance with the provisions detailed in the RecentSales Subscriptions section immediately below) may contact [MemberServices@LoopNet.com](mailto:MemberServices@LoopNet.com) to receive the Premium Discount Price on their subscriptions, commencing with the next billing cycle; however, no refunds, adjustments, and/or credits will be given for past monies paid on such RecentSales subscriptions.

### **RecentSales Subscriptions**

RecentSales subscription privileges are granted by LoopNet to individuals exclusively and are granted specifically to the subscribing individual only. RecentSales subscription rights can not be assigned, sublicensed, distributed, shared, viewed, accessed, or otherwise



transferred to anyone other than the subscribing individual without the express written permission of LoopNet. RecentSales subscription privileges are subject to change from time to time and are subject to record retrieval limitations of no more than 100 RecentSales detailed information records per month (the "Monthly Cap"). On the attempt to view the 101st RecentSales detailed information record in a given month, LoopNet will inform such subscriber with an online informational message indicating: (i) that such subscriber has reached the Monthly Cap; (ii) that LoopNet may, at its sole discretion, grant such subscriber an additional twenty-five (25) RecentSales detailed information records free of charge for that month; and (iii) should such subscriber exceed the 125 RecentSales detailed information record threshold for that month, such subscriber will be assessed the per-record price as indicated in the online information message beginning with the retrieval of the 126th RecentSales detailed information record in that month. Customer acknowledges that LoopNet (in addition to its other remedies) can cancel and prohibit RecentSales subscription privileges to any individual, organization, or group that does not abide by the terms and conditions set forth herein and/or can refuse any or all RecentSales subscription privileges. LoopNet also has the right to refuse service to any customer or company that has delinquent charges that remain unpaid and to impose additional charges to reactivate RecentSales subscription privileges. RecentSales subscriptions will automatically renew at the prevailing monthly subscription cost and the credit card number provided for initial payment will be charged accordingly unless the Customer contacts LoopNet Client Services three (3) days prior to the renewal date to cancel such subscription. Customer may cancel their LoopNet product membership by visiting <http://www.LoopNet.com/ProductCancellations>. Upon cancellation of a RecentSales subscription, Customer will not retain the right to view any previously retrieved RecentSales detailed information records stored in Customer's RecentSales account folder, and such records will not be reinserted in Customer's folder should such Customer cancel his/her RecentSales subscription and subsequently re-subscribe at a later date. The Company reserves the right to change its fees, payment frequency, or billing methods at any time. The Company will provide timely notice of any such changes.

### **Single Term Purchases**

Customer acknowledges that fees paid for each and every single term purchase item including two-week Premium Professional Membership trials, 24-Hour Premium Searching, Individual RecentSales detailed information records purchased without a RecentSales subscription,

Single Premium Listings, Showcase Property purchases, and Investment Market Reports are specific to that purchase item, are non-refundable, and may not be applied to another single term purchase item or subscription purchase. The Premium Professional benefits for individually purchased Single Premium Listings will expire 90 days from the date of purchase. After 90 days, the listing will remain on the LoopNet web site, but it will revert to a Basic Listing.

### **Unsolicited Commercial Email (Spam)**

LoopNet prohibits the use of our system or its tools to generate or send unsolicited commercial email (spam). Customers may not use the Email The Broker, Email a Friend service or other email services that LoopNet offers to send spam (i.e. unsolicited commercial email) or otherwise send content that would violate these Terms and Conditions.

LoopNet has the right to revoke the privileges of any customer or company that breaches these terms.

### **Termination**

LoopNet reserves the right to terminate a Customer's membership at any time without prior notice with or without cause. Cause for termination includes, but is not limited to, breaches or violations of the Terms and Conditions, requests by law enforcement, fraudulent or illegal activity by you, discontinuance or material modification of LoopNet services, nonpayment of fees owed by you in connection with LoopNet services, account inactivity or technical or security issues. Upon termination, LoopNet shall have no obligation to maintain or forward any content in your account.

