

## **Highmark Residential, LLC Terms of Use**

Effective Date: February 1, 2021

These terms and conditions of use are a binding contract between Highmark Residential, LLC (collectively, with its agents, subsidiaries, parents, and affiliates, "Highmark Residential," "Property Management Company," "we," "us," or "our," and you, our website visitors and applicants ("you" or "your") who access our websites or our related applications that we may make available from time to time in our websites (collectively the "Site"), and further, applies to information, products and services provided by Highmark Residential in the U.S. ("Terms"). These terms and conditions govern your access to and use of this website, including any content, functionality and services offered on or through the website (the "Site"), whether as a visitor or a registered user. For avoidance of doubt, these Terms do not take precedence over any other formal agreements you make with Highmark Residential or Property Management Company in connection with leases, rents or other residential property matters.

CAREFULLY READ THESE TERMS BEFORE USING THE SITE, AS THEY AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS. THESE TERMS REQUIRE YOU TO GRANT US CERTAIN CONSENTS, RIGHTS AND LICENSES AND LIMIT OUR LIABILITY AND OBLIGATIONS TO YOU. BY USING THIS SITE, YOU REPRESENT THAT YOU ARE OF THE AGE OF MAJORITY, A LEGALLY EMANCIPATED MINOR, OR HAVE PARENTAL CONSENT TO ENTER INTO AND BE BOUND BY THESE TERMS. THESE TERMS ALSO SET FORTH ARBITRATION AS A DISPUTE RESOLUTION MECHANISM WHICH WILL AFFECT SPECIFIC RIGHTS AND OBLIGATIONS INCLUDING WAIVER OF CLASS CLAIMS.

These Terms are supported by good and valuable consideration that includes, without limitation, your use of the Site and the materials and information available there. In addition to these Terms, we have established a Privacy Policy to explain how user information is collected and used by Highmark Residential. A copy of this Privacy Policy can be found at: [\[INSERT LINK\]](#). By accessing or using the Site, you are also signifying your acknowledgement and agreement to Highmark Residential's Privacy Policy.

We reserve the right to modify these Terms from time to time, and we will make you aware of material changes to these Terms by visibly posting them on the Site. All changes are effective immediately when we post them and apply to all access to and use of the Site thereafter. Your continued use of the Site following the posting of revised Terms means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you. Therefore, it is your responsibility to review them when conducting business herein. Your continued use of any part of the Site after such modification shall be deemed your consent to such modifications. The Site is hosted and maintained by Highmark Residential is the legal entity that owns or manages the properties displayed on the Site.

### **1. Intellectual Property.**

a. Trademarks.

The trademarks, trade names, trade dress, logos, and service marks (collectively, the "Trademarks") displayed on this Site are the registered and/or unregistered Trademarks of Highmark Residential, or such other third party that may own the displayed Trademarks. Nothing contained on this Site or in the Terms serves to grant to you, by implication or otherwise, any license or right to use any Trademarks displayed on this Site without the written permission of Highmark Residential or such other third party that may own the displayed Trademarks.

b. Site Contents and Copyright.

The text, Trademarks, logos, images, graphics, photos, video files, Site look and feel, application functionality, or any other digital media, and their arrangement on this Site ("Content") are all subject to patent, copyright, trademark and other intellectual property protection. Content may not be copied for commercial use or redistribution, nor may Content be modified, processed, or reposted to other websites. Access to and uses of this Site are solely for your purchase of Highmark Residential's services for personal use, information, education and communication with Highmark Residential. You may download, copy or print the Content of this Site for your personal non-commercial use only. No right, title or interest in any of the Content of this Site is transferred to you as a result of any downloading, copying, printing or use of this Site. All rights not expressly granted to you by these Terms are reserved.

## **2. Consent to Electronic Transactions, Communications and Notices.**

You acknowledge and consent that transactions performed with or through the Site may, at our option, be conducted electronically from start to finish. Depending on the services you request, some services will be performed by our Service Providers ("defined below") and may be governed, in part, by the Service Provider's specific terms. If the law allows you to withdraw such consent or if we are ever required to deal with you non-electronically, it may affect charges or fees depending on the Services Provider.

