

## TERMS AND CONDITIONS

These Terms and Conditions ("Terms") are entered into by the Client ("Client") and Integrated Strategic Solutions ("ISS"), whereby Client exchanges the rights of marketing Client's property utilizing a yard sign rider provided by ISS in exchange for certain mobile messaging services ("Services"). Client agrees that ISS has the exclusive rights to resell the marketing capability to any third party EXCEPT those entities engaged in the sale of residential real estate. Client will have the ability to enter certain information pertaining to the property through the PromoTextSolutions.com website and then capture any and all cell phone numbers of those initiating a SMS Message through the system. Client agrees that those phone numbers MAY NOT be sold to any third party at any time nor will Client re-text the initiating party unless Client complies with all state and federal laws. Client and ISS each agrees and acknowledges:

**1. MOBILE MESSAGING SERVICES.** Subject to the terms of this Agreement, ISS agrees to provide an SMS Messaging platform for Client and such other mobile messaging services as may be requested by Client and accepted by ISS pursuant to the terms of this Agreement in exchange for the exclusive marketing rights under Promo and Financing as indicated on the sign rider that will be attached to a typical residential real estate "For Sale" yard sign.

**1.1 Cellular Binary Content.** WAP PUSH supports transmission of binary content to supported carriers. At present, tight restrictions exist with most carriers as to the acceptable applications of binary content with respect to premium or standard rate messaging. Binary content is not included and additional costs may apply.

**1.2 Short Codes.** ISS has the right, in its sole discretion, to move Client campaigns to alternative short codes.

## **2. CLIENT RESPONSIBILITIES.**

**2.1 Compliance with Carrier Guidelines.** Client agrees to comply with all carrier guidelines, best practices and the Mobile Marketing Association and CTIA Playbook guidelines (See the Mobile Marketing Association's Policies and Guidelines at [www.mmaglobal.com](http://www.mmaglobal.com) and the CTIA Playbook at [http://www.wmcglobal.com/images/CTIA\\_playbook.pdf](http://www.wmcglobal.com/images/CTIA_playbook.pdf)). It is Client's responsibility to abide by these rules, as updated from time to time. Failure to do so may result in the carriers turning off short code and/or keywords after which Client may continue to be bound to pay the fees committed to under this Agreement. In addition, as long as Client uses ISS's Web-enabled documentation and "snippets" for its website advertising of the short code, ISS will handle any carrier audits based on the website language provided by ISS at no additional cost. Should Client use its own advertising material for the short code on its website (including Twitter feeds, FaceBook posts, etc.), any subsequent audits will be charged on a Time & Materials basis at ISS's then-current hourly rates (Minimum of 2 hours per occurrence). In addition, Client agrees to make the necessary changes to its website and any online postings within twenty-four (24) hours of notification by ISS that a carrier audit has been initiated.

**2.2 Compliance with Federal, State and Local Laws.** Client is responsible for, and agrees to comply with, all federal, state and local laws, rules and regulations governing any Services provided by ISS for Client's benefit.

**2.3 Third Party Compliance.** Client agrees that any and all third parties using the Services on behalf of the Client in connection with the Services, or otherwise involved in Client's campaigns that uses the Services, will comply with the provisions of this Agreement and all applicable laws, rules and regulations, including without limitation any applicable carrier rules and regulations. The initial use of this service is to allow potential buyers, tenants, lessees, brokers, etc., the ability to obtain property and other pertinent information by displaying the keyword, property ID and short code on the signage located at the property(s). Any other marketing use of the keyword and short code must be approved in writing by ISS to ensure sure all federal and state disclosures are met.

## **3. TERM AND TERMINATION.**

**3.1 Initial Term; Renewal Terms.** The initial term of this Agreement is will be ninety (90) days ("Term") from the date of the assignment of the Property ID set forth in the set-up form on this website, and unless otherwise indicated or under Section 3.5, shall automatically renew for thirty (30) days thereafter until the property sells and the yard sign is removed unless prior written notice is provided by either party thirty (30) days prior to the renewal of the Term. Notwithstanding the foregoing, if ISS raises the rates for the Services for any renewal period, Client will have the option for thirty (30) days after the commencement of any renewal period to terminate this Agreement with no further commitment or obligation to ISS.

