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## TERMS OF USE

### 1. Acceptance of Terms Through Use

homegenius Real Estate LLC and its Affiliates ("homegenius") make Services and Products available on this Website subject to the following terms and conditions of use (the "Terms of Use"). These Terms of Use also apply to any updates, enhancements and new features and products.

This is a valid and enforceable **Contract**. By clicking the "I Accept" button and by using this Website and its content, including information, reports, images, products and data, you personally and on behalf of your employer (referred to collectively "you" herein) acknowledge entering into a lawful consumer-broker or client-broker relationship with homegenius, and agree to be bound by all or any portion of the terms and conditions of this agreement, including without limitation the restrictions on the scope of use of the Services and Products and all underlying data, compilations and information contained thereon and/or provided by homegenius.

## **2. Registration**

You acknowledge that you may not access this Website and have access to Services and Products contained herein until you have become a Registrant. The following are conditions for becoming a Registrant: (a) You must accept and agree to these Terms of Use, (b) you must provide your employer's identity to homegenius, (c) you must provide your name and a valid email address to homegenius. homegenius will send an email to you at the address provided by you confirming that you have agreed to the Terms of Use. You must then reply to that email which will confirm that the email address is a valid email address, and that you received the Terms of Use confirmation. You will be permitted to access this Website only after you have verified that the email address provided by you is valid, and that you have received the Terms of Use confirmation. You must supply homegenius a user name and a password, the combination of which must be different from those of all other Registrants, before you will be permitted to access the Services and Products offered on the Website. The email address you provide to homegenius must be associated with only one other name and password and must be the email address provided to you by your employer.

### **3. Grant of License**

Subject to the terms and conditions contained herein, homegenius grants to you a non-exclusive, non-transferable, revocable license, without the right to sublicense, to use the Services and Products provided on the Website solely for the Permitted Use and subject to the terms and conditions set forth herein. The license granted by homegenius pursuant to these Terms of Use is not perpetual. homegenius may at any time and at its discretion terminate this license. You shall have no implied licenses nor shall an implied license be deemed to be granted. homegenius retains all rights not specifically granted hereunder. You agree to use the Services and Products contained on the Website as defined in the Permitted Use and subject to the terms of these Terms of Use and for no other purposes.

The Website and all Services and Products accessible thereon are owned and copyrighted by homegenius. homegenius grants no rights beyond the license granted and conferred to such Services and Products and, except for the limited license provided herein, homegenius reserves all rights in all Services and Products and any and all underlying data compilations and information contained therein, including but not limited to the exclusive rights under copyright and the right to grant further licenses. You agree to take all reasonable steps, in accordance with the best industry practices, to protect the security of all Services and Products provided on the Website and to prevent unauthorized use or disclosure of the Services and Products and all underlying data, compilations and information contained thereon.

#### **4. Permitted Use**

Subject to the terms and conditions contained herein, you may use the Services and Products contained on the Website for your employer's benefit in the course and conduct of your employer's internal business activities related to its purchase, sale, financing, management and/or other potential transactions involving individual parcels of residential real property or your employer's consideration of the origination, purchase, sale, management or other potential transactions involving loans secured by individual parcels of residential real property.

## 5. Limitations on Use

- Except for the Permitted Use described herein, you shall not (a) modify, copy, distribute, transmit, display, perform, reproduce, publish, upload, post, license, frame in another website, use on any other website, create derivative works of, transfer, sell, and/or exploit for commercial use, any content on the Website, including any Services or Products or any underlying data, compilations and information contained therein or thereon, including by email or other electronic means; (b) take any action that imposes or may impose, in homegenius's sole discretion, an unreasonable or disproportionately large load on the Website's infrastructure; (c) copy, reproduce, modify, create derivative works from, distribute, or publicly display any content from the Website; (d) interfere or attempt to interfere with the proper working of the Website or any activities conducted on the Website, including but not limited to the introduction of any virus, Trojan horse, worm or other software routines designed to permit unauthorized access to software or hardware or to disable, erase or otherwise adversely affect data or the operation of software or hardware; (e) bypass homegenius's robot exclusion headers or other measures homegenius may use to prevent or restrict access to the Website; (f) circumvent any technological measures or features of the Website that are intended to or effectively control access to any protected content or information included on the Website, including but not limited to bypassing any security feature of the product or the computer system on which the product is installed; or (g) not use any robot, spider, scraper or other automated means, including but not limited to any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than homegenius, to access the Website for any purpose.
- You shall not, nor make any attempt to: (i) alter, modify, improve, reverse engineer, disassemble or decompile the Website, any systems found on the Website, any Services or Products or any information obtained through use of the Website; (ii) sublicense or transfer any of the rights granted under these Terms of Use, or otherwise use the Services and/or Products contained thereon or any underlying data, compilations and information contained therein for the benefit of anyone; or (iii) publicly display, make available to the general public, or otherwise transfer in bulk any Services or Products obtained from your access to the Website or any underlying data, compilations or information contained therein, to any third party.
- You shall not use the Website, Services, Products or any underlying data, compilations and information contained therein, with other valuation approaches or products to create derivative products for sale or other commercial use.

