

Respage Terms

These Respage Terms ("Terms"), together with each Respage Order Form (the "Order Form") signed by Company and acknowledged by 4 Walls, and the current versions of the Terms of Service, Privacy Policy and other Legal Notices at <http://www.respage.com/legal.html> form a binding agreement (the "Agreement") as of the date of the Respage Order Form between 4 Walls Inc. ("4 Walls") and the company listed on the Respage Order Form ("Company").

1. Definitions. In addition to terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

1.1 "**Business Hours**" means Monday to Friday (excluding 4 Walls holidays), 9 a.m. to 5 p.m. Eastern Time.

1.2 "**Content**" means text, photographs, drawings, data and other information provided by either party or by any User for use on or in connection with a Portal. "4 Walls Content" means any Content owned or provided by 4 Walls. "Company Content" means any Content owned or provided by Company, including by any Users.

1.3 "**Documentation**" means the online documentation of the Service for Users as provided by 4 Walls.

1.4 "**Intellectual Property Rights**" means any and all known or hereafter existing worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.

1.5 "**Portal**" means a website managed by 4 Walls that is associated with a Property.

1.6 "**Property**" means a set of one or more apartment buildings, condominiums or other properties owned or managed by Company that share a Portal.

1.7 "**Service**" means the combination of services set forth on one or more Order Forms, including the development, provision and management of Portals and 4 Walls Content by 4 Walls pursuant to this Agreement.

1.8 "**Subscription Period**" means the period during which Company's Users may access and use the Service in accordance with this Agreement.

1.9 "**User**" means any person authorized by Company to use the Service pursuant to the terms and conditions of this Agreement, including Company's employees, agents and residents.

2. The Service. Subject to the terms and conditions of this Agreement, including, without limitation, the payment of all amounts due, 4 Walls permits Company to use the Service during the Subscription Period solely (i) for Company's Properties business purposes and (ii) in accordance with the Documentation.

3. Company's Responsibilities. Company agrees to provide Property-specific Content in accordance with 4 Walls's specifications for each Service. Company agrees to review and take responsibility for Property-specific Content on each Portal for accuracy and completeness. Company agrees to integrate the Portal into its website at Company's expense, including by establishing and maintain a prominent link to each Portal from its resident, property or index page. Company agrees that Company will be liable for the actions and omissions of any of its Users, including any breach of the terms and conditions of this Agreement by a User.

4. Restrictions. Company acknowledges that the Documentation and the Service (and its structure, organization, and source code) constitute valuable trade secrets of 4 Walls. Accordingly, except as expressly permitted by this Agreement, Company may not, and may not permit or encourage any User or any third party to: (a) download, copy, modify, adapt, alter, translate, port or create derivative works of the Service, the Documentation, the 4 Walls Content, any software used to provide the Service, or any portion thereof; (b) permit anyone other than Users to use the Service; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the Service, the Documentation or any software used to provide

the Service; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for or any other proprietary information or trade secrets from the Service; (e) remove, alter, or obscure any proprietary notices (including, without limitation, any copyright and trademark notices) of 4 Walls or its licensors and suppliers from the Service; (f) disseminate performance-related information relating to the Service; or (g) otherwise use, reproduce, display or copy the Service. Except as stated in this Agreement, 4 Walls grants no rights or licenses to Company, by implication, estoppel, or otherwise, in or to the Service or the Documentation, or any Intellectual Property Rights therein. Any and all rights not expressly granted to Company hereunder are reserved by 4 Walls.

5. Communications. By entering into this Agreement, Company and 4 Walls agree that they may communicate and send notices to each other via fax, telephone, email, U.S. Mail and any other electronic means or other means used by the parties to communicate with each other for any reason during the term of this Agreement and following the termination of Agreement. Company agrees that 4 Walls may at any time modify its Terms of Service, Privacy Policy and other Legal Notices by posting new versions of the same on the 4 Walls website, or by providing copies of the new versions to Company by any communications method then permitted by this Agreement, and the new versions shall be binding on Company and its Users.

6. Ownership. The Service, the Portals, the Documentation and the 4 Walls Content, and all worldwide Intellectual Property Rights therein, are and will remain the exclusive property of 4 Walls. The Company's Content that it owns and loads onto the Service and all worldwide Intellectual Property Rights therein are and will remain the exclusive property of Company. 4 Walls shall have limited permission to store and process the Company Content solely for Company at the direction of Company and its Users, and for no other purpose.

