

## Terms and Conditions

### TERMS OF SERVICE

*Revised: May 2021*

These Terms of Service ("**Terms**") govern your use of the Essex Apartment Homes website (the "**Web Site**") and certain other services described below or that post these Terms, including our community text and communications programs ("**Service(s)**") and all of the content on the Services ("**Content**"). Essex Property Trust, Inc. and Essex Portfolio, L.P. ("**Essex**", "**we**", "**our**", or "**us**") provide the Web Site and Services. "**You**" refers to you as a user of the Web Site or Services.

BY USING THE WEB SITE OR SERVICES, YOU ARE AGREEING TO THESE TERMS AND CONSENT TO OUR PRACTICES AS SET FORTH IN OUR [PRIVACY POLICY](#). PLEASE READ THEM CAREFULLY. These Terms include limitations on your rights and remedies and our obligations and liability, and require you to arbitrate disputes and waive the right to a trial and/or class action relief. If you do not agree to be bound by these Terms and consent to our privacy policy, please do not access or use the Web Site or the Services.

### Quick Links

**We have summarized some (but not all) of the main topics of these Terms below. The complete provisions, and not the headings or summaries govern.**

- Grants and Limitations of Rights
  - We only grant you a limited revocable license to use the Services subject to rules and limitations. [More](#)
  - You grant us a broad license to the content you submit. You retain ownership of and responsibility for your content. We have the right to manage our Service to keep its content appropriate. [More](#)
  - Your use of our Service is subject to various restrictions designed to protect the Service and users. [More](#)

- Limitations on Your Remedies

As permitted by applicable law,

- We disclaim most warranties and provide the Service "As Is". [More](#)
- Our liability is greatly limited. [More](#)
- Your equitable or injunctive relief rights are limited. [More](#)

- Availability of Service
  - We may change or discontinue our Service, or your right to access it, in whole or in part. [More](#) Our Service is intended for access from and use in the U.S.A. [More](#)

To download and/or print this Terms of Use ("Terms"), click [here](#).

## 1. Eligibility

The Web Site and Services are for a general audience and not intended for use by children under the age of 13, and users under the age of majority where they reside must use the Services with the permission, and the supervision, of their parents or legal guardian. You must be at least 13 years old to use the Web Site or the Services. We have no intention of collecting personal information from children under the age of 13, nor do we knowingly collect any personal information from children under the age of 13. If you are over the age of 13 but under the age of majority in your state of residence, your parent or legal guardian must agree to these Terms on your behalf.

## 2. Additional Terms

Some of our Services have additional terms and conditions ("***Additional Terms***"). Where Additional Terms apply to a Service, we will make them available for you to read through prior to your use of that Service. By using that Service, you agree to the Additional Terms. To the extent there is a conflict between these Terms and any Additional Terms, the Additional Terms will control unless the Additional Terms expressly state otherwise.

## 3. Acceptable Use of the Web Site and Services

You are responsible for your use of the Web Site and Services, and for any use of the Web Site or Services made using your account. Our goal is to create a positive, useful, and safe user experience. To promote this goal, we prohibit certain kinds of conduct that may be harmful to other users or to us. By way of example, you may not use the Web Site or Services to:

1. violate any law or regulation;
2. violate, infringe, or misappropriate other people's intellectual property, privacy, publicity, or other legal rights;
3. engage in spidering or harvesting, or participate in the use of software, including spyware, designed to collect data from the Web Site or Services;
4. transmit any viruses, code, or other computer instructions or technological means whose purpose is to disrupt, damage, or interfere with the use of computers or related systems of Essex, any of our providers, or any other third party (including another user);
5. impersonate any person or entity or perform any other similar fraudulent activity, such as phishing or submitting false information through an application or enrollment form;

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8. attempt to decipher, decompile, disassemble, or reverse engineer any of the software or other underlying code used to provide the Web Site or Services;
9. engage in any activities through or in connection with the Services that seek to attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third-party, or are otherwise objectionable to Essex;
10. engage in any activity that interferes with a user's access to the Services or the proper operation of the Services, or otherwise causes harm to the Services, Essex, or other users of the Services;
11. attempt to gain unauthorized access to the Services, other computer systems or networks connected to the Services, through password mining or any other means;
12. advocate, encourage, or assist any third party in doing any of the foregoing; or
13. otherwise violate these Terms or any applicable Additional Terms.

