

## TERMS AND CONDITIONS AGREEMENT

### **PLEASE READ THIS MANDATORY TERMS AND CONDITIONS AGREEMENT BEFORE USING OUR SERVICES.**

Thank you using the real estate brokerage services provided by Locate and Lease, LLC (“Locate & Lease” or “Locate + Lease” or “Locate and Lease”). By using our services and information, including without limitation, our apartment locating services, accessing the website [www.locateandlease.com](http://www.locateandlease.com) and its subpages (this “Website”), accessing and utilizing the Materials (as defined hereinafter), and utilizing the information contained therein (collectively, the “Services”), you agree to be bound by this Terms and Conditions Agreement (this “Agreement”). We may amend or supplement this Agreement at any time, for any reason, with or without cause, with or without notice to you, in our sole and absolute discretion. Any such changes shall be posted to this webpage and shall be effective immediately upon posting; provided, however, that upon the formation of a formal brokerage-client relationship, any such changes or supplements may be delivered to you directly and not posted to this webpage. Please check this page periodically for changes to this Agreement. If you do not agree to this Agreement, you may not use our Services. Should have any questions about this Agreement, please contact us at [info@locateandlease.com](mailto:info@locateandlease.com).

As used in this Agreement, the terms “you” and “your” refer to any person using our Services, while the terms “we,” “us,” and “our” refer to Locate and Lease, LLC.

#### **1. License to Use.**

We hereby grant use a limited, non-assignable, non-exclusive license to access this Website and website-related services and material, including but not limited to email communications, newsletters, apartment lists via sent via SmartLocating, SmartApartmentData, or other listing services, social media content generated by Locate + Lease on any social media platforms, including but not limited to (a) Facebook, (b) Instagram, (c) Snapchat, (d) Twitter, (e) Google+, and (f) LinkedIn (collectively, the “Materials”). Any breach or threatened breach of this Agreement is grounds for termination of this limited license, and we may pursue legal action against you. Upon any such breach, you must destroy any downloaded versions of this Website or the Materials in your possession, whether in printed or electronic form.

#### **2. Rules of Conduct**

You agree to comply with all applicable laws, rules and regulations in accessing and/or using our Services. Furthermore, you agree not to use our Services for any unlawful or fraudulent purpose, including impersonating any person or entity, including, but not limited to, any of our agents, brokers, contractors, or other representatives; or expressing or implying that we endorse any statement you make. You may not use our Services in any manner which would violate or infringe in any way upon the rights of others, which is or may be unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, or otherwise

objectionably which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, including but not limited to using our services to harass, abuse, threaten, insult, disparage, intimidate, or discriminate based on age, gender, religion, ethnicity, race, national origin, disability, or sexual orientation.

Furthermore, to enable us to accurately serve you, when using our Services, you are required to provide true, accurate, current, and complete information about yourself as requested from us on this Website and as otherwise requested from us. You may not provide any false, misleading, or incomplete information. Additionally, in connection with the use of our Services you may not (1) interfere with or disrupt the operation of our Services, including restricting or inhibiting any other person from using this Website by means of hacking, or defacing any portion of this Website (2) make available, transmit, or utilize any virus, worm, Trojan horse, root kit or other harmful code, (3) use our Services to spam, phish, spider, crawl, or scrape, (4) interfere with or violate any other website visitor's or user's right to privacy or other rights (5) harvest or collect personally identifiable information about this Website's visitors or users, or about our brokers, agents, and representatives, including contractors, and if applicable, employees, identified on the Website, without their express consent, (6) sell, resell, transfer, license or exploit for any commercial purposes any use of or access (including sharing of passwords and login information) to this Website or the Materials, (7) frame, mirror, in-line link to, or make other similar use of, all or any part of the Website or the Website's content, including Locate + Lease's or any other party's intellectual property therein, without our prior express written authorization, and (8) modify, adapt, translate, reverse engineer, decompile, or disassemble any portion of this Website or the Materials.

