

## HIPPOCKETZ WEBSITE AND MOBILE APP GENERAL TERMS OF USE

Effective: May 1, 2014

Welcome to HipPocketz! HipPocketz is a real estate information service. We help to connect people in the residential real estate market, whether they are buyers, sellers, renters, lessors, mortgage-seekers, lenders, or just people researching what's out there. HipPocketz and its subsidiaries and affiliates (collectively, "HipPocketz") provide you with access to a variety of services, including the [www.hippocketz.com](http://www.hippocketz.com) website and HipPocketz's mobile applications (collectively, the "Services"). Access to and use of HipPocketz's Services on its website and mobile applications and anywhere else its Services are offered is governed generally by these **Terms of Use which you agree to in total by using any of these Services without more i.e., without further action on your part.**

You are allowed to use our Services and in doing so by that act alone form a binding contract with HipPocketz, and thereby agree to that use in compliance with our Terms of Use and all other applicable HipPocketz agreements available to view at [www.hippocketz.com](http://www.hippocketz.com) and in compliance with all applicable laws.

The following terms and conditions apply to everyone who uses HipPocketz's Services (including real estate professionals), and they generally (along with any other specific HipPocketz agreements that you also agree to through your use of the Services) govern the relationship between HipPocketz and our users during their use of HipPocketz's Services.

Please read these Terms carefully before using our Services. By accessing and using HipPocketz Services you explicitly agree to comply with and be bound by our Terms of Use and all other applicable HipPocketz agreements and all applicable laws.

### **The Services HipPocketz Provides**

**Our Services:** Our Services include the real estate search services on HipPocketz Widgets, HipPocketz Voices, HipPocketz Neighborhood Ratings, and other content, products, and services available on [www.hippocketz.com](http://www.hippocketz.com) and HipPocketz mobile applications. The Services may sometimes be located on third-party Web sites or applications, either as links from an add-on service to, or otherwise in connection with, Web sites or applications that those third parties control. Our Services also include paid products and services. All the terms of use and agreements that cover your use or uses of the Services you agree to by using those Services (you may review the specific terms of use and agreements at [www.hippocketz.com](http://www.hippocketz.com)).

**None of Our Services Is an Offer or Promise to Sell:** Nothing contained in the Services is an offer or promise to sell a specific product for a specific price or an

offer or promise that any advertiser or real estate broker or agent or their client will sell any product or service for any purpose or price or on any specific terms.

**Be Honest With Us:** The information we collect from users of our Services, including during the registration process for our users (including real estate professionals) is detailed in our [Privacy Policy \(see the HipPocketz Privacy Policy at \[www.hippocketz.com\]\(http://www.hippocketz.com\)](#). **When you create an account, you must provide us with accurate and up-to-date information, for which you are solely responsible and liable and for the accuracy and consequences of which you indemnify HipPocketz for all damages of any and all kinds including HipPocketz reasonable attorney's fees, expenses and costs of legal proceedings and/or arbitration.**

**Deal with Us in Good Faith:** By creating an account, you agree that you are signing up for HipPocketz's Services in good faith, and that you mean to use them only for their intended purposes as real estate information tools and for no other reasons.

**Security:** While HipPocketz works to protect the security of your content and account, we cannot guarantee that unauthorized third parties will not be able to circumvent our security measures. Please notify us immediately of any compromise or unauthorized use of your account. **You are also responsible for maintaining the confidentiality of your account information and for ensuring that only authorized individuals have access to your account. You are responsible for all actions taken or content added through your account.** By using certain of our Services, you agree that HipPocketz may create a user account for you on our services. You can learn about our policies for data collected via user accounts in our [Privacy Policy](#). Like all our accounts, you may delete it at any time. By using our Services and providing us with your email address, you agree that we can send you emails about our Services. You can unsubscribe from these emails through the instructions in any of these emails or update your preferences in the [Account](#) section of the website.

