

# HOMETRACK TERMS AND CONDITIONS

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING THIS WEBSITE. All users of Hometrack services agree to the following terms in accordance with the policies set forth by Hometrack Real Estate Marketing. Proceeding with the purchase of services, products or materials constitutes an agreement to adhere to the outlined conditions. All images produced for an agent or broker (hereafter referred to as agent) are copyrighted by Hometrack and are licensed to that agent for use on all promotional materials both online and in print.

## GENERAL TERMS

### **UNDERSTANDING INTELLECTUAL PROPERTY**

A photograph or page design is considered intellectual property. Hometrack owns the copyright to both the designs created and the photographs taken by Hometrack. Hometrack maintains the right to license their use, unless exclusive rights have been purchased from Hometrack. Having physical possession of photographs or digital files does not grant the right to use.

### **PAYMENT**

We accept Master Card, VISA and American Express. A credit card must be on file with Hometrack for an order to be processed. The card will be charged on the day of your scheduled appointment. All invoices due upon receipt. We reserve the right to cancel any transaction. Partial payments are not accepted. Returned checks will result in an additional charge of \$35. Payment not received within thirty days of date billed will result in an additional charge of 1.5% per month. Open invoices will be sent to collections after 90 days. Customer is responsible for costs of collection including reasonable attorney fees incurred as a result of the collection process.

### **SALES TAX**

All items -- downloaded, retrieved from our offices or shipped to a Maryland address -- are subject to 6% Sales Tax.

### **LIABILITY**

Hometrack shall not be liable for any legal action, claim or damages resulting from or arising out of the publication of the Hometrack's photographs or designs or other use. Purchaser agrees to pay for any legal and related expenses incurred by Hometrack or Craig Westerman in the pursuit of any breaches of copyright that were made by purchaser, purchaser's company or company's current or former employees.

### **LISTING PHOTO TERMS**

#### **COPYRIGHT**

All images produced for a client, agent or broker (hereafter referred to as agent) are copyrighted by Hometrack and are licensed to that agent for six months or as long as the listing remains active with that agent. After that time, agent usage rights are terminated. After license expiration, Hometrack reserves the right to sell usage rights for images and any other media captured by Hometrack upon request from a new listing agent for a property.

## **AGENT USAGE**

Agents may use purchased images for marketing materials and campaigns associated with the property and for the agent's self promotion. Use in third party publications (including but not limited to web or print articles) must be submitted to Hometrack for approval; upon permission must also be provided with photo credit within the aforementioned publication. Images may also be used by the agent's parent company for the sole purpose of marketing the specific property photographed. Please note however, that the image license is granted only to the agent and the agent's parent company and not to any third party. Any usage of the images by a third party, including but not limited to architects, builders, stagers, designers, sellers or buyers, is strictly prohibited unless approved in writing by Hometrack.

## **HOMETRACK PHOTO USAGE**

Hometrack reserves the right to use any image for self-promotional purposes. Images used for Hometrack's self promotion will not be marked or labeled with any identifying information (i.e. property address, agent, homeowner, or brokerage). Prints and printed materials using the photos may be offered to the homeowner.

## **PHOTO SHOOT POLICY**

Property should be presented in a clean, clutter-free condition. The photographer's work should be unencumbered by pets, children or prospective purchasers. Please review our Successful Photo Shoot Preparation Checklist before scheduling your first photo shoot ([https://irp-cdn.multiscreensite.com/faf75e4c/files/uploaded/Hometrack\\_Photoshoot\\_Checklist.pdf](https://irp-cdn.multiscreensite.com/faf75e4c/files/uploaded/Hometrack_Photoshoot_Checklist.pdf)) Photographer is unable to accommodate last minute staging changes exceeding 5 minutes in duration.

## **IMAGE DELIVERY**

By 5pm the end of the following day, agents will receive an email invitation to a Client Portal where images are available for download at no additional charge. Agents may access previous galleries via the dashboard tab of their Client Portal. Agent will have control of the visibility and search engine settings of galleries. Links will be provided for sharing on social media and other web marketing platforms.

## **PHOTO GALLERY AND LISTING PAGE PRIVACY**

By default, Listings Pages and Photo Galleries are not made available to public search engines but can be shared through email. A link to each Hometrack Photo Gallery will appear in the Recently Added section of Hometrack photo web page and may be added to Hometrack social media page and web marketing. If agent would prefer his/her Listings Page or Photo Gallery be available to public search engines like Google they may change visibility to public; Agent who wishes for Galleries not be featured by Hometrack on the Hometrack photo page, social media, or other marketing materials, agent should submit a request to Hometrack.

## **PHOTO SHOOT DELAY/CANCELLATION**

Please notify our office by 5:00 PM the day before your appointment to avoid a \$100 cancellation fee. Appointments scheduled outside regular business hours (8:00 AM–5:00 PM EST) are also subject to this fee if canceled before the scheduled time. This policy ensures fair compensation for our photographers and recognizes the team's effort in coordinating your shoot. Should the scheduled shoot be delayed for any reason, including agent's tardiness or the condition of the property, Hometrack will be entitled to a cancellation fee of \$100.

Assigned photographers will be provided with entry instructions expressed by the agent at the time of service request. If photographer is unable to gain entry, attempts to contact the agent will be made using all information available. If after a duration of 15 minutes from the scheduled start time the administrative team is unable to reach the agent in requesting updated entry instructions, or after which time access has not made available, a cancellation charge of \$100 will be applied to the account. Should the photographer need to return to the property to re-shoot due to any of the aforementioned circumstances, or should his/her stay exceed the allotted duration calculated based on the property square footage for any reason outside of the personal control of the photographer, the agent will be accordingly subject to an additional fee at the discretion of Hometrack.