### **Ownership and License Grant**

LoopNet retains all rights (including Intellectual Property Rights as defined below), title and interest in the LoopNet Web site, ProspectList (formerly PropertyPush) technology and brochures, Email Alert (formerly PropertyAlert, formerly LoopLeads) database, LoopLink technology, SiteBuilder (formerly CuttingEdge) technology, and all underlying technology and data including any enhancements and improvements thereto as a result of providing the Deliverables hereunder. Customer will not and will not allow others to: reverse engineer, decompile, disassemble, merge, copy, use, disclose, sell or transfer the underlying source code or structure or sequence of LoopNet's technology or delete or alter author attributes or copyright notices. Customer shall use the LoopNet system solely for their own use and shall not allow others to use the LoopNet system under or through that Customer's login ID/email and password.

Intellectual Property Rights means all intellectual property rights (throughout the universe, in all media, now existing or created in the future, for all versions and elements, in all languages, and for the entire duration of such rights) arising under statutory or common law, contract, or otherwise, and whether or not perfected, including without limitation, (a) all rights associated with works of authorship including without limitation copyrights, moral rights, copyright applications, copyright registrations, synchronization rights; (b) rights associated with trademarks, service marks, trade names, logos, trade dress, and the applications for registration and registrations of trademarks and service marks; (c) rights relating to the protection of trade secrets and confidential information; (d) rights analogous to those set forth in this definition and any and all other proprietary rights relating to intangible property; and (e) divisions, continuations, renewals, reissues, and extensions of the foregoing (as and to the extent applicable) now existing, later filed, issued, or acquired.

#### **Limitation of Liability and Indemnification**

IN NO EVENT SHALL LOOPNET BE LIABLE FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, LOSS OF BUSINESS, INTERRUPTION OF BUSINESS, LOSS OF GOODWILL OR BUSINESS REPUTATION, OTHER INTANGIBLE LOSS, INACCURACIES, ERRORS OR OMISSIONS IN THE INFORMATION, PRODUCTS OR SERVICES PROVIDED, RELIANCE BY THE CUSTOMER ON THE COMPLETENESS OR ACCURACY OF INFORMATION, PRODUCTS OR SERVICES, LOSS OF USE OF DATA, LOSS OF DATA, COMPUTER VIRUSES, COMPUTER CORRUPTION, DELETION OR CORRUPTION OF CONTENT OR DATA MAINTAINED OR TRANSMITTED THROUGH THE USE OF LOOPNET'S SERVICES, OR CUSTOMER'S FAILURE TO KEEP CUSTOMER'S LOGIN AND/OR PASSWORD SECURE AND CONFIDENT) ARISING OUT OF THIS AGREEMENT. Customer's exclusive remedy, and LoopNet's entire liability under this Agreement shall be a refund to Customer of the fees paid to LoopNet hereunder, and in no event will LoopNet's liability for any reason exceed such fee. LoopNet (and its officers, directors, employees and agents) shall not be liable for any damages whatsoever arising from Customer's use of the Deliverables, and Customer shall indemnify LoopNet (and LoopNet's officers, directors, employees and agents), and hold each of them harmless from and against any and all costs, damages or losses by any of them (including, without limitation, reasonable attorneys' fees) as a result of a claim by any person other than Customer arising from Customer's use or application of the Services or the Deliverables. Some jurisdictions do not allow the

exclusion of liability for certain damages. As a result, some of the exclusions above may not apply to you.

