

4/25/2019

[PropertyDrive Website]

TERMS & CONDITIONS

INTRODUCTION

Welcome to PropertyDrive! Please read these terms and conditions of use, plus, the Privacy Policy available at <https://propertydrive.com/privacy-policy/> before using this website. We provide commercial real estate listing services and information. Your use of this website and our services is subject to the following terms and conditions. If you do not accept or are not willing to comply with the following terms, you are prohibited from using this website in any manner. By using this website and/or our services, you accept the following terms and conditions and agree to act in accordance with this user agreement.

In this agreement, PropertyDrive, LLC is also referred to as "PropertyDrive," "we," "us," or "our."

If you are using or accessing this website for free you are a public "User." If you are using this website or our services having paid to do so, you have completed one of our enrollment agreements or were added to a Company by one of the Company Administrators, you are a "Member." A Member **holding a real estate license and primarily engaged in the brokerage of commercial real estate** is a "Broker/Licensed Real Estate Professional Member." A Member owning commercial real estate or active in providing a real estate related **service without holding a real estate practice license** is an "Affiliate/Unlicensed Member." For example, a title company, bank or governmental agency can be an Affiliate/Unlicensed Member. When "Member" is used in this agreement, it refers to both Broker/Licensed Real Estate Professional Members and Affiliate/Unlicensed Members.

SEPARATE AGREEMENT

If you and PropertyDrive have entered into a separate written agreement that covers your use of a PropertyDrive product or service, the terms and conditions of that separate agreement shall control with respect to such product or service to the extent they are inconsistent with these terms and conditions.

PROVISIONS APPLICABLE TO USERS AND MEMBERS.

PERMISSIONS FROM PROPERTYDRIVE

If you use this website you agree to these terms and conditions and we grant you a limited, revocable, non-exclusive, non-assignable license to use this website, PropertyDrive's other services and content we originate, in compliance with these terms and conditions. You agree not to display, distribute, sublicense, sell, or make derivative works from, content of this website or PropertyDrive's services, not including posts you create. You grant us a license to use, display, distribute, copy, reproduce, adapt, modify, and make derivative works from content you post on our website or provide us, and we may do so in any form, media or technology now known or later developed, and such license is perpetual, irrevocable, worldwide, and fully paid.

WEBSITE PROVIDED "AS IS"

By using this website, you understand and agree that this website, the information on it and available to you, and our services are provided “as is.” PropertyDrive, LLC assumes no responsibility for the accuracy, timeliness or completeness of any communication, information or content supplied or submitted by any Member or User. For and with respect of our website and services, PropertyDrive makes no warranties of any kind, either express or implied, including but not limited to warranties of title, noninfringement, or express or implied warranties of merchantability or fitness for a particular purpose, course of dealing or course of performance.

It is the viewer’s responsibility to verify the claim of license or experience by any content provider to our website.

PropertyDrive will use reasonable efforts to control the security of this website but does not warrant that it will be able to protect any content provided on or through the website from infringement or piracy. PropertyDrive does not warrant that the services we provide through this website will be error free or uninterrupted. You agree that PropertyDrive will not be liable to you for any negligence or lack of due care in failing to protect the security of the website. We do not warrant that our website, its contents or the server that makes our website available are free of any viruses or other harmful components (although we make reasonable efforts to check for and protect against them).

You understand and agree that neither PropertyDrive nor its officers, directors, employees, agents, or representatives are liable for any damages or harm arising out of or related to the website, including content added to the website by Members, or services or information provided through the website. Your sole remedy for any perceived or alleged damages or harm from the website or our services is to stop using the website, information from the website or our services. PropertyDrive will not be liable for any direct, indirect, consequential, incidental, special, punitive, or other losses, including lost profits, revenues, data, goodwill, etc., arising from or related to your use of our website. If a court should refuse to enforce the preceding provisions exculpating PropertyDrive, in any event, PropertyDrive’s liability shall not exceed \$100 or the amount you paid us in the year preceding such loss.

