

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

KLEIN & HEUCHAN, INC.,

Plaintiff,

v.

COSTAR REALTY INFORMATION, INC.,  
and COSTAR GROUP, INC,

Defendants.

Civil Action No. 8:08-cv-01227-JSM-MSS

**DECLARATION OF STEVEN J. WILLIAMS**

I, Steven J. Williams, declare as follows:

1. My name is Steven J. Williams. I am employed by CoStar Group, Inc. (“CoStar”) as the Assistant Director of the Fraud, Theft & Litigation Team. The statements in this declaration are based upon personal knowledge and I would testify to such statements under oath if called upon as a witness.

2. I have been employed by CoStar for nearly 10 years, having first been hired in January of 2000. During my time at CoStar, I have worked as a researcher and in CoStar’s customer support department. As a result, I am extremely familiar with CoStar’s products, research practices, internal recordkeeping and business practices. Since September of 2003, I have worked in CoStar’s legal department in various capacities related to the investigation of unauthorized use of CoStar’s services. As a result of my experience, I have become very familiar with CoStar’s policies, practices, and procedures for both licensing its online products,

providing service to its clients, investigating theft of its products, as well as the technological tools it uses to do those things.

3. CoStar is the leading provider of commercial real estate information in the United States and the United Kingdom, with approximately 900 researchers collecting and maintaining data on over 3,000,000 properties and over 1,000,000 active commercial listings.

4. Of CoStar's 900 researchers, approximately 100 are "field researchers" who are located on the ground in local commercial real estate markets canvassing for new commercial real estate availabilities, construction, and the like. These field researchers are employees of CoStar managed remotely by a field research team in our headquarters in Bethesda, Maryland. As a part of their responsibilities, CoStar's field researchers take photographs of the commercial real estate buildings they canvass for inclusion with CoStar's database of commercial real estate information. CoStar's field researchers are trained in photography and have taken millions of professional-quality photographs of commercial real estate and buildings.

5. As a part of my responsibilities in CoStar's legal department, I am responsible for registering the copyrights in the photographs taken by CoStar's researchers. CoStar makes it a part of its regular business practice to register its copyrights in the photographs taken by its researchers on a quarterly basis to ensure that those photographs have been registered within 90 days of their first publication in our database. CoStar registers its photographs collectively on a photographer by photographer basis pursuant to the Copyright Office's regulations allowing for group registrations of photographs. Pursuant to this process, CoStar has applied for registrations for more than 2.5 million photographs.

6. Included in CoStar's registrations are registrations VA 1-360-344, VA 1-371-124 and VA 1-407-885. These registrations are for the photographs taken by Pam Miller during the

year 2003 (VA 1-360-344), by Pam Miller during the year 2004 (VA 1-371-124) and by Syd Krawczyk during the fourth quarter of 2006 (VA 1-407-885). Exhibits 1, 2 and 3 to CoStar's summary judgment motion include not only copies of those registrations, but the supporting applications and materials submitted to the Copyright Office.

7. CoStar makes its commercial real estate information and photographs available to those in the commercial real estate industry as a set of databases that are available on CoStar's website, [www.costar.com](http://www.costar.com). In order to gain access to those database products, CoStar's customers enter into a license agreement with CoStar (typically on an office-wide basis) and a pay a license fee, which is usually computed on the basis of the number of commercial real estate professionals in the customer's office. CoStar's license agreement allows its customers to, among other things, access the information in the databases to which they have subscribed and make limited use of the photographs and information contained in those databases.

8. CoStar entered into a license agreement with Coldwell Banker Commercial NRT on September 30, 2005. A copy of that license agreement drawn from CoStar's business records is attached to this declaration as Exhibit A.

9. As a part of CoStar's normal business practices and in the ordinary course of its operations, it maintains records of contemporaneous communications it has had with its customer and prospective customers. Those records are maintained in a proprietary internal contact management system created by CoStar. Unfortunately, the records in this system are only easily viewable on CoStar's system, but I am able to make copies of those records and paste them into more easily readable and exchangeable documents such as text files, Microsoft Excel files, and Microsoft Word files.

10. One of CoStar's records indicate that Coldwell Banker Commercial NRT requested the creation of a user account for Scott Bell at Coldwell Banker Commercial NRT's office in Clearwater, Florida sometime prior to November 13, 2006. I have attached a true and accurate copy of an internal e-mail correspondence recorded in CoStar's contact management database as Exhibit B. Exhibit B is a true and accurate copy of the text contained in the notes of that contact item. The contact item is dated November 13, 2006 by Debra Hartig in CoStar's customer support department.

11. That same day, CoStar's business records show that Ms. Hartig created a user account for Mr. Bell and sent him an e-mail indicating that his account has been created. A true and accurate copy of the text of the e-mail that was recorded by Ms. Hartig in CoStar's contact management database is attached as Exhibit C.

12. CoStar has no records that Scott Bell ever informed CoStar that he no longer worked for Coldwell Banker Commercial NRT. At no time has CoStar ever specifically authorized Scott Bell to use CoStar's services outside the context his employment with Coldwell Banker Commercial NRT or told Scott Bell that he could make reproductions of CoStar's copyrighted photographs.

13. Once Scott Bell's user account was established under Coldwell Banker Commercial NRT's license agreement, that user account would have been linked to Coldwell Banker Commercial NRT in CoStar's database product. As a result, at all times while Bell had access to CoStar's products, materials he prepared and printed from CoStar's website would have included a Coldwell Banker Commercial NRT designation, and an indication that his user account was affiliated with Coldwell Banker Commercial NRT would have been featured prominently on Bell's computer screen.