### **Warranty Disclaimers**

THE LISTINGS, SERVICE, RECENTSALES INFORMATION, AND LOOPNET MARKET REPORTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LOOPNET MAKES NO PROMISES, REPRESENTATION OR WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE LISTINGS, SERVICE, RECENTSALES INFORMATION, OR LOOPNET MARKET REPORTS, INCLUDING THEIR ACCURACY, OPERATION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, OR THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, AND LOOPNET SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, QUIET ENJOYMENT, WORKMANLIKE EFFORT, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES RELATING TO ENCUMBERANCES OR LIENS, AND, UNDER THE LAW OF THE UNITED STATES, THE IMPLIED CONDITIONS OF SATISFACTORY QUALITY AND ACCEPTANCE AS WELL AS ANY LOCAL JURISDICTIONAL ANALOGUES TO THE ABOVE AND OTHER IMPLIED OR STATUTORY WARRANTIES. LOOPNET MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES THAT ACCESS TO LOOPNET'S SERVICES WILL BE UNINTERRUPTED OR SECURE. ANY MATERIAL DOWNLOADED FROM LOOPNET'S WEB SITE, INCLUDING LISTINGS, SERVICE, RECENTSALES INFORMATION AND LOOPNET MARKET REPORTS IS ACCESSED AT CUSTOMER'S OWN DISCRETION AND RISK, AND CUSTOMER WAIVES ALL CLAIMS AND CAUSES OF ACTION RELATING TO ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM, INTERNET ACCESS, DOWNLOAD OR DISPLAY DEVICE OR LOSS OR CORRUPTION OF DATA THAT RESULTS FROM SUCH DOWNLOADS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM LOOPNET OR ITS SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS AND CONDITIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. AS A RESULT, SOME OF THE EXCLUSIONS ABOVE MAY NOT APPLY TO YOU.

### **Maps and Directions Disclaimer**

The maps and directions information provided by LoopNet have been obtained from sources believed reliable, including Microsoft Virtual Earth. Microsoft Virtual Earth is supplied by Microsoft Corporation, and its use is subject to Microsoft's applicable Terms of Use. While LoopNet does not doubt the accuracy of the maps and/or directions, we have not verified the information and make no guarantees, warranties or representations about the maps and/or directions. It is your

responsibility to independently confirm the accuracy and completeness of any map and/or set of directions. Customer assumes all risk of use. Neither LoopNet nor its partners or suppliers assume any responsibility for loss, damage or delay caused by Customer's use of and/or reliance on Customer's use of LoopNet's information, products or services.

### **Links to Third Party Sites**

This web site may contain hyperlinks to other web sites operated by parties other than LoopNet, Inc. and its subsidiaries which are beyond LoopNet's control. Parties other than LoopNet may provide services or sell product lines on this site that take you outside of our service. This includes links from advertisers, sponsors, and content partners that may use LoopNet's logo(s) as part of a co-branding relationship. For example, if you click on a banner advertisement the click may take you off the LoopNet site. LoopNet does not control, is not responsible for examining or evaluating, and does not warrant the offerings of, any of these businesses or individuals or the content of their web sites. LoopNet does not assume any liability for the actions, product, and content of all of these and any other third parties. LoopNet makes no representations and cannot be held responsible for the accuracy, relevancy, copyright compliance, legality, or decency of material on such third party web sites. When you click on a link that leaves the LoopNet site, the site you will land on is not controlled by LoopNet and different terms of use and privacy statements may apply. LoopNet also does not assume, and expressly disclaims, all liability for any viruses, worms, Trojan horses, defects, or other malfunctions caused by, resulting from, existing within, or in connection with such third party sites and any links thereto.

### **Other Rights of LoopNet, Inc.**

Customer agrees that LoopNet shall have the right to use Listings and other information submitted to it for any purpose, including without limitation for publication of all or part of such Listing on the Internet for unrestricted use by LoopNet customers and partners. LoopNet shall have sole authority to choose the manner in which any Listing will be received, displayed and used by the Service, and reserves the right to remove all or any part of a Listing or refuse Services to anyone at any time in its sole discretion. LoopNet shall have no obligation to (i) resolve disputes among users of the Service; or (ii) monitor or verify the accuracy or proper use of the Listings. LoopNet reserves the right to modify or change any and all terms and conditions at any time. The most current copy of these terms and conditions will be posted and available for review on LoopNet's corporate web site, located at <http://www.loopnet.com>.

### **Copyright Complaints**

If you believe that your work has been copied onto LoopNet in a way that constitutes copyright infringement, please provide LoopNet's copyright agent the written information specified below. Please note that this procedure is exclusively for notifying LoopNet that your copyrighted material has been infringed.

- An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- A description of the copyrighted work that you claim has been infringed upon;
- A description of where the material that you claim is infringing is located on LoopNet, with identifying information for the listing, if applicable;
  - Your address, telephone number, and e-mail address;
- A statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Address for LoopNet's copyright agent:  
181 W. Huntington Drive, Suite 208  
Monrovia, CA 91016  
Attn: Maribeth Mann  
Phone: (800) 725-3872 ext. 5017  
Email: mmann@loopnet.com

We may forward any notice(s) of alleged infringement pursuant to this Section to the person(s) who provided the allegedly infringing content.