- You shall not access or use the Website without a properly-assigned user name and password, and shall not permit any other employee of your employer or any other third party to gain access to the Website unless a username and password has been specifically assigned to that individual by homegenius.

## 6. Privacy

- Information Collected and Its Use. You acknowledge and agree that homegenius may collect information about you, including personal information such as your name and email address, and other information that may be used to identify and authenticate you, as well as for other purposes.
- Cookies. You agree and acknowledge that the Website employs cookies. In general, a "cookie" is a small piece of text data stored on the viewer's computer by a website, to give the viewer's computer a unique identity while the website performs certain processes, such as filling an online member form, or calculating the number of unique visitors at a given time. Cookies may contain personal information, like email addresses, usernames, or passwords, or completely anonymous information, like a randomly generated number or string. They may be deleted once the viewer leaves a site, a section of a site, or closes the browser; or they may remain, so that the website remembers the viewer the next time the viewer visits that site. Most browsers allow the viewer to decline cookies automatically or to accept or decline each cookie individually. If you choose to decline cookies from the Website, however, you may not be able to use some sections of the Website or it may hinder the Website functions.
- Sharing Information. You acknowledge and agree that homegenius may share your personal information with others, including but not limited to, the providers of Third Party Applications. homegenius may be forced to disclose information to the government or third parties under certain circumstances. homegenius cooperates with law enforcement inquiries, as well as other third parties, to enforce laws such as those regarding intellectual property rights, fraud and other personal rights. homegenius can, and you hereby authorize homegenius to, disclose any information about you to law enforcement or other government offices as homegenius, in its sole discretion believes necessary or appropriate in connection with an investigation of fraud, intellectual property infringement or other activity that is illegal or may expose homegenius or you to liability.
- Compliance Certificate. User acknowledges and agrees that the homegenius is governed by the policies of the Multiple Listing Services which provide data to homegenius. Accordingly, you acknowledge, and consent to homegenius taking all action required or allowed under the applicable policies, including allowing such Multiple Listing Services, their Participants or their duly authorized representatives to verify compliance with their policies and monitor use of the data obtained from them.



## 7. Intellectual Property Ownership

- You acknowledge and agree that the Services and Products and all materials thereon including but not limited to data obtained by Multiple Listing Services by homegenius, including without limitation, images, text, graphic designs, illustrations, trademarks, service marks, copyrights, photographs, information, data, other files and arrangement thereof and content belonging to other issues and all intellectual property rights related thereto, are the exclusive property of the Multiple Listing Service that provides the data and/or homegenius and you acknowledge the validity of all copyrights held by the Multiple Listing Service and/or homegenius. Except as explicably provided herein, nothing in these Terms of Use shall be deemed to create a license in or under any such intellectual property rights of homegenius or its licensors.
- You acknowledge and agree that the trademarks of homegenius (the "Marks"), the Website, the Services and Products, and the content and look and feel of the Website, to the extent protectable, are proprietary, original works of authorship of homegenius or licensors of homegenius, protected under United States and worldwide copyright, trademark, and trade secret laws of general applicability. You further acknowledge and agree that all right, title and interest in and to the Marks, the Website, and the look and feel of the Website, including all content thereof, are and shall remain with homegenius, or its licensors, and the Multiple Listing Service ("MLS") databases from which content used on the Services and Products is obtained is protected under United States and worldwide copyright law, and is owned by the MLS, or its licensors, providing such database. ("MLS Data") User agrees not to contest or infringe upon these rights, directly or indirectly, at any time. Without the prior written consent of homegenius, use of the Website for any purpose other than Permitted Use, violates the copyrights, trademarks or other intellectual property rights of homegenius or its licensors, and is prohibited. Except as expressly provided under these Terms of Use, you may not use on the Website, or on any other materials, the Marks, or any other trademarks or copyrighted materials appearing on the Website, including without limitation any logos and MLS Data, without the express prior written consent of the owner of the mark or copyright.
- You personally agree not to challenge homegenius's rights in and to the Website, or to take any action inconsistent with the provisions of this Section 7 of these Terms of Use. You agree to take all action and execute and deliver to homegenius all documents requested by homegenius in connection with any copyright application and registration by homegenius.
- Without limiting the generality of this Section 7, you personally acknowledge and agree that homegenius may license, or otherwise grant rights in or to intellectual