INDEMNIFICATION

You agree to indemnify and hold harmless PropertyDrive and its officers, directors, employees, agents, and representatives for and from any claim or demand by any third party, and the associated costs, damages or expenses including attorney fees we incur, arising out of material you post, transmit or otherwise make available through PropertyDrive and this website. You further agree to indemnify and hold harmless PropertyDrive and its officers, directors, employees, agents and representatives for and from any claim or demand related to your use of the website, any content you make available through this website, any information or services provided through this website, and your violation of this agreement.

PropertyDrive shall have the right to select its own legal counsel to defend itself without excusing your indemnity obligation.

COPYRIGHT INFRINGEMENT CLAIMS

If you believe material appearing on this website infringes your copyright, your notice must be sent to our Designated Agent at:

To: Copyright Manager, PropertyDrive, LLC

Address: 211 S. Patterson Street, #320, Madison, WI 53703

Telephone Number: 608-442-0511

Email Address: office@propertydrive.com

Facsimile Address: 608-242-1870

This contact information is exclusively for copyright infringement notifications.

In order for us to process your notice of infringement, you must include the following written information in your notice:

- A description of the copyrighted work you claim has been infringed including the location where the original or an authorized copy of the copyrighted work exists.
- Identification of the material you claim is infringing, including a description of where such material is located.
- A signed statement, under penalty of perjury, that the information in your notice is accurate, that you have a good faith belief the use you have identified as infringing is not authorized by the owner of the copyright or the owner's agent or the law, and that you are the copyright owner or the copyright owner's agent with authority to act for the owner. Your signature may be physical or electronic.
- Your contact information including your address, telephone number and email address (if you have an email address).

You should know that we may forward any notice of alleged infringement to the party who provided us the allegedly infringing material.

ARRANGEMENT OF CONTENT

PropertyDrive has the exclusive authority to select the manner or methods by which any property listing submitted to us may be identified, labelled, searched, displayed, accessed, viewed, downloaded, copied, categorized, and otherwise used on our website. PropertyDrive is not responsible for content submitted to the website by Members, Company Administrators, Agents or others. Members should maintain their own backup copy of any content submitted to us.

RIGHT TO REFUSE SERVICE

PropertyDrive has the right to refuse service or access to its website to any applicant or person. PropertyDrive has the right to refuse service to any User, Member, Company Administrator or Agent who fails to act in accordance with these Terms and Conditions or in accordance with our written Policies appearing elsewhere on our website. You agree that you will not attempt to access information or areas of our website we do not make available to you, nor will you attempt to reverse engineer our processes and methods.

See additional provisions applicable to all Users and Members in the final paragraphs of these Terms and Conditions.

PROVISIONS APPLICABLE TO MEMBERS

By completing the enrollment process on our website or otherwise as we direct, an applicant becomes either a Broker/Licensed Real Estate Professional Member or an Affiliate/Unlicensed Member. The person who completes the enrollment information warrants and represents the information provided about the applicant is true, current, accurate and complete.

After an applicant becomes a Member, they are entitled to use the services PropertyDrive offers including posting content to our website and sending messages via our email broadcast service.

Membership is annual. An applicant that completes our enrollment process and is accepted by PropertyDrive will become a Member for the balance of the calendar year in which their enrollment was completed. After the first calendar year of membership, the Member's membership will be automatically renewed for each subsequent calendar year if the Member pays PropertyDrive the Annual Membership Fee. We will automatically send each Member to their billing email address on record with us, an invoice stating the amount of Annual Membership Fee owed. A Member may cancel the automatic renewal of their membership by providing notice of cancellation to us within 30 days of receipt of our annual invoice. Notices of cancellation may be sent to us by email. No annual fee will be prorated for a partial year and an annual fee is not refundable in whole or in part.