### **3. Notices and Disclaimers.**

#### **A. General Notice—We Are A Licensed Texas Real Estate Brokerage Entity**

Locate and Lease, LLC is a licensed Texas real estate broker entity that specializes in providing apartment locating brokerage services to you and other prospective tenants looking to find a new apartment. We are owned and managed by a broker who is also licensed by the state of Texas to act as a real estate broker and also sponsor other Texas real estate agents who provide apartment locating services. We, our broker, and our agents are obligated to comply with the applicable Texas law and regulations governing real estate brokerage, including but not limited the Texas Real Estate License Act and other rules and regulations promulgated and adopted by the Texas Real Estate Commission ("TREC"). Accessing the Website and/or providing us information (whether through email, social media correspondence, or submission on one of the forms contained on the Website) does not necessarily create a brokerage relationship with us or any of our broker(s) or agents.

Moreover, while one of our principals is an attorney, the Materials are not intended to constitute, and do not constitute, a solicitation for formation of an attorney-client relationship. We are in no way affiliated with any particular law firm, and do not (and cannot) provide legal services.

Nothing in the Materials may be construed as legal advice or opinion. Consult an attorney for any legal questions you may have.

## **B. Information About Brokerage Services and Consumer Protection Notice**

TREC requires that we provide you with certain disclosures related to our representation and services. Moreover, at time of a license holder's first substantive communication with a party related to a proposed transaction regarding specific property, we are required to provide you with the promulgated **Information About Brokerage Services** form. Furthermore, TREC requires us to provide you with the promulgated **Consumer Protection Notice**. You acknowledge that you have received and reviewed the Information About Brokerage Services (click here) and the Consumer Protection Notice (click here), incorporated into this Agreement for all purposes.

## **C. Intermediary Status – Required Disclosure**

Under Texas law, brokers and real estate agents cannot act as dual agents (meaning we cannot be the agent for both the tenant and the landlord in a lease transaction). Instead, if both parties to a real estate transaction provide written consent and the written consent states the source of the broker's expected compensation, a broker may act as an intermediary in accordance with TREC rules. If appointed as an intermediary, the intermediary is required to act fairly and impartially and cannot favor one party over the other. Fairness and impartiality include communicate with, carrying out the instructions of, and providing opinions and advice to the parties to whom that associated license holder is appointed.

**Unless we otherwise advise you in writing, we do not represent landlords. We represent prospective tenants looking to lease an apartment.** We will advise you in writing if we represent the landlord. If we do, and if we are appointed to act as an intermediary upon written agreement of the prospective tenant (presumably, you) and of the landlord, we will be paid by the landlord. **If appointed as an intermediary, we:**

- **may not disclose to the tenant that the landlord will accept a price less than the asking price unless otherwise instructed in a separate writing by landlord;**
- **may not disclose to the landlord that the tenant will pay a price greater than the price submitted in a written offer to the landlord unless otherwise instructed in a separate writing by the tenant;**
- **may not disclose any confidential information or any information the tenant or landlord specifically instruct us in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property;**
- **shall treat all parties to the transaction honestly; and**
- **shall comply with the Texas Real Estate License Act.**

In addition, if appointed to act as an intermediary by both parties to a proposed transaction, we may, upon written notice to and consent by both parties:

- appoint a license holder associated with our brokerage to communicate with, carry out instructions of, and provide opinions and advice to one party to a real estate transaction; and
- appoint another license holder associated with the brokerage to communicate with, carry out instructions of, and provide opinions and advice to any other party to the transaction.

#### **4. No Other Association.**

Typically, we are paid a real estate commission from the owner/landlord/property manager of the apartment complex where you lease after you have moved into the unit and paid your first month's rent. Our commissions do not impact your rent. Apartment complexes vary in their requirements for payment, but normally, they require you to list us as the referral source on all guest cards, applications, and leases, and to generally disclose to the property that you are working with us as your locator. Furthermore, some apartments require us to register you before you tour. Importantly, only one commission to a locator will be paid. This means that it is possible for you to use our Services but for us not to be paid in the event that you list another brokerage group as your referral source. We value our relationships with other brokers—the apartment locating community in the DFW Metroplex is competitive, but close-knit and collegial. Nonetheless, it's our core belief that to truly be an effective locator, we need to be exclusive locator for you upon formation for a brokerage-client relationship, and should be compensated for our work. After all, locators in the DFW market at different brokerages have access to the nearly all of the same properties, and more importantly, are paid from the apartment complex, not you. Accordingly, you agree that upon formation of a brokerage-client relationship, you will work exclusively with us until that relationship is terminated and list us as the referral source on all guest cards, lease applications, and leases for properties we refer to you. In addition, unless otherwise disclosed to us in writing prior to the acceptance of this Agreement, you represent and warrant to us that you are not represented (nor have you been represented) by another broker or real estate agent to locate you a new apartment in the Dallas/Fort Worth Metroplex. Notwithstanding the foregoing, we, in our sole and absolute, may continue to work with you if you associate with another brokerage, provided that you will still list as us as the referral source.

