

CITY OF CAPE CORAL

REQUEST FOR SOLE SOURCE OR SINGLE SOURCE PURCHASE

Requesting Department: ITS

Vendor Name: PropertyGuard

Address: 940 SW Gemini Drive PMB 26459, Beaverton, OR 97008

Phone: 855-933-0731 E-Mail: alex@propertyguard.io

Price: \$45,000

Description of item to be procured: **Provide and maintain a list of Cape Coral short-term property rental addresses**

1.) Uniqueness of vendor's item/service. How is this vendor the only vendor uniquely qualified to provide the product or service:

The vendor has developed proprietary tools to automate aspects of the identification of rental properties without requiring the purchase of rental property management software.

2.) Market Research. Describe other, similar sources or products available in the market, if any, and why they are not acceptable:

IT and the CM's office have been conducting research to find a tool/vendor to identify unregistered short-term rental properties in the City. No other vendors were identified that would provide addresses for short-term rental property without requiring the purchase of property management software.

3.) Proposed Actions. Describe the actions the department will take to overcome the present barriers to competition for any future acquisition of this product or service:

IT will conduct market research before renewing with this vendor.

Department Director's Signature: *M. J. [Signature]* Date: 09/29/2023

Approval: Procurement Manager *Wanda Roof* (not to exceed \$50,000.00) Date: 10/4/23

Approval: City Manager _____ (not to exceed \$100,000.00) Date: _____

Council authorization required if exceeding \$100,000.00

Revised 1/6/2020- Per Ordinance #52-19, Article VII: Purchase and Sale of Real and Personal Property. Adopted 12/02/2019

Single Source - Best Value
Sole Source - Proprietary Software

MEMORANDUM

CITY OF CAPE CORAL
INFORMATION TECHNOLOGY SERVICES DIRECTOR'S OFFICE

TO: Mark Mason, Finance Director
Wanda Roop, Procurement Manager

FROM: Michelle Hoffmann, IT Director *my*

DATE: October 4, 2023

SUBJECT: Request to purchase short-term rental address identification services from PropertyGuard for \$45,000

Information Technology (IT) requests approval to purchase short-term rental address identification services from PropertyGuard. PropertyGuard has proprietary tools and processes to identify short-term rental property addresses and do not require the purchase of rental property management software. We were not able to identify any other vendors with that would provide the addresses without the purchase of a software management system.

This is a sole source vendor, in accordance with City of Cape Coral Code of Ordinances Chapter 2, Article VII, Division 1, Section 2-144(c) Investigation has shown that there is no other like item available that performs the same function.

This purchase is budgeted for in 001-17002-534120.

Attachments:

Gina Lanzilotta

From: Michelle Hoffmann
Sent: Wednesday, October 4, 2023 2:04 PM
To: Tana Werner
Cc: Gina Lanzilotta
Subject: RE: PropertyGuard Requisition

Gina,

AirDNA does not have the ability to provide addresses for short-term rentals STR. They aggregate data from Airbnb and Vrbo and then provide comparisons between us and other cities in Lee County around how much money is being spent in each city by STR. The purpose is to convince Lee County Tourism Board to give us more money based on our percentage of STR compared to the rest of Lee County

PropertyGuard has a process to get STR data from Airbnb and Vrbo and then compare information from other Internet sites, such as Realtor.com and Lee County Property Appraisers to name a couple, to determine the address of the rental. The purpose of this is to see if the address has been using a save-our-homes exemption (which is not allowed for rentals) and if so to turn them over to Lee County to cancel the SOH exemption and go after them for back taxes.

Michelle

Michelle Hoffmann

ITS Director
Information Technology
239-574-0455
mhoffmann@capecoral.gov

From: Tana Werner <twerner@capecoral.gov>
Sent: Wednesday, October 4, 2023 1:53 PM
To: Michelle Hoffmann <mhoffmann@capecoral.gov>
Cc: Gina Lanzilotta <glanzilo@capecoral.gov>
Subject: FW: PropertyGuard Requisition

Hi Michelle,

Can you please assist with Gina's questions?