7. Support Services. 4 Walls will support the Services with a combination of telephone, email and web support during Business Hours. Unless otherwise expressly agreed to in writing by 4 Walls, Company shall not permit any third party to perform or provide any maintenance or support services with respect to the Service. Upon 4 Walls's receipt of notice from Company of a failure of the Service to conform to its current Documentation (an "Error"), 4 Walls will use commercially reasonable efforts to promptly resolve the Error. 4 Walls does not provide support for any failure or defect in the Service caused by any of the following: (1) the improper use, alteration, or damage of the Service by Company or any User or third party; (2) modifications to the Service not made or authorized in writing by 4 Walls; or (3) interaction between the Service and Company's computer systems unless 4 Walls expressly approves such use in writing. Company is exclusively responsible for the supervision, management, backup, security, and control of Company's information technology systems. Company must provide 4 Walls with full, good faith cooperation and such information as may be required by 4 Walls in order to support the Service.

8. Fees. In consideration of the rights to the Service and provided under this Agreement, Company must pay 4 Walls the Fees (the "Fees") set forth on the Order Form and on any other document signed by both parties. Unless Company provides 4 Walls written notice of Company's intent not to renew at least thirty (30) days prior to the expiration of the current Subscription Period, 4 Walls will invoice Company in advance for the upcoming Subscription Period. Company must pay all amounts set forth on each such invoice in immediately available U.S. funds within thirty (30) days of the date of invoice, or the due date if a due date is stated on the invoice. The Fees exclude all applicable sales, use, and other taxes, fees, duties and similar charges ("Taxes"), and Company will be responsible for payment of all such Taxes (other than taxes based on 4 Walls's income) and any penalties or charges that accrue with respect to the non-payment of any Taxes. Should Company fail to pay any invoices or amounts when due, then any Services connected with the invoices or amounts due may be terminated or not provided. For any renewal Fees not paid, any Services previously

paid for shall be provided by 4 Walls to Company, but 4 Walls shall not provide any Services that have not been paid for. Amounts not paid when due will be subject to a late charge of one and one-half percent (1.5%) of the overdue amount per month or any applicable legal maximum, whichever is less, plus the costs of collection, including reasonable attorney fees and court costs. Late charges are intended as reasonable estimates of the amounts necessary to compensate 4 Walls for costs and losses associated with delays in payment, and not as penalties.

9. **Acceptance.** The Service, Documentation, and any 4 Walls Content provided by 4 Walls under this Agreement will be deemed accepted by Company unless rejected in writing within fifteen (15) days of Company's receipt.

10. **Performance.** 4 Walls represents and warrants that the Service will function in substantial conformity with the specifications contained in the Documentation during the Subscription Period. If 4 Walls fails to comply with this warranty, then upon Company providing written notice to 4 Walls within thirty days of any breach of this Warranty during the Subscription Period, then 4 Walls shall use commercially reasonable efforts to respond to and remedy the breach of warranty. If 4 Walls determines that it is unable to correct the Error, 4 Walls may refund to Company the Fees actually paid by Company for Services that are the subject of the warranty claim. The foregoing remedy represents 4 Walls's sole obligation and Company's sole and exclusive remedy with respect to any breach of the warranty set forth in this Section.

11. **Disclaimers.** THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SERVICE, THE DOCUMENTATION, THE 4 WALLS CONTENT, AND ALL OTHER SERVICES AND GOODS PROVIDED OR REFERENCED PURSUANT TO THIS AGREEMENT. 4 WALLS AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. THE EXPRESS WARRANTIES IN THIS AGREEMENT DO NOT APPLY IF THE SERVICE HAS BEEN USED, MODIFIED OR OPERATED OTHER THAN IN ACCORDANCE WITH INSTRUCTIONS FURNISHED BY 4 WALLS OR OTHER THAN AS EXPRESSLY PERMITTED BY THIS AGREEMENT. 4 WALLS DOES NOT WARRANT THE COMPANY'S USE OF THE SERVICE WILL BE ERROR-FREE, UNINTERRUPTED, VIRUS-FREE, OR SECURE. COMPANY ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT.

12. **Company Indemnification.** Company will defend, indemnify and hold 4 Walls harmless at Company's own expense, against any action against 4 Walls brought by a User or any other third party to the extent that the action alleges or is based upon a claim that such third party has been damaged as a result of Company's use of the Service or any other services or goods provided by 4 Walls, or any claim that the Company Content infringes the Intellectual Property Rights or any other rights of any third parties, and Company will pay those costs and damages finally awarded or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on 4 Walls notifying Company promptly in writing of any such action, giving Company sole control of the defense thereof and any related settlement negotiations, and cooperating and, at Company's reasonable request and expense, assisting in such defense.