### **Governing Law**

This Agreement, and the Deliverables provided by LoopNet, shall be governed by the laws of the State of California, without reference to conflict of laws principles. The parties hereby consent to the exclusive jurisdiction and venue of the State and Federal courts of Los Angeles County, California for the adjudication of any disputes or claims arising out of and/or related to this Agreement. If any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be severed from the remainder of this Agreement, which shall remain in full force and

effect.

### **Assignment**

This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. The rights under this Agreement or any license granted hereunder may not be assigned, sublicensed or otherwise transferred by Customer without the prior written consent of LoopNet, which retains the right to withhold consent in its sole discretion.

### **Waiver and Severability**

The failure of LoopNet to exercise or enforce a legal right or remedy contained in the Terms and Conditions does not constitute a waiver of any such right or remedy. No waiver of any right, term or provision of the Terms and Conditions is deemed a waiver of any other right, term or provision. If a court of competent jurisdiction finds any provision of the Terms and Conditions to be invalid, Customer agrees that the remaining terms and provisions remain in full force and effect.

### **Notices**

All notices to Company must be in writing and must be sent registered mail, certified mail, or overnight mail with a return receipt requested to Chief Financial Officer at LoopNet.

### **Entire Agreement**

The terms and conditions of this Agreement constitute the entire agreement between the parties and supersede all previous agreements and understanding, whether oral or written, between the parties hereto with respect to the subject matter of this Agreement.

## **LOOPNET MARKET REPORTS PROVISIONS**

The following provisions of LoopNet's Terms and Conditions are specifically and only applicable to LoopNet Market Reports:

### **Delivery of LoopNet Market Reports**

LoopNet Market Reports shall be delivered in electronic form (PDF file) via e-mail. All purchase orders received by LoopNet prior to 11:00 am Pacific Standard Time will be fulfilled that day; all purchase orders received by LoopNet after 11:00 am will be fulfilled on the next business day. A business day is defined as any day when the New York Stock Exchange is open for trading. Purchase orders placed on Saturdays or Sundays will be fulfilled on the following Monday; Purchase orders placed on United States Federal Holidays will be

fulfilled on the next business day.

### **Use Restrictions of LoopNet Market Reports**

Customer may use and copy the LoopNet Market Reports only as expressly provided by this Agreement. All rights in the LoopNet Market Reports not explicitly granted under this Agreement are expressly reserved by and to LoopNet and Real Capital Analytics, Inc. ("RCA"). Customer may use the LoopNet Market Reports only in the ordinary course of its business operations for its own business purposes. Customer may copy the LoopNet Market Reports for its own personal use only and for project specific presentations or reports with a limited and controlled distribution, provided that the source of the LoopNet Market Reports is attributed to LoopNet and RCA, and provided that the attribution is in a form approved in writing by LoopNet prior to distribution. Except as expressly provided by this Agreement, Customer shall not, nor shall it permit any other person to, (a) make or retain any copy of the LoopNet Market Reports; (b) use the LoopNet Market Reports as part of any effort to compete with LoopNet or RCA, including without limitation, using the LoopNet Market Reports to provide, alone or in combination with any other product or service, any database services to any third party or any use that causes a reduction or loss of LoopNet or RCA sales from an existing or potential customer; (c) sell, market, license, sublicense, distribute, or otherwise grant to any person any right to use the LoopNet Market Reports; (d) add, display or create derivative works from the LoopNet Market Reports; or (e) remove, erase, or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the LoopNet Market Reports, or fail to preserve all copyright and other proprietary notices in any copy of the LoopNet Market Reports made by Customer. All rights in the LoopNet Market Reports not explicitly granted under this Agreement are expressly reserved by and to LoopNet and RCA.

LoopNet may deny access to all or part of the LoopNet Market Reports without prior notice if Customer violates any of the terms of this Agreement. LoopNet reserves the right to audit and monitor, whether physically or electronically, the number and frequency of requests for LoopNet Market Reports a Customer submits.