property owned or licensed by homegenius to any third party for any lawful purpose reasonably deemed appropriate by homegenius.

## **8. Links to other Websites and Related Disclaimers**

You agree and acknowledge that the Website may contain links to or be linked from other websites and resources located on servers maintained by third parties over which homegenius has no control ("Linked Websites"). The Linked Websites are provided for your convenience and information only and, as such, you access them at your own risk. You agree and acknowledge that homegenius is not responsible for, and does not endorse or warrant, the content of or anything that may be delivered to you or your computer as a result of accessing any Linked Websites, whether or not homegenius is affiliated with the owners of such Linked Websites. Without limiting the generality of the foregoing, you hereby waive any claims related to, and agree that homegenius is not responsible and shall have no liability for your access of any information on or us of the Linked Websites, including but not limited to, any viruses or other illicit code that may be downloaded through a link found on the Website, or by accessing a Linked Website. You agree that homegenius will not be responsible or liable for loss or damage that might be incurred by you or your employer as a result of a transaction you enter into through any other website.

## **9. Potential Disruption of Service**

Access to the Website may from time to time be unavailable, delayed or limited due to, among other things: hardware failure; software failure, including among other things, bugs, errors, viruses, configuration problems, incompatibility of systems, utilities or applications, the operation of firewalls or screening programs, unreasonable codes, or content irregularities; system overload; damage caused by severe weather, natural disasters, war or acts of God; terrorism; interruption of power supplies; strike or other stoppage of labor; governmental or regulatory restrictions; or any other cause whatsoever beyond the control of homegenius. You agree that any modification of the Website, and any interruption or unavailability of access to the Website shall not constitute a default or any obligations of homegenius under these Terms of Use, and homegenius shall have no liability of any nature to you or your employer for any such modifications, interruptions, unavailability, or failure of access. homegenius has the right at any time to change or discontinue any aspect or feature of the Website, including, without limitation, the content, hours of availability, and equipment needed for access or use of the Website.

## **10. No Warranties**

The materials, information, Products, and Services included in or available through the Website, including the images, text, databases, photos, custom graphics, compilation, assembly, and the overall look and distinctiveness of the Website are provided "as is" and "as available." homegenius disclaims all express or implied representations, warranties, guaranties, and conditions, including implied warranties or conditions of merchantability, fitness for a particular purpose, title, or non-infringement. Neither homegenius nor its licensors make any representations, warranties, or guaranties as to the quality, reliability, suitability, truth, accuracy, or completeness of the Website content. homegenius disclaims any representation or warranty that the Website itself or any product or service offered through the Website will be available at any particular time or from any particular location or that any defects or errors will be corrected. The Website may include inaccuracies or typographical errors. Your use of the Website is solely at your risk.

## **11. Limitation of Liability**

- You understand and agree that homegenius will not be liable for any direct, indirect, incidental, special, consequential, punitive, or exemplary damages resulting from or in any way connected to your access to, use, inability to use, or reliance on the Website or any Products or Services obtained through the Website. For those jurisdictions that either do not allow or place restrictions upon the exclusion or limitation of damages in certain types of agreements, this limitation shall be construed to permit the maximum exclusion or limitation permitted by applicable law.
- In no event will homegenius be liable to you or your employer, or any third party for any decision made or action taken in reliance upon your use of any information contained in or provided through the Website. Any information, Services or Products obtained through the use of the Website, or any linked website, is at your own risk, and you and your employer will be solely responsible for any damage to you or your employer's equipment, software, user's website, loss or data, theft, destruction, unauthorized access to or alteration of personal records, the reliance upon or use of Products or Services appearing on the Website or a linked website, or other personal or commercial loss that results from the use of any such Products or Services on the Website or a linked website.