Thank you,

Tana Werner

Senior Administrative Specialist
Information Technology
239-574-0463 (4463)

twerner@capecoral.gov

From: Gina Lanzilotta <glanzilo@capecoral.gov>
Sent: Wednesday, October 4, 2023 1:50 PM
To: Tana Werner <twerner@capecoral.gov>
Subject: RE: PropertyGuard Requisition

Tana,

I have reviewed IT's request for PropertGaurd for short-term rental address identification services and I have a few questions.

1. Back in July, IT entered a requisition to AirDNA for Property Performance Dashboard- Florida Level Access. What is the difference between the two vendors?
2. As this seems to be the same type of software, why is it a sole source?

Gina Lanzilotta

Senior Buyer
Financial Services Department
239-574-0834 (4834)
glanzilo@capecoral.gov

From: Tana Werner <twerner@capecoral.gov>
Sent: Wednesday, October 4, 2023 11:56 AM
To: Gina Lanzilotta <glanzilo@capecoral.gov>
Cc: Michelle Hoffmann <mhoffmann@capecoral.gov>
Subject: FW: PropertyGuard Requisition

Hi Gina,

Can you please ask Wanda to sign the attached Sole Source Form?

Thank you,

Tana Werner

Senior Administrative Specialist
Information Technology
239-574-0463 (4463)
twerner@capecoral.gov

From: Michelle Hoffmann <mhoffmann@capecoral.gov>

Sent: Wednesday, October 4, 2023 11:49 AM

To: Tana Werner <twerner@capecoral.gov>

Subject: PropertyGuard Requisition

Hi Tana,

Please look this over and if everything looks good, please create a requisition.

Thanks,

Michelle

Michelle Hoffmann

ITS Director

Information Technology

239-574-0455

mhoffmann@capecoral.gov



Sales Order Agreement

Prepared For:
Cape Coral, FL

Customer: Cape Coral, FL

Contact: Michelle Hoffmann

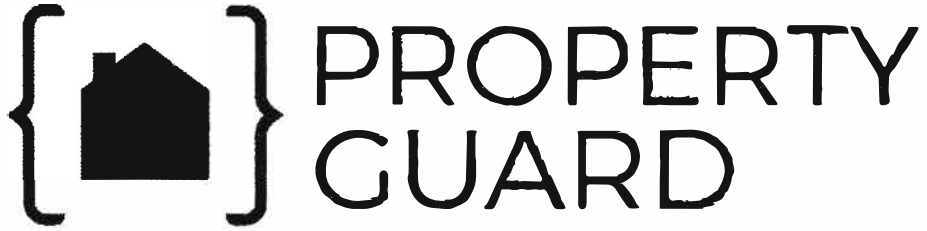
Contact Email: mhoffmann@capecoral.gov

Service: The paid Service lets property management companies, homeowners' associations, and municipalities monitor short-term rentals (e.g., Airbnb's) at properties they own/manage/have jurisdiction over. The Service takes information from its users (property addresses, images, etc.) and monitors short-term rental sites to attempt to match property information to those listings.

Initial Service Term: One Year with a 30 day cancellation notice after the one year anniversary of the Effective Date which is 11/1/2023. **This Order Form is subject to and hereby incorporates the Company's Terms of Use and Privacy Policy, which Customer accepts by submitting this Order Form.**

By signing this Order Form, you affirm that you have reviewed the Terms of Use and Privacy Policy and have the right and authority to bind the Customer listed above to these terms.

Subscription Type	Annual Subtotal	
Enterprise Subscription (Billed Annually) Recurring	\$35,000.00	
Year One Implementation Not Recurring	\$10,000.00	
	Annual Total	\$45,000.00



Sales Order Agreement

Prepared For:
Cape Coral, FL

Customer: Cape Coral, FL
Contact: Michelle Hoffmann
Contact Email: mhoffmann@capecoral.gov

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Initial Service Term: One Year with a 30 day cancellation notice after the one year anniversary of the Effective Date which is 11/1/2023. This Order Form is subject to and hereby incorporates the Company's Terms of Use in Exhibit B and Privacy Policy in Exhibit A, which Customer accepts by submitting this Order Form.