By clicking 'Submit' on any step of a transaction within this Site, you agree to conduct such transaction by electronic means. You understand that by clicking the box titled 'I agree to the Terms & Conditions,' you are agreeing to conduct an electronic transaction and to use and receive communications through electronic means. You agree to enter the requested information electronically via the Internet, and to be notified regarding any transaction electronically through the email address you have provided. You are solely responsible for ensuring the completeness and accuracy of the information you enter. You understand that electronically signed documents are enforceable under the Electronic Signatures in Global and National Commerce Act (ESIGN), and the Uniform Electronic Transactions Act (UETA), and applicable electronic transactions laws.

Our services may include features and services available via your mobile services, including, without limitation: (a) the ability to receive and reply to messages and to send content and messages using SMS and MMS text messaging, and (b) the ability to access the Site from your mobile device (collectively, the "Mobile Services"). We do not charge for Mobile Services.

Your carrier's normal messaging, data and other rates and fees will still apply. By providing us with your mobile device number you are affirmatively consenting to receive SMS, MMS, text message or other electronic communications to your mobile device.

You agree that in connection with the Mobile Services for which you are registered for, we may send communications to your mobile device regarding us or other parties. Further, we may collect information related to your use of the Mobile Services. If you have registered for Mobile Services, you agree to notify us of any changes to your mobile device number and update your account(s) on the Site to reflect this change.

By providing us with your email address you affirmatively consent to Highmark Residential to send notices via electronic mail. You must keep your email address current and any notice sent by Highmark Residential to an email address that you have provided to us will be considered effective notice. You must check the Site for notices, and you will be considered to have received a notice when it is posted on the Site, or when sent by us via electronic mail, whether or not received by you.

### **3. Unauthorized Use of Your Password.**

Under these Terms, you agree to: (a) create only one account; (b) provide accurate, truthful, current and complete information when creating your account; (c) maintain and promptly update your account information; (d) maintain the security of your account by not sharing your username or password with others and restricting access to your account and your access device; (e) promptly notify us if you discover or otherwise suspect any security breaches relating to your account or the Site at: [webadmin@highmarkres.com](mailto:webadmin@highmarkres.com); (f) not sell, transfer or assign your username and password; and (g) accept sole responsibility for all activities that occur under your username and password, whether or not you have authorized the activity. Highmark Residential has no liability for transactions initiated under your password without your authorization.

### **4. License to Use the Site.**

Access to and uses of this Site are solely for your purchase of Highmark Residential's services and for personal use, information, and communication with us. You may not circumvent, disable or otherwise interfere with security-related features of the Site, including, without limitation, any features that prevent or restrict use or copying of any content or enforce limitations on the use of the Site or Site Content. You may not reproduce, distribute, publicly display, publicly perform, create derivative works, publish, transmit Content or any element of the Site, except as permitted by these Terms.

You may not rely on any information and opinions expressed on the Site for any other purpose than permitted by these Terms. In all instances, it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of Site Content. Under no circumstances will we be liable for any loss or damage caused by your reliance on any Site Content.

You are prohibited from using the Site or its Content: (a) for any unlawful purpose; (b) to solicit others to perform or participate in any unlawful acts; (c) to violate any international, federal, or

state regulations, rules, laws, or local ordinances; (d) to infringe upon or violate our intellectual property rights or the intellectual property rights of others; (e) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability; (f) to submit false or misleading information; (g) to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of this Site, other websites, or the Internet; (h) to collect or track the personal information of others; (i) to spam, phish, pharm, pretext, spider, crawl, or scrape; (j) for any obscene or immoral purpose; or (k) to interfere with or circumvent the security features of this Website, other websites, or the Internet. We reserve the right to terminate your account or otherwise deny you access to the Website in our sole discretion for any or no reason without notice and without liability.

We do not guarantee uninterrupted or error-free operation of the Site or any portion thereof, but We will use reasonable efforts to maintain its operation and availability.

