

Centers of High Point

TERMS AND CONDITIONS:

Private Wireless Network Request for Service & Contract

1. IMPORTANT! THE APPLICATION FOR SERVICE, TO WHICH THESE TERMS AND CONDITIONS ARE ATTACHED, CONSTITUTES A BINDING LEGAL AGREEMENT (this "Agreement" or "Contract"). PLEASE READ THESE TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING WIRELESS INTERNET.

1.1. This Agreement governs the internet access services, comprising the paid wireless service (the "Service") provided to you by TGFWHP, LLC d/b/a Centers of High Point (hereinafter "CP," "we," "us," or "our"), and you, on behalf of yourself and the tenant and/or purchaser for which you have registered (hereinafter "you," "tenant" "purchaser," or the "Company"). The terms "you," "tenant," "Purchaser" and "Company" shall specifically include any of Purchaser's employees, agents and representatives (hereinafter, "user" and collectively "users") who are authorized to access and use the Service under Purchaser's account relating to the Service. The term Purchaser shall also include related or associated persons or entities, including but not limited to successors in interest following a purchase of assets or merger with Purchaser, DBA's of the Purchaser, employees of the Purchaser, insiders of the Purchaser, etc. By submitting an Application for Service, you have become a Purchaser, and agree to these Terms and Conditions governing the wireless services purchased.

1.2. By gaining access to the Service, Purchaser agrees to abide by the terms and conditions below (the "Terms"). By submitting an "Application for Service" (attached hereto as **Schedule A**), or by otherwise using, viewing, transmitting, caching, storing and/or otherwise utilizing the Service, you have agreed to each and all of the Terms set forth below, and waive any right to claim ambiguity or error in this Agreement. **If you do not agree to each and all of these Terms please do not submit an Application for Service.** CP reserves the right, at our sole and absolute discretion, to change, modify, add, or remove portions of these Terms at any time without notice and, unless otherwise indicated, such changes will become effective immediately; therefore, please check these Terms periodically for changes. Your continued use of the Service following changes to this Agreement will mean you accept those changes. Please print and retain a copy of this Agreement, as it may be changed from time to time, for your records. For the purposes of these Terms, any reference to "you" or "your" includes but is not limited to the authorized user of the wireless enabled device used to access the Service.

1.3. This Agreement, including these Terms, constitute a commercial Agreement. By submitting an "Application for Service" (attached hereto as **Schedule A**), or by otherwise using, viewing, transmitting, caching, storing and/or otherwise utilizing the Service, Purchaser expressly acknowledges that it is a sophisticated commercial entity (or that (s)he is a sophisticated individual with commercial transaction knowledge), and that this Agreement constitutes an **arms-length commercial transaction** and, further, expressly acknowledges that this Agreement in no way constitutes a **consumer transaction**. In addition to the releases and waivers outlined hereinbelow, Purchaser expressly acknowledges that by purchasing, or otherwise using, the Service, Purchaser expressly waives any claims, causes of action, damages or defenses it has, or may have, regarding or in any way relating to "consumer protection."

1.4. The Service purchase by Purchaser hereunder may not be assigned or transferred to any person or entity without the express written consent of CP.

1.5. Purchaser expressly acknowledges that Purchaser has had the opportunity to review and analyze this Agreement and these Terms for a sufficient period of time prior to the execution and delivery thereof. No representations or warranties have been made by or on behalf of CP, or relied upon by Purchaser, pertaining to the subject matter of this Agreement, other than those set forth in this Agreement. This Agreement, including these Terms and the signed Application for Service (attached hereto as **Schedule A**), embody the entire agreement and understanding between CP and Purchaser to the subject matter hereof and supersede all prior proposals, negotiations, agreements and understanding relating to such subject matter.

2. Purchase and Use of the Service. This Agreement includes the “Application for Service” attached hereto as **Schedule A**, attached hereto and incorporated herein by reference. shall constitute your request for use of the Service. By filling out, signing and submitting the Application for Service” attached hereto as **Schedule A** to CP, you are hereby agreeing, subject to the Terms outlined in this Agreement, to pay for use of CP’s wireless internet access at CP owned properties and facilities, identified hereinabove as the “**Service**”.