14. As I stated in my prior declaration in support of CoStar's motion to transfer this case to Maryland, CoStar keeps internal records of each log-in session made to its products. These records are kept in CoStar's ordinary course of business and reflect the data gathered from CoStar's website as well as the information available from a user's computer and the Internet related to a particular log-on session.

15. Those records show that one or more persons using a user name and password assigned to Scott Bell logged on to CoStar's website on at least 132 occasions for a total of 46 hours, involving "hits" to 12,829 pages on the CoStar website. By virtue of having logged on to CoStar's website, Scott Bell accordingly would have had to indicate his acceptance to CoStar's Online Terms of Use. I am attaching a true and correct copy of a log of the log-ins under the name Scott Bell as Exhibit D to this declaration.

16. CoStar first detected that Bell was using his Coldwell Banker Commercial NRT-provided user account from IP addresses associated with Klein & Heuchan in the spring of 2008. CoStar reviewed Bell's account and identified that the IP addresses used by Bell to access that account the vast majority of the time, 71.43.67.134, was the same IP addresses used by Mark Klein of Klein & Heuchan to access CoStar's products during a period in which CoStar provided Mr. Klein with a free trial of CoStar products. A true and accurate copy of a logon record for Mark Klein as it is maintained in CoStar's database is attached as Exhibit E to this declaration. CoStar's business records also show that Steve Klein previously had access to CoStar through a trial subscription. A true and accurate copy of CoStar's record concerning the order establishing that trial subscription is attached as Exhibit F to this declaration.

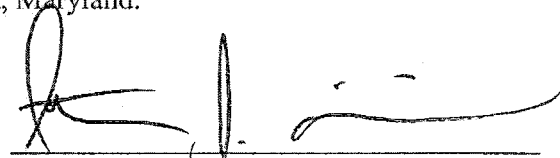
17. CoStar's business records show that on March 28, 2006, one of CoStar's sales personnel, Thomas Bible, sent Klein & Heuchan a licensing proposal. A true and accurate copy of that record is attached as Exhibit G to this declaration.

18. Under CoStar's normal licensing terms, if Klein & Heuchan obtained a license for access to the same products that Coldwell Banker Commercial NRT licensed from CoStar and which Scott Bell accessed while working for Klein & Heuchan, Klein & Heuchan would have had to pay a license fee of \$5,381 per month.

19. Attached collectively as Exhibit H to this declaration are true and accurate copies of the ten CoStar photographs for the following properties: (1) 4211 W. Boy Scout Blvd., Tampa FL 33607; (2) 2202 N. West Shore Blvd., Tampa FL 33608; (3) 15950 Bay Vista Dr., Clearwater, FL 33760 (two photographs); (4) 600 N. Westshore Blvd., Tampa FL 33609; (5) 4301 Anchor Plaza Pkwy., Tampa FL 33634; (6) 4343 Anchor Plaza Pkwy., Tampa FL 33634; and (7) 1930 W. Cortez Rd., Bradenton FL 43207 (three photographs).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25<sup>th</sup> of September at Bethesda, Maryland.

A handwritten signature in black ink, appearing to read "Steven J. Williams", is written over a horizontal line. The signature is stylized with a large initial "S" and a long horizontal stroke.

Steven J. Williams

# Exhibit A



38217

**CoStar Property®/CoStar Tenant®/CoStar COMPS®**  
Terms and Conditions

This license agreement (together with any exhibits, the "Agreement") is made as of September 2, 2005 (the "Effective Date"), by and between CoStar Realty Information, Inc. ("CoStar"), and NRT Incorporated on behalf of its businesses that operate as Coldwell Banker Commercial NRT, Inc. ("NRT" or "Licensee").

1. **Product.** This Agreement between CoStar, as licensor, and Licensee, concerns a product line of an electronic database developed and maintained by CoStar consisting of: (A) a proprietary database (the "Database") of commercial real estate information, including but not limited to, the data, text, photographic and other images and information contained therein (collectively, the "Data") and the proprietary formats and structures for categorizing, sorting and organizing such Data, and (B) related software (the "Software"). The Software and Database, including any updates or modifications to the Software and/or the Database, are collectively referred to herein as the "Product." Those portions of the Product that are licensed hereunder, including any updates or modifications provided to the Product and any information resulting from the verification of any portion of the Product by Licensee, are collectively referred to herein as the "Licensed Product."

2. **License.**

2.1 (a) During the term of this Agreement, CoStar hereby grants to Licensee a nonexclusive, nontransferable license to use only those portions of the Licensed Product that are expressly identified on Exhibit A under the heading Product Name, as well as related user manuals, specifications and/or documentation, subject to and in accordance with the terms and conditions set forth on Exhibit B and in this Agreement. Licensee may use the Licensed Product only on the number of CPU units stated on Exhibit A under the heading Users and only at the sites identified on Exhibit D under the heading Office address (each, an "Authorized Site"), however usage of the Licensed Product on laptops is permitted provided that such usage complies with all other terms and conditions hereof.