## **5. Submission of Comments; Prohibited Content and Conduct.**

Any comments or information that you provide to us including feedback or ideas in response to a customer survey regarding the Site, product or content reviews, suggestions, ideas, concepts, or other information are collectively deemed "Submissions". None of the Submissions will be subject to any obligation of confidentiality on our part, and we will not be liable for any use or disclosure (including publication in any medium) of any Submissions. You grant us a royalty-free, perpetual, irrevocable, world-wide license to use, copy, reproduce, create derivative works from, adapt, modify, publish, edit, translate, sell, distribute, transmit, transfer, publicly display, publicly perform, and display the Submissions without any limitation and in any media or any form now known or later developed. Without limiting the foregoing, we will be entitled to unrestricted use of the Submissions for any purpose, commercial or otherwise, without compensation to the provider of the Submissions. Further, we may sublicense these rights to third parties. We reserve the right to disclose any information concerning your use of this Site to the extent required by law or judicial or government order. From time-to-time this Site may request information through the use of forms. Use of such forms is completely voluntary. Information requested may include, but is not limited to, contact information, demographic information and/or opinions.

Under no circumstance are we responsible for any Submission to the Site or for the content of that Submission, nor are we liable for any of the claims made in Submission. We are not responsible for the content or accuracy of any of these Submissions, and the views and opinions they express are solely those of the original contributor.

You must not do or attempt to do any of the following, as reasonably determined by us, subject to applicable law:

Post to the Site or provide any Submissions that is or appears to be the following:

- untrue, misleading, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, invasive to another person's privacy or protected data, hateful, or discriminatory or

otherwise objectionable; any content that is libelous, defamatory, obscene, pornographic, threatening, invasive of privacy or publicity rights, abusive, illegal or otherwise objectionable, that would constitute or encourage a criminal offense or violate the rights of anyone, or that would otherwise give rise to liability or violate any law;

- infringing upon a third party's intellectual property rights, including any patent, trademark, trade secret, copyright, right of publicity, including any content that is the subject of any claim of infringement;
- of a type that you do not have a right to transmit under any law or under contractual or fiduciary relationships, such as proprietary and confidential information;
- unsolicited, undisclosed or unauthorized advertising;
- software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; harmful, illegal, deceptive or disruptive code such as a virus, "spyware", "adware" or other code that could adversely impact the Site or any recipient;
- data or information obtained through access that was not authorized by the owner, or that you are not authorized to post; or in violation of any applicable local, state, national or international law (including export laws), contracts, intellectual property rights or that constitutes the commission of a tort, or for any purpose that is harmful or unintended (by us), or other than in full compliance with these Terms;
- access, tamper with, or use services or areas of the Site that you are not authorized to access;
- alter information on or obtained from the Site;
- tamper with postings, registration information, profiles, submissions or content belonging to the Site or other users of the Site;
- use any robot, spider, scraper or other automated means or interface not provided by us to access the Site or extract data or gather or use information, such as email addresses, available from the Site or transmit any unsolicited advertising, "junk mail", "spam" or "chain letters";
- frame any part of the Site, or link to the Site, or otherwise make it look like you have a relationship to us or that we have endorsed you or your content for any purpose except as expressly permitted in writing by us;
- impersonate or misrepresent your affiliation with any person or entity;

- reverse engineer any licensed software, application, or any other aspect of the Site or do anything that might discover source code, or bypass or circumvent measures employed to prevent or limit access to any area, content or code of the Site; or
- take any action which might impose a significant burden (as determined by us) on the Site's infrastructure or computer systems, or otherwise interfere with the ordinary operation of the Site.

## **6. Payments.**

If applicable, you agree to pay all application fees billable immediately to the account identified in your application for the purpose of application processing via our payment Service Provider.

Convenience fees are charged by Service Providers, and not by your Property Management Company. Convenience fees are not surcharges and are non-refundable. Our Service Providers are third-party vendors, who are not the seller, lessor, or management company. Service Provider apply convenience fees to all payment methods initiated through the online platform are charged a convenience fee including, credit card, debit card, electronic checks, and cash payments. These fees are being charged by Service Providers for providing the convenience of an online payment channel. You agree that such fees may also apply to amounts refunded directly to your payment card, such as security deposit refunds.

If you are applying for a lease, no guarantees are made to you that a unit or other property rental is or will be made available. You understand that you will acquire no rights in or to a property rental until you accept and sign a rental agreement and pay all applicable application fees and security deposits.