- a. Activation Fee. By requesting the Service, you shall pay to CP a one-time set-up/activation fee in the amount of \$250.00 (the “**Activation Fee**”). The Activation Fee shall constitute a one-time charge for setting up the Service. If at any time your use of the Service shall cease, or otherwise terminate, you will be charged the Activation Fee to re-activate the Service.
- b. Monthly Fee Contract. Purchaser shall be charged a monthly fee based on the wireless access download speed requested by Purchaser in the Application for Service, as outlined in the following fee schedule (the “**Fee Schedule**”). Purchaser expressly acknowledges and agrees that the wireless internet download speeds as indicated in the Fee Schedule do not constitute a guarantee of any certain internet download speed. Purchaser expressly acknowledges that a purchase of the Service at a particular internet download speed as indicated in the Fee Schedule constitutes a purchase of **UP TO**, and not exceeding, the wireless internet download speed as indicated in such Fee Schedule. Purchaser expressly acknowledges that a number of factors, including but not limited to use of the bandwidth of the Service during periods of high internet traffic and activity, may substantially negatively affect wireless internet download speeds actually experienced by Purchaser. Accordingly, in addition to the disclaimers of warranty and limitations of liability outlined in more detail hereinbelow, CP in no way guarantees that wireless speeds will meet the various speeds included in the Fee Schedule.
- c. Purchaser shall be allowed to distribute login information for use of the Service to any of its authorized users, including employees, agents and representatives. Purchaser hereby expressly acknowledges that the distribution of its login information will affect the download speeds of each user on Purchaser’s account. The number of authorized users on Purchaser’s account will decrease the available bandwidth for each user on Purchaser’s account.

2.1. FEE SCHEDULE

Please consult the Fee Schedule on the Application for Service. Wireless speeds are measured in megabits per second (Mbps). The speeds cited in each category of wireless service that may be requested by the Purchaser constitute maximum wireless download speeds that may be reached in that individual category, are such advertised speeds are not guaranteed. By way of example, purchasing wireless service in the 10 Mbps category shall provide wireless download speeds of up to 10 Mbps, and such wireless download speeds shall not exceed 10 Mbps. Please consult these Terms and Conditions regarding the variability and limitations of wireless speeds that may be achieved.

3. Connecting to the Service. CP does not warrant or represent that Purchaser or any user will be able to access and/or use the Service immediately or each time use of the Service is attempted.

3.1. Purchaser is responsible for providing its own computer or mobile devices (which must be a wireless enabled device) that are capable of accessing the Service with its own power source. CP does not provide power, information technology advice or assistance to any user of the Service. Purchaser must not use the Service under any circumstances if Purchaser does not have express permission of CP or of the lawful owner of the wireless enabled device.

3.2. CP does not guarantee that the Service will be compatible with any devices or software which you may use to connect to the Service.

4. Additional Representations By Purchaser. By filing out and signing the Application for Service, attached hereto as **Schedule A**, Purchaser expressly represents, on which CP is relying, that the individual signing this Agreement on behalf of Purchaser is authorized under applicable law to execute, deliver and perform this Agreement and all documents, instruments and agreements executed in connection herewith, on behalf of the Purchaser. Any misrepresentation by the Purchaser, or by the individual entering into this Contract on behalf of Purchaser, shall constitute an event of Default hereunder.

5. Fees and Payment. Monthly Fees are outlined in the Fee Schedule included hereinabove. The monthly charges in connection with your purchase of the Service will appear on your credit card bill monthly. CP may immediately suspend, terminate or limit your access to the Service if you fail to pay any fees in connection with your purchase of the Service to CP. Purchaser shall fill out the desired level of Service on the Application for Service attached hereto as **Schedule A**, and incorporated herein by reference.