## **Our Rules About Your Data Privacy**

**HipPocketz's Privacy Policy Governs Our Collection, Use, and Disclosure of Your Data: Our [Privacy Policy](#) generally governs our collection, use, and disclosure of your personal information, is incorporated into this Terms of Use. Please read that Privacy Policy carefully. It describes what information we collect from you and when, how and why we may create an account for you, who we share your information with and when and how you can opt-out or delete your account. This is important information. BY USING OUR SITE, OUR MOBILE APPLICATIONS AND OUR SERVICES, WITHOUT LIMITATION, YOU CONSENT TO OUR PRIVACY POLICY.**

## **Our Rules About Your Content**

**Your Content Is Your Responsibility:** You are solely responsible for any messages, reviews, text, photos, videos, graphics, code, or other content or materials (collectively "User Content") that you post, submit, publish, display or link to through the Services or send to other HipPocketz users. At all times, you promise to adhere to the [HipPocketz Community Guidelines](#), which are incorporated into these Terms of Use.

**HipPocketz May Choose to Monitor and Reserves the Right to Edit Unacceptable User Content:** HipPocketz does not approve, control, or endorse your or anyone else's User Content, and has no obligation to do so. However, we reserve the right (but assume no obligation) to remove or modify User Content for any reason, at our sole discretion, including User Content that we believe violates our Terms of Use.

**You Must Be Truthful:** You agree to provide accurate, complete, current, and truthful information when you add or edit facts about your home, or otherwise provide content via the Services.

**Do Not Post Illegal or Harmful Content:** You agree not to post, submit, or link to any User Content or material that infringes, misappropriates, or violates the rights of any third Party (including intellectual property rights), or that is in violation of any federal, state, or local law, rule, or regulation, including Fair Housing Laws. You also agree not to post, submit, or link to any User Content that is defamatory, obscene, pornographic, indecent, harassing, threatening, abusive, inflammatory, or fraudulent, purposely false or misleading, or otherwise harmful.

**Do Not Violate Others' Rights:** You agree not to post copyrighted material without permission from the owner of the copyright. This includes, for example, photographs or other content you upload via the Services. You also agree not to disclose confidential or sensitive information. This includes but is not limited to information about neighbors or other information that would potentially be viewed as an invasion of privacy.

**You Grant HipPocketz a License to Use Your Content:** When you provide User Content via our Services, you grant HipPocketz a royalty-free, perpetual, irrevocable, and fully sublicensable license to publish, reproduce, distribute, display, adapt, modify and otherwise use your User Content in connection with our Services. We will not pay you or otherwise compensate you for content you provide to us.

**Your Content May Be Made Public:** You understand and agree that any User Content that you post or submit to HipPocketz may be redistributed through the Internet and other media channels, and may be viewed by the general public.

**HipPocketz reserves the right in our sole discretion to edit or remove information or materials provided by you.**

### **Terms Involving Claiming Ownership of a Home**

- You or your agent if a broker or agent will only claim homes for which you are the current legal owner, and you represent and warrant that the home you are claiming is owned by you and that the details you provide about your home are accurate.
- You will be required to confirm your email address in order to add or edit facts about your home.
- If you are no longer the legal owner for a home, you agree to release your claim on the home to permit the current legal owner to subsequently claim the home.
- If someone has claimed your home in error or is no longer the current legal owner for the home, you agree to dispute the claim on our website.
- We reserve the right in our sole discretion to block or remove claims on homes made by you.
- You acknowledge that information that you provide about your home will be posted in public areas of the website and will be available to anyone who visits the site.
- You acknowledge that we may display information about your home from other sources and that there may be discrepancies between the information provided by you and the information provided by these other sources; you release us from liability for any inconsistent information.

### **Rules for Real Estate Professionals and Their Clients and Client Information**

#### **Information Provided by Real Estate Professionals**

If you are a real estate professional, you agree that you will not claim or submit listings that do not belong to you and/or to your client. When you submit or claim a listing, you hereby agree to abide by the HipPocketz.com, LLC Data License, Indexing and Submission Agreement which is available at [www.hippocketz.com](http://www.hippocketz.com) or (VF: add the link here)

#### HipPocketz User Information Provided to Real Estate Professionals

If you are a real estate professional, you agree that you will not use any information about HipPocketz users that is transferred to you during your use of HipPocketz's Site or Services (e.g., contact information sent to you when a user contacts you through your listing page) for any reason except to provide those users with real estate services. You further agree never to use such information for any illegal or harmful purpose.

