

**Proxio, Inc.**  
**Terms of Service (United States)**  
**July 16, 2012**

These Terms of Service set forth the terms and conditions upon which Proxio, Inc. ("Proxio") makes available, at no charge or for an annual subscription, its proprietary online property marketing services and agent networking services ("Services") offered to enable real estate professionals to find and connect with other professionals more effectively. Your use of the Services is expressly conditioned on your compliance with these Terms of Service. By accessing or using the Services, you are indicating that you agree to be bound by these Terms of Service.

You acknowledge and agree that Proxio may revise these Terms of Service from time to time. By continuing to access or use the Services after Proxio makes any such revision, you agree to be bound by the revised Terms of Service.

**Account Eligibility**

The Services are provided for professionals engaged in the real estate industry, either as a licensed agent or broker, or as a salesperson, manager or administrator working for a licensed agent or broker ("User"), and the Services require registration that includes evidence that User has this licensed relationship. If you do not qualify, you may not use the Services. Users may not have more than one active account, and may not sell, trade, transfer or otherwise permit another person or entity to assume the account.

**Description of Services**

The Services provide a User the ability to enter and manage information about one or more properties for sale or rent (a "Listing") and to enter and manage information about their professional qualifications (a "Profile"); to share the Listing and the Profile with one or more other Users participating in the Services; to join Groups; and /or to participate in message boards or emails to communicate with other Users through the social networking features. The Services operate by storing the specified Listings and Profiles on a Proxio server and allowing other Users to access them based on the status set by the person or company that entered the Listing or Profile.

You acknowledge and agree that Proxio may establish general practices and policies concerning use of the Services, including, without limitation, the minimum amount of information that will be required to establish a valid Listing or Profile, minimum requirements for keeping a Listing or Profile current; the maximum number of days that a Listing or Profile will be stored by the Services, the right to display minimal information about the Listings and Profiles to other Users, and the appropriate types and quantities of messages posted or sent through the Proxio system.

**Use of Services**

Your use of the Services is governed by the Terms of Service. Proxio may refuse service without prior notice to any user for any or no reason. You are responsible for maintaining the confidentiality of your password and account access information, and are fully responsible for all activities that occur under your password or account with or without your knowledge. You shall be liable for any consequences that may result from unauthorized disclosure of your access identification, whether intentional, negligent or inadvertent, including but not limited to immediate suspension or termination of the Services. You acknowledge that Proxio or its data suppliers ("Suppliers") may seed the listing information and watermark digital photographs, virtual tours, videos or other media and undertake monitoring and tracking of login information on a regular random basis such that violations of the security of your access identifications will be detected.

You agree to immediately notify Proxio of any unauthorized use of your password or account or any other breach of security. Proxio cannot and will not be liable for any loss or damage arising from your failure to comply with this section.

### **Responsibility for Data, Information, and Comments Entered by You**

You have sole responsibility for all Listings and Profiles that you store on Proxio servers through use of the Services. You acknowledge and agree that Proxio will not be responsible for any failure of the Services to store a Listing or Profile, for the deletion of a Listing or Profile stored on the Services, or for the corruption of or loss or any data, information or content contained in a Listing or Profile. Proxio is not responsible for the accuracy of any Listings or Profiles entered by you, in whole or in part.

You are solely responsible for the content you post on Proxio or send through Proxio Services. Proxio is not responsible for the content posted by its Users. We do not and cannot review all user content posted on ProxioPro.com. However, we have the right (but not the obligation) to review, screen, delete, edit and/or move any content posted on ProxioPro.com.

### **Responsibility for Data and Information Obtained from Third Party Suppliers**

By request from Users or by contract or agreement with Suppliers, typically an MLS, brokerage or agency, or another website, Proxio obtains Listing and Profile information (“Content”) for the Services. Supplier Content is provided on an “as is, as available” basis and neither the Supplier nor Proxio makes any warranties, express or implied, including without limitation, those of merchantability and fitness for a particular purpose, nor is the Supplier or Proxio responsible for errors or omissions.

