

# UMS WEBSITE- TERMS OF USE

## Site Terms

**Important!** Please read these terms of use (the "terms") carefully before using [www.umsbilling.com](http://www.umsbilling.com) (the "web site"), as it affects and governs your use of this web site and your legal rights and obligations. You agree to these Terms by accessing this Web Site. *If you do not agree to be bound by all of these terms, do not use this web site.* You agree to comply with all rules, laws and regulations that are applicable to your use of the Web Site, including, without limitation, those governing your transmission or use of any software or data.

## Terms

- Ownership and Operation of Web Site:
- Account Registration & Access Rights:
- License:
- Restrictions on Use:
- Disclaimers/Limitations on Liability:
- Indemnification:
- No Endorsement:
- Governing Law:
- Changes and Additional Terms:
- Enforcement:
- Effective Date:

# Terms

## Ownership and Operation of Web Site:

The Web Site is owned and operated by Utility Management Solutions ("UMS" or "We"). UMS operates this Web Site in the United States and solely for use by those who access the Web Site from the United States. Information contained on this Web Site may not be appropriate or available for use in other locations, and access to this Web Site where the content of the Web Site may be illegal is prohibited. Those who choose to access this site from other locations are responsible for compliance with the local laws if and to the extent local laws are applicable.

## Account Registration & Access Rights:

Certain areas of the Web Site, including the Resident Account Login section of the Web Site, may ask you to register for an account or provide information to participate in certain features or to access certain content. If you choose to provide information to the Web Site, you agree to provide only accurate and current information. You agree to accept responsibility for all activities that occur under your account or password. You also understand that UMS will be entitled to monitor your account and, at its discretion, require you to change your account and/or password. You are responsible for maintaining the confidentiality of your password and for restricting access to your computer so that others may not access the Web Site using your login information. The Web Site's practices governing your personal information are disclosed in its Privacy Policy.

When you submit your information to register with the Web Site, you represent and warrant to UMS that: (a) the information you provide to UMS is true, complete, correct and current, and that you will maintain and update that information as circumstances require; (b) you have the capacity to enter into these Terms (i.e., you are of sufficient legal age and mental capacity); and (c) you are otherwise entitled to be legally bound in

contract. UMS reserves the right to terminate or suspend your registration and deny or refuse access to the Web Site to any person at any time.

UMS acts as a utility billing service for multi-family communities ("Community"). You understand and agree that UMS is not the agent of any particular Community nor of any utility service. In addition to providing residents with invoices for utilities and other charges via the postal service and/or electronic delivery, UMS may, at its discretion, permit eligible users of the Web Site to make payment arrangements (including one-time credit or debit card payments of invoices) through the Web Site. By agreeing to these Terms and utilizing the one-time payment process, you authorize UMS to charge your credit or debit card for the one-time payment of an amount up to the balance currently due on your account or larger to carry a credit balance at the user's choosing. If UMS cannot secure funds from your credit or debit card for any reason, including but not limited to, insufficient funds in your credit or debit card account or insufficient or inaccurate information provided by you when you submit an electronic payment, further collection action may be undertaken by your Community or its service providers or assigns, including application of additional fees to the extent permitted by law.

## License:

Subject to your compliance with these Terms, UMS hereby grants you a limited, personal, non-exclusive, non-commercial, revocable, and non-transferable license to access, download and view a single copy of the Web Site's contents ("Content"). You must retain all copyright, trademark and other proprietary notices contained in the original Content or any copy you may make of the Content. You may not, nor may you allow or aid or abet any third party (whether or not for your benefit) to copy or adapt any code that comprises the Web Site's software, HTML, JavaScript, or otherwise reverse engineer, decompile, reverse assemble, modify or attempt to discover any source code used to generate the Web Site or any software or other products or processes accessible through the Web site, nor insert any code or product to manipulate the Content in any

way that affects any user's experience. Unless otherwise expressly authorized in these Terms or on the Web Site, you further agree that you will not, in whole or in part, modify, reproduce, archive, transfer by any means, create derivative works from, publish in any form, online or offline, disseminate, or circulate to any third-party, or otherwise use the Content in any way for any public or commercial purpose. You agree not to "frame" this Web Site or alter its Content in any way.

## Restrictions on Use:

You agree not to do any of the following while using the Web Site:

- Harass, stalk or otherwise abuse another user;
- Transmit or otherwise make available any content that is false, threatening, tortious, defamatory, libelous, disparaging (including disparaging of UMS), vulgar, obscene, pornographic or that promotes violence, racial hatred, or illegal acts, or is otherwise objectionable (as determined by UMS in its sole discretion);
- Transmit or otherwise make available any content that is unlawful or infringes, violates or misappropriates any patent, trademark, trade identity right, trade secret, publicity right, privacy right, copyright or any other intellectual property or any other rights of any third party;
- Upload or transmit viruses, Trojan horses or other harmful, disruptive or destructive files or post material that interferes with any third party's uninterrupted use and enjoyment of the Web Site;
- Impersonate any person or entity, or otherwise disguise the origin of any content transmitted through the Web Site or to UMS, including forging any TCP/IP packet header or any part of the header information in any transmission to the Web Site for any reason;
- Transmit or otherwise make available through the Web Site any personal advertising, junk mail, spam, chain letters, pyramid schemes or offer for

sale of any products or services, except in areas specifically designated for such purposes; or

- Violate any applicable local, state, federal or international law, rule or regulation.