## 4. Content Use Restrictions

You also agree that, in using the Services, you: (i) will not monitor, gather, copy, or distribute the Content (except as may be a result of standard search engine activity or use of a standard browser) on the Services by using any robot, rover, "bot", spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind; (ii) will not frame or utilize framing techniques to enclose any such content (including any images, text, or page layout); (iii) will keep intact all trademark, copyright, and other intellectual property and other notices contained in such content; (iv) will not use such content in a manner that suggests an unauthorized association with any of our or our licensors' products, services, or brands; (v) will not make any modifications to such content; (vi) will not copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third-party or on any third-party application or website, or otherwise use or exploit such content in any way for any purpose except as specifically permitted by these Terms or any applicable Additional Terms or with the prior written consent of an officer of Essex or, in the case of content from a licensor, the owner of the content; and (vii) will not insert any code or product to manipulate such content in any way that adversely affects any user experience or the Services.

## 5. Equal Housing Opportunity

Essex communities are equal housing opportunities. Essex is committed to the letter and spirit of all fair housing laws. Essex does not discriminate in its housing based on race, color, religion, national origin, sex, familial status, disability, gender, gender identity, sexual orientation, or any other characteristic protected by law.

## 6. Ownership

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Content, and Marks are all protected under U.S. and international laws. Except as stated in these Terms and Conditions, no content may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including without limitation, electronic, mechanical, photocopying, recording or otherwise without Essex's prior written consent.

You agree to grant Essex a non-exclusive, unrestricted, worldwide, and perpetual right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense, display, perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner all or any portion of your user generated content including, but not limited to, any material or information you post or submit to us on or via the Web Site, or by means other than the Web Site, including without limitation via our social media pages and accounts such as Facebook and Twitter, and derivative works thereof, (collectively "UGC") for any purpose whatsoever.

## 7. Your Rights to Use the Services and Content

Subject to your strict compliance with these Terms and the Additional Terms, Essex grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to download and copy (temporary storage only of web site content and streaming audio and/or video files and a single Device download and storage of the mobile app), display, view, use, play the Content on a personal computer, browser, laptop, tablet, mobile phone or other wireless device, or other Internet-enabled device (each, a "**Device**"), and/or print one copy of the Content (excluding source and object code in raw form or otherwise) as it is displayed to you, in each case for your personal, non-commercial use, subject to these Terms and any applicable Additional Terms. The foregoing limited license (i) does not give you any ownership of, or any other intellectual property interest in, any Content, and (ii) may be immediately suspended or terminated for any reason, in Essex's sole discretion, and without advance notice or liability. In some instances, we may permit you to have greater access to and use of Content, subject to certain Additional Terms. Your breach of any of these Terms or Additional Terms automatically terminates this license.

## 8. Service Use Restrictions

You agree that you will not: (i) use the Services for any political or commercial purpose (including, without limitation, for purposes of advertising, soliciting funds, collecting product prices, and selling products); (ii) use any meta tags or any other "hidden text" utilizing any intellectual property; (iii) engage in any activities through or in connection with the Services that seek or attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third-party, or are otherwise objectionable to Essex; (iv) decompile, disassemble, reverse engineer, or

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through any portion of the Services; (v) engage in any activity that interferes with a user's access to the Services or the proper operation of the Services, or otherwise causes harm to the Services, Essex, or other users of the Services; (vi) interfere with or circumvent any security feature (including any digital rights management mechanism, device or other content protection or access control measure) of the Services or any feature that restricts or enforces limitations on use of or access to the Services, or the Content, or the UGC; (vii) harvest or otherwise collect or store any information (including personal information about other users of the Services, including email addresses, without the express consent of such users); (viii) attempt to gain unauthorized access to the Services, other computer systems or networks connected to the Services, through password mining or any other means; or (ix) otherwise violate these Terms or any applicable Additional Terms.