#### **Intellectual Property and Licenses**

##### HipPocketz Grants You a Limited License to Access and Use Our Website and Services:

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**HipPocketz Handling of Posted Data on and Nonspecific Statistics Regarding Transactions on the Website (These Handlings Warnings Are Part of But Do Not Replace the HipPocketz' Privacy Policy Which Controls Our Use of User/Subscriber/Advertiser/Public Data and Posted Data)**

Warning by HipPocketz and Agreement of Agents and Through Them Their Clients, Advertisers and Public Users of the Limits of HipPocketz' Ability to Protect Information Provided by Premier Agents, Their Clients Through Those Agents, the Public and Advertisers: Premier agents for themselves, their brokerage firms and their clients, advertisers, and the public who post information of any and all kinds, including client information, financial and other data and images (collectively "Posted Data") on the HipPocketz Sites understand and agree that while HipPocketz makes reasonable and diligent efforts to protect the Posted Data on the HipPocketz Sites that HipPocketz controls, HipPocketz has no control over Posted Data that can be accessed by third parties such as mortgage companies, title companies, governmental taxing authorities, hackers, data miners, data thieves, without limitation, who may harvest this information off of the HipPocketz Sites in spite of HipPocketz efforts to protect the information within its Sites and therefore that such Posted Data may be used by those third parties possibly even to the financial detriment of Premier agents', their clients, advertisers and the public, without limitation.

**HipPocketz May Share Nonspecific (as to an Agent Client or Other User) Statistical Data from or Posted on the Website with Third Parties:** HipPocketz may share nonspecific statistical data from the Website with third parties such as Boards of Realtors, Real Estate associations and commissions local, state and national, economists and economic oriented institutions and governmental bodies, and media outlets, without limitation.

**HipPocketz Will Turn Over Specific and Nonspecific Data Pursuant to Subpoenas:** HipPocketz will be compelled by law and must share specific and nonspecific data with third parties pursuant to state and federal court subpoenas and subpoenas of law enforcement, and subpoenas of state and federal regulatory agencies.

**HipPocketz Will Not Sell Specific Posted Data from Agents:** HipPocketz will not sell to third parties any specific Posted Data including Posted Data to third parties.

## **Digital Millennium Copyright Act Compliance**

In accordance with the provisions of the Digital Millennium Copyright Act (DMCA) applicable to Internet service providers (17 U.S.C. § 512), HipPocketz has adopted a policy of terminating, in appropriate circumstances and at our sole discretion, subscribers or account holders who are deemed to be repeat infringers. If you believe that your work has been copied and has been posted to this Site in a way that constitutes copyright infringement, please provide HipPocketz's copyright agent the following written information:

- An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- A description of the copyrighted work that you claim has been infringed upon;
- A description of where the material that you claim is infringing is located on the Site;
- Your address, telephone number, and e-mail address;
- A 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;
- 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.

Before sending a notice to HipPocketz, you should confirm that you are the copyright owner or have rights to the copyright, which the DMCA requires. Contact information for HipPocketz's Copyright Agent for notice of claims of copyright infringement is provided below.

**DMCA Agent:**

HipPocketz Legal Department

Address:

P.O. Box 342199

Austin, Texas 78734

USA

Email address

[customerservice@hippocketz.com](mailto:customerservice@hippocketz.com)

**Third-Party Links, Sites, and Services**

Our Site and Services may contain links to third-party Web sites, advertisements, services, special offers, or other events, activities, or content (collectively "Third-Party Materials"). These Third-Party Materials are not under the control of HipPocketz. We are providing these links to you only as a convenience, and the inclusion of any link does not imply affiliation, endorsement, or adoption by us of the site or any information contained therein. HipPocketz is not responsible or liable for your use of or access to any Third-Party Materials. Whenever you leave HipPocketz's Site or Services, be aware that your activity outside our Site or Services will not be governed by our Terms of Use or other agreements.