2.2 (a) Each portion of the Licensed Product may be used by no more than the number of users set forth on Exhibit A and all of such users must be Authorized Users (as defined below), and only Authorized Users of the specific portion of the Licensed Product may access such portion of the Licensed Product. All of such users (the "Authorized Users") must be individuals: (i) employed by Licensee or an Independent Contractor (as defined below) of Licensee at an Authorized Site identified on Exhibit A or at an Additional Authorized Site (as defined below); (ii) designated by Licensee as an employee or Independent Contractor requiring access to the Licensed Product; and (iii) included on CoStar's list of Authorized Users of the Licensed Product. An "Independent Contractor" is defined as an individual person working for Licensee and performing substantially the same services for Licensee as the employees of Licensee, provided, that under no circumstances shall an Independent Contractor refer to an entity performing outside services for Licensee. Licensee will ensure that access to and use of the



Licensed Product, and the user names, PIN numbers and passwords (collectively, the "passcodes") used to access the Licensed Product are available only to Authorized Users, and will not allow anyone other than an Authorized User access to the Licensed Product, or passcodes for any reason. Licensee agrees to provide CoStar with the following information with respect to each Authorized User: user name, address, phone and fax numbers, e-mail address and occupation. (b) For any portion of the Licensed Product that is to be installed at Licensee's site, Licensee agrees to take installation of such Licensed Products (i) that are currently in release within thirty (30) days of the date of signature of this Agreement by CoStar, and (ii) that are not currently in release within thirty (30) days of their delivery to the marketplace by CoStar.

2.3 During the term of this License Agreement, subject to the terms set forth herein, Licensee shall have the right to add markets and/or services within the United States at a fifteen percent (15%) discount off the then-effective list price for such additional markets and/or services.

2.4 Up to two designated employees of Licensee will be authorized to send change requests via email to CoStar's accounting department. Licensee may request changes to the maximum number of users at a given site by telling CoStar how many user IDs to transfer from an existing license site to another existing licensed site. The total number of user IDs will not increase as a result of any such requests. Licensee will provide CoStar written notice of the names and email addresses of the designated employees. The designees at CoStar are Trish Gray [tgray@costar.com](mailto:tgray@costar.com) and Tony Gross [tgross@costar.com](mailto:tgross@costar.com). Both parties may change the designees as needed by providing the other party written notice.

3: Ownership. Licensee acknowledges that CoStar and its licensors have and shall retain exclusive ownership of all proprietary rights in or to the Licensed Product, including the format and presentation thereof. Licensee shall have no right or interest in any portion of the Licensed Product except the right to use the Licensed Product as set forth herein. Licensee acknowledges that the Database has been created, compiled, prepared, selected and arranged by CoStar through the expenditure of substantial time, effort and money, and that the Software, Database and the Data constitute the valuable property and confidential copyrighted information of CoStar (collectively, the "Proprietary Information"). Licensee agrees to take all necessary precautions to maintain the confidentiality of such Proprietary Information, to comply with all copyright, trademark, trade secret, patent, contract and other laws necessary to protect all rights in the Proprietary Information, and to not remove, conceal or obliterate any copyright or other proprietary notice included in the Licensed Product. Licensee shall be liable for any violation of the provisions of this Agreement by any Authorized User and by Licensee's employees, Independent Contractors, affiliates and agents and for any unauthorized use of the Licensed Products by such persons. Licensee agrees to keep the terms of this Agreement strictly confidential.

4. Term. The term of this Agreement shall begin on October 1, 2005 (the "Start Date"), shall continue for the term of two (2) years (the "Initial Term"), and shall expire on September

30, 2007, unless earlier terminated pursuant to the terms hereof. License Fees (before tax) owing hereunder during the second year of the Initial Term shall increase by an amount shown on Exhibit A.

5. License Fees. Licensee agrees to pay the monthly License Fees and all other fees set forth on Exhibit A. Licensee's obligation to pay such fees in full shall be binding on the Start Date. All fees shall be billed in advance and are due net thirty (30) days after receipt of a valid invoice. All payments received after the due date will incur a late payment charge from such due date until paid at a rate equal to the lesser of eighteen percent (18%) per annum or the maximum rate permitted under applicable law. In all cases, the amount of License Fees shall be paid by Licensee to CoStar in full without any right of set-off or deduction. The License Fees do not include sales, use, excise, ad valorem, property or any other taxes or fees now or hereafter imposed, directly or indirectly, by any governmental authority with respect to the license of the products hereunder. At CoStar's option, Licensee shall pay such taxes or fees directly or pay to CoStar any such taxes or fees immediately upon invoicing by CoStar of such taxes or fees. CoStar may accept any check or payment without prejudice to its rights to recover the balance due or to pursue any other right or remedy. No endorsement or statement on any check or payment or letter accompanying any check or payment or elsewhere will be construed as an accord or satisfaction.

6. Termination.

6.1 Either party may terminate this Agreement in the event of: (1) any breach of a material term of this Agreement by the other party which is not remedied within thirty (30) days after written notice from the other party to the breaching party; or (2) the other party's making an assignment for the benefit of its creditors, or the filing by or against such party of a petition under any bankruptcy or insolvency law.

6.2 In the event that CoStar decides to cease providing Data for a particular market or market(s) that forms a part of the Licensed Product, CoStar may terminate this Agreement with respect to the discontinued market(s) upon sixty (60) days written notice without further obligation to Licensee, in which case CoStar shall refund any fees paid by Licensee to license the Licensed Product with respect to the terminated market(s) after the effective date of such termination, and Licensee shall be released of its obligation to pay any license fees due after the date of such termination with respect to the terminated market(s). In the event that Licensee has violated any provision of Sections 2, 3, 11, 12 or Exhibit B of this Agreement, CoStar may immediately terminate this Agreement without further obligation to Licensee.

6.3 CoStar may interrupt the provision of any portion of the Licensed Product to Licensee if Licensee has violated any provision of Section 2, 3, 5, 11, 12 or Exhibit B of this Agreement, and during such interruption, Licensee shall continue to be responsible for all License Fees. CoStar will restore the provision of the Licensed Product only if all amounts due hereunder are paid and/or if, in CoStar's reasonable opinion, CoStar has received satisfactory assurances as to the cessation of the violation.