5.1. Length of Application for Service. The International Home Furnishings Markets in High Point, North Carolina shall be referred to herein singularly as the “**Market**” or collectively as the “**Markets**”. Market takes place twice annually in High Point, NC: once in April (“**Spring Market**”) and once in October (“**Fall Market**”). The six (6) month period of time leading up to, and including, Market shall be identified herein as a “**Market Cycle.**” By way of example, November through April shall constitute a Market Cycle, and May through October shall constitute a Market Cycle. Each contract for Service shall be for a minimum of six months, or one market cycle, subject to the following exceptions:

a. CP reserves the right, in its sole and absolute discretion, to refuse to allow any individual or entity to purchase the Service, without recourse;

b. CP reserves the right, in its sole and absolute discretion, to otherwise alter the Activation Fee for any Purchaser submitting an Application for Service, without recourse;

c. **By submitting an Application for Service, Purchaser expressly acknowledges that the Service is expressly intended to provide monthly wireless internet access for periods of time during the Spring Market and Fall Market periods, as well as for period of time outside of Spring Market and Fall Market, in complete, six (6) month increments. By submitting an Application for Service, Purchaser expressly agrees that it shall be responsible for each and every month in the then existing Market Cycle.** By way of example, any *Purchaser* attempting to purchase the Service in March 2016, immediately prior to the commencement of Spring Market, shall pay the monthly fee, as outlined in the Fee Schedule provided herein, for each month of the then existing Market Cycle (November 2015 through April 2016). By submitting an Application for Service, Purchaser expressly consents to the terms and conditions of the forgoing provision, and expressly waives any claim or cause of action it has, or may have, relating to the requirement that Purchaser pay for the Service for the full six-month Market Cycle period in which it purchases the Service;

d. Without limiting the rights and reservations of CP outlined hereinabove, if Purchaser enters into a contract for the purchase of Service in the duration of a Market Cycle, **and such Purchaser has never before filed an Application for Service or otherwise utilized the Service**, CP MAY, WITHOUT OBLIGATION AND IN ITS SOLE AND ABSOLUTE DISCRETION, pro-rate the monthly Service fee for the first six-month Market Cycle period in which Purchaser purchases the Service, based on the number of months remaining in the presently existing Market Cycle;

6. **Termination**. The Application for Service, attached hereto as **Schedule A**, and these Terms, collectively constitute a binding contract by the Purchaser to purchase the Service for the term specified by Purchaser. The Application for Service submitted by Purchaser to CP shall terminate at the completion of the Contract term, as initially selected by Purchaser in said Application for Service. Purchaser may extend the term of the Application for Service at any time before Purchaser's desired termination date by notifying CP, in writing, of such extension request.

7. **Disclaimer re: Speed and Reliability of the Service**. The speed and throughput of each Service area will vary depending on a number of factors, including but not limited to: The capabilities of Purchaser's wireless enabled device; the physical location of the wireless access points within CP owned properties and facilities; Service user traffic during time of access, general internet congestion, wireless signal interference and the location of Purchaser's wireless enabled device within CP owned properties and facilities while accessing and using the Service.

7.1. CP will use reasonable efforts to provide Purchaser with a reliable, stable and secure access to the Service but, subject to these Terms, does not warrant, guarantee or promise that the access to the Service will be continuous, fault-free, secure, accessible or will meet any stated wireless internet download speed as provided in the Fee Schedule. CP advises that this Service is not suitable for supporting any application or use which requires continuous, fault-free network connectivity or uninterrupted data traffic flow.

7.2. CP will use reasonable efforts to monitor and attend to any Service faults, malfunctions or other problems associated with the Service access but, subject to the Terms herein, will not be liable if such faults, malfunctions or problems occur with the Service and shall not be obligated to rectify any such faults, malfunctions or problems associated with the Service at all or within any specified timeframe.

8. **User Obligations and Limitations**. The Service is intended to be used in a fair and "community-minded" manner. To this end, CP may, in its absolute and sole discretion, limit or block certain websites and/or content that you may seek to access while using the Service. We may prohibit you from participating in or utilizing the Service if in our sole and absolute discretion you show a disregard for this Agreement or act in an unsportsmanlike manner, with the intent to annoy, abuse, threaten, or harass any other person, or in any other disruptive manner. Without limiting its rights, CP may block or limit access to websites and/or content that CP considers are not "professional," "family friendly," may bring negative exposure or harm to CP's reputation and/or brand, or may negatively affect the connectivity of other Purchasers using the Service. This includes but is not limited to websites and/or content that:

a. could cause CP to be in breach of any law or any code or instrument which governs its conduct or to incur a liability to any third person or entity or otherwise interfere with the integrity and/or performance of the Service or any of CP's other networks or equipment;

b. promotes conduct that is abusive, threatening, obscene, defamatory or libelous;

c. contains any viruses, Trojan horses, worms, time bombs, cancelbots, easter eggs or other computer programming routines that may damage, modify, delete, detrimentally interfere with, surreptitiously intercept, access without authority or expropriate any system, data or personal information;