If a Member operates offices in more than one geographic location and requests to include its satellite office(s) in its Membership, we will charge an additional \$25.00 for each calendar year for each of the Member's satellite offices. All activity by the Member's satellite office(s) will be billed on the Member's invoice. If a Member or satellite office wants the satellite office to be charged separately and receive an invoice separate from the Member, the satellite office itself will need to enroll as a Member.

Each Member may add to their membership an unlimited number of employees, direct subcontractors, or other persons who have contracted to perform services for or through the Member, and each such person shall be either an "Agent" or a "Company Administrator" of the Member. Each Agent may add, change or remove his/her individual information and his/her listed properties. A Member may also designate one or more "Company Administrators" with authority to add, change or remove information about the Member, about any Agents of the Member and the property listings of the Member and the Member's Agents. Each Agent and Company Administrator must maintain a working email and password for accessing our website which is separate from the email for their Member. Company Administrators and Agents may not share with others their password for accessing our website.

There is no additional charge to a Member for adding an Agent or Company Administrator with the same physical office location as the Member. If a Member adds an Agent or Company Administrator based at a physical location other than the Member's physical location, we will treat the addition of the first Agent at the different physical location as the addition of a satellite office and charge the Member the additional \$25.00 annual fee for a satellite office. After the

addition of a satellite office to the Membership, there is no additional charge for adding more Agents or Company Administrators located at the same satellite office.

Each and every Member, Company Administrator and Agent must provide PropertyDrive and maintain for our use, a working email address. Each Member, Company Administrator and Agent must maintain a password that works for accessing our website. Each Member, Company Administrator and Agent is responsible for maintaining the confidentiality of his/her log-in information and for the activities that occur under his/her email address and password.

A Member may control the public display of their email address on our website, however, PropertyDrive may use the Member's email address for invoicing and communication and for Member-to-Member communications. By applying to become a Member, the applicant grants permission to PropertyDrive to communicate with the Member via email, online chat function, telephone and facsimile for any purposes related to PropertyDrive's business activities, and agrees to receive broadcast email messages and online chat invitations from PropertyDrive, as well as broadcast and email messages from other Members.

A Member may submit to PropertyDrive information about one or more properties including text descriptions, images, videos (including sound and/or music), illustrations, graphics, dimensions, and amounts. By posting or providing any content about a property for distribution via the PropertyDrive website, the Member represents the content meets the following requirements and the Member warrants:

- They either have an ownership interest in the property or a signed real estate services listing contract permitting them to advertise the property for sale or lease,
- The content is accurate,
- The content is current,
- The content is original to the Member or the Member has a valid, written license from the owner of the content permitting PropertyDrive to reproduce the content on our website and share it with other property listing websites and services (for example, if the content is a photo or video, the Member has either taken the photo or video or received all necessary rights and authorizations in writing from the photographer or videographer and/or the photo's or video's copyright owner), and
- Price or rate is stated.

If the content is posted or provided by a Company Administrator or Agent, the Company Administrator's or Agent's Member will be deemed to have made such warranties and representations.

When Members post or provide for distribution on our website information about an available property, such content is an "advertisement." As a Member, you agree to pay us a fee for any advertisement you post or provide. Each advertisement must include for the subject property and the price or rate (whichever applies). We will continue to display and charge for an advertisement until the Member or Agent removes the advertisement. No Member may remove another Member's advertisement. The current fees we charge for advertisements can be found at <https://propertydrive.com/sign-up/>. We will promptly invoice each Member for their advertisements. Invoices will be sent to the Member's billing email address of record with us. A Member is required to pay our invoice within 30 days of the date on the invoice, except, if a

Member has failed to pay two or more invoices by each invoice's due date, thereafter, we may, in our discretion, require that invoices for subsequent services be paid within ten (10) days of the date on the invoice. We will notify the Member by email if we change the due date on our subsequent invoices to payment due in ten (10) days. The Member will owe us interest from the payment due date at the rate of 1.5% per month on the amount owed and remaining unpaid after the payment due date. In addition to interest, a Member will owe us a late fee of \$25.00 for each invoice not paid by its due date.