6.4 Upon Licensee's material breach of any term of this Agreement, all License Fees and all other fees payable hereunder shall become immediately due and payable in full, and in addition to the foregoing, CoStar's remedies shall include any monetary benefits that accrued to Licensee as a result of the breach, any damages incurred by CoStar related to Licensee's breach, and any other damages and relief available at law or in equity. If CoStar retains any third party to obtain any remedy to which it is entitled under this Agreement, the prevailing party shall be entitled to recover all costs, including attorney's fees or collection agency commissions, such party reasonably incurs.

7. Post-Termination. Within ten (10) days after the effective date of termination or nonrenewal of this Agreement, Licensee will (i) permanently delete or destroy all elements of the Licensed Product under its control, and (ii) destroy all passcodes in Licensee's and its agent's possession. Additionally, Licensee shall affirm the completion of this process by execution and delivery to CoStar of an affidavit to that effect within ten (10) days of receipt of such affidavit from CoStar.

8. Licensed Product. Subject to Section 15, during the term of this Agreement, CoStar will provide updated Information to Licensee, which updates may be provided through the Internet or in such other manner as determined by CoStar. Licensee is responsible for providing all hardware, software and equipment necessary to obtain and use the Licensed Product, including any updates or other modifications thereto. The Licensed Product currently requires a Windows 98, NT, 2000 or XP based computer, a high-speed Internet connection or modem with a baud rate not less than 56K and Internet Explorer 6.0. Licensee is responsible for all charges necessary to access the Licensed Product. CoStar reserves the right to modify any part of the Licensed Product or the way the Licensed Product is accessed at any time, so long as such modifications do not significantly degrade the depth of Information provided to Licensee hereunder.

9. Information. Licensee shall use reasonable efforts to keep CoStar informed about commercial and investment space available for lease or sale with respect to properties that Licensee owns, controls, represents or holds exclusives, provided, however, Licensee shall not have any obligation to disclose information which it or its clients reasonably regard as confidential. Licensee hereby grants to CoStar an irrevocable, non-exclusive, transferable, license, in connection with CoStar's and its affiliates' commercial real estate databases, to use, display, reproduce, distribute, sell, publish and sublicense any commercial real estate information with respect to commercial and investment space available for lease or sale that is available on the Licensee's web site. CoStar acknowledges that if Licensee provides CoStar with any information or images, then Licensee retains its ownership rights with respect to such information and images, even following termination of this Agreement. Licensee agrees not to use any portion of the Licensed Product in a manner which would violate any laws, regulations, rules or ordinances, including without limitation, the state and local real estate practice laws.

10. Limitation on Liability. (a) Although CoStar makes reasonable efforts to ensure the accuracy and reliability of the Licensed Product, Licensee acknowledges that CoStar and its affiliates and their respective officers, directors and employees (collectively, the "CoStar Parties") will not be held liable for any loss, cost or damage suffered or incurred by Licensee or any third party arising out of any faults, interruptions or delays in the Licensed Product or out of any inaccuracies, errors or omissions in the information contained in the Licensed Product, regardless of how such faults, interruptions, delays, inaccuracies, errors or omissions arise. THE LICENSED PRODUCT IS PROVIDED 'AS IS' WITHOUT REPRESENTATIONS, WARRANTIES OR GUARANTEES OF ANY KIND. COSTAR EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES AS TO (i) MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND (ii) THE QUALITY, ACCURACY, TIMELINESS OR COMPLETENESS OF THE DATA. (b) EXCEPT FOR COSTAR'S VIOLATION OF THE WARRANTIES SET FORTH IN SECTION 20.2 BELOW, UNDER NO CIRCUMSTANCES WILL ANY OF THE COSTAR PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. NOTWITHSTANDING ANY PROVISION CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL THE AGGREGATE LIABILITY OF THE COSTAR PARTIES TO LICENSEE OR TO ANY OTHER PARTY FOR DAMAGES, DIRECT OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF LICENSE FEES ACTUALLY PAID TO COSTAR UNDER THIS AGREEMENT DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE SUCH CLAIM AROSE, REGARDLESS OF THE CAUSE OR FORM OF ACTION, WHETHER CLAIMS ARE GROUNDED IN CONTRACT OR TORT. COSTAR SHALL HAVE NO LIABILITY FOR THE UNAUTHORIZED USE OF ITS PRODUCTS. (c) No action arising out of or pertaining to this Agreement may be brought by Licensee more than two (2) years after Licensee has knowledge of the cause of such action.

11. Assignment. The parties' obligations hereunder are binding on their successors, legal representatives and assigns. Neither party may assign or transfer (by operation of law or otherwise) this Agreement nor the license granted hereunder, in whole or in part, without the prior written consent of the other party, which shall not be unreasonably withheld; provided, however, CoStar's refusal to consent to an assignment of this Agreement by Licensee shall not be considered unreasonable if such assignment is to a Competitive Business (as defined below) or would result in the elimination of a then-existing CoStar revenue stream. Notwithstanding anything set forth above to the contrary above, (i) as long as CoStar provides written notice to Licensee, CoStar may assign this Agreement and the license hereunder to a successor in interest to CoStar's business, whether by merger, stock or asset sale, or acquisition, and (ii) in the event of Licensee's merger or acquisition with, or acquisition of assets by, any third party, Licensee shall be entitled upon written notice, without approval from CoStar, to assign its rights and obligations under this Agreement to such third party; provided, however, that (a) such assignment shall not result in the elimination of any then-existing CoStar revenue stream from Licensee or such third party; and (b) in no event shall Licensee be entitled to assign its rights and obligations hereunder to any Competitive Business (as defined below). For purposes of this

Agreement, a "Competitive Business" is any business that sells, licenses or makes publicly available in a commercial forum any property level information with respect to commercial real estate, including, without limitation, space availability, tenant, sales, comparable sales, or sales transaction data, in competition with CoStar's or any of CoStar's affiliates' service offerings.