In addition to the foregoing, to ensure continued internet access for all, CP reserves the right to restrict one or more Purchaser's available internet speed. You must comply with all directions issued by CP relating to use and access to a Service. Access to and use of websites and/or content via the Service may also be subject to such websites and/or content passing through the firewalls, anti-virus and other managed security systems prior to the Internet pages being delivered to your wireless enabled device, and which are determined and set in CP's sole discretion.

9. Suspension and Termination. CP reserves the right to refuse service, terminate accounts, remove or edit content or cancel orders in our sole and absolute discretion for any or no reason at all. Without limiting the foregoing provision, CP may immediately suspend, terminate or limit your access to the Service if:

- a. Purchaser or any of its users are in breach of these Terms, constituting an event of Default hereunder (defined hereinbelow);
- b. Purchaser or any of its users attempt to manipulate or bypass any limitations of the Service by any means;
- c. Purchaser or any of its users behave in a vexatious, illegal, inappropriate, or unsociable manner (whether in CP itself or as a user of the Service);
- d. CP believes on reasonable grounds that there is a real risk of serious loss or damage to CP or a third party if we do not suspend, terminate or limit your access; or
- e. There is an emergency; or
- f. **There is an unusually high use of a Service requiring a reduction in one or more user's bandwidth.**

10. Security. The internet is an inherently unsecure communication medium. While CP will use reasonable efforts to provide secure access through this Service, it cannot guarantee the security of the Service at all times. You are solely responsible for any information or data uploaded, downloaded or otherwise communicated in your use of the Service and you are responsible for keeping all usernames, passwords and other security-based information secure and private at all times.

11. Privacy. CP is committed to safeguarding personal privacy. It recognizes that individuals have a right to control how their personal information is collected and used. CP will only collect, use, hold and disclose Purchaser's information for the purposes of delivering the Service in accordance with applicable laws and under these Terms.

11.1. By accepting these Terms and Conditions, Purchaser agrees to CP collecting, holding and disclosing the following information:

- a. Information regarding the number of users accessing any Purchaser's account at any given time;
- b. The number of users who have accessed the Service on any Purchaser's account;
- c. Information regarding your web browser type and/or operating system information as used by your wireless enabled device, in order to determine the most effective and/or customized way to effectively provide the Service;
- d. The IP and MAC address of the wireless enabled device(s) that has accessed the Service;

- e. CP reserves the right to tailor information, offers, and other content based on your browsing habits while using the Service and your geographic location;
- f. CP shall in no way be obligated to distribute or disseminate any of the foregoing information collected to any individual or entity, including Purchaser. Such information constitutes information belonging solely to CP for the purposes of delivering the Service. Purchaser understands that CP, in its sole and absolute discretion, may choose to not distribute any of the foregoing information to Purchaser, without recourse.

11.2. Limitation of Liability Re: Privacy. CP is not in any way responsible for the collection, storage, disclosure or use of your personal information by any third party (including but not limited to any website that you access and/or use through the Service). You are solely responsible for checking the terms of use and privacy policy of each website you visit on a case by case basis and determining whether you accept such terms of use and privacy policies.

12. Right to Restrict Access. In addition to any other rights or remedies that may be available to CP, CP may, without any liability whatsoever, in its sole discretion terminate or restrict your access or use of the Service at any time and without notice.

13. Warranty Disclaimer

ELECTRONIC TRANSMISSIONS, INCLUDING THE INTERNET, ARE PUBLIC MEDIA, AND ANY USE OF SUCH MEDIA IS PUBLIC AND NOT PRIVATE. INFORMATION RELATED TO OR ARISING FROM SUCH USE IS PUBLIC, OR THE PROPERTY OF THOSE COLLECTING INFORMATION, AND NOT PERSONAL OR PRIVATE INFORMATION.