By signing this Order Form, you affirm that you have reviewed the Terms of Use and Privacy Policy and have the right and authority to bind the Customer listed above to these terms.

Subscription Type	Annual Subtotal
Enterprise Subscription (Billed Annually) Recurring	\$35,000.00
Year One Implementation Not Recurring	\$10,000.00
Annual Total	\$45,000.00

Alex Krill
CEO
Property Guard

Name *Lonnie Barron*
Title *Asst. City Manager*
Company Name
City of Cape Coral

APPROVED AS TO FORM:
By: *[Signature]*
City Attorney's Office
Date: *10/13/2023*

Exhibit A: Privacy Policy

Our Commitment to Your Privacy

Welcome to www.propertyguard.io, a website (the "Site") operated by ADPG LLC (the "Company").

We respect and protect the privacy of our Site users. This Privacy Policy explains how we collect and use your information and is part of our [Terms of Use](#) when you use our Site and Service.

Your Consent

By using our Site and/or Service, you consent to our Privacy Policy. If you don't agree, please don't use our Site/Service.

What information do we collect?

When you register to use the Service via the Site you'll be asked to provide certain information such as your name, phone number, city/state, company/entity name, job title, and email.

Our third-party billing service provider will also collect information such as your full name, credit card number, and billing address.

We and our third-party service providers may collect certain information about your use of our Site. For example, we may collect and/or use:

- Log information (including your IP address, browser type, Internet service provider, referring and exit pages, operating system, dates/time of access, and related data)
- Information collected by cookies and tracking pixels (as discussed below)
- Web beacons (also called "Internet tags" or "clear gifs"; used to count visitors to our Site and which pages were viewed and links clicked)
- Embedded scripts (code temporarily downloaded onto your device to collect information about your interactions with the Service and thereafter deleted or deactivated)

Where do we store your information?

Your information may be stored in our own servers or in servers owned by third-party cloud storage providers. Third-party storage providers may not use your information except as provided in this Privacy Policy.

How do we use your information?

Information we collect from you might be used:

- To provide you with the Service
- To charge you for the Service
- To notify you about changes to our Site and Services
- For marketing purposes
- To respond to your messages and comments
- To send you technical notices
- To provide customer support

Do we use cookies or Tracking Pixels?

Yes.

Cookies are small files that include an anonymous unique identifier. Cookies let us recognize your browser and remember certain information about you in order to personalize your experience of our Site.

We also use cookies to compile aggregate data about traffic to our Site so that we can improve our Site. We may use both persistent and session cookies. Persistent cookies remain on your computer after you close your session and until you delete them; session cookies expire when you close your browser.

A tracking pixel is a tiny pixel-sized image that allows us to track your website visits, advertising impressions, and other types of Internet activity. It's also sometimes called a web bug, beacon, or page tag.

Do We Use Google Ads or other remarketing methods?

Yes.

We may use the Google Ads remarketing service to advertise on third party websites (including Google) to previous visitors to our Site. It could mean that we advertise to previous visitors who haven't completed a task on our site, for example using the contact form to make an inquiry. This could be in the form of an advertisement on the Google search results page, or a site in the Google Display Network.

Third-party vendors, including Google, use cookies to serve ads based on someone's past visits to our Site. Any data collected will be used in accordance with our own privacy policy and Google's privacy policy.

You can set preferences for how Google advertises to you using the Google Ad Preferences page.

Do we use Google Analytics?

Yes.

Users who visit the Site and have JavaScript enabled are tracked through Google Analytics. Google Analytics collects information anonymously and reports website trends to us without identifying individual visitors. Google Analytics collects a variety of information from users, including the Internet protocol (IP address) that is used to connect your computer to the Internet (which it does not report to us), your Internet service provider (ISP), browser type, type of operating system, the full Uniform Resource Locator (URL) clickstream to, through, and from our Site, including date and time, cookie, the length of time you spend on particular pages, which links you click while on our Site, and similar Site visit information. Google Analytics data is shared with Google.