## 9. Third-Party Services, Links and Portals

The Service may contain or may interact with or otherwise be associated with third party platforms, services, plug-ins, applications, ads, tools and/or other content, and/or links to third-party websites or other services that are not owned, controlled or operated by Essex (collectively, "**Third-Party Services**"), including services operated by advertisers, licensors, licensees, e-commerce partners and certain other third parties who may have business relationships with Essex. We may also host our content, apps and tools on Third-Party Services. Essex may have no control over the content, operations, policies, terms, or other elements of Third-Party Services, and Essex does not assume any obligation to review any Third-Party Services. Essex does not necessarily endorse, approve, or sponsor any Third-Party Services, or any third-party content, advertising, information, materials, products, services, or other items. Furthermore, Essex is not responsible for the quality or delivery of the products or services offered, accessed, obtained by or advertised at such Third-Party Services. Some Third-Party Services may impose fees for access to their resources through our Service and/or your Account and you are responsible for all such fees. Finally, as permitted by applicable law, we will under no circumstances be liable for any direct, indirect, incidental or special loss or other damage, whether arising from negligence, breach of contract, defamation, infringement of copyright or other intellectual property rights, caused by the exhibition, distribution or exploitation of any information or content contained within these Third-Party Services. Any activities you engage in connection with any of the same are subject to the privacy and other policies, terms and conditions of use and/or sale, and rules issued by the operator of the Third-Party Services. Essex disclaims all liability in connection therewith, as permitted by applicable law.

Without limiting the generality of the forgoing, Essex works with third-party web site operators to provide services such as online rental applications, resident services, and investor relations information ("**Platform Providers**"), which are our service providers and those services are not

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Party Services. Look to see what posted terms, policies and notices apply. Among other things, the option to pay rent electronically may be made available via a Platform Provider's services. Electronic payments are governed by the Platform Provider's terms and conditions. Essex is not responsible for ensuring the uptime or functionality of any Platform Provider services and if the electronic payment is not successful for any reason, the tenant should use an alternative method of payment. When Platform Providers provide services to Essex, they act at the direction of Essex with respect to data provided on an Essex-branded page. However, if you use non-Essex portions of a Platform Provider's services, their own data practices and policies apply. You should carefully review the posted privacy policy(ies) and terms of use for any Platform Provider before using a Platform Provider's Site.

Please note that the information you provide to any Portal Site may be shared with Essex. For information on how Essex uses your Personal Information, we encourage you to review our [Privacy Policy](#).

## 10. Rental Unit Specifications; Pricing; Typographical Errors

We strive to accurately describe our services and rental units offered on the Services; however, we do not warrant that such specifications, pricing, branding elements, floor plans, layout plans, images, or other content on the Services is complete, accurate, reliable, current, or error-free. All floor plan images, dimensions and details displayed on the Services are indicative only, and may be subject to change. Prices and availability of rental units are subject to change. Prices of rental units vary based on move-in date and lease terms.

## 11. User Interactions

The Web Site may contain features that link you or provide you with access to Third-party Services and content that are completely independent of Essex, as more fully explained in Section 9 above. Your interactions with organizations or individuals found on or through the Services and/or Third-party Services are solely between you and such organizations or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any interaction with any of these third parties. We are not responsible or liable for the conduct or content of any user or third party. You agree that Essex is not responsible or liable for any loss or damage of any kind or nature incurred as the result of any of these dealings. If there is a dispute between users of the Services, or between users and any third party, you understand and agree that we reserve the right, but are under no obligation to, become involved. In the event that you have a dispute with any other user of the Web Site, you hereby release Essex and its, subsidiaries and affiliates, and their officers, employees, directors, shareholders, agents, and successors ("**Affiliates**") from any claims, demands, costs, liabilities, and Services (actual and consequential) of every kind or nature,

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DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