YOU AGREE THAT YOU USE THE SERVICE AT YOUR OWN RISK. THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND EITHER EXPRESS, IMPLIED OR STATUTORY. WE DO NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR ENDORSEMENTS REGARDING THE ACCURACY, RELIABILITY, USEFULNESS OR COMPLETENESS OF THE SERVICE, OR ANY SITE LINKED TO IT. TO THE MAXIMUM EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, DESIGN, ACCURACY, CAPABILITY, SUFFICIENCY, SUITABILITY, CAPACITY, COMPLETENESS, AVAILABILITY, COMPATIBILITY OR ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WE DO NOT WARRANT THAT THE SERVICE OR FUNCTIONS CONTAINED IN THE SERVICE WILL BE CONTINUOUSLY AVAILABLE, UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICE OR THE SERVERS THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR ARE ACCURATE OR COMPLETE. WE DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICES, CONTENT, MATERIALS, OR FUNCTIONS OF THE SERVICE IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. **In the event we are held liable for any damages related to such matters, your sole and exclusive remedy will be limited to reimbursement for the Service paid to CP.**

CP explicitly disclaims any representations or warranties as to the security of any information (including, without limitation, credit card and other personal information) you might be requested to give any third party in connection with your use of the Service, and you hereby irrevocably waive any claim against CP with respect to such sites and third party content. We strongly encourage you to make whatever

investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties.

CP is not responsible for telephone, electric, electronic, network, Internet, computer, hardware or software program malfunctions, failures, delays or difficulties, or late, lost, stolen, illegible, incomplete, garbled, misdirected, mutilated or postage due mail, e-mail, form postings, connections, messages or entries, or the security of any and all such matters.

If for any reason the Service is not capable of running as planned, including as a result of overuse or unexpected use of the available bandwidth, infection by computer virus, bugs, tampering, unauthorized intervention, fraud, technical failures, or any other causes which corrupt or affect the administration, security, fairness, integrity, or proper conduct of the Service, CP reserves the right (but not the obligation) in its sole and absolute discretion, to prohibit you and any tenant, user or Purchaser from using the Service, and to cancel, terminate, modify or suspend the Service or any portion thereof and void this Agreement.

NEITHER CP NOR ANY OF CP'S MEMBERS, MANAGERS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES OR LICENSORS OR INTERNET SERVICE PROVIDERS SHALL BE LIABLE TO YOU OR ANYONE ELSE FOR ANY LOSS OR INJURY OR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR SIMILAR DAMAGES ARISING OUT OF YOUR ACCESS OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE. THIS LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF CP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, CP'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW AND UNDER NO CIRCUMSTANCE SHALL CP BE LIABLE FOR MONETARY DAMAGES EXCEEDING THE COST OF REIMBURSEMENT FOR PAYMENT FOR THE SERVICE PROVIDED TO CP BY PURCHASER. YOU HEREBY WAIVE ANY AND ALL CLAIMS AGAINST CP, MEMBERS, MANAGERS, AFFILIATES, AGENTS, REPRESENTATIVES, LICENSORS AND INTERNET SERVICE PROVIDERS ARISING OUT OF YOUR USE OF THE SERVICE.

Your access to and use of any website or network connection while using the Service is entirely at your own risk.

ELECTRONIC COMMUNICATIONS PRIVACY ACT NOTICE (18 U.S.C. 2701-2711): CP MAKES NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED THROUGH THE SERVICE OR ANY WEB SITE LINKED TO IN CONNECTION WITH THE SERVICE. CP WILL NOT BE LIABLE FOR THE PRIVACY OF THE INFORMATION, E-MAIL ADDRESSES, REGISTRATION AND IDENTIFICATION INFORMATION, DISK SPACE, COMMUNICATIONS, CONFIDENTIAL OR TRADE-SECRET INFORMATION, OR ANY OTHER CONTENT TRANSMITTED OVER NETWORKS ACCESSED BY THE SERVICE, OR OTHERWISE CONNECTED WITH YOUR USE OF THE SERVICE.