For more information on Google Analytics or to opt-out of having your information shared through Google Analytics, visit: <http://www.google.com/intl/en/analytics/privacyoverview.html>.

For more information on Google's privacy policy, visit <http://www.google.com/intl/en/policies/privacy/>. We use this information to make our Site easier to find on the Internet and to improve our Site by learning which pages and features are interesting to our visitors. We treat this information as non-personal information and do not attempt to connect it to personally identifiable information, except as otherwise required by law.

How Do We Respond to "Do Not Track" Signals?

We may track your browsing behavior to better tailor suggestions and information for you. Some third-party sites also keep track of your browsing activities when they serve you content, which enables them to tailor what they present to you. You can opt out of certain tracking by adjusting the settings on your browser. However, many websites (including the Site) may not respond to such signals. There are also browser extensions that may block tracking. Again, they may not be effective in all cases.

How long do we store your information?

We intend to store some of your information indefinitely.

What about links to other websites?

We may provide links to or compatibility with other websites. However, we're not responsible for the privacy practices employed by those websites or the information or content they contain.

How do we protect your information?

We use Site-appropriate physical, electronic, and other procedures to safeguard and secure the information we collect. However, please be aware that the Internet is an inherently unsafe environment, and that hackers are constantly working to defeat security measures. Thus, we cannot guarantee that your information will not be accessed, disclosed, altered or destroyed, and you accept this risk.

How can you protect your information?

We urge you to take steps to keep your personal information safe by not sharing it with others or posting it online.

Do we disclose any information to outside parties?

We do not sell, trade, or otherwise transfer to outside parties your Personally Identifiable Information (PII) for commercial or marketing purposes. We may share your PII with third-party processors, which can include:

- Providers of email management and distribution tools
- Providers of security and fraud prevention services
- Providers of data aggregation and analytics software

We will, if required by a valid court order, provide your personal information in a civil or criminal proceeding.

We will not share any PII that we have collected from or regarding you except as described below.

Information Disclosed in Connection with Business Transactions. If we are acquired by a third party as a result of a transaction such as a merger, acquisition or asset sale or if our assets are acquired by a third party in the event we go out of business or enter bankruptcy, some or all of our assets, including your PII, may be disclosed or transferred to a third party acquirer in connection with the transaction.

Information Disclosed for Our Protection and the Protection of Others. We cooperate with government and law enforcement officials or private parties to enforce and comply with the law. We

may disclose any information about you to government or law enforcement officials or private parties as we, in our sole discretion, believe necessary or appropriate: (i) to respond to claims, legal process (including subpoenas); (ii) to protect our property, rights and safety and the property, rights and safety of a third party or the public in general; and (iii) to stop any activity that we consider illegal, unethical or legally actionable activity.

Not Intended for Children

Our Site is not intended for children under the age of 18. We do not knowingly or specifically collect information from or about children under the age of 18.

Changes to our Privacy Policy

If we decide to change our Privacy Policy, we will post those changes on this page. We may also, but are not required to, send you an email notice.

Contact Us

If you have questions about our Privacy Policy, please contact us at info@propertyguard.io.

Last Updated: 12/1/2022

Exhibit B: Terms of Use

(Effective as of 12/1/2022)

Welcome to www.propertyguard.io, a website (the "Site") operated by ADPG LLC (the "Company"). Please review these Terms carefully. By accessing or using the Site, you show you agree to these Terms. *If you don't agree to these Terms, you may not access or use the Site.*

ABOUT THE SITE

The Site lets you learn about the Company's service ("Service"). (Where relevant, these Terms apply to your use of both the Site and Service.)

The paid Service lets property management companies, homeowners' associations, and municipalities monitor short-term rentals (e.g., Airbnb's) at properties they own/manage/have jurisdiction over. The Service takes information from its users (property addresses, images, etc.) and monitors short-term rental sites to attempt to match property information to those listings.