### **Proprietary Rights in, of, and to LoopNet Market Reports**

LoopNet Market Reports and all components of the LoopNet Market Reports, including without limitation, property, images, illustrations, designs, icons, graphs, charts, lists, photographs, and written and other materials contained in the LoopNet Market Reports ("LoopNet



Market Reports Proprietary Items") are provided on strictly limited use basis. All rights, including without limitation, Intellectual Property Rights, title, and interest in the LoopNet Market Reports lie exclusively with LoopNet or RCA. No title, Intellectual Property Rights or other ownership rights to the LoopNet Market Reports are transferred to Customer pursuant to this Agreement. Customer acknowledges that the restrictions in this Agreement are reasonable and necessary to protect LoopNet's and RCA's legitimate business interests.

### **LoopNet Market Reports Warranty Disclaimer**

LoopNet Market Reports have been compiled from sources believed to be reliable. Any reliance upon the LoopNet Market Reports is at Customer's risk, and LoopNet shall not be responsible to Customer or any third party for any liability arising from or related to the use of LoopNet Market Reports in any way.

ALL SERVICES AND LOOPNET MARKET REPORTS ARE PROVIDED AS IS AND WITH ALL FAULTS, AND NEITHER LOOPNET NOR RCA MAKES ANY REPRESENTATIONS OR WARRANTIES, AND LOOPNET AND RCA DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INTERFERENCE, NON-INFRINGEMENT, ACCURACY OF INFORMATIONAL CONTENT, OR ANY WARRANTY ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE REGARDING THE SERVICES OR DELIVERABLES OR ANY OTHER MATTER PERTAINING TO THIS AGREEMENT.

### **LoopNet Market Reports Indemnification, Limitation on Liability, and Third Party Beneficiaries**

#### *Selection and Use Indemnification*

Customer assumes the sole responsibility for the selection of the LoopNet Market Reports to achieve Customer's intended results, the use of the LoopNet Market Reports, and the results attained from such selection and use. Customer shall defend LoopNet, RCA, and affiliates, and the directors, officers, employees, independent contractors, and agents of LoopNet, RCA and their affiliates ("Indemnitees"), at Customer's sole cost and expense, against any and all demands, claims, actions, suits, or other proceedings ("Claims") against Indemnitees arising from or related to Customer's selection or use of LoopNet Market Reports whether or not such use is in accordance with this Agreement and shall indemnify and hold Indemnitees harmless from any and all judgments, losses, liabilities, damages, costs, and

expenses (including without limitation, reasonable attorney's fees and attorney's disbursements) arising out of or incurred in connection with such Claims. Customer's liability under this Selection and Use Indemnification shall be reduced to the extent that Customer is actually prejudiced by LoopNet or RCA's failure to give notice of a Claim to Customer promptly after LoopNet learns of such Claim. Customer shall have the right to control the defense and settlement of any Claims for which Customer is obligated to defend, but LoopNet and RCA shall each have the right to participate in such Claims at their own cost and expense.

#### *Limitation of Liability*

LoopNet's total liability for the sale of LoopNet Market Reports under this Agreement shall under no circumstances exceed the amount paid by Customer, if any, for accessing the LoopNet Market Reports in the calendar year in which the related claim accrued. Under no circumstances shall LoopNet be liable to Customer or any other person for lost revenues, lost profits, loss of business, or any indirect, incidental, special, punitive, or consequential damages of any nature, regardless of legal theory and whether or not foreseeable, even if the exclusive remedies provided by this Agreement fail of their essential purpose and even if LoopNet or Customer has been advised of the possibility or probability of such damages. The remedies specifically provided by this Agreement and the provisions of this Limitation of Liability for LoopNet Market Reports set forth Customer's exclusive remedies and allocate between LoopNet and Customer the risks under this Agreement, some of which may be unknown or undeterminable. Such limitations were a material inducement for LoopNet to enter into this Agreement, and LoopNet and Customer have relied upon such limitations in determining whether to enter into this Agreement. In addition, RCA shall have no liability under this Agreement or otherwise related to LoopNet Products or Services, including, without limitation, LoopNet Market Reports and LoopNet's website.