## Disclaimers/Limitations on Liability:

THIS WEB SITE AND ALL CONTENT CONTAINED ON IT ARE DISTRIBUTED "AS IS," "AS AVAILABLE," "WITH ALL FAULTS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF ANY THIRD PARTY RIGHT, FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. UMS makes no representation or warranty whatsoever regarding the completeness, accuracy, timeliness, availability, or adequacy of any information, facts, opinions, or statements contained on the Web Site or in the Content. This Web Site may be unavailable due to maintenance or malfunction of equipment.

UMS LIMITS ITS LIABILITY IN CONNECTION WITH YOUR USE OF THE WEB SITE AS SET FORTH BELOW:

UMS IS NOT RESPONSIBLE FOR ANY DAMAGE TO ANY USER'S COMPUTER, INCLUDING, WITHOUT LIMITATION, DAMAGE FROM ANY SECURITY BREACH OR FROM ANY VIRUS, BUGS, TAMPERING, FRAUD, ERROR, OMISSION, INTERRUPTION, DEFECT, COMPUTER LINE OR NETWORK FAILURE OR ANY OTHER TECHNICAL OR OTHER MALFUNCTION.

EXCEPT WHERE PROHIBITED BY LAW: YOU AGREE THAT UMS IS NOT LIABLE TO YOU FOR ANY LOSS OR DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, ECONOMIC OR PUNITIVE DAMAGES), WHETHER BASED IN TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE

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I UNDERSTAND THAT I MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND, AND HEREBY EXPRESSLY WAIVE, THE BENEFITS OF ANY LAW OF ANY STATE OR TERRITORY, WHICH PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

## Indemnification:

You agree to indemnify, defend and hold UMS harmless from and against any actual or alleged claims, demands, causes of action, judgments, damages, losses, liabilities, and all costs and expenses of defense (including, without limitation, reasonable attorneys' fees and court costs) arising out of or relating to: (1) your violation of these Terms; (2) your violation of any law, rule or regulation; (3) a third-party claim based on your use of the Content or the Web Site; or (4) your violation of any rights of a third party. You will cooperate as fully and reasonably as required by UMS in the defense of any claim. UMS reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and you will not in any event settle any indemnified claim without the prior written consent of UMS.

## No Endorsement:

Certain hypertext links in this site may lead to web sites which are not under the control of UMS. These third-party web sites may have different privacy policies, terms and conditions and business practices than UMS. When you click on a third party link, you will leave the UMS web site and UMS has no control over the material or any web site which is not under the control of UMS. We do not endorse, verify, or make any representations for the content or truthfulness of the content or activities conducted on any third-party web sites. YOU AGREE THAT WE WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY GOODS, SERVICES, RESOURCES OR CONTENT AVAILABLE THROUGH ANY THIRD PARTY DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OF OR RELIANCE ON THE CONTENT, ADVERTISING, OR BUSINESS PRACTICES OF ANY THIRD PARTY.

## Governing Law:

These Terms will be construed and enforced in accordance with the laws of the State of Minnesota, without regard to its conflicts of law principles, and specifically will not be governed by the United Nations Conventions on Contracts for the International Sale of Goods, if otherwise applicable. Any cause of action filed by you with respect to the Terms or your use of this Web Site must be filed in the state or federal courts located in (or having direct responsibility for cases arising out of) the Hennepin County, Minnesota within ninety (90) days after the occurrence of the facts giving rise to the cause of action, otherwise the cause will be forever barred. You hereby consent and submit to the exclusive jurisdiction and venue of the state and federal courts located in (or having direct responsibility for cases arising out of) the Hennepin County, Minnesota for any cause of action arising under these Terms or related to the Web Site.

## Changes and Additional Terms:

UMS reserves the right to alter these terms and conditions from time to time by posting new terms and conditions on the Web Site. Please check the terms and conditions regularly. If any provision of these Terms is found to be invalid by any court having competent jurisdiction, the invalidity of such provision will not affect the validity of the remaining provisions of these Terms, which will remain in full force and effect. No

waiver of any of these Terms will be of any force or effect unless made in writing and signed by a duly authorized officer of UMS. The section titles in these Terms are for your convenience only and do not have any legal or contractual effect.

## Enforcement:

You agree that UMS will determine your compliance with these Terms in its sole discretion. UMS reserves the right to deny access to all or part of the Web Site to any person in its sole discretion. Any violation of these Terms may be referred to law enforcement authorities.

## Effective Date:

This Terms of Use is effective as of September 1, 2017