NO ORAL ADVICE OR WRITTEN CORRESPONDENCE OR INFORMATION PROVIDED BY CP OR ITS EMPLOYEES, AGENTS OR REPRESENTATIVES WILL CREATE A WARRANTY OF ANY KIND AND PURCHASER SHOULD NOT RELY ON ANY SUCH INFORMATION OR ADVICE. WE RESERVE THE RIGHT, IN OUR SOLE AND ABSOLUTE DISCRETION AND WITHOUT NOTICE TO DENY ACCESS TO THE SERVICE TO ANYONE AT ANY TIME. CP, ITS EMPLOYEES, AGENTS AND REPRESENTATIVES SHALL NOT HAVE ANY LIABILITY ARISING FROM YOUR RELIANCE UPON THE INFORMATION PROVIDED IN CONNECTION WITH THE SERVICE.

Purchaser waives any and all defenses it has, or may have, in a civil action commenced by CP for the purposes of collecting damages under the Application for Service, attached hereto as **Schedule A**, including but not limited to defenses related to collection of actual or consequential damages, including

punitive damages, and defenses for injunctive relief sought by CP. Additionally, Purchaser WAIVES A TRIAL BY JURY ON ALL ISSUES DEEMED TRIABLE IN THE EVENT OF THE FILING OF A CIVIL ACTION, WHETHER BY CP TO ENFORCE THIS AGREEMENT, OR BY PURCHASER AGAINST CP RELATING TO THE SERVICE OR THIS AGREEMENT.

14. Purchaser's Sole and Exclusive Remedy. As provided hereinabove, with regard to any liabilities, damages, claims, or causes of action of the Purchaser against CP in connection with this Agreement, or in any way related to Purchaser's purchase and use of the Service, Purchaser's sole and exclusive remedy shall be limited to reimbursement for services or products paid by Purchaser to CP.

15. Indemnity and Release. Purchaser is entirely responsible for maintaining the confidentiality of its password(s) and account(s) and for all activities that occur under Purchaser's account in connection with its use of the Service. Purchaser hereby indemnifies, defends and hold CP and its Members, Managers, Employees, Agents, and Representatives harmless from and against any and all allegations, demands, claims, liabilities, damages, fines, penalties or costs of whatsoever nature (including reasonable attorneys' fees) and whether by reason of death of or injury to any person or loss of or damage to any property or otherwise ("Claims") arising out of or in any way connected with this Agreement, or the Service (and related products or services) provided to Purchaser by way of the Service or any related act or failure to act by Purchaser and whether or not occasioned or contributed to by the negligence of CP or any agent or employee of the CP or any of them (except as and to the extent prohibited by applicable law) or Claims arising from Purchaser's account. In the event that any Claim is made or any action or proceeding is brought against CP, or its Members, Managers, Employees, Agents, and Representatives, or any of them, arising out of or connected with this Agreement or the Service, CP may, by reasonable notice to you, require Purchaser, at your expense, to resist such Claim or take over the defense of any such action or proceeding and employ counsel for such purpose, such counsel to be subject to the prior written approval of CP, which approval shall be deemed to have been given hereby in the case of counsel acting for your insurance underwriters engaged in such resistance or defense. Purchaser shall cooperate with CP in the defense of any Claim. CP reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you. BY UTILIZING THE SERVICE, PURCHASER AND ALL USERS ACKNOWLEDGE AND AGREE THAT CP IS RELEASED, DISCHARGED AND HELD HARMLESS FROM AND ARE NOT RESPONSIBLE OR LIABLE FOR ANY LIABILITY WITH RESPECT TO ALL ASPECTS OF THE SERVICE THAT MAY OCCUR FROM USE OF THE. CP RESERVES THE RIGHT AT ANY TIME AND WITHOUT LIABILITY TO RESTRICT OR REFUSE ACCESS TO THE SERVICE TO ANYBODY. CP FURTHER RESERVES THE RIGHT TO SEEK ANY FORM OF RELIEF, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES, RELATED TO ENFORCEMENT OF THIS AGREEMENT, OR DEFENDING AGAINST A CLAIM UNDER THIS AGREEMENT.