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**HipPocketz is not responsible in any way for, does not monitor, and does not endorse or guarantee anything about any third-party content (including advertisements, offers, and promotions) that may appear in our Site or Services.**

#### **Indemnification of HipPocketz by All Website Users of Any Kind**

**As a user in any capacity, you agree on behalf of yourself, your clients through you and your firm if an agent, to defend, indemnify, and hold HipPocketz harmless from and against any claims, damages, costs, liabilities, and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or related to any User Content you post, store, or otherwise transmit on or through the Site or Services or your use of the Site and the Services, including, without limitation, any actual or threatened suit, demand, or claim made against HipPocketz arising out of or relating to the User Content, your conduct, your violation of these Terms of Use, or your violation of the rights of any third party.**

#### **Limitation of HipPocketz' Liability**

**IN NO EVENT SHALL HIPPOCKETZ, ITS OFFICERS, DIRECTORS, AGENTS, AFFILIATES, EMPLOYEES, ADVERTISERS, OR DATA PROVIDERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS, OR LOSS OF DATA) WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), EQUITY OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THIS SITE, THE MATERIALS, OR OUR SERVICES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.**

#### **General Terms**

##### **Modification of HipPocketz Services**

HipPocketz reserves the right to modify or discontinue (completely or in part) our Site, Services, or any content appearing therein. HipPocketz will not be liable to you or any third party if we exercise this right.

##### **Modification of These Terms**

We reserve the right to change or modify these Terms of Use, or any policy or guideline of the Site or Services, at any time and in our sole discretion. Any changes or modification will be effective immediately upon posting of the revisions to the Site or Services. You waive any right you may have to receive

specific notice of such changes or modifications. Your continued use of the Site or Services following the posting of changes or modifications will confirm your acceptance of such changes or modifications. Please review these terms and conditions periodically, and check the version date for changes.

### **Choice of Law and Venue**

**These Terms of Use are governed by the laws of the State of Texas without regard to its conflict of law provisions. The venue for the arbitration and/or court intervention for preliminary emergency relief or the enforcement of an arbitration ruling or award in state or federal court if needed shall occur in the state or federal court of Austin, Travis County, Texas, though enforcement of an award may occur in other state or federal courts where a party may reside.**

### **No Waiver**

HipPocketz's failure to exercise or enforce any right or provision of the Terms of Use will not be deemed to be a waiver of such right or provision.

### **No Third-Party Beneficiaries or Rights**

These Terms of Use do not create any private right of action on the part of any third party or any reasonable expectation that the Site or Services will not contain any content that is prohibited by these Terms of Use.

### **Entire Agreement & Severability**

These Terms, together with the Privacy Policy and any amendments and additional agreements you might enter with HipPocketz in connection with our Site or Services, shall constitute the entire agreement between you and HipPocketz concerning the Site or Services, and shall supersede any prior oral agreements and/or representations you had with HipPocketz regarding the Site or Services or anything else.

If any provision of these Terms of Use is deemed invalid, then that provision will be limited or eliminated to the minimum extent necessary, and the other provisions of these Terms of Use remain in full force and effect.

### **Limitation of Claims**

Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to your use of the Services must be filed within one (1) year after such claim

or cause of action arose, or else that claim or cause of action will be barred forever.

## **Arbitration of Disputes**

**Any controversy or claim arising out of or relating to these Terms of Use or the Services will be adjudicated by binding arbitration before one (1) mutually agreeable retired judge in accordance with the commercial arbitration rules of the American Arbitration Association ("AAA") but not under the auspices of nor pursuant to the jurisdiction of the AAA. Any such controversy or claim must be arbitrated on an individual basis, and must not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration must be conducted in Austin, Travis County, Texas and judgment on the arbitration award may be entered into any court having jurisdiction thereof. Either HipPocketz or you may seek any interim or preliminary injunctive and other nondispositive interim emergency relief necessary to protect the rights or property of you and/or HipPocketz from a court of competent jurisdiction in the state or federal court in Austin, Travis County, Texas, as either or both of those courts may have proper jurisdiction but the dispositive proceedings shall occur in arbitration as provided above in this paragraph unless the parties mutually agree in writing to waive arbitration.**

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