You authorize Property Management Company or through any vendor of their choice to obtain such credit reports, criminal histories, character reports, verification of rental and employment history as it deems necessary to verify all information in your application. You further understand that false, fraudulent, misleading or incomplete information may be grounds for denial of tenancy or subsequent eviction. There are no warranties offered Property Management Company, whether express or implied.

## **7. Links to Third Party Sites.**

As a convenience, some of the services provided via this Site are performed by third-party service providers ("Service Providers"). In the appropriate cases, we provide links or access to certain Service Providers' websites. The products and service offered by some Service Providers will be subject to additional legal terms for which those Service Providers are responsible. It is your obligation to review all additional terms that may apply to our Service Providers' products or services. We are not responsible for and do not endorse the informational content or any products or services available on our Service Providers' website and do not make any representations regarding their content or accuracy. Your use of third-party websites is at your own risk and subject to the terms and conditions of use for such sites. Please be aware that we are not

responsible for the privacy or electronic communications practices of such other websites or Service Providers. We encourage you to read the privacy statements and terms and conditions of each website where you provide personally identifiable information.

#### **8. Cookie and Tracking Technology Notice and Disclaimers.**

THIS SITE USES COOKIES AND MAY ALSO USE THE SERVICES OF THIRD-PARTY SERVICE PROVIDERS THAT DEPLOY COOKIES AND OTHER TRACKING TECHNOLOGIES IN CONNECTION WITH THEIR SERVICES. BY USING THE SITE, YOU CONSENT TO THE PLACEMENT OF COOKIES ON ANY ACCESS DEVICE USED TO ACCESS OUR SITE AND CONSENT TO THE USE OF TRACKING TECHNOLOGIES USED BY US OR OUR SERVICE PROVIDERS.

#### **9. Indemnification.**

YOU AGREE TO INDEMNIFY AND HOLD HIGHMARK RESIDENTIAL AND OUR SERVICE PROVIDERS, THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, BUSINESS PARTNERS AND AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, WITHOUT LIMITATION, LIABILITIES, JUDGMENTS, AWARDS, LOSSES DAMAGES, COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, ARISING FROM OR RELATED TO YOUR USE OF THIS SITE OR BREACH OF THESE TERMS. YOU AGREE TO COOPERATE FULLY WITH US IN THE DEFENSE OF ANY CLAIM THAT IS THE SUBJECT OF YOUR OBLIGATIONS UNDER THESE TERMS. YOUR INDEMNIFICATION OBLIGATIONS SHALL SURVIVE ANY TERMINATION OF THESE TERMS.

#### **10. Disclaimer of Warranties.**

PROPERTY MANAGEMENT COMPANY PROVIDES THE SITES 'AS IS' AND 'AS AVAILABLE'. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE MAKE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SITE OR THE INFORMATION, DATA, SOFTWARE, FUNCTIONALITY, OR CONTENT INCLUDED IN THE SITES. WE MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE SITE WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS OR MALICIOUS-THREAT FREE, SECURE, OR TIMELY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND (INCLUDING WARRANTIES MADE ORALLY), WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND THOSE ARISING FROM A COURSE OF DEALING, TRADE, USAGE OR PERFORMANCE. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, AND THEREFORE SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IF YOUR USE OF THE SITE RESULTS IN THE NEED FOR SERVICING OR REPLACING PROPERTY, MATERIAL, EQUIPMENT OR DATA, WE ARE NOT RESPONSIBLE FOR ANY RESULTING COSTS OR DAMAGES.

WE WILL NOT BE LIABLE FOR PERFORMANCE OF SERVICES WHERE DELAYED BY AN ACT OF FORCE MAJEURE INCLUDING BUT NOT LIMITED TO: PANDEMIC, WAR, RIOT, EMBARGOES, STRIKES, OR ACTS OR OMISSIONS OF OUR VENDORS AND SUPPLIERS, CONTRACTORS OR OTHERS, OR ACCIDENTS.