12. Passcodes. Licensee shall provide CoStar with the name of a person authorized to determine and change the level of each Authorized User's password access to the Licensed Product. No Authorized User may access the Licensed Product using any passcodes other than the passcodes assigned to such Authorized User. No Authorized User may share his assigned passcodes with any other person, nor allow any other person to use or have access to his passcodes. During the term of this Agreement, Licensee will promptly notify CoStar of any Authorized User's change of employment or independent contractor status with Licensee, including but not limited to, termination of an Authorized User's employment or contractual service with Licensee, and upon such termination, Licensee shall destroy the passcodes for such Authorized User. No Authorized User who ceases to be an employee or Independent Contractor of Licensee may use any passcodes in any manner.

13. Notices. All notices given hereunder will be in writing, delivered personally or mailed by registered or certified mail, return receipt requested, or delivered by well-recognized overnight mail. All notices will be deemed given if delivered personally, on the day of delivery, if mailed by registered or certified mail, three days after the date of mailing, and if delivered by overnight mail, one day after mailing. Licensee agrees that CoStar may include notices on invoices sent to Licensee by regular mail.

Any notice required to be provided hereunder shall be provided to the following:

If to Licensee: Mr. Michael T. McLean  
Senior Vice President  
NRT, Inc.  
339 Jefferson Road, Parsippany NJ 07054

Invoices will also be sent to this contact.

If to CoStar:	Mr. Gerry Perrine Vice President Major Accounts CoStar Group, Inc. 2 Bethesda Metro Center Bethesda, Maryland 20814 Telephone: (301) 215-8300 Facsimile: (800) 494-0052	Mr. Chris Tully Sr. V.P. Sales CoStar Group, Inc. 2 Bethesda Metro Center Bethesda, MD 20814 Telephone: (301) 215-8300 Facsimile: (301) 664-9176
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With a copy (which shall not constitute notice) to:

Jonathan Coleman  
General Counsel  
CoStar Group, Inc.  
2 Bethesda Metro Center  
Bethesda, MD 20814  
Telephone: (301) 215-8300  
Facsimile: (301) 664-9176

14. Severability; Injunctive Relief. If any provision of this Agreement not being of a fundamental nature is held to be invalid; illegal or unenforceable, the validity, legality and enforceability of the remainder of the Agreement will not be affected. Licensee acknowledges that in the event of a breach of any of these terms by Licensee, CoStar may suffer irreparable harm and shall be entitled to injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or in equity.

15. Force Majeure. CoStar shall have no liability for any damages resulting from any failure to perform any obligation hereunder or from any delay in the performance thereof due to causes beyond CoStar's reasonable control, including, without limitation, industrial disputes of whatever nature, acts of God, public enemy, war, acts of government, fire, other casualty, failure of any link or connection whether by computer or otherwise, or failure of technology or telecommunications or other method or medium of storing or transmitting the Licensed Product.

16. User Information. Licensee acknowledges that if it creates any settings, surveys, fields or functions in the Licensed Product or inputs, adds or exports any data into the Licensed Product (collectively, the "User Data"), none of the CoStar Parties shall have any liability or responsibility for any of such User Data, including but not limited to, the loss, destruction, use by third parties, or misplacement of such User Data. Licensee acknowledges that it is Licensee's responsibility to make back-up copies of such User Data.

17. Entire Agreement. This Agreement represents the entire agreement between CoStar and Licensee with respect to the subject matter hereto, and supersedes the agreements between CoStar (and its affiliates) and Licensee (and its affiliates) identified on Exhibit C, other than with respect to any outstanding payment obligations and terms that survive termination.

18. Governing Law; Choice of Forum. This Agreement shall be construed under the laws of the State of Maryland, without regard to choice of law principles. The parties irrevocably consent to the jurisdiction of the federal and state courts located in the State of Maryland for the purpose of any action brought in connection with this Agreement.

19. Warranties.

19.1 CoStar and Licensee represent and warrant that they have full power and authority to enter into this Agreement, and CoStar further represents and warrants that it has all rights

necessary to grant the licenses provided hereunder to Licensee without the consent of any other person or entity.

19.2 CoStar represents and warrants that the Licensed Product does not infringe any existing or subsequently issued or pending patent, copyright, trade secret, or other proprietary right of any Third Party ("Third Party" means persons, corporations and entities other than Licensee, CoStar and any of their affiliates).

19.3 CoStar represents and warrants that the Software will perform in accordance with its user manuals (which are posted on CoStar's Web Site) in all material respects.

20. **Indemnity.** CoStar agrees to defend, indemnify and hold harmless Licensee for all costs and expenses associated with the defense and settlement of any claim, including any judgment against Licensee, that the Licensed Product infringes a patent, copyright, trademark, trade secret or other intellectual property right of any third party (a "Claim") and shall pay any judgments or settlements based thereon; provided, that Licensee shall give CoStar prompt written notice of the Claim, sole control of the proceedings or settlement, and reasonable cooperation, information and assistance in the defense or settlement negotiations. This indemnification is limited to those portions of the Licensed Product provided by Costar and delivered to Licensee, and does not cover third-party claims relating to that portion of the Licensed Product provided to CoStar by Licensee, or arising from modifications to the Licensed Product by Licensee or to any use of the Licensed Product outside the scope of this Agreement. In the event of a Claim, and regardless of the outcome of such Claim, CoStar may either (1) secure the Licensee's right to continue to use the Licensed Product; (2) replace or modify the Licensed Product to make it non-infringing without substantially compromising its utility or function; or (3) if neither (1) nor (2) are reasonably practicable, terminate the license to the Licensed Product granted under this License Agreement and refund to Licensee an amount equal to the license fees paid by Licensee for the infringing Licensed Product for any periods after the date of termination. **THIS SECTION STATES THE SOLE REMEDY OF THE LICENSEE AND THE SOLE LIABILITY OF COSTAR FOR ANY CLAIM RELATING TO INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT OF THE LICENSED PRODUCT."**