16. Separate Agreement. This Agreement shall be separate and distinct from any other agreements, specifically including lease agreements, which may have been entered into between and among CP and Purchaser. Termination of this Agreement shall in no way affect any such other agreements that may exist between the parties hereto.

17. Jurisdiction / Governing Law / Choice of Forum. The Service is controlled and operated by CP from its offices within the County of Guilford, State of North Carolina, United States of America. These Terms & Conditions and any dispute arising out of or related to the Terms & Conditions or use of Service shall be governed in all respects by and construed and enforced in accordance with the laws of the State of North Carolina, without regard to its conflicts of law principles. Exclusive jurisdiction over any cause of action arising out of these Terms & Conditions or your use of the Service shall be in state or federal courts located in Guilford County, North Carolina. You further agree to submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

18. Severability. If any part of these Terms & Conditions is unenforceable, the unenforceable part shall be construed to reflect, as nearly as possible, the original intentions of the parties. All other provisions of these Terms & Conditions shall remain in full force and effect.

19. No Waiver. CP's failure to insist upon or enforce strict performance of any provision of these Terms & Conditions shall not constitute a waiver of the provision. Neither a course of dealing or conduct between you and us nor any trade practices shall be deemed to modify these Terms & Conditions.

20. Access to the Service. To be eligible to use the Service, you must have an account with CP ("Purchaser's Account") relating to your request for the Service after filling out, executing and submitting the Application for Service attached hereto as Schedule A, and you must be up to date on all regular monthly payments and fees associated with your use of the Service.

21. Rights and Remedies Upon Default. Purchaser shall be in default if any of them individually or collectively fail to perform, keep or observe any term, covenant or condition of these Terms, including failure to make the payments in a timely manner as outlined herein (any such failure a "Default"). Upon the occurrence of a Default, CP may, in its sole discretion and without notice to the Purchaser, immediately proceed with all of its Default related remedies including, without limitation, cancelling the Service immediately and filing a civil action to collect any and all amounts due and owing under this Agreement. **Purchaser expressly acknowledges that in the event of a Default, Purchaser shall remain liable for full payment under the Application for Service for the complete Contract term remaining on such Application, as requested by Purchaser.** In the event CP is forced to employ the services of an attorney to collect on any amount due and owing under this Agreement, Purchaser hereby agrees to be responsible for the payment of all reasonable attorney fees expended in the course of collection, such reasonable fees constituting 15% of the outstanding balance due and owing on this Agreement. In certain circumstances, a Default under these Terms by Purchaser may cause damage to CP that is difficult, or impossible, to quantify. Any such Default may result in CP seeking consequential or punitive damages, or non-monetary relief, such as injunctive relief, against Purchaser.

22. Refunds. Once the Service has been accessed and your purchase of the Service has commenced, no refunds will be permitted unless, in CP's sole and absolute opinion, a technical problem (other than one caused by Purchaser or Purchaser's device) resulted in Purchaser being unable to connect to the Service. This provision is subject to the disclaimers of warranty and limitations of liability outlined hereinabove.

23. Duty of Confidentiality. As a material consideration for the provisions set forth herein, and as a Term of receiving the Service, Purchaser shall not publish or otherwise circulate information regarding the Service, the Application for Service or these Terms (including but not limited to the internet download speed purchased, the length of Purchaser's Contract term, etc.) to any third party (including but not limited to other ISP providers, the officers or employees of other showrooms and other market participants or potential participants). This duty of confidentiality shall survive the duration of Purchaser's Contract term. Failure to abide by these Terms, including the Duty of Confidentiality outlined herein, may result in consequential damages, punitive damages and in CP seeking injunctive relief against Purchaser.

If you experience a technical issue while using the Service, please contact the CP's Help Desk at _____ or via email at _____. CP will use reasonable efforts to monitor and attend to Service faults, malfunctions or other problems associated with Service access but will not be liable if such faults, malfunctions or problems occur with the Service and shall not be obligated to rectify any such faults, malfunctions or problems associated with the Service at all or within any specified timeframe.