If we have not received payment in full on an invoiced amount within 30 days of the date on the original invoice, the Member's advertisements covered by the unpaid invoice will be removed from our website and other services. We may refuse to provide services to a Member, including removing all advertisements and content the Member has posted, denying the posting of new content, and withholding use of our broadcast email service if the Member has an outstanding balance owed to us which is more than 90 days past due.

Each Member agrees to check and update each of their advertisements at least every 30 days. Each Member shall remove as promptly as possible their advertisement(s) for a property that has been sold or leased or for which the listing has expired.

By posting an advertisement on our website, a Member also agrees that PropertyDrive may, without contacting the Member for further or specific permission, provide the Member's advertisement to other parties which maintain for public access electronic, online listings of properties offered for sale or rent, provided, PropertyDrive does not charge the Member an additional fee for this service. For example, the Wisconsin Economic Development Corporation (WEDC) makes available "Locate in Wisconsin®" a website providing advertisements for properties available for sale or rent. On a daily basis, PropertyDrive automatically provides new advertisements we receive to WEDC for inclusion on the Locate in Wisconsin® website. If we are able to arrange with other providers of online commercial property listings inclusion of our Members' advertisements in the other provider's online listings, we will automatically provide our Member's advertisements to those other providers for inclusion in their listings if we can do so with no or minimal cost to us. A Member will not have the choice to have its advertisements excluded from any other provider's website with whom PropertyDrive has arranged to automatically share Member advertisements.

CIREX the Wisconsin company, produces a monthly paper listing guide of offered commercial properties. PropertyDrive maintains an arrangement with CIREX whereby if our Member selects the CIREX choice on our website, we will automatically share the Member's advertisements with CIREX for inclusion in the CIREX hard copy monthly printed listing guide, as well as provide CIREX the Member's email address(es) and other contact information. By selecting on our website to have their advertisements also published in the CIREX listing guide, the Member agrees that CIREX may, without PropertyDrive's further involvement, invoice the Member directly for an annual CIREX membership fee as well as the cost of each monthly publication by CIREX of each of the Member's advertisements. If a Member has chosen the option available on our website to have their advertisements forwarded to CIREX, the Member's advertisements posted to our website before the 15th day of the month, will be forwarded by us to CIREX for publication in the next CIREX monthly printed listing guide. We will forward to CIREX Member contact information and advertisements in exactly the form the Member provides this

information to us. If a Member has not selected the CIREX choice on our website, we will not forward the Member's advertisements to CIREX.

PropertyDrive also offers the service, with no additional fee, of allowing Broker/Licensed Real Estate Professional Members to broadcast messages to all other Members via our email mailing list, provided, each such message is either a Member advertisement, a client need for real estate or a notice of an event directly related to commercial real estate. No Member may use our email mailing list to send messages containing any communication other than the Member's advertisement, client need for real estate or notice of an event directly related to commercial real estate. If a Member uses our email broadcast system to send a message about a property which is not the subject of a PropertyDrive advertisement, the Member will be charged and will owe a fee of \$15.00 for each such message sent. If a Member uses our broadcast email service for an illegal or improper purpose, we may, in our sole and absolute discretion, suspend a Member's use of our broadcast email service or terminate the membership of the Member. A Member shall be exclusively liable for any and all claims arising from the content of messages delivered using our broadcast email service, and shall indemnify PropertyDrive for any expenses we incur, including attorney fees, as a consequence of the content of a Member's message.