You assume sole responsibility for all edits and modifications to your Profile and/or Listing information and the use by any other person of the Content, including the liability and responsibility for any and all claims, demands, losses, damages, liabilities, costs, charges and expenses, including reasonable attorney’s fees, arising out of the use by others of your and Supplier’s Content, and you indemnify Proxio and its suppliers or licensors with respect thereto. Any use of the Services by you pursuant to these Terms of Service, shall be at your own risk, and Proxio and its Suppliers or licensors shall not be responsible for any errors or omissions.

If you have requested and Proxio has obtained Content from a Supplier for you to display on a customized Proxio Service, you shall comply with all applicable privacy, data security, best practices and all other laws, rules and regulations required by the Content Supplier.

### **Giveaways**

From time to time, Proxio may run giveaway promotions. The giveaways are void where prohibited by law and are subject to all applicable federal, provincial and municipal laws and regulations. Odds of winning will vary depending on the number of eligible entries received. All Prizes will be awarded. Prizes are not transferable. No substitutes or exchanges of Prizes. All incidental costs and expenses not specifically referred to herein, including (without limitation) taxes, are the sole responsibility of winners. Proxio reserves the right to substitute giveaways with a prize of lesser, equal or greater value and/or to terminate, modify or withdraw the giveaways, in whole or in part at any time, without prior notice for any reason including errors, theft, fire, vandalism, technical failure, fraud or other causes beyond Proxio’s control which affects the control, delivery and/or outcome of the giveaway. Acceptance of any prize constitutes consent and agreement to use winner’s name, and likeness for editorial, advertising and publicity purposes,

### **Privacy Policy**

Proxio respects the privacy of others. These Terms of Service incorporate the terms of Proxio's [PrivacyPolicy](#).

### **Copyright Policy**

YOU WILL NOT USE THE SERVICES TO TRANSMIT, ROUTE, PROVIDE CONNECTIONS TO OR STORE ANY MATERIAL THAT INFRINGES COPYRIGHTED WORKS OR OTHERWISE VIOLATES OR PROMOTES THE VIOLATION OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. Proxio’s copyright policy provides for the termination in appropriate circumstances of the accounts of users who are believed to be infringing the rights of copyright holders.

### **Proprietary Rights**

All right, title, and interest in and to the Services are and will remain the exclusive property of Proxio and its licensors. The Services are protected by copyright, trademark, and other laws of both the United States and foreign countries. Except as expressly permitted in these Terms of Service, you may not reproduce, modify, or prepare derivative works based upon, distribute, sell, transfer, publicly display, publicly perform, transmit, or otherwise use the Services.

### **Terms of Idea Submission**

You agree that: (1) your unsolicited ideas will automatically become the property of Proxio, Inc., without compensation to you, and (2) Proxio, Inc. can use the unsolicited ideas for any purpose and in any way, and even give them to others.

### **Trademarks**

Proxio, the Proxio logo, and all other Proxio trademarks, service marks, product names, and trade names of Proxio appearing on the Services are owned by Proxio. All other trademarks, service marks, product names, and logos appearing on the Services are the property of their respective owners. You may not use or display any trademark, service mark, product name, trade name, or logo appearing on the Services without the owner's prior written consent.

### **General Prohibitions**

As a condition to your use of the Services, you agree not to:

- Misrepresent your professional status or impersonate another person or entity or misrepresent your affiliation with any person or entity;
- Upload, post, enter, email, transmit or otherwise make available any content or initiate communications which include information that you do not have the right to disclose or make available under any law or under contractual or fiduciary relationships.
- Upload, enter or transmit as part of a Listing or Profile or otherwise any data, text, graphics, content, or material that: (i) is false or misleading; (ii) is defamatory; (iii) invades another's privacy; (iv) is obscene, pornographic, or offensive; (v) promotes bigotry, racism, hatred, or harm against any individual or group; (vi) infringes another's rights, including any intellectual property rights; or (vii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability;
- Access, tamper with, or use any non-public areas of the Services or Proxio's computer systems or the technical delivery systems of Proxio's providers;
- Attempt to probe, scan, or test the vulnerability of the Services or any related system or network or breach any security or authentication measures or attempt to decipher, decompile, disassemble, or reverse engineer any of the software used to provide the Services;
- Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services. Proxio will have the right to investigate and prosecute violations of any of the above, including intellectual property rights infringement and security-related issues, to the fullest extent of the law. Proxio may involve and cooperate with law enforcement authorities in prosecuting users who violate these Terms of Service. You acknowledge that Proxio has no obligation to monitor your access to or use of the Services, but has the right to do so for the purpose of operating the Services, to ensure your compliance with these Terms of Service, or to comply with applicable law or the order or requirement of a court, administrative agency, or other governmental body.