## 12. Contact with Essex

1. Text Messages. You may be given opportunities to subscribe to various text marketing or other text messaging programs and by doing so, you consent to receive ongoing text alerts (including by auto-dialers) from us related to our various businesses and Affiliates, which may include co-promotions with or about other parties, except that if the scope of your consent for a particular subscription is limited to that subscription, your subscription will be so limited. Such consent is not required to purchase any product or service and no purchase is required. For each subscription, text "HELP" for help and text "STOP" to terminate (i.e., opt-out) of that subscription. In some cases, we may offer you the ability to limit the opt-out to promotional texts and to maintain a subscription to informational texts, and you consent to receive a post-STOP text providing you that option. Subsequent or different subscriptions will be unaffected by an opt-out. You consent to receive a text confirming any opt-out as well as non-marketing administrative or transactional messages. For subscriptions to recurring text messages, you may receive up to the number of text messages per month specified in your consent, or to which you later consent. Alerts auto-renew unless otherwise specified when you consented. You understand that we will send mobile text messages using automated technology. If you subscribe to text messages you represent that you are 18 years of age or older, or have obtained parental consent. Standard message, data and other fees may be charged by your carrier, and carriers may deduct charges from pre-paid amounts or data allowances, for which you are responsible. Contact your carrier for details. Not all phones and/or carriers are supported. We are the sponsor of our text messages and may be contacted regarding them via our [Contact Form](#).
2. Email Messages. You may cancel or modify our email marketing communications you receive from us by following the instructions contained within our promotional emails. This will not affect subsequent subscriptions and if your opt-out is limited to certain types of emails the opt-out will be so limited. Please note that we reserve the right to send you certain communications relating to your account or use of our Services, such as administrative and service announcements and these transactional account messages may be unaffected if you choose to opt-out from receiving our marketing communications.

## 13. Privacy

Your privacy is very important to us. Our [Privacy Policy](#) explains how we collect, use, protect, and when we share personal information and other data with others. If you register with us or create an account, you are solely responsible and liable for the security and confidentiality of your access credentials and for restricting access to your Device and for all activity under your account. Usernames and passwords must be personal and unique, must not violate the rights of any person or entity, and must not be offensive. We may reject the use of any password, username or registration information for any reason in our sole discretion. You are solely responsible for your registration information and for updating and maintaining it. You will immediately notify us < a rel="noopener noreferrer" href="https://www.essexapartmenthomes.com/terms-and-conditions#contact-header" target="\_blank" style="color: #c75109;">here of any unauthorized

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any account creation requests may only be set up by an authorized representative of the individual that is the subject of the account and who is of the age of majority. We do not review accounts for authenticity, and are not responsible for any unauthorized accounts that may appear on the Services. For any dispute as to account creation or authenticity, we shall have the sole right, but are not obligated, to resolve such dispute as we determine appropriate, without notice.

## 14. Changes to the Web Site, Services or Terms

We enhance and update the Web Site and Services often. We may change or discontinue the Web Site or Services at any time, with or without notice to you.

From time to time, we may change these Terms, or applicable Additional Terms, effective prospectively. If we change these Terms, we will give you notice by posting the revised Terms on the Web Site. Those changes will go into effect on the Effective Date shown in the revised Terms. By continuing to use the Web Site or Services, you are agreeing to the revised Terms.

Please print a copy of these Terms for your records and check the Web Site frequently for any changes to these Terms.

## 15. Special Notice for International Use

This Web Site is hosted in the United States. Essex does not claim that this Web Site is appropriate for your specific jurisdiction. You agree that you are solely responsible for compliance with any laws of your specific jurisdiction and further agree that you shall not use this Web Site if you are restricted by any local, state, national, or international laws.

## 16. Investigations; Cooperation with Law Enforcement; Termination; Survival

As permitted by applicable law, we reserve the right, without limitation, to: (i) investigate any suspected breaches of Services security or its information technology or other systems or networks, (ii) investigate any suspected breaches of these Terms and any applicable Additional Terms, (iii) use any information obtained by us in accordance with our [Privacy Policy](#) in connection with reviewing law enforcement databases or complying with applicable laws and use and/or disclose any information obtained by us to comply with law enforcement requests or legal requirements in accordance our [Privacy Policy](#), (iv) involve and cooperate with law enforcement authorities in investigating any of the foregoing matters, (v) prosecute violators of these Terms and any applicable Additional Terms, and (vi) discontinue the Services, in whole or in part, or, suspend or terminate your access to it, in whole or in part, including any user accounts or registrations, at any time, without notice, for any reason and without any obligation to you or any third-party. Any suspension or termination will not affect your obligations to Essex under these Terms or any applicable Additional Terms. Upon suspension or termination of your access to the Service, or upon notice from us, all rights granted to you under these Terms or any applicable Additional Terms will

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Essex in these Terms, as well as the indemnities, releases, disclaimers, and limitations on liability and the provisions regarding jurisdiction, choice of law, no class action, and mandatory arbitration.