21. **Miscellaneous.** This Agreement may not be amended, modified or superseded, nor may any of its terms or conditions be waived, unless expressly agreed to in writing by both parties. The failure of either party at any time to require full performance of any provision hereof will in no manner affect the right of such party at a later time to enforce the same. Headings are for reference only. The persons executing this Agreement on behalf of CoStar and Licensee represents and warrants that he or she has been authorized to do so, and that all necessary actions required for the execution have been taken. The parties hereby acknowledge that this Agreement may be executed and delivered by facsimile and such facsimile shall constitute a legal and binding agreement on the parties. Notwithstanding anything to the contrary set forth herein, the provisions of Sections 3, 6.4, 7, 10 through 12, 14 through 19 and 22 hereof, as well as Sections 1.2 and 2.2 of Exhibit B, will survive non-renewal or termination of this Agreement.

22. Licensor and Licensee agree that any addendum to the License Agreement will be signed on behalf of Licensee only by Michael T McLean, Senior Vice President, NRT, Incorporated or one other company executive as designated in written notice by Licensee.

This Agreement is duly authorized, executed and delivered as of the date first written above.

NRT INCORPORATED

COSTAR REALTY INFORMATION, INC.

By: Michael T McLean

By: CR Tully

Name: Michael T. McLean

Name: CHRIS TULLY

Title: Senior Vice President

Title: SVP SALES



EXHIBIT A SCHEDULE OF SERVICES

CoStar market area	St - Product Name	Sales Unit Description	Dataset	Total # of licensed sites	Maximum # of users	Fees in year 1	Increase Oct. 2006	Fees in year 2
Los Angeles	CA CompsWeb	LA CENTRAL	All Property Types	36	92	\$ 11,050	\$ -	\$ 11,050
	CompsWeb	LA EAST	All Property Types					
	CompsWeb	LA NORTH	All Property Types					
	CompsWeb	LA SOUTH	All Property Types					
	CompsWeb	LA WEST	All Property Types					
	PropertyWeb	Los Angeles	All Data					
San Diego	CA PropertyWeb	San Diego	All Data	7	14	\$ 1,753	\$ -	\$ 1,753
	CompsWeb	SAN DIEGO	All Property Types					
Orange County	CA CompsWeb	ORANGE	All Property Types					
	PropertyWeb	Orange County	All Data					
	PropertyWeb	Los Angeles	All Data					
	PropertyWeb	San Diego	All Data					
	PropertyWeb	San Bernardino/Riverside (Inland Empire)	All Data					
	CompsWeb	RIVERSIDE	Apartment/Residential Land					
	CompsWeb	SAN BERNAD	Apartment/Residential Land	6	10	\$ 1,506	\$ 301	\$ 1,807
Inland Empire	CA CompsWeb	RIVERSIDE	All Property Types	1	3	\$ 580	\$ -	\$ 580
San Francisco	CA CompsWeb	SAN MATEO	All Property Types					
	CompsWeb	SAN FRAN	All Property Types					
	CompsWeb	MARIN SON	All Property Types					
	PropertyWeb	San Francisco	All Data					
East Bay	CA CompsWeb	CNTRA CSTA	All Property Types	12	43	\$ 4,113	\$ 823	\$ 4,936
South Bay	CA CompsWeb	SNTA CLARA	All Property Types	7	16	\$ 479	\$ 96	\$ 575
	CompsWeb	SAN MATEO	All Property Types					
	CompsWeb	OAKLAND	All Property Types					
	CompsWeb	CNTRA CSTA	All Property Types					
	CompsWeb	FRESNO	All Property Types					
	CompsWeb	STOCK MDESTO	All Property Types					
	PropertyWeb	San Jose (South Bay)	All Data					
	PropertyWeb	Oakland (East Bay)	All Data					
	PropertyWeb	San Francisco	All Data					
Sacramento	CA PropertyWeb	Sacramento	All Data	13	36	\$ 5,915	\$ 1,183	\$ 7,098
	CompsWeb	SACRAMENTO	All Property Types					
Westchester/S. CT	CT PropertyWeb	Westchester/Southern CT	All Data	12	28	\$ 2,359	\$ 472	\$ 2,830
DC	DC PropertyWeb	Washington DC Metro	All Data	2	7	\$ 359	\$ 72	\$ 431
ORLANDO	FL CompsWeb	ORLANDO	All Property Types	3	32	\$ 2,352	\$ 235	\$ 2,587
	CompsWeb	TAMPA	All Property Types					
	CompsWeb	W PALM BCH	All Property Types					
	CompsWeb	FT LDRDALE	All Property Types					