## 12. Indemnification of homegenius

- You will not use the Products and Services for any unlawful purpose, or for any purpose not permitted by these Terms of Use. You and your employer, agree to indemnify, defend and hold harmless homegenius and its officers, directors, employees, members, contractors and agents ("Indemnified Parties") from any liability, loss, claim and expense (including reasonable attorneys' fees) due to or arising from (i) your use of or access to the Website, the Services and Products, including any data or content transmitted or received by you, or your inability to use the Website, the Services or the Products; (ii) any claim or damages that arise as a result of any of your User Content or any User content that is submitted via your account (iii) your violation of any of the terms of this Agreement, including without limitation your breach of any of the representations and warranties above, (iv) your violation of any rights of a third party, including without limitation any right of privacy or intellectual property rights; (v) any other party's access and use of the Website, the Services or Products with your unique username, password or other appropriate security code or (vii) your violation of any applicable laws, rules or regulations.
- You and your employer are solely responsible for defending any claim, subject to the Indemnified Party's right to participate with counsel it selects, and neither you nor your employer will agree to any settlement that imposes any obligation, liability or admission of guilt on the part of the indemnified Parties without prior written consent of the respective party. If you violate any provision of this section of the Terms of Use, homegenius may terminate your access to the Website without notice. Your indemnity obligations to the Indemnified Parties shall survive the termination of your access to the Website and these Terms of Use.

### **13. Claims of Copyright Infringement**

If you are a copyright owner or an agent thereof and believe that anything on the sites infringes upon your copyrights, you may submit a notification of infringement pursuant to the Digital Millennium Copyright Act ("DMCA") by providing homegenius's Copyright Agent with the following information: (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (ii) a description of the copyrighted work that you claim has been infringed; (iii) a description of where the material that you claim is infringing is located on our website (please include URLs to help us identify the material); (iv) your address, telephone number, and email address; (v) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. homegenius's designated Copyright Agent to receive notifications of claimed infringement is:

homegenius Real Estate LLC  
Attn: Legal Department/Copyright Agent  
6330 South 3000 East, Suite 600  
Salt Lake City, UT 84121

**UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.**

Please note that this procedure is exclusively for notifying homegenius and its affiliates that your copyrighted material has been infringed. The preceding requirements are intended to comply with homegenius's rights and obligations under the DMCA, including 17 U.S.C. §512©, but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws.



#### **14. Proprietary and Other Notices**

You agree that you will not alter or remove any trademarks or copyright notices or other notices and disclaimers located or used on, or in connection with, the Website or any Products or Services licensed by you under these Terms of Use.

## 15. Dispute Resolution

- You agree that your use of this website constitutes a transaction in interstate commerce and that any claim or controversy arising out of or relating to the use of this Website or to any acts or omissions for which you may contend homegenius is liable, including but not limited to any claim or controversy as to arbitrability ("Dispute"), shall be finally, and exclusively, settled by arbitration Pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 Et seq. You intentionally and knowingly give up your right to go to court to assert or defend your rights. You also give up your right to participate in or bring class actions. You and your employer's rights will be determined by neutral arbitrators and not a judge or jury.
- All arbitration will be held before one arbitrator under the arbitration rules of the American Arbitration Association ("AAA") in force at that time. The arbitration will be conducted in Salt Lake City, Utah. The arbitrator will be selected pursuant to the AAA rules. Should no AAA rule regarding the selection of an arbitrator be in effect, you will select an arbitrator from a panel of arbitrators acceptable to homegenius. In any arbitration, homegenius will pay the filing fee, plus the costs associated with the first day of arbitration, with the remaining costs of arbitration paid by the non-prevailing party. To begin the arbitration process, a party must make a written demand.
- Any judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The arbitrators will not have the power to multiply actual damages or award consequential, punitive or exemplary damages, and each party irrevocably waives any claim thereto. The agreement to arbitrate will not be construed as an agreement to the joinder or consolidation of an arbitration under these Terms of Use with an arbitration of disputes or claims of any non-party, regardless of the nature of the issues or disputes involved.
- Should a dispute arise and should the arbitration provisions become inapplicable or unenforceable, you agree that jurisdiction over and venue of any suit will be exclusively in the state and federal courts sitting in Salt Lake County, Utah. If either party employs attorneys to enforce any right in connection with any dispute or lawsuit the prevailing party is entitled to recover reasonable attorneys' fees.