The Site allows you to register for the Service. As discussed in our [Privacy Policy](#), when you register for the Service you'll be asked to provide certain information, such as your name, phone number, city/state, company/entity name, job title, and email.

You will also be asked to create a password.

Also, please note that the Site and Service under constant development. New features may be added frequently, so it's important to check back to this page for updates. The Company reserves the right to make changes to the Service but shall not delete material services.

PAID SERVICE

To use the paid Service, you will be charged fees as set forth in your order form (which incorporates these Terms). This fee is currently collected via Stripe (our "Billing Service Provider"), which has its own legal terms, or via ACH or check.

You will be required to provide the Company and/or its Billing Service Provider with information regarding your credit card or other payment method. You represent and warrant that such information is true and that you are authorized to use the payment method.

You will promptly update your account information with any changes (for example, a change in your billing address or credit card expiration date). You hereby authorize the Company to bill you in accordance with the terms of your plan until you terminate your account, and you agree to pay any charges so incurred. If you dispute any charges, you must notify the Company within thirty (30) days after the date that you are billed or you waive your right to dispute the charge.

Upon renewal of your subscription, we reserve the right to change the fees charged to you. If the Company does change its fees, the Company will provide notice of the change on the Site or in email to you, at Company's option, at least fourteen (14) days before the change is to take effect. Your continued use of the Service after the fee change becomes effective constitutes your agreement to pay the changed amount. Your subscription will automatically renew for another term of the same length of time as your current term, unless you terminate at least thirty (30) days before the end of the current term.

All fees are due to be paid thirty (30) days after the commencement of the Service. Overdue amounts shall incur interest at the lesser of 1.5% per month or the highest rate allowed under applicable law. Subscriber agrees to pay all costs of collection, including any legal fees and expenses incurred by the Company in connection with the Company's collection efforts. Without limitation to any other remedy available to the Company as described in these Terms, the Company reserves the right to terminate your account without further notice if payment is more than fifteen (15) days late.

You can terminate your use of the Service, change your password, and otherwise manage your account by contacting the Company at info@propertyguard.io or (855) 933-0731. If you properly terminate your paid account, you will not be charged for future terms. However, you will not receive a refund for an unused portion of a term for which you have already paid.

USE OF THE SITE

You need to be at least 18 years old to use the Site and Service.

You hereby affirm we have the right to terminate your account with or without prior notice or cause, for any reason, and at any time.

You agree to provide Company with accurate active and current rent roll and/or or tenant rosters for each property you wish to monitor, including first and last name, address, city and zip (collectively, "User Content") every thirty (30) days or as requested by Company. You understand that Company

cannot provide the Service without this information. You affirm that you have the right to provide this information to the Company, and that you have obtained any consents needed to allow you to provide this information.

USE RESTRICTIONS

Your permission to use the Site is conditioned upon the following restrictions and conditions. You agree that you will not:

- use, display, mirror or frame the Site or any individual element within the Site, Company's name, any Company trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page or within the Site, without Company's express written consent;
- access, tamper with, or use non-public areas of the Site, Company's computer systems, or the technical delivery systems of Company's providers;
- attempt to probe, scan or test the vulnerability of any Company system or network or breach any security or authentication measures;
- avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by Company or any of Company's providers or any other third party (including another user) to protect the Site;
- use any meta tags or other hidden text or metadata utilizing a Company trademark, logo URL or product name without Company's express written consent;
- use the Site, or any portion thereof, for any commercial purpose or for the benefit of any third party other than as permitted by these Terms;
- forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Site to send altered, deceptive or false source-identifying information;
- collect or store any personally identifiable information from the Site or from other users of the Site without their express permission;
- impersonate or misrepresent your affiliation with any person or entity;
- sublicense, resell, rent, lease, transfer, assign, time share, or otherwise commercially exploit or make the Site available to any third party;
- use the Site for any unlawful purpose or for the promotion of illegal activities;

- use the Site to attempt to, or harass, abuse or harm another person or group;
- use another user's account without permission;
- interfere or attempt to interfere with the proper functioning of the Site;
- make any automated use of the Site, or take any action that we deem to impose or to potentially impose an unreasonable or disproportionately large load on our servers or network infrastructure;
- attempt to decipher, reverse engineer, decompile, or disassemble any portion of the Site or the software used to provide the Service;
- bypass any robot exclusion headers or other measures we take to restrict access to the Site or use any software, technology, or device to scrape, spider, or crawl the Site or harvest or manipulate data;
- publish or link to malicious content intended to damage or disrupt another user's browser, computer, or mobile device; or
- encourage or enable any other individual to do any of the foregoing.