#### **5. Competing Clients**

You understand that we may represent other prospective tenants who may seek to acquire properties that may be of interest to you. You agree that during the term of this Agreement and after it ends, represent such clients, show or refer to them the same properties that we show to you, and act as a real estate broker for them in negotiating the acquisition and/or lease of properties that you seek to acquire/lease.

#### **6. No Warranty and Third-Party Information.**

Except as otherwise required by applicable law, we do not warranty the quality of the service we provide or the accuracy of the information. We cannot guarantee any particular outcome in the performance of our Services. We do not guarantee the accuracy of the information on this Website or the Materials, and reliance on such information is at your own risk. The materials on this Website and the Materials are provided “as is” with no warranties, expressly or implied, including without limitation warranties of merchantability, fitness for a particular purpose, or non-infringement of intellectual property. As disclosed above, we reserve the right to amend this Website and the Materials with or without notice to you

At times, in connection with the provision of our Services, we will rely on information from third-parties. This includes links on this Website to third-party websites. We do not necessarily endorse, sanction, or condone the third-party, and we do not necessarily verify the accuracy of the information contained on third-party websites. Furthermore, you expressly understand that in no way guarantee the availability of any particular apartment or the pricing thereof. You understand that pricing and availability is subject to change at the discretion of the apartment complex and varies based on supply and demand and on the amenities and features of each particular unit. We do not control pricing or availability.

## **7. Intellectual Property Rights**

This Website, the Materials, and their downloadable contents are protected by the copyright laws of the United States and other jurisdictions. You may print and/or download a copy of any part of this Website or any of the Materials for your personal, non-commercial, transitory viewing only, or as otherwise permitted by law, provided that such downloads or printed copies contain the notice: “Copyright © Locate and Lease, LLC. All rights reserved.” Notwithstanding the foregoing, you may not copy any part of this Website or the Materials for any other purpose without the express written consent of our designated broker, and you may not modify any part of this Website or the Materials for any reason. Inclusion of any part of this Website or any part of the Materials in another work, whether in printed, electronic or other form, and inclusion of any part of the Website or the Materials in another website by linking, in-line linking to, framing or otherwise, is strictly prohibited without agreeing to this Agreement **and** obtaining the expressed written consent of Locate and Lease’s designated broker.

The trademarks, service marks, logos and any designs used or displayed on this Website or the Materials specific to Locate and Lease, LLC are trademarks and/or service marks, designs, and logos owned by Locate and Lease, LLC. Any use of copyrighted works, trademarks or service marks, logos, and designs, including the reproduction, removal, modification, distribution or republication of same without the prior express written permission of our designated broker, is strictly prohibited. Other copyrighted works, trademarks, service marks, trade names, and company logos utilized on the Website are the property of their respective owners. All rights reserved. The appearance of any such third-party trademarks does not in any way imply any connection, license, approval or other such relationship of any kind with such third-party.