**3.2 Termination for Cause.** ISS may suspend performance and/or terminate this Agreement immediately upon written notice at any time if and after Client is in material breach of any warranty, term, condition or covenant of this Agreement and Client fails to cure that breach within ten (10) business days after written notice thereof.

**3.3 Immediate Termination.** ISS shall have the right to immediately terminate this Agreement if, as determined by ISS in ISS's sole discretion, Client breaches Section 2.1 above. If this Agreement is terminated by ISS because Client failed to perform its obligations under Section 2.1, Client shall remain obligated to pay the remainder of the fees committed to under this Agreement. Each party shall have the right, exercisable in its sole discretion, to terminate this Agreement immediately if the other party ceases business, becomes insolvent, makes an assignment for the benefit of creditors (or takes other similar actions under state insolvency laws), becomes the subject of a voluntary petition for bankruptcy, or becomes the subject of involuntary bankruptcy proceedings (and such proceedings are not dismissed within sixty (60) days of filing).

**4. CONFIDENTIALITY.** Each party shall preserve the confidential nature of, and will not disclose any information, knowledge or data of or pertaining to the other party and which is not in the public domain, including without limitation trade secrets, proprietary software, pricing lists, names and lists of licensors, suppliers and customers, programs, statistics, processes, techniques, marketing, or any other matters, and all other confidential information (collectively the "Confidential Information") of the other party. The restrictions on the disclosure of Confidential Information imposed by this paragraph shall not apply to any Confidential Information that was part of the public domain at the time of its receipt by recipient or becomes part of the public domain in any manner and for any reason other than an act by recipient, unless recipient is legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose such Confidential Information, in which event recipient shall exercise reasonable efforts in good faith to obtain assurance that confidential treatment will be accorded such Confidential Information.

5. **WARRANTIES.** Each of the parties hereto represents and warrants, for itself, that it has the full power and authority to enter into this Agreement and agrees to the terms set forth herein.

6. **INDEMNIFICATION BY CLIENT.** Client shall, at its own expense, indemnify, defend and hold harmless ISS and its directors, officers, employees and agents from and against any and all third party claims, costs, fees (including reasonable attorneys' fees), expenses, demands, suits, or causes of action (hereinafter "**Claims**") which result or are claimed to result in whole or in part from any (i) grossly negligent or willful misconduct of Client or its employees, agents or contractors; (ii) breach of a representation or warranty made hereunder by Client; (iii) Client's failure to comply with any of Client's responsibilities under Section 2 of this Agreement; and/or (iv) failure by Client, or any other party using the Service or otherwise involved in Client's messaging campaigns that uses the Services, to adhere to the provisions of this Agreement or any applicable laws, rules or regulations, including without limitation any applicable carrier rules and regulations.

7. **WARRANTY DISCLAIMER; DAMAGE LIMITATION.**

7.1 **Warranty Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, ISS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES OR THE PERFORMANCE THEREOF. ISS EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR THAT THE SERVICES WILL BE PROVIDED FREE OF ERRORS OR OMISSIONS.

7.2 **No Incidental or Consequential Damages.** IN NO EVENT WILL ISS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, SUFFERED BY CLIENT, WHETHER OR NOT ISS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, INJURY, OR DAMAGES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ISS SHALL NOT BE LIABLE TO CLIENT FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT, OR WHETHER CAUSED BY ISS'S FAULT, OMISSION OR NEGLIGENCE, OR BY ISS'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

7.3 **Limitation of Liability.** In no event is ISS responsible for Client's compliance with any laws, regulations or rules of any applicable jurisdiction, governing bodies or by any organization (e.g., carriers). ISS shall not be liable for any amounts under this Agreement, including without limitation any amounts that Client may be responsible for as referenced in Section 3.3. If, for any reason, ISS is found to be liable, ISS's liability to Client or any third party is limited to the greater of (a) the total fees paid by Client to ISS in the 12 months prior to the action giving rise to the liability, or (b) \$500.00.