MONITORING AND COMPLIANCE

Although the Company is not obligated to monitor access to or use of the Site or to review or edit any User Content, we have the right to do so for the purpose of operating the Site, to ensure compliance with these Terms, and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to the Site or any content, at any time and without notice, including, but not limited to, if we, at our sole discretion, consider any content to be objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Service. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

INTELLECTUAL PROPERTY

You acknowledge and agree that the Company and its licensors retain ownership of all intellectual property rights of any kind related to the Site (except for User Content), including applicable copyrights, trademarks, and other proprietary rights. The Company reserves all rights that are not expressly granted to you under these Terms.

By agreeing to these Terms, you grant the Company a limited right and license to use your trademarks, logos, User Content, and trade dress ("Marks") in connection with the provision of the

Service, and to list you as a client in the Company's website and marketing materials. Should you provide them, we will comply with any usage restrictions of the Marks provided to us by you. The Company is not granted any further license to use the Marks except as provided herein.

FEEDBACK

We welcome and encourage you to provide feedback, comments, and suggestions for improvements of the Site ("Feedback"). You may submit Feedback by emailing us at info@propertyguard.io. You acknowledge and agree that if you submit any Feedback to us, you hereby grant to us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sub-licensable (through several tiers) and transferable license under any and all intellectual property rights that you own or control in relation to the Feedback to use, reproduce, view, communicate to the public by any means, print, copy (whether onto hard disk or other media), edit, translate, perform and display (publicly or otherwise), distribute, redistribute, modify, adapt, make, sell, offer to sell, transmit, license, transfer, stream, broadcast, create derivative works from, and otherwise use and exploit the Feedback for any purpose.

INDEMNIFICATION

You agree to indemnify, defend, and hold harmless the Company from any and all claims, liabilities, expenses, and damages, including reasonable attorneys' fees and costs, made by any third party (including your tenants) related to: (a) your use or attempted use of the Site or Service, whether or not in violation of these Terms; and (b) your violation of any law or rights of any third party.

USER CONSENT TO RECEIVE COMMUNICATIONS IN ELECTRONIC FORM

For contractual purposes, you (a) consent to receive emails via the email address you have submitted when you sign up on the Site; and (b) agree that all Terms, agreements, notices, disclosures, and other communications that the Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were in writing. The foregoing does not affect your non-waivable rights.

The Company may also use your email address to send you other messages, including information about the Company and Site and special offers. You may opt out of such email by changing your account settings or sending an email to info@propertyguard.io.

ONLINE CONTENT DISCLAIMER

The Company does not guarantee the accuracy, completeness, or usefulness of any information on the Site or obtained via the Service. Under no circumstances will the Company be responsible for any loss or damage resulting from anyone's reliance on information or other content posted on the Site, or transmitted to users via the Service.

WARRANTY DISCLAIMER

THE SITE AND SERVICE ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, THE COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SITE AND SERVICE INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SECURITY, ACCURACY AND NON-INFRINGEMENT. COMPANY DOES NOT WARRANT THAT THAT THE SERVICE WILL ACCURATELY DETECT ANY AND ALL SHORT-TERM RENTAL LISTINGS AT A SPECIFIC ADDRESS. WITHOUT LIMITING THE FOREGOING, THE COMPANY MAKES NO WARRANTY OR REPRESENTATION THAT ACCESS TO OR OPERATION OF THE SITE WILL BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM YOUR BUSINESS OPERATIONS, AS WELL AS UPLOADING, DOWNLOADING, AND/OR USE OF FILES, INFORMATION, CONTENT OR OTHER MATERIAL SENT TO OR OBTAINED FROM THE SITE. SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF WARRANTY, SO THIS PROVISION MAY NOT APPLY TO YOU.