## **16. Injunction**

You acknowledge and agree that a breach or violation of these Terms of Use will result in immediate and irreparable injury and harm to homegenius and its licensors. In such event, homegenius shall have, in addition to any and all remedies of law and other consequences under these Terms of Use, the right to an injunction, specific performance or other equitable relief to prevent violation of your obligation under these Terms of Use without any obligation to post a bond or other security, and you expressly waive any obligation for the posting of any such bond or security; provided, however, that, this shall in no way limit any other remedies which homegenius may have, including, without limitation, the right to seek monetary damages.

## **17. Severability and Integration**

Unless otherwise specified in these Terms of Use or the Website, these Terms of Use constitute the entire agreement between you (your employer) and homegenius with respect to the Website and the Products and Services and supersedes all prior or contemporaneous communications and proposals (whether oral, written, or electronic) between you and homegenius with respect to the Website and the Products and Services. If any part of these Terms of Use is held invalid or unenforceable, that portion is construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions remain in full effect.

## **18. Submissions**

All comments, feedback, information, and materials submitted to homegenius through the Website ("Submissions") will be considered the non-confidential property of homegenius. By providing a Submission to homegenius, you grant homegenius, at no charge, a royalty free, perpetual, irrevocable, non-exclusive, worldwide right and license (with the right to sublicense) to use, reproduce, distribute, modify, create derivative works of, and publicly display, your Submission in any media; and make, sell, offer for sale, import, and otherwise transfer your Submission, subject to no confidentiality obligations regarding Submissions. You acknowledge that you are responsible for the Submissions that you provide, and that you, not homegenius, have full responsibility for the Submissions, including their legality, reliability, appropriateness, originality, and copyright.

## **19. Governing Law; Submission to Jurisdiction**

These Terms of Use shall be governed by and construed in accordance with the laws of the state of Utah. You acknowledge that by using the services provided under these Terms of Use, you have transacted business in the state of Utah. By transacting business in the state of Utah, you voluntarily submit and consent to, and waive any defense to the jurisdiction of courts located in Salt Lake County, state of Utah, as to all matters relating to or arising from these Terms of Use.

## 20. Termination

- homegenius may at any time and without notice terminate your license and deny access to the Services and Products available on this website upon the occurrence of any of the following events: (1) you request in writing to homegenius that your license be terminated; or (2) you default under any material term or condition of these Terms of Use.
- homegenius may, in its sole discretion, at any time and for any or no reason, suspend or terminate your license and the rights afforded to you hereunder with or without prior notice. Furthermore, if you fail to comply with any terms and conditions of these Terms of Use, then these Terms of Use and any rights afforded to you hereunder shall terminate automatically, without any notice or other action by homegenius. Further, homegenius reserves the right to pursue any and all legal remedies that it may have against you following such termination.
- Upon termination of your license granted in these Terms of Use, you agree to immediately destroy any printouts or copies in whatever form or medium of any materials, Products or Services that you have obtained from the Website in your possession or under your control, and all licenses granted and all services provided to you under these Terms of Use shall terminate, and you agree to terminate your access to and use of the Website. Upon termination, homegenius will terminate your access to the Website, and your password shall be disabled.

## **21. Non-Waiver**

homegenius's failure to exercise or enforce any right or provision of these Terms of Use does not constitute a waiver of that or any other right or provision.



## **22. Electronic Transaction**

The parties expressly agree to conduct this transaction electronically pursuant to the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 and the Uniform electronic Transactions Act, Utah Code Ann. §§46-4-101 to 46-4-502.

### **23. Survival**

The provisions of Sections 6 (Privacy), 7 (Intellectual Property Ownership), 10 (No Warranties), 11 (Limitation of liability), 12 (Indemnification of homegenius), 15 (Dispute Resolution) and 19 (Governing Law: Submission to Jurisdiction) of these Terms of Use shall survive the termination of these Terms of Use.

## **24. Assignment**

homegenius may assign these Terms of Use, in whole or in part, at any time with or without notice to you. You may not assign these Terms of Use or assign, transfer or sublicense your rights, if any, in the Service.

**Please print or download a copy of these Terms of use for your records.**