13. **4 Walls Indemnification.** 4 Walls will defend and indemnify Company at 4 Walls's own expense, against any action against Company brought by an unaffiliated third party that alleges that the Service infringes any U.S. copyright or misappropriates any trade secret, and 4 Walls will pay those costs and damages finally awarded or those costs and damages agreed to in a monetary settlement of such action in accordance with this Section. The foregoing obligations are conditioned on Company notifying 4 Walls promptly in writing of any such action, giving 4 Walls sole control of the defense thereof and any related settlement negotiations, and cooperating and, at 4 Walls's reasonable

request and expense, assisting in such defense. If the Service becomes, or in 4 Walls's opinion is likely to become, the subject of an infringement claim, 4 Walls may, at its option and expense, either procure for Company the right to continue using the Service, replace or modify the Service so that it becomes non-infringing, or terminate this Agreement upon written notice to Company, and refund Company any unearned Fees pro-rated for the applicable Subscription Period. Notwithstanding the foregoing, 4 Walls will have no obligation under this Section or otherwise with respect to any allegation or claim based upon any use of the Service by Company or any User not in accordance with this Agreement, any use of the Service by Company or any User in combination with products, equipment, software, or data not supplied by 4 Walls if such infringement would have been avoided by the combination with other products, equipment, software or data, or any modification of the Service by any person other than 4 Walls or its expressly authorized agents or subcontractors. THIS SECTION STATES 4 WALLS'S ENTIRE LIABILITY AND COMPANY'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS OR ACTIONS.

14. **Limitation of Liability.** IN NO EVENT WILL 4 WALLS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL OR OTHER NON-DIRECT DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF 4 WALLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. 4 WALLS'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SERVICE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO 4 WALLS BY COMPANY DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. Company acknowledges that the Fees reflect the allocation of risk set forth in this Agreement and that 4 Walls would not enter into this Agreement without these limitations on its liability.

15. **Term and Termination.** This Agreement will commence on the date stated on the applicable Order Form and will continue for an initial period of three months. After the initial three-month period, either party may terminate this Agreement upon 30 days prior written notice. Either party may terminate this Agreement if the other party materially breaches any material provision of this Agreement and does not cure such breach (provided that such breach is capable of cure) within five (5) calendar days after sending written notice thereof.

16. **Effects of Termination.** Upon the effective date of termination of this Agreement for any reason, all of Company's rights to the Service (including, without limitation, the rights of any Users) granted hereunder will immediately cease, and Company shall cease all use of the Service, Documentation and 4 Walls Content, and shall insure that all Users discontinue all use of the Service and Documentation. Company shall have ten (10) calendar days from the effective date of termination to download or otherwise copy any Company Content stored on the Service; after which 4 Walls may delete such Company Content. 4 Walls is under no duty to delete archival or back-up copies of Company Content. Any amounts owed to 4 Walls under this Agreement prior to its termination or expiration shall become due and payable immediately upon such termination or expiration. Company's decision not to renew the Service shall not affect Company's rights pursuant to this Agreement. All definitions and those provisions that provisions that reference rights and remedies of either party after termination of this Agreement will survive the termination of this Agreement for any reason.

17. **Confidentiality.** Company agrees that the Service (and any trade secrets and other information and intellectual property contained therein) are proprietary and confidential information of 4 Walls. Accordingly, Company agrees to hold the Service and all Documentation in strict confidence and not to disclose the Service or Documentation in any form to any third parties for any reason.

18. **Use of Company's Name and Marks.** Company agrees that 4 Walls may, at 4 Walls's expense, use Company's name, logo and trademarks thereof, and may disclose that Company is a customer of the

Service, in 4 Walls's advertising, marketing, promotion and similar public disclosures with respect to the Service.

19. **Assignment.** Neither party may assign any of its rights or obligations under this Agreement without the other party's prior written permission (which may be refused in its sole discretion); provided however, that either party may assign all of its rights and obligations under this Agreement as part of a merger or acquisition of the party effective upon receipt of written notice by the other party. However, any amounts owed by Company to 4 Walls prior to any transfer or assignment shall remain Company's obligation in addition to being the obligation of any successor permitted pursuant to this Agreement. Any attempted assignment, delegation or transfer in violation of the foregoing will be void and of no force or effect.

20. **Notices.** All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile (fax), or certified or registered mail, (postage prepaid and return receipt requested) to the other party, and will be effective upon receipt or five (5) business days after being deposited in the mail as required above, whichever occurs sooner. Either party may change its address by giving notice of the new address to the other party.

21. **Governing Law and Venue.** This Agreement will be governed by and interpreted in accordance with the law of the Commonwealth of Pennsylvania without reference to its conflict of laws

principles. The U.N. Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any controversy or claim between the parties or arising out of this Agreement or its performance shall be determined by one arbitrator in binding arbitration administered by the American Arbitration Association pursuant to its Commercial Arbitration Rules and the Optional Rules for Emergency Measures of Protection in Montgomery County, Pennsylvania. The arbitral award will be final and binding, and may be entered and enforced in any court of competent jurisdiction.

22. **Severability.** If any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be deleted and re-interpreted to the extent necessary to comply with law and interpreted and substituted to accomplish the objectives of such provision to the greatest extent possible under applicable law. The remaining provisions of this Agreement will continue in full force and effect.

23. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.