City	System	Location	Property Type	Count	Value	Count	Value
S. FL	FL CompsWeb	MIAMI	All Property Types	1	22 \$ 4,274 \$	-	\$ 4,274
	FL PropertyWeb	Orlando	All Data				
	FL: CompsWeb	MIAMI	All Property Types				
	FL: CompsWeb	TAMPA	All Property Types				
	FL: CompsWeb	ORLANDO	All Property Types				
	FL: CompsWeb	FT LDRDALE	All Property Types				
Tampa	FL: CompsWeb	W PALM BCH	All Property Types	12	47 \$ 7,665 \$	-	\$ 7,665
	FL: PropertyWeb	South Florida	All Data				
	FL: CompsWeb	TAMPA	All Property Types				
	FL: CompsWeb	ORLANDO	All Property Types				
	FL: CompsWeb	W PALM BCH	All Property Types				
	FL: CompsWeb	FT LDRDALE	All Property Types				
Atlanta	FL: CompsWeb	MIAMI	All Property Types	7	39 \$ 5,884 \$	-	\$ 5,884
	FL: PropertyWeb	Tampa	All Data				
Chicago	GA CompsWeb	ATLANTA	All Property Types	1	23 \$ 1,423 \$	285	\$ 1,708
	GA PropertyWeb	Atlanta	All Data				
	IL CompsWeb	CHI COLLAR	All Property Types				
	IL CompsWeb	CHI COOK	All Property Types				
	IL CompsWeb	CHI DUPAGE	All Property Types				
	IL CompsWeb	CHI LAKE	All Property Types				
Boston	IL Exchange	500 - Illinois	All Data	22	54 \$ 6,584 \$	658	\$ 7,242
	IL PropertyWeb	Chicago	All Data				
	MA CompsWeb	BOSTON	All Property Types	4	16 \$ 2,520 \$	-	\$ 2,520
	MA PropertyWeb	Boston	All Data				
	MD CompsWeb	BALTIMORE	All Property Types	10	35 \$ 6,016 \$	301	\$ 6,316
	MD PropertyWeb	Baltimore	All Data				
Northern New Jersey	NJ: CompsWeb	NEWARK NNJ	All Property Types	31	53 \$ 4,246 \$	849	\$ 5,095
	NJ: CompsWeb	TRNTON CNJ	All Property Types	1	16 \$ 2,815 \$	-	\$ 2,815
	NJ: PropertyWeb	Northern New Jersey	All Data				
Columbus	OH CoStar Suite	Columbus	All Data	13	21 \$ 1,622 \$	-	\$ 1,622
	PA PropertyWeb	Pittsburgh	All Data	8	49 \$ 2,444 \$	122	\$ 2,566
DC	VA PropertyWeb	Washington DC Metro	All Data	209	656 \$ 75,959 \$	5,397	\$ 81,356
	Totals						

15.24 60.96  
\$ 121.92 10/5

DO NOT ENTER YET

**EXHIBIT A SCHEDULE OF SERVICES**

Loc. Id	Street	City	St	Users	CoStar Tenant market data	Fees in year 1	Increase Oct. 2006	Fees in year 2
32370	11900 W Olympic Blvd, Suite 100	Los Angeles	CA	4	Los Angeles	\$ 765	\$ -	\$ 765
233597	301 N Canon Dr, Suite E	Beverly Hills	CA	1	Los Angeles	\$ 107	\$ -	\$ 107
286672	68 Malaga Cove Plz	Palos Verdes Estates	CA	1	Los Angeles	\$ -	\$ -	\$ -
297931	600 Deep Valley Dr	Rolling Hills Estate	CA	2	Los Angeles	\$ 560	\$ -	\$ 560
472074	1291 E. Main St, Suite 101	El Cajon	CA	3	San Diego	\$ 233	\$ -	\$ 233
194553	1699 Van Ness Ave	San Francisco	CA	3	San Francisco	\$ 514	\$ -	\$ 514
351770	7763 Glades Rd, Suite A	Boca Raton	FL	10	West Palm Beach	\$ 603	\$ -	\$ 603
351770	7763 Glades Rd, Suite A	Boca Raton	FL	10	West Palm Beach	\$ 603	\$ -	\$ 603
✓191030	1 Glenlake Pky NE, Suite 800	Atlanta	GA	5	Atlanta	\$ 756	\$ -	\$ 756
✓2158	2700 S River Rd, Suite 400	Des Plaines	IL	7	Chicago	\$ 889	\$ -	\$ 889
✓154783	1840 N Clark St	Chicago	IL	5	Chicago	\$ 159	\$ -	\$ 159
✓296148	2855 N Lincoln Ave	Chicago	IL	3	Chicago	\$ 260	\$ -	\$ 260
✓62119	40 Kenoza Ave	Haverhill	MA	2	Boston	\$ 179	\$ -	\$ 179
✓270766	1375 Beacon St	Brookline	MA	3	Boston	\$ 284	\$ -	\$ 284
✓294434	1601 Trapelo Rd, Suite 24	Waltham	MA	3	Boston	\$ 1,046	\$ -	\$ 1,046
839	31 Light St, Suite 200	Baltimore	MD	22	Baltimore	\$ 1,785	\$ -	\$ 1,785
267540	3468 Brodhead Rd	Monaca	PA	1	Pittsburgh	\$ -	\$ -	\$ -
2246279	4960 Route 8 Rt	Allison Park	PA	1	Pittsburgh	\$ 23	\$ -	\$ 23
267800	6305 University Blvd	Moon Township	PA	2	Pittsburgh	\$ 47	\$ -	\$ 47
654593	1539 Washington Rd	Pittsburgh	PA	3	Pittsburgh	\$ -	\$ -	\$ -
230063	421 Cochran Rd, Suite 201	Pittsburgh	PA	17	Pittsburgh	\$ -	\$ -	\$ -
287199	1699 Washington Rd	Pittsburgh	PA	1	Pittsburgh	\$ -	\$ -	\$ -
273117	5857 Ellsworth Ave	Pittsburgh	PA	3	Pittsburgh	\$ 70	\$ -	\$ 70
2432432	10 Old Clairton Rd	Pittsburgh	PA	2	Pittsburgh	\$ 23	\$ -	\$ 23
254492	9576 Perry Hwy, Suite 300	Pittsburgh	PA	2	Pittsburgh	\$ 47	\$ -	\$ 47
263278	3244 Washington Rd, Suite 100	McMurray	PA	2	Pittsburgh	\$ 23	\$ -	\$ 23
275945	3865 William Penn Hwy	Murrysville	PA	2	Pittsburgh	\$ -	\$ -	\$ -
2432444	186 New Castle Rd	Butler	PA	1	Pittsburgh	\$ -	\$ -	\$ -
254100	20510 Route 19	Cranberry Township	PA	3	Pittsburgh	\$ 70	\$ -	\$ 70
Subtotal for CoStar Tenant						\$ 9,044	\$ -	\$ 9,044
Grand total per month						\$ 85,591	\$ 5,442	\$ 90,988

