



TEN-X MARKETING AGREEMENT STANDARD TERMS

These Ten-X Marketing Agreement Standard Terms (these "Standard Terms") form a material part of the Ten-X Marketing Agreement (the "Agreement") which references these Standard Terms. All capitalized terms not defined in these Standard Terms have the meanings set forth in the Agreement. In the event of a conflict between the terms of the Agreement and these Standard Terms, the terms of the Agreement control.

1. **SALE DURING MARKETING PERIOD.** If Seller enters into an agreement to sell a Property during the Marketing Period and the transaction closes, Ten-X shall be paid the Transaction Fee from the sale proceeds due Seller upon closing, regardless of when closing occurs. For any sale facilitated by Ten-X, the Transaction Fee will be added to the buyer's offer price to establish the total purchase price payable by the buyer.
2. **SALE DURING TAIL PERIOD.** If Seller enters into an agreement to sell a Property during the Tail Period with a buyer who, during the Marketing Period, whether personally or through the buyer's representatives, registered for an Auction for the Property, accessed the Due Diligence Materials for the Property, or submitted an offer or letter of intent for the Property, and that transaction closes, Ten-X shall be paid the Transaction Fee from the sale proceeds due Seller upon closing, regardless of when closing occurs.
3. **WITHDRAWAL.**
 - (a) If Seller withdraws a Property from an Auction or the Ten-X website during the Marketing Period (other than due to a material adverse change to the Property outside of Seller's control that renders it unmarketable), Seller shall immediately pay Ten-X (i) 50% of the Withdrawal Fee if the withdrawal occurs more than 30 days before the start of the first scheduled auction date, (ii) 100% of the Withdrawal Fee if the withdrawal occurs anytime thereafter, but not during an auction, or (iii) 125% of the Withdrawal Fee if the withdrawal occurs during an auction. If Seller later closes on the sale of the Property in a transaction in which a Transaction Fee is owed under Section 1 or Section 2 of these Standard Terms, such Transaction Fee shall still apply, but Seller shall be credited any portion of the Withdrawal Fee actually paid to Ten-X, up to the full Transaction Fee.
 - (b) If the highest offer for the Property is at or above the Reserve Price and Seller rejects it, Seller shall immediately pay Ten-X the Transaction Fee based on that offer.
 - (c) If Seller enters into an agreement to sell a Property during the Marketing Period and that agreement is terminated for reasons other than (i) a buyer default or (ii) failure of a closing condition not resulting from Seller's default or other circumstance within Seller's reasonable control, Seller shall immediately pay Ten-X the Transaction Fee based on the buyer's offer price in that agreement.
4. **MARKETING COSTS AND EXPENSES.** Ten-X is solely responsible for advertising, marketing and promotion costs Ten-X incurs in performance of the Agreement. Ten-X may include the Property listing and/or the Auction on other websites owned or controlled by CoStar Group, Inc. or its subsidiaries at no additional cost to Seller.
5. **BUYER BROKER COMMISSION.** The Buyer Broker Commission set forth in the Agreement is the fee that must be paid upon closing of the transaction to the real estate broker who represented the buyer in the transaction. The Buyer Broker Commission shall be paid at closing by the responsible party.
6. **LISTING BROKER COMMISSION AND COOPERATION.** Except as otherwise set forth in the Agreement, Seller is solely responsible for any compensation owed to the listing broker and any cooperating broker in connection with the Property. Seller agrees to instruct the listing broker to reasonably cooperate with Ten-X and direct all potential buyers to Ten-X's website during the Marketing Period. If the listing broker fails to reasonably cooperate with Ten-X, the Marketing Period may be extended by Ten-X to account for any delay caused.
7. **DUE DILIGENCE MATERIALS.** Within 5 days after the start of the Marketing Period for a Property, Seller must provide to Ten-X (a) the third-party due diligence materials listed in the Agreement, (b) all existing agreements affecting the Property, and (c) all other materials in Seller's possession or control that are reasonably requested by Ten-X or otherwise reasonably necessary to market and sell the Property (collectively, "Due Diligence Materials"). Ten-X may delay or suspend marketing the Property until all Due Diligence Materials have been received, and the Marketing Period may be extended by Ten-X to account for such delay or suspension. Prior to closing, the Due Diligence Materials will be made available to the escrow/closing agent, and to prospective buyers and lenders who agree to keep them confidential. After closing, once the Property is no longer owned or controlled by Seller, the Due Diligence Materials will no longer be considered confidential and may be made available to others. It is Seller's responsibility to make any redactions to the Due Diligence Materials that may be necessary for Seller to protect sensitive third-party information or comply with any third-party confidentiality obligations Seller may have. Seller must promptly notify Ten-X if Seller learns that any of the Due Diligence Materials are or become inaccurate or incomplete in any material respect.