## 17. Disclaimer and Limitations on Our Liability

YOU USE THE WEB SITE AND SERVICES AT YOUR OWN RISK. THE WEB SITE AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ESSEX AND AFFILIATES ("**ESSEX PARTIES**") DISCLAIM ALL WARRANTIES, CONDITIONS, AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING THOSE RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AND THOSE ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE.

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN, OR IN APPLICABLE ADDITIONAL TERMS, OR AS OTHERWISE REQUIRED BY APPLICABLE LAW, ESSEX PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND FREEDOM FROM COMPUTER VIRUS.

IN PARTICULAR, THE ESSEX PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY OR COMPLETENESS OF CONTENT AVAILABLE ON OR THROUGH THE WEB SITE OR SERVICES, OR THE CONTENT OF ANY WEBSITES OR ONLINE SERVICES LINKED TO OR INTEGRATED WITH THE WEB SITE OR SERVICES. EXCEPT AS PROHIBITED BY APPLICABLE LAW, THE ESSEX PARTIES WILL HAVE NO LIABILITY FOR ANY: (a) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (b) PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM YOUR ACCESS TO OR USE OF THE WEB SITE OR SERVICES; (c) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS OR OF ANY PERSONAL INFORMATION OR USER DATA; (d) ANY INTERRUPTION OF TRANSMISSION TO OR FROM THE WEB SITE OR SERVICES; (e) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED ON OR THROUGH THE WEB SITE OR SERVICES BY ANY THIRD PARTY; OR (f) ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED OR SHARED THROUGH THE WEB SITE OR SERVICES.

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN, OR IN APPLICABLE ADDITIONAL TERMS, OR AS OTHERWISE REQUIRED BY APPLICABLE LAW, THE ESSEX PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD

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WEB SITE OR SERVICES IS DONE AT YOUR OWN RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE ARISING FROM DOING SO. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE WEB SITE OR SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE IN THESE TERMS OR APPLICABLE ADDITIONAL TERMS.

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL ESSEX PARTIES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING FOR THE INDIRECT LOSS OF PROFIT, REVENUE, OR DATA) ARISING OUT OF OR RELATING TO THE WEB SITE OR SERVICES, HOWEVER CAUSED, AND UNDER WHATEVER CAUSE OF ACTION OR THEORY OF LIABILITY BROUGHT (INCLUDING UNDER ANY CONTRACT, NEGLIGENCE, OR OTHER TORT THEORY OF LIABILITY) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF ESSEX AND ITS AFFILIATES FOR ANY CLAIMS UNDER THESE TERMS, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO \$5,000. AS PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL ANY ESSEX PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, INCLUDING PERSONAL INJURY OR DEATH OR FOR ANY DIRECT, INDIRECT, ECONOMIC, EXEMPLARY, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, IN CONNECTION WITH, OR OTHERWISE DIRECTLY OR INDIRECTLY RELATED TO, WITHOUT LIMITATION, THE SERVICES, CONTENT, UGC OR OTHER ESSEX PRODUCTS OR SERVICES, EXCEPT, TO THE EXTENT NOT WAIVABLE UNDER APPLICABLE LAW, FOR DIRECT DAMAGES FOR PERSONAL INJURY CAUSED BY AN ESSEX PROPERTY.

Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations and disclaimers may not apply to you. To the extent we may not, as a matter of applicable law, disclaim any implied warranty or limit our liabilities, the scope and duration of such warranty and the extent of our liability will be the minimum permitted under such law.