## **8. Limitation of Liability and Disclaimer of Liabilities**

IN NO EVENT SHALL LOCATE AND LEASE, LLC, ITS SUPPLIERS, OR OTHER THIRD PARTIES MENTIONED ON THIS WEBSITE OR IN THE MATERIALS BE LIABLE FOR ANY DAMAGES WHATSOEVER RESULTING FROM YOUR USE OF OR ACCESS TO THIS WEBSITE OR THE MATERIALS, OR ANY INFORMATION CONTAINED THEREIN. LOCATE AND LEASE, LLC DOES NOT WARRANT THAT ACCESS TO THIS WEBSITE OR THE MATERIALS WILL BE UNINTERRUPTED OR ERROR-FREE. MOREOVER, NEITHER LOCATE AND LEASE, LLC NOR ANY OTHER PARTY INVOLVED IN THE CREATION, PRODUCTION, OR HOSTING OF THIS WEBSITE OR THE MATERIALS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF YOUR USE AND/OR ACCESS TO THIS WEBSITE OR THE MATERIALS, OR ANY INFORMATION CONTAINED THEREIN. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THIS WEBSITE OR THE MATERIALS IS TO STOP USING THIS WEBSITE OR THE MATERIALS.

## **9. Indemnity**

You agree to defend, indemnify and hold harmless Locate and Lease, LLC, its affiliates and its suppliers, and each of their respective partners, employees, representatives, brokers, and agents, from and against all claims, losses, costs, damages, liabilities and expenses (including, but not limited to, attorney fees) arising out of:

- Your activities in connection with this Website and the Materials.
- Any violation of this Agreement by you.
- Any improper or unauthorized use of this Website or the Materials by you.
- Any allegation that anything you transmit through or in connection with the Website or the Materials infringes or otherwise violates the intellectual property, privacy or other rights of any third-party.
- Any conduct, activity or action engaged in by you which is unlawful or illegal under any state, federal or common law, or violative of the rights of any individual or entity, engaged in, caused by, or facilitated in any way through the use of Services, Materials, or any other such service or information provided by this Website

## **10. Privacy Policy**

In connection with the performance of the Service, we may collect personal information from you that you submit, including but not limited to, your name, email address, telephone number, birth date, and other information which may be considered private and not publically available. By submitting such information, you agree that we may use such information to provide you with the requested services. You may refuse to supply such information, but you understand that we may refuse to or be unable to provide the Services to you in the event you do not provide such information.

Furthermore, you understand that we may collect non-personal identification information about you when you interact use our Services, including but not limited to information concerning your computer, browser, IP address, cookie information, etc. We may retain and use such information to enable us to perform our Services (including but not limited to providing such information to third-parties, improve our Services (including but not limited to researching and analyzing the information collected), and to contact you. You consent to such collection and use.

We do not, however, sell, trade, or rent such personal information to others without your consent. We may share generic aggregated demographic information not linked to your personal identification information. Notwithstanding the foregoing, we may share your personal information without your consent in response to orders, subpoenas, to investigate, defend or prosecute a legal claim or potential against you or others, in association with a merger, acquisition, or disposition with another company, or when otherwise required by law.

## **11. Miscellaneous Other Provisions**

### **A. Severability**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal, or unenforceable provision will not affect any other provisions, and this Agreement will be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Agreement.

### **B. Further Assurances**

We, Locate and Lease, LLC, and you agree to cooperate with each other and our respective employees, representatives, brokers, and agents, to facilitate the sale of all or a portion of the Property under the terms and conditions herein set forth. Both parties will for so long as this Agreement is in force, perform such acts, execute such documents, and otherwise perform so as to effectuate this Agreement. Upon request by either party, the other party will provide reasonable assurance thereof as necessary to carry out the intent and purpose of such party's affirmative covenants herein.

### **C. Authority**

Each party to this Agreement represents to the other that this Agreement, the actions and obligations contemplated herein and the execution and delivery hereof are authorized or have been duly authorized by all necessary corporate proceedings and actions pursuant to applicable law. Furthermore, each party also represents that they have been advised to consult an attorney to review this Agreement and have had the opportunity to do so. We are not your attorneys and cannot give legal opinions.

### **D. Parties Bound**

This Agreement shall inure to the benefit of and be binding on you and your respective legal representatives, heirs, executors, successors and assigns, provided that you shall not assign your rights or obligations hereunder without our prior written consent, and any purported assignment shall be void and without effect.

**E. Governing Law and Jurisdiction**

Any dispute arising under this Agreement shall be adjudicated and resolved exclusively by the laws of the State of Texas, and in the event of any such suit, venue shall be proper in a court of competent jurisdiction in Dallas County, Texas.