8. TERMINATION.

- (a) Either party may terminate the Agreement for convenience without penalty by giving the other party prior written notice of its intent to terminate, in which case the Agreement will terminate upon the date provided in the notice (except if any Property is in the Marketing Period, the termination date will be extended until the expiration of the Marketing Period).
- (b) Any liability incurred, or compensation earned, during the Marketing Period or the Tail Period (including compensation for sale transactions entered into before, but that close after, the expiration or termination of the Marketing Period or Tail Period, as applicable) shall survive the expiration or termination of the Agreement. Sections 14 – 28 of these Standard Terms shall survive the expiration or termination of the Agreement.

9. **REMOVAL OF PROPERTY.** Ten-X may remove a Property from the Agreement (a) if there is a material adverse change to the Property that renders the Property unmarketable, (b) on or before the 14th day after Ten-X receives the Due Diligence Materials and purchase agreement materials required by the Agreement, or (c) at any time if Ten-X discovers that the Due Diligence Materials for the Property are inaccurate in any material respect. No Withdrawal Fee will be owed by Seller for a Ten-X removal under this Section unless the removal results from Seller's gross negligence, willful misconduct, or breach of the Agreement.

10. **SCHEDULED AUCTION DATE.** Ten-X and Seller agree to reasonably cooperate to determine the Auction date. If Seller and Ten-X mutually agree to include a Property in an Auction after the Marketing Period, the Marketing Period for that Property will automatically extend through the end of that Auction.

11. **ESCROW INSTRUCTIONS.** Ten-X may submit the Agreement to the escrow/closing agent who shall treat the same as an irrevocable instruction to pay, at closing, the compensation due Ten-X under the Agreement from Seller's funds and proceeds in escrow. Ten-X may cooperate with and share any portion of the Transaction Fee or Withdrawal Fee with other duly licensed real estate brokers.

12. **RESERVE PRICE.** Seller may reduce (but not increase) the Reserve Price at any time in Seller's sole discretion.

13. **OFFER RESTRICTIONS.** Neither Seller nor any of its affiliates, nor any of their respective directors, members, managers, officers, partners, employees, representatives or agents, shall enter any offer or bid for a Property on behalf of Seller. Seller authorizes Ten-X to enter bids on behalf of Seller up to the Reserve Price, unless otherwise prohibited by law.

14. **INDEMNITIES.** Each party (as applicable, the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other party, each person or entity deemed to control or to be controlled by such other party, and their respective affiliates, partners, members, shareholders, managers, directors, officers, employees, agents and representatives, against and from any and all losses, liabilities, and damages (including without limitation reasonable attorneys' fees) arising in connection with any action, claim, controversy, proceeding, or investigation relating to this engagement, to the extent imposed or incurred by reason of the gross negligence or willful misconduct of the Indemnifying Party.

Seller agrees to defend, indemnify, and hold harmless Ten-X, each person or entity deemed to control or be controlled by Ten-X, and their respective partners, members, shareholders, managers, directors, officers, employees, agents and representatives, against and from any and all losses, liabilities, and damages (including without limitation reasonable attorneys' fees) arising in connection with any third-party action, claim, proceeding, or investigation related to (a) any agreement between Seller and a third-party listing broker, or that listing broker's acts or omissions in connection with the listing and sale of a Property, (b) any showings of a Property (except to the extent caused by the gross negligence or willful misconduct of Ten-X), (c) the content of any Due Diligence Materials or photographs provided by Seller and (d) any withdrawal of a Property by Seller or breach by Seller of any purchase agreement.

15. **NOTICES.** Any notice given under the Agreement must be in writing and be delivered to the applicable address listed in the Agreement by (a) personal delivery, (b) certified United States mail, return receipt requested, (c) a nationally recognized overnight courier service, or (d) electronic mail. All notices are deemed given upon receipt or upon the date receipt is refused by the recipient, except that notices delivered by electronic mail are not deemed given until acknowledged by the recipient.

16. **CONFIDENTIALITY.** Each party to the Agreement (as applicable, the "Receiving Party"), for itself and its employees and agents, agrees not to disclose to others any confidential or proprietary information of the other party (as applicable, the "Disclosing Party") which may become known to the Receiving Party under the Agreement, except to the extent the Disclosing Party specifically authorizes the disclosure, or the disclosure of Seller confidential information reasonably results from Ten-X's performance of the Agreement. For purposes of this paragraph, information is not deemed confidential if (a) it is otherwise within the public domain, or (b) the Receiving Party obtained the information from a source (other than the Disclosing Party or its employees or agents) which, to the Receiving Party's knowledge, does not have a duty of confidentiality to any person or entity. Despite the foregoing, the Receiving Party may disclose confidential information to the extent reasonably necessary to defend itself from any threatened or potential claim, or in response to legal process (and the Receiving Party will provide the Disclosing Party notice of the threatened or potential claim or legal process if legally permitted to do so).