Nothing in these Terms shall operate to exclude or limit our liability for death or personal injury caused by gross negligence, intentional misconduct; or any other liability which cannot be excluded or limited under applicable law.

## 18. Arbitration and Dispute Terms

Jurisdiction and venue for any controversy, allegation, or claim, between you and any of the Essex Parties, arising out of or relating to the Services, the Content, your UGC, these Terms, or any applicable Additional Terms, (collectively, “*Dispute*”) shall be in San Mateo County, California. Each

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Essex Party—shall send a letter to the other side briefly summarizing the claim and the request for relief. If an Essex Party is making a claim, the letter shall be sent, via email, to the email address listed in your Essex account, if applicable. If no such information exists or if such information is not current, then we have no notification or delay obligations under this Section 18. If you are making a claim, the letter shall be sent to 1100 Park Place, Suite 200, Attn: Legal, San Mateo, California. If the Dispute is not resolved within sixty (60) days after notification, the claimant may proceed to initiate proceedings as set forth in this Section 18. Either you or Essex, however, may seek provisional remedies (such as preliminary injunctive relief, subject to this Section 18) before the expiration of this sixty (60)-day period.

Unless you give us notice of opt-out within five (5) business days of your first use of the Service, addressed to: 1100 Park Place, Suite 200, Attn: Legal, San Mateo, California, all actions or proceedings arising in connection with, touching upon or relating to any Dispute, or the scope of the provisions of this Section 18, shall be submitted to JAMS ([www.jamsadr.com](http://www.jamsadr.com)) for final and binding arbitration under its Comprehensive Arbitration Rules and Procedures if the matter in dispute is over \$250,000 or under its Streamlined Arbitration Rules and Procedures if the matter in dispute is \$250,000 or less, to be held in San Mateo County, California, before a single arbitrator in accordance with California Code of Civil Procedure §§ 1280 et seq. If the matter in dispute is between Essex and a consumer, the matter shall be submitted to JAMS in accordance with its Policy on Consumer Arbitration Pursuant to Pre-Dispute Clauses Minimum Standards of Procedural Fairness. The arbitrator shall be selected by mutual agreement of the parties or, if the parties cannot agree, then by striking from a list of arbitrators supplied by JAMS. We may have the right to pay the JAMS fees if required for arbitration to be enforceable. The arbitration shall be a confidential proceeding, closed to the general public; provided, however, that a party may disclose information relating to the arbitration proceedings to its and its affiliates' lawyers, insurance providers, auditors, and other professional advisers. The fact that there is a dispute between the parties that is the subject of arbitration shall be confidential to the same extent. The arbitrator shall issue a written opinion stating the essential findings and conclusions upon which the arbitrator's award is based. Neither party shall be entitled or permitted to commence or maintain any action in a court of law with respect to any matter in dispute until such matter shall have been submitted to arbitration as herein provided and then only for the enforcement of the arbitrator's award; provided, however, that prior to the appointment of the arbitrator or for remedies beyond the jurisdiction of an arbitrator, at any time, either party may seek pendente lite relief (subject to the provisions of these Terms waiving or limiting that relief) in a court of competent jurisdiction in San Mateo County, California or, if sought by an Essex Party, such other court that may have jurisdiction over you, without thereby waiving its right to arbitration of the dispute or controversy under this Section 18; provided further, however, that the losing party shall have fifteen (15) business days after the issuance of the arbitrator's decision to fully comply with such decision,

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AS PERMITTED BY APPLICABLE LAW, IF YOU CLAIM THAT YOU HAVE INCURRED ANY LOSS, DAMAGES, OR INJURIES IN CONNECTION WITH YOUR USE OF THE SERVICES, THEN THE LOSSES, DAMAGES, AND INJURIES WILL NOT BE DEEMED IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR TO OTHER EQUITABLE RELIEF OF ANY KIND. THIS MEANS (WITHOUT LIMITATION) THAT, IN CONNECTION WITH YOUR CLAIM, YOU AGREE THAT YOU WILL NOT SEEK, AND THAT YOU WILL NOT BE PERMITTED TO OBTAIN, ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, UGC, PRODUCT, SERVICES, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED, OR CONTROLLED BY ANY ESSEX PARTY (INCLUDING YOUR LICENSED UGC) OR A LICENSOR OF ANY ESSEX PARTY.