### **International Use**

Recognizing the global nature of the Internet, you agree to comply with all applicable local rules including but not limited to rules regarding online conduct and acceptable content. Specifically, you agree to comply with all

applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

### **Links**

The Services may make available links to third-party websites. You acknowledge and agree that Proxio is not responsible or liable for: (i) the availability or accuracy of such websites; or (ii) the content, products, or services on or available from such websites. Links to such websites do not imply any endorsement by Proxio of such websites or the content, products, or services available from such websites. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites.

### **Termination**

You may terminate your account at any time. If you violate any of these Terms of Service, your permission to use the Services will automatically terminate. Proxio reserves the right to discontinue providing or to change the Services at any time and without notice. Except to the extent that Proxio is required by applicable law or court order to retain copies of your Profile that is stored on the Proxio servers, upon any termination of your account, Proxio will delete and erase the Profile associated with your account.

### **Fees**

Signing up for a Proxio Connections account is free. Certain other services are provided for free only to beta users. Additional Services are available to Users who pay subscription fees for upgraded status. Proxio reserves the right to charge for the Services or any portion thereof, modify the pricing of, add to, or discontinue the Services or any portion thereof without prior notice.

### **Disclaimer of Warranties**

THE SERVICES ARE PROVIDED "AS-IS", WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, PROXIO EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. PROXIO MAKES NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR WILL BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. YOU ACKNOWLEDGE AND AGREE THAT PROXIO WILL NOT BE RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR THE COMPUTER SYSTEM OF ANY THIRD PARTY THAT RESULT FROM USE OF THE SERVICES.

### **Indemnity**

You agree to defend, indemnify, and hold harmless Proxio, its officers, directors, employees and agents, from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or in any way connected with your access to or use of the Services, or your violation of these Terms of Service. Any business transactions which may arise between Users from their use of the Services are the sole responsibility of the Users involved.

### **Limitation of Liability**

IN NO EVENT WILL PROXIO BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF SERVICE OR FROM THE USE OR INABILITY TO USE THE SERVICES OR ANY LISTINGS OR PROFILES ENTERED THROUGH, STORED BY OR DOWNLOADED FROM THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT PROXIO HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

IN NO EVENT WILL PROXIO'S TOTAL AGGREGATE LIABILITY TO YOU OR TO ANY THIRD PARTY FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE

SERVICES EXCEED ONE HUNDRED DOLLARS (\$100). THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PROXIO AND YOU.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

**Severability**

In the event that any provision of these Terms of Service is held to be invalid or unenforceable, the remaining provisions of these Terms of Service will remain in full force and affect.

**Notice**

Proxio may provide you with notices, including those regarding changes to the Services by email or by postings on the Services.

**Waiver**

The failure of Proxio to enforce any right or provision of these Terms of Service will not be deemed a waiver of such right or provision.

**Controlling Law and Jurisdiction**

These Terms of Service and any action related thereto will be governed by the laws of the State of California without regard to its conflict of law provisions. The exclusive jurisdiction and venue of any action with respect to the subject matter of these Terms of Service will be the state and federal courts located in Santa Clara County, California, and Proxio and you waive any objection to jurisdiction and venue in such courts.

**Entire Agreement**

These Terms of Service are the entire and exclusive agreement between Proxio and you regarding the Services, and these Terms of Service supersede and replace any prior agreements between Proxio and you regarding the Services. You also may be subject to additional terms and conditions that may apply when you use or purchase certain other Proxio services, affiliate services or third-party content software or services.

Please send any questions or comments, or report violations of the User Agreement to:

Proxio, Inc.

Attn: Terms of Service Issues

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