17. **AUTHORITY; NO CONFLICTS.** Each party represents and warrants that it is duly authorized to enter into the Agreement and perform its obligations under the Agreement. Each natural person signing the Agreement on behalf of an entity represents and warrants that he/she has the requisite authority to so bind the entity. Except as disclosed in the Agreement, Seller represents and warrants that there are no purchase agreements, purchase options, or rights of first refusal affecting the Property, or other agreements that could reasonably be expected to conflict with Seller's ability to perform under the Agreement. Seller represents and warrants that publication of the Due Diligence Materials and photographs provided by Seller in connection with Ten-X's marketing of each Property will not infringe any third-party rights, and Seller grants Ten-X a non-exclusive, worldwide, perpetual, royalty-free license to use and modify the photographs for any purpose, including for purposes of marketing Ten-X.
18. **INDEPENDENT CONTRACTORS.** The Agreement is intended to create an independent contractor relationship between Ten-X and Seller, and does not create an employer/employee, agency, or partnership relationship between the parties.
19. **COMPLETE AGREEMENT; AMENDMENTS.** The Agreement is the complete and exclusive agreement between the parties with respect to the subject matter in the Agreement, superseding and replacing any and all prior or contemporaneous communications regarding that subject matter. No modifications to the Agreement will be effective unless made in writing and signed by all parties to the Agreement.
20. **LIMITED LIABILITY.** In no event shall any partner, member, shareholder, manager, director, officer, agent, employee, representative or affiliate of any party have any personal liability in connection with the Agreement. Despite anything to the contrary in the Agreement or these Standard Terms, under no circumstances shall any party hereto be liable to the other for, and each party waives any and all rights to claim against the other for, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with the Agreement or any services performed under the Agreement, including, but not limited to, lost profits, even if such party has knowledge of the possibility of such damages. The maximum aggregate liability of Ten-X and the maximum aggregate amount which may be awarded to and collected by Seller (including, without limitation, for breach of any representation, warranty or covenant by Ten-X) in connection with the Agreement shall, under no circumstances whatsoever, exceed 300% of the compensation paid or payable to Ten-X under the Agreement. Ten-X makes no representation or warranty relating to, and shall have no liability relating to, the performance or non-performance of any buyer, or the legal sufficiency or tax consequences of any transaction documents used in the sale of any Property.
21. **WAIVER OF RIGHT FOR JURY TRIAL.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY HERETO, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS OR HER CHOICE, KNOWINGLY AND VOLUNTARILY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE AGREEMENT.
22. **GOVERNING LAW.** The Agreement shall be governed, construed, and enforced by the law of the State of California, without regard to its conflicts of law principles. Except as otherwise set forth in the Agreement, to the extent permitted by law, any legal action or proceeding arising under the Agreement must be brought exclusively in the federal or state courts located in Orange County, California and the parties irrevocably consent to the personal jurisdiction and venue therein.
23. **FURTHER ASSURANCES.** The parties agree to execute such other documents and to take such other actions as may reasonably be necessary to further the purposes of the Agreement.
24. **SEVERABILITY.** If any portion of the Agreement is judicially determined to be invalid or unenforceable, that portion shall be deemed severable from the Agreement and the remainder of the Agreement shall remain in full force and effect and shall be construed to fulfill the intention of the parties.
25. **ATTORNEYS' FEES.** If any party must institute legal action to enforce the Agreement, or for breach of the Agreement, the prevailing party as determined by the court in such action shall be entitled to receive actual reasonable attorneys' fees and costs. The prevailing party is the party entitled to recover its costs of suit, regardless of whether such suit proceeds to final judgment.
26. **NO GENERAL WAIVER.** The failure of any party to enforce any provision or resort to any remedy under the Agreement shall in no way affect the right of that party to later enforce any provision or resort to any remedy under the Agreement. Waiver by any party of a breach shall not be deemed to be a waiver of any subsequent breach.
27. **MISCELLANEOUS.** Ten-X's Privacy Statement located at <https://www.ten-x.com/company/legal/privacy/> shall apply to any information supplied by the parties in connection with the Agreement.
28. **COUNTERPARTS; ELECTRONIC SIGNATURES.** The Agreement may be executed in multiple counterparts, and all counterparts shall constitute one agreement binding upon all parties, whether or not all parties are signatories to the original or the same counterpart. Signatures scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of the Agreement, and shall have the same legal effect as original signatures.