PROVISIONS SPECIFICALLY APPLICABLE TO BROKER MEMBERS

Individuals or companies holding government issued real estate practice licenses are eligible to become "Broker/Licensed Real Estate Professional Members." The Annual Membership Fee and other fees we charge Broker/Licensed Real Estate Professional Members may be different than the fees we charge Affiliate/Unlicensed Members. The listing of fees we currently charge Broker/Licensed Real Estate Professional Members and Affiliate/Unlicensed Members can be found at <https://propertydrive.com/sign-up/>. We may verify any claim of licensure. However, we are under no obligation to verify the licensure of any entity or individual who claims licensure on our application or in content distributed through our website, broadcast email service or other services.

By law, Members may pay a finder's fee, referral fee, commission or a part thereof to any other party holding a valid real estate practice license. PropertyDrive has no responsibility for any representations or mentions made in any advertisement or email message about payment of a finder's or referral fee, part of a commission earned or a co-broke commission. PropertyDrive will not interpret any representation or reference made or determine any dispute related to any mention of such sharing or splitting of fees or commissions.

PROVISIONS SPECIFICALLY APPLICABLE TO AFFILIATE MEMBERS

The Annual Membership Fee and other fees we charge Affiliate/Unlicensed Members may be different than the fees we charge Broker/Licensed Real Estate Professional Members. The listing of fees we currently charge Affiliate/Unlicensed Members and Broker/Licensed Real Estate Professional Members can be found at <https://propertydrive.com/sign-up/>.

We may verify any claim of ownership of real estate or an applicant's claim it is a real estate related services entity or agent of a real estate related services entity such as a financial institution, government agency, appraiser, title company, property manager, or attorney or law firm. However, we are under no obligation to verify that any entity or individual who claims

ownership or primary business activity as a real estate related services entity, actually owns real estate or actually engages in real estate related services.

MORE TERMS APPLICABLE TO ALL USERS AND MEMBERS

Our website may contain hyperlinks to websites operated by parties other than PropertyDrive. Such hyperlinks are provided solely for your information and convenience and it is your independent choice to use them or not. You acknowledge that PropertyDrive does not control or endorse the other websites reachable by such hyperlinks and we do not necessarily have any association or relationship with the parties who control those other websites. We are not responsible for the content on those other websites.

You agree that these Terms and Conditions and the relationship between you and PropertyDrive shall be interpreted under the laws of the State of Wisconsin without giving effect to choice of law principles. Any lawsuit or other action related to interpreting or enforcing this agreement shall take place exclusively in the federal or state courts located in Madison, Wisconsin, and the parties expressly consent to the exclusive jurisdiction of and venue in Wisconsin courts. In any lawsuit or proceeding brought by PropertyDrive to enforce or interpret this agreement, the prevailing party shall recover from the other party its reasonable attorneys' fees and costs incurred in prosecuting the lawsuit or action, including any appeal.

If any part of this agreement is found void and unenforceable, the balance of this agreement shall remain valid and enforceable according to its terms.

This agreement is binding upon and shall inure to the benefit of the parties and their respective successor and assigns. The rights granted under this agreement or any license PropertyDrive grants hereunder may not be assigned, sub-licensed or otherwise transferred by a Member, Company Administrator or Agent without the prior written consent of PropertyDrive. In its sole discretion, PropertyDrive may withhold such consent.

PropertyDrive does not waive any of its rights including any right to a remedy under this agreement if we previously failed to enforce any obligation contained in this agreement. No failure to enforce and no waiver of any right, term or provision of these Terms and Conditions is deemed a waiver of any other right, term or provision.

All notices to PropertyDrive other than notices of alleged copyright infringement (see above), must be in writing and must be sent registered mail, certified mail, or overnight mail with a return receipt requested to PropertyDrive, P.O. Box 8691, Madison, Wisconsin 53708-8691.

PropertyDrive may modify these Terms and Conditions from time to time. If we make material changes to these terms, we will notify you we have posted a revised version of these terms on our website. Your continued use of our website or other services after notice of a modification to these Terms and Conditions is posted by us on our website or otherwise provided to you indicates your acceptance of the revised terms.

Last updated: July 1, 2019