These Terms and any applicable Additional Terms, General Disputes and IP Disputes, and any other claim brought by you against an Essex Party or by an Essex Party against you pursuant to this Section 18, or otherwise related to the Services, Content, UGC or other Essex products or services, will be governed by, construed, and resolved in accordance with, the laws of the State of California, U.S.A., without regard to its conflicts of law provisions that might apply the laws of another jurisdiction, unless the applicable laws of your jurisdiction of residence require that the laws of such jurisdiction govern, in which case the laws of such jurisdiction are to govern. This Section 18 shall be governed solely by the Federal Arbitration Act, 9 U.S.C. §1, et seq., and not by the law of any state, and is enforceable pursuant to its terms on a self-executing basis. You and Essex agree that we intend that this Section 18 satisfies the “writing” requirement of the Federal Arbitration Act. This Section 18 can only be amended by mutual agreement. Either party may seek enforcement of this Section 18 in any court of competent jurisdiction. The arbitrator shall determine any and all challenges to the arbitrability of a claim.

As permitted by applicable law, both you and the Essex Parties waive the right to bring any Dispute as a class, consolidated, representative, collective, or private attorney general action, or to participate in a class, consolidated, representative, collective, or private attorney general action regarding any Dispute brought by anyone else. Notwithstanding any provision in the JAMS Comprehensive Arbitration Rules and Procedures to the contrary, the arbitrator shall not have the authority or any jurisdiction to hear the arbitration as a class, consolidated, representative, or private attorney general action or to consolidate, join, or otherwise combine the Disputes of different persons into one proceeding. Notwithstanding the arbitration provision set forth above, if the provision regarding waiver of class, collective, representative, and private attorney general claims of this Section 18 is found to be void or otherwise unenforceable, any such class, collective, representative, or private attorney general claims must be heard and determined through an appropriate court proceeding, and not in arbitration.

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SCOPE OF THE PROVISIONS OF THIS SECTION 18, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT THEREOF.

Notwithstanding the foregoing, either of us may bring qualifying claim of General Dispute (but not IP Disputes) in small claims court, subject to the terms of this Section 18.

The provisions of this Section 18 shall supersede any inconsistent provisions of any prior agreement between the parties. This Section 18 shall remain in full force and effect notwithstanding any termination of your use of the Services or these Terms.

## 19. Indemnification

You agree to indemnify and hold harmless the Essex Parties from and against any and all claims, costs, proceedings, demands, losses, damages, and expenses (including, without limitation, reasonable attorney's fees and legal costs) of any kind or nature, arising from or relating to, your UGC, any actual or alleged breach of these Terms by or the negligence or willful misconduct of you or anyone using your account. If we assume the defense of such a matter, you will reasonably cooperate with us in such defense.

## 20. Other Provisions

Under no circumstances will we be held liable for any delay or failure in performance due in whole or in part to any acts of nature or other causes beyond our reasonable control. If any provision of these Terms is found to be unlawful or unenforceable, then that provision will be deemed severable from these Terms and will not affect the enforceability of any other provisions. The failure by us to enforce any right or provision of these Terms will not prevent us from enforcing such right or provision in the future. We may assign our rights and obligations under these Terms, including in connection with a merger, acquisition, sale of assets or equity, or by operation of law. These Terms, and any applicable Additional Terms, reflect our complete agreement regarding the Service and supersede any prior agreements, representations, warranties, assurances or discussion related to the Service.

## 21. Notices, Questions, and Customer Service

You agree that we may give you notices or otherwise respond to you by mail or to your email (if we have it on file) or in any other manner reasonably elected by us. All legal notices to us must be sent to: 1100 Park Place, Suite 200, Attn: Legal, San Mateo, California. If you have a question regarding the Services, you may contact Essex Customer Support via our [Contact Form](#). You acknowledge that we have no obligation to provide you with customer support of any kind and that customer service personnel cannot change or waive Terms or applicable Additional Terms.