## **EXHIBIT B**

### **License Restrictions**

1. CoStar Property, CoStar Tenant and CoStar Exchange. The following sets forth the use restrictions for the CoStar Property, CoStar Tenant and CoStar Exchange portions of the Licensed Product:

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**EXHIBIT C**

**Superceded Agreements**

<u>Loc. Id</u>	<u>Street</u>	<u>City</u>	<u>St</u>	<u>Users</u>	<u>Product</u>	<u>Market Data</u>	<u>Fees</u>	<u>Contract signed date</u>
227252	428-A Beecher Rd	Columbus	OH	16	CoStar Suite	Columbus	\$2,815	6/30/2004
282097	306 2nd Street	Laurel	MD	1	PropertyWeb	Baltimore	\$ 285	8/17/2005
292431	431 S Palm Canyon Drive	Palm Springs	CA	3	CompsWeb	Riverside	\$ 580	3/6/2001

# Exhibit B

Untitled

Removed access:

Bob,  
I emailed you about Scott Bell, we have several Scott Bell's in our system and need to know if he was previously with Carter in Orlando, can you confirm with him if he was previously with Carter in Orlando? I just deleted Mahmood as a user, has he left the company?

-----Original Message-----

From: Bob Giest  
Sent: Monday, November 13, 2006 10:19 AM  
To: Fulfillment Installs  
Ben Buckley (B)  
Subject: RE: Debra Set up loc ID 4289848 per e-mail: Coldwell Banker Commercial NRT Contract # 38217

Debra and Ben,

Thanks for working to get this client set-up with their changes. I did a review of the changes in Enterprise and here is what I believe still needs to take place based on the client's request:

1. Set up access for John Skicewicz and Mike Notaro at the Palm Harbor location ID: 4526044
2. Delete Mahmood Eldee (Contact ID:2232452) and ADD Scott Bell (Contact ID: 3986860) at the Clearwater location ID: 351761
3. Delete Brian Tunnell (Contact ID: 2266553) at the Bonita Springs location ID:588597

Please confirm when completed.

Thanks,  
-bob

-----Original Message-----

From: Fulfillment Installs  
Sent: Wednesday, November 08, 2006 1:35 PM  
To: Bob Giest  
Subject: RE: Debra Set up loc ID 4289848 per e-mail: Coldwell Banker Commercial NRT Contract # 38217

If you tell me where Michael Notaro and John Skicewicz are ACTUALLY supposed to be located I will make sure they get there, and get access.

-----Original Message-----

From: Bob Giest  
Sent: Wednesday, November 08, 2006 1:32 PM  
To: Fulfillment Installs  
Subject: RE: Debra Set up loc ID 4289848 per e-mail: Coldwell Banker Commercial NRT Contract # 38217



Untitled

Debra,

I'll call you in a little bit so we can get it set up correctly for the client. Not sure of how our system works best but it looks to me the contacts and users we moved from one of the Boca locations that closed to the Palm Harbor don't have access. At a minimum they need to be moved back to the new location and set up with their line items as they had previously.

Thanks,  
-bob

-----Original Message-----

From: Fulfillment Installs  
Sent: Wednesday, November 08, 2006 1:25 PM  
To: Bob Giest  
Fulfillment Installs  
Cc: Ben Buckley (B)  
Subject: RE: Debra Set up loc ID 4289848 per e-mail: Coldwell Banker Commercial NRT Contract # 38217

Bob,  
The new office at 3837 NW Boca Raton, should just be the same location ID as the 2295 NW Corporate Blvd location, it should have just changed the address, the other location 7763 should have all the contacts moved to the 3837 location (previously 2295 NW Corporate Blvd) and then should be made Moved/Merge or Out of Business with a note in the Internal notes field that states all contacts and activities should be left at 3837 location in enterprise after a change of address addendum was submitted. New locations do not need to be created in enterprise if another location is ceasing to exist. Then the two Clearwater users should have been moved to the proper location. Please call me for further explanation if needed. My direct number is 800-473-1632.

Thanks  
Debra

-----Original Message-----

From: Bob Giest  
Sent: Wednesday, November 08, 2006 1:01 PM  
To: Fulfillment Installs  
Cc: Ben Buckley (B)  
Subject: RE: Debra Set up loc ID 4289848 per e-mail: Coldwell Banker Commercial NRT Contract # 38217  
Importance: High

Debra,

I just looked at the Palm Harbor location (ID#353143) which looks like it was moved from Boca Raton with all the associated contacts, which isn't reality, the contacts should be at the new CB Commercial NRT

Untitled

Location at 3837 NW Boca Raton Blvd, su 200 and the appropriate "users" should be set-up accordingly. That new office combined the one at 2295 NW Corporate Blvd, su 240, Boca Raton and the one at 7763 Glades Road, Boca Raton. These sites did have 16 and 12 licensed users, respectively. So the new location should have 28 licenses.

The one I set up in Palm Harbor is (ID# 4289848) which has the two users now set-up from their Clearwater location w