#### *Third Party Beneficiaries*

RCA is an intended third party beneficiary under the immediately preceding Indemnification and Limitation on Liability Sections of this Agreement and is entitled to all rights and benefits under and may enforce and obtain all remedies under law or in equity for breaches of these Sections. Except for RCA, Customer and LoopNet agree that this Agreement is not intended to confer and does not confer any rights or remedies upon any person other than the parties to this Agreement. Listings that are not modified or renewed within a 75-day period are automatically changed to "Off Market" and are no longer viewable on

LoopNet.com."

## **LOOPNET TENANT DATA PROVISIONS**

The following provisions of LoopNet's Terms and Conditions are specifically and only applicable to LoopNet tenant data:

### **Use Restrictions of LoopNet Tenant data**

Customer may use and copy the LoopNet tenant data only as expressly provided by this Agreement. All rights in LoopNet tenant data not explicitly granted under this Agreement are expressly reserved by and to LoopNet and Dun & Bradstreet. Customer may use LoopNet tenant data only in the ordinary course of its business operations for its own business purposes. Customer acknowledges that all information (the "Information") furnished to you by LoopNet tenant data and Dun & Bradstreet, Inc. is licensed for the exclusive use of End-Users. Regardless of the form or format in which the Information is furnished, none of the Information may be made available in whole or in part to any third party. You agree that the Information will not be reproduced, revealed or made available to anyone else, it being understood that the Information is licensed for your internal use only, except that you may make one copy solely for backup purposes. You agree that you will use the Information solely as one factor in your marketing or other business decisions and you agree not to use the Information to engage in unfair or deceptive practices. Customer may copy the LoopNet tenant data for its own personal use only and for project specific presentations or reports with a limited and controlled distribution, provided that the source of the LoopNet tenant data is attributed to LoopNet and Dun & Bradstreet, and provided that the attribution is in a form approved in writing by LoopNet prior to distribution. Except as expressly provided by this Agreement, Customer shall not, nor shall it permit any other person to, (a) use the LoopNet tenant data as part of any effort to compete with LoopNet or Dun & Bradstreet, including without limitation, using the LoopNet tenant data to provide, alone or in combination with any other product or service, any database services to any third party or any use that causes a reduction or loss of LoopNet or Dun & Bradstreet sales from an existing or potential customer; (c) sell, market, license, sublicense, distribute, or otherwise grant to any person any right to use the LoopNet tenant data; (d) add, display or create derivative works from the LoopNet tenant data; or (e) remove, erase, or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the LoopNet tenant data, or fail to preserve all copyright and other proprietary notices in any copy of the LoopNet

tenant data made by Customer. All rights in the LoopNet tenant data not explicitly granted under this Agreement are expressly reserved by and to LoopNet and Dun & Bradstreet.

Any information furnished through LoopNet tenant data may be used throughout the continuous Premium Membership subscription. Upon expiration or termination of your Premium Membership subscription, you shall immediately destroy all originals and copies of LoopNet tenant data, unless you are otherwise instructed by LoopNet or Dun & Bradstreet; and upon request, provide LoopNet or Dun & Bradstreet with certification thereof. You represent and warrant that your use of any Information shall in all cases comply with all applicable federal, state and local laws and regulations

LoopNet may deny access to all or part of the LoopNet tenant data without prior notice if Customer violates any of the terms of this Agreement. LoopNet reserves the right to audit and monitor, whether physically or electronically, the number and frequency of requests for LoopNet tenant data a Customer submits.

#### **Proprietary Rights in, of, and to LoopNet Tenant Data**

LoopNet tenant data and all components of LoopNet tenant data, including without limitation, tenant names, contact information, sales information, employee counts and other materials contained in the LoopNet tenant data are provided on strictly limited use basis. All rights, including without limitation, Intellectual Property Rights, title, and interest in the LoopNet tenant data lie exclusively with LoopNet or Dun & Bradstreet. No title, Intellectual Property Rights or other ownership rights to the LoopNet tenant data are transferred to Customer pursuant to this Agreement. Customer acknowledges that the restrictions in this Agreement are reasonable and necessary to protect LoopNet's and Dun & Bradstreet's legitimate business interests.