LIMITATION OF DAMAGES; RELEASE

TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE COMPANY, ITS AFFILIATES, DIRECTORS, OR EMPLOYEES, OR ITS LICENSORS OR PARTNERS, BE LIABLE TO YOU FOR ANY LOSS OF PROFITS, USE, OR DATA, OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, HOWEVER ARISING, THAT RESULT FROM (A) THE USE, DISCLOSURE, OR DISPLAY OF YOUR USER CONTENT; (B) YOUR USE OR INABILITY TO USE THE SITE; (C) THE SITE GENERALLY OR THE SOFTWARE OR SYSTEMS THAT MAKE THE SITE AND SERVICE AVAILABLE; OR (D) ANY OTHER INTERACTIONS WITH THE COMPANY OR ANY OTHER USER OF THE SITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), FRAUD, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. ***IN NO EVENT WILL COMPANY'S LIABILITY TO YOU EXCEED WHAT YOU PAID FOR THE SERVICE IN THE THREE (3)-MONTH PERIOD BEFORE SUCH CLAIM AROSE.*** SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF LIABILITY, SO

THIS PROVISION, IN PART OR IN WHOLE, MAY NOT APPLY TO YOU.

MODIFICATION OF TERMS OF USE

~~The Company can amend these Terms at any time. It's your responsibility to check the Site from time to time to view any such changes. If you continue to use the Site and Service, you show your agreement to our revisions to these Terms.~~ Any changes to these Terms (other than as set forth in this paragraph) or waiver of the Company's rights hereunder shall not be valid or effective except in a written agreement bearing the physical signature of an officer of the Company. No purported waiver or modification of these Terms by the Company via telephonic or email communications shall be valid.

PRIVACY POLICY

The Company respects the privacy of its users. Please refer to our Privacy Policy (found [here](#)), which explains how we collect, use, and disclose information that pertains to your privacy. When you access or use the Site, you show that you agree to this Privacy Policy.

GENERAL TERMS

If any part of these Terms is held invalid or unenforceable, that portion of the Terms will be construed consistent with applicable law. The remaining portions will remain in full force and effect. Any failure on the part of the Company to enforce any provision of these Terms will not be considered a waiver of our right to enforce such provision. Our rights under these Terms will survive any termination of these Terms.

You agree that any legal action related to or arising out of your relationship with the Company must commence within ONE year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

These Terms and your use of the Site and Service are governed by the federal laws of the United States of America and the laws of the State of Delaware, without regard to conflict of law provisions.

You agree to resolve any claims relating to these Terms or the Site through final and binding arbitration. Any arbitration will be conducted by the [American Arbitration Association](#) (AAA) under its commercial arbitration rules. The arbitration will be held in Delaware.

ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR THE COMPANY MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER USERS, OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR

MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

If you attempt to bring any legal action against the Company based in any way on the Site you agree that, in the event you do not prevail or the Company does prevail, you will reimburse the Company for any costs and attorneys' fees associated with its defense of the action.

The Company may assign or delegate these Terms and/or the Company's Privacy Policy, in whole or in part, to any person or entity at any time with or without your consent. You may not assign or delegate any rights or obligations under the Terms or Privacy Policy without the Company's prior written consent, and any unauthorized assignment and delegation by you is void.

NOTICE FOR CALIFORNIA USERS

Under California Civil Code Section 1789.3, California users are entitled to the following specific consumer rights notice: Current rates for the Service are as set forth in your Order Form. You may contact us at info@propertyguard.io. The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210.

YOUR AGREEMENT

YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS, UNDERSTAND THE TERMS, AND WILL BE BOUND BY THESE TERMS. YOU FURTHER ACKNOWLEDGE THAT THESE TERMS TOGETHER WITH THE PRIVACY POLICY REPRESENT THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US AND THAT IT SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.