#### **11. Exclusive Remedy; Damage Exclusions & Limitations.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, PROPERTY MANAGEMENT COMPANY, OUR EMPLOYEES, AGENTS, OFFICERS, OR REPRESENTATIVES SHALL NOT BE LIABLE TO YOU OR ANY OTHER PERSON FOR INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, STATUTORY, OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST REVENUE, LOSS OF DATA, LOSS OF PRIVACY, LOSS OF GOODWILL OR LIABLE FOR ANY DAMAGES OF ANY KIND RELATED TO YOUR USE OF OR INABILITY TO USE OUR SITE, INCLUDING, WITHOUT LIMITATION, FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, COMPUTER VIRUS, OR NETWORK OR INTERNET FAILURE WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS, EVEN IF HIGHMARK RESIDENTIAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL THE AGGREGATE LIABILITY TO YOU OF THE INDEMNIFIED PERSONS EXCEED, IN TOTAL, THE AMOUNTS YOU PAID TO PROPERTY MANAGEMENT COMPANY FOR USE OF SITE SERVICES. FOR AVOIDANCE OF DOUBT, THE FOREGOING AMOUNTS SHALL NOT INCLUDE CHARGES FOR RENT, LEASES OR DEPOSITS, FEES, UTILITIES, OR ANY OTHER CHARGED OR FEES. DELINEATED OR OTHERWISE SET FORTH IN THE LEASE OR ADDENDA BETWEEN YOU AND PROPERTY MANAGEMENT COMPANY.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LIMITATION ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

FURTHERMORE, ALL CLAIMS OR CAUSES OF ACTION ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH THE SITE, THESE TERMS OR APPLICABLE ADDITIONAL TERMS MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE EVENT GIVING RISE TO ANY SUCH CLAIM OR CAUSE OF ACTION. FAILURE TO BRING THE CLAIM OR CAUSE OF ACTION WITHIN THE ONE (1) YEAR PERIOD SHALL RESULT IN THE CLAIM OR CAUSE OF ACTION BEING PERMANENTLY BARRED.

#### **12. Dispute Resolution.**

Any controversy or claim arising out of or relating to the use of the services on this Site, the relationship resulting from the use of such services, or a breach of any duties hereunder will be settled on an individual basis by Arbitration in accordance with the Commercial Arbitration Rules of the U. S. Arbitration & Mediation rules ("USA&M") or the American Arbitration Association ("AAA"). All hearings will be held in Wilmington, Delaware before an approved



Arbitrator. For avoidance of doubt, by using the Site you are waiving your right to bring any form of class-based claims. An individual judgment upon the award rendered by the Arbitrator shall be entered in a Court with competent jurisdiction. The Federal Arbitration Act (9 U.S. Code §1 et.seq.) shall govern all arbitration and confirmation proceedings. As a condition precedent to the filing of an arbitration claim, the parties agree to first mediate any claims between them at USA&M or AAA. Any party refusing to mediate shall not prevent the other party or parties from pursuing their claims in arbitration. The parties will share the cost of mediation equally and the costs for arbitration shall be paid by the unsuccessful party. Nothing herein will be construed to prevent any party's use of injunction, and/or any other prejudgment or provisional action or remedy. Any such action or remedy will not waive the moving party's right to compel arbitration of any dispute. The parties agree to also meet and negotiate in good faith in order to resolve any disputes which may arise between them.

### **13. Assignment.**

These Terms are personal to you and you may not transfer, assign or delegate them to anyone without the express written permission of us. Any attempt by you to assign, transfer or delegate these Terms without the express written permission of us will be null and void. We have the right to transfer, assign and delegate these Terms to one or more third parties in our sole discretion and without your permission.

### **14. Entire Agreement.**

The Terms constitute the sole and entire agreement between you Property Management Company with respect to the Site, and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Site. If any part of these Terms is determined to be invalid or unenforceable, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remainder of the Terms will continue in effect. The Terms (including any related consents or agreements that you provide during your visit to the Site) constitutes the entire agreement between you and us with respect to the Site and supersedes all other prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and us regarding the Site and/or any order you place through it.

### **16. No Waiver.**

The failure of any party to exercise or enforce any right or provision of these Terms, including any failure to act with respect to a breach, will not constitute a waiver of such right or provision or that party's right to act with respect to subsequent or similar breaches.

### **17. Copyright Dispute Policy.**

Pursuant to our rights under the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512, we have designated a copyright agent to receive copyright infringement notices for claims of infringement related to materials found on this Site. Our copyright agent is Highmark

Residential's Copyrights Enforcement Counsel. The agent can be reached at 312.269.5328, mbaker@nge.com.