#### **LoopNet Tenant Data Warranty Disclaimer**

YOU ACKNOWLEDGE THAT LOOPNET AND DUN & BRADSTREET MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE ACCURACY, COMPLETENESS, TIMELINESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE INFORMATION OR OF THE MEDIA ON WHICH THE INFORMATION IS PROVIDED. YOU ALSO ACKNOWLEDGE THAT EVERY BUSINESS DECISION INVOLVES THE ASSUMPTION OF A RISK AND THAT LOOPNET AND DUN & BRADSTREET IN FURNISHING THE INFORMATION TO YOU, DO NOT

AND WILL NOT UNDERWRITE THAT RISK, IN ANY MANNER WHATSOEVER. YOU THEREFORE AGREE THAT LOOPNET AND DUN & BRADSTREET WILL NOT BE LIABLE TO YOU FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF OR CAUSED IN WHOLE OR IN PART BY LOOPNET AND DUN & BRADSTREET'S NEGLIGENT ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, INTERPRETING, REPORTING, COMMUNICATING OR DELIVERING THE INFORMATION.

**LoopNet Tenant Data Indemnification, Limitation on Liability, and Third Party Beneficiaries**

*Selection and Use Indemnification*

Customer assumes the sole responsibility for the selection of the LoopNet tenant data to achieve Customer's intended results, the use of the LoopNet tenant data, and the results attained from such selection and use. Customer shall defend LoopNet, Dun & Bradstreet, and affiliates, and the directors, officers, employees, independent contractors, and agents of LoopNet, Dun and Bradstreet and their affiliates ("Indemnitees"), at Customer's sole cost and expense, against any and all demands, claims, actions, suits, or other proceedings ("Claims") against Indemnitees arising from or related to Customer's selection or use of LoopNet tenant data whether or not such use is in accordance with this Agreement and shall indemnify and hold Indemnitees harmless from any and all judgments, losses, liabilities, damages, costs, and expenses (including without limitation, reasonable attorney's fees and attorney's disbursements) arising out of or incurred in connection with such Claims. Customer's liability under this Selection and Use Indemnification shall be reduced to the extent that Customer is actually prejudiced by LoopNet or Dun & Bradstreet's failure to give notice of a Claim to Customer promptly after LoopNet learns of such Claim. Customer shall have the right to control the defense and settlement of any Claims for which Customer is obligated to defend, but LoopNet and Dun & Bradstreet shall each have the right to participate in such Claims at their own cost and expense.

*Limitation of Liability*

LoopNet and Dun & Bradstreet's total liability of LoopNet tenant data under this Agreement shall under no circumstances exceed the amount paid by Customer, if any, for accessing the LoopNet tenant data in the calendar year in which the related claim accrued. Under no circumstances shall LoopNet nor Dun & Bradstreet be liable to

Customer or any other person for lost revenues, lost profits, loss of business, or any indirect, incidental, special, punitive, or consequential damages of any nature, regardless of legal theory and whether or not foreseeable, even if the exclusive remedies provided by this Agreement fail of their essential purpose and even if LoopNet, Dun & Bradstreet or Customer has been advised of the possibility or probability of such damages. The remedies specifically provided by this Agreement and the provisions of this Limitation of Liability for LoopNet tenant data set forth Customer's exclusive remedies and allocate between LoopNet and Customer the risks under this Agreement, some of which may be unknown or undeterminable. Such limitations were a material inducement for LoopNet to enter into this Agreement, and LoopNet and Customer have relied upon such limitations in determining whether to enter into this Agreement. In addition, Dun & Bradstreet shall have no liability under this Agreement or otherwise related to LoopNet Products or Services, including, without limitation, LoopNet tenant data and LoopNet's website.

*Third Party Beneficiaries*

Dun & Bradstreet is an intended third party beneficiary under the immediately preceding Indemnification and Limitation on Liability Sections of this Agreement and is entitled to all rights and benefits under and may enforce and obtain all remedies under law or in equity for breaches of these Sections. Except for Dun & Bradstreet, Customer and LoopNet agree that this Agreement is not intended to confer and does not confer any rights or remedies upon any person other than the parties to this Agreement.

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