To be effective, your infringement notification must include the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
2. 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;
3. Identification of the material or content that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or have access disabled, and information reasonably sufficient to permit us to locate the material;
4. Information reasonably sufficient to permit us to contact the complaining party, including address, telephone number and email address where the complaining party may be contacted;
5. The following statement: "I have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law"; and
6. The following statement: "The information in this notification is accurate, and under penalty of perjury, I swear that I am the copyright owner or that I am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed."

Upon receipt of the written notification containing the information as outlined in 1 through 6 above:

1. We will remove or disable access to the content that is alleged to be infringing;
2. We will forward the written notification to the alleged infringer; and
3. We will take reasonable steps to promptly notify the alleged infringer that we have removed or disabled access to the content.

## **18. DMCA Infringement Counter Notification.**

Pursuant to the DMCA, after the alleged infringer receives a notice of infringement from Highmark Residential, the alleged infringer will have the opportunity to respond to Highmark Residential with a counter notification ("Counter Notification"). To be effective, a Counter Notification must be a written communication provided to Highmark Residential's designated copyright agent, and must include the following:

1. A physical or electronic signature of the subscriber;
2. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled;

3. The following statement: “I swear under penalty of perjury that it is my good faith belief that the material identified above was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled”; and
4. The subscriber’s name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of the federal district court for the judicial district in which the subscriber address is located, or if the subscriber’s address is outside of the United States, or any judicial district in which Highmark Residential may be found, and that the subscriber will accept service of process from the person who provided notification or an agent of such person.

Upon the copyright agent’s receipt of a Counter Notification containing the information as outlined in 1 through 4 above, the DMCA provides that the removed material will be restored or access re-enabled and we will comply with this requirement as required by law, provided that the designated agent has not received notice from the original complaining party that an action has been filed seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on our network.

#### **19. Termination.**

We reserve the right in our sole discretion and at any time to terminate or suspend your registration or block your access to the Site for any reason, including, without limitation, if you have failed to comply with the letter and spirit of these Terms or applicable additional terms. You agree that Highmark Residential shall not be liable to you or any third party for any termination or suspension of your registration or for blocking your access to the Site.

If you become a registered user, you may terminate your registration at any time by sending an e-mail to [webadmin@highmarkres.com](mailto:webadmin@highmarkres.com).

Any suspension or termination shall not affect your obligations under these Terms. The provisions of these Terms which by their nature should survive the suspension or termination of your account or these Terms shall survive, including, without limitation, the rights and licenses that you have granted hereunder, indemnities, releases, disclaimers, limitations on liability, provisions related to choice of law, dispute resolution, and all of the miscellaneous provisions. Upon suspension or termination of your account, you will immediately discontinue use of the Site Content and destroy any copies of Site Content in your possession, including deleting any downloaded Site Content from your access device. For avoidance of doubt, termination of these Terms shall not take precedence over or serve to terminate any other formal agreements you make with Highmark Residential or Property Management Company in connection with leases, rents or other residential property matters.

#### **20. Consent to Cross Border Data Transfers of Personal Information.**

For those Site users located outside the United States, you acknowledge and expressly consent to Highmark Residential’s use of your personal information, which at times will be potentially accessible by individuals who are located worldwide including in countries that the European

Commission or other geopolitical regions have not been determined to provide the same level of data protection as in your country, province, territory or geopolitical region, and that such information may be accessed by the courts, law enforcement and national security authorities of such jurisdictions. By providing us with your personal information, you are consenting to our use of it in accordance with these Terms, including the transfer of your information across international boundaries to jurisdictions anywhere in the world.

## **21. Governing Law; Forum and Venue Selection.**

All matters relating to the Site and these Terms and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Delaware, without giving effect to any principles of conflicts of law. Any dispute between you and us regarding the content or use of this Site may be resolved by mediation, with hearings held in the English language in where you submit to the personal jurisdiction and venue Texas, Dallas County and shall not be joined with any dispute that any other person or entity may have with us.

## **22. Contact Us.**

For questions or concerns about the use of personal information or about these Terms, please contact your Property Management Company.