### **INCLEMENT WEATHER POLICY**

In the event of inclement weather, the agent may call to cancel an appointment no later than 5:00 PM on the day prior to the scheduled appointment to avoid a cancellation fee. Agents canceling appointments after 5:00 PM will be subject to a \$100 cancellation fee, and Hometrack will charge the agent's credit card or his/her company accordingly. If the agent chooses not to cancel the photo shoot, but is unhappy with the exterior photographs, agent may purchase and schedule a Residential Exterior Photo Shoot at the same rate of \$125.

### **IMAGE RETOUCHING**

Proprietary editing and color correction is included with every photography appointment. However, additional photo retouching (i.e. removing an object, etc) is available for an additional fee. Find more information on the Photo Editing page under the Photography tab on our website(<https://www.hometrack.net/photo-editing>). Please review Photo Modification Ethics For Real Estate Photography before requesting any photo retouching. No alteration or manipulation of an image may be made without the permission of Hometrack.

### **AGENT PORTRAIT TERMS**

#### **COPYRIGHT**

All images produced for an agent or broker (hereafter referred to as agent) are copyrighted by Hometrack and are licensed to that agent for use on all promotional materials both online and in print.

#### **PHOTO DELIVERY**

A Hometrack photographer will take 10 or more photos at the scheduled appointment on location or on premises at 1 Texas Station Court, Suite 130, Timonium, MD 21093. Unedited images will be sent to the agent in the form of a contact sheet pdf document for review. Agent will select 3 final photos for basic retouching and color correction. The resulting final high-resolution image will be upload to the agents portal for use in any and all promotional materials both online and in print. Additional images may be selected for retouching at an additional cost.

### **LISTING PRODUCT TERMS**

#### **COPYRIGHT**

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## **TEXT**

All text should be sent as a Word (.doc) or Text (.txt) document. We do not accept Word Perfect (.wpd) documents or PDFs. Text must be received before the first proof will be sent. Agent gives Hometrack the authority to charge the agent's credit card or company any additional charges incurred by the agent.

## **PROOF POLICY**

Proofs are low-resolution, marked proofs in the design and editing process. A \$50 holding fee is charged at the beginning of all print jobs.

## **RUSH POLICY**

Next-day turnaround will incur a rush charge of 30% of the print price. Agent may pick up products from our Gaithersburg office or pay a courier fee.

## **ORDER CANCELLATION**

Hometrack must have a credit card number on file before any print materials will be produced. A \$50 holding fee is charged at the start of all print jobs. This fee is applied towards the total print cost. If the order is cancelled at any point, this fee will not be refunded.

## **CUSTOM DESIGN TERMS**

### **COPYRIGHT**

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### **PROCESS**

To select the option of "working with a designer," Agents must complete a Branding Meeting to set up a comprehensive template with a Hometrack Graphic Designer. Hometrack must also have a credit card number on file for billing.

## **EBLAST TERMS**

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### **PROCESS**

Hometrack must have a credit card on file. Agents receive low-resolution, marked PDF proofs in the design and editing process. Once the PDF proof is approved, an HTML file will be created and imported into agent's email marketing account. Agents may request one set of changes to the HTML file. Additional changes are charged at \$100 per hour. Agents are responsible for creating and maintaining a list of contacts.

## **WEBSITE TERMS AND CONDITIONS**

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## **WARRANTY DISCLAIMER**

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## **LIMITATION OF LIABILITY**

Hometrack Real Estate Marketing shall not be liable for any special or consequential damages that result from the use of, or the inability to use, the materials on this site or the performance of the products, even if Hometrack Real Estate Marketing has been advised of the possibility of such damages. Applicable law may not allow the limitation of exclusion of liability or incidental or consequential damages, so the above limitation or exclusion may not apply to you.

## **TYPOGRAPHICAL ERRORS**

In the event that a Hometrack Real Estate Marketing product is mistakenly listed at an incorrect price, Hometrack Real Estate Marketing reserves the right to refuse or cancel any orders placed for product listed at the incorrect price. Hometrack Real Estate Marketing reserves the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit card charged. If your credit card has already been charged for the

purchase and your order is cancelled, Hometrack Real Estate Marketing shall issue a credit to your credit card account in the amount of the incorrect price.

#### **TERM; TERMINATION**

These terms and conditions are applicable to you upon your accessing the site and/or completing the registration or shopping process. These terms and conditions, or any part of them, may be terminated by Hometrack Real Estate Marketing without notice at any time, for any reason. The provisions relating to Copyrights, Trademark, Disclaimer, Limitation of Liability, Indemnification and Miscellaneous, shall survive any termination.

#### **NOTICE**

Hometrack Real Estate Marketing may deliver notice to you by means of e-mail, a general notice on the site, or by other reliable method to the address you have provided to Hometrack Real Estate Marketing.

#### **MISCELLANEOUS**

Your use of this site shall be governed in all respects by the laws of the state of California, U.S.A., without regard to choice of law provisions, and not by the 1980 U.N. Convention on contracts for the international sale of goods. You agree that jurisdiction over and venue in any legal proceeding directly or indirectly arising out of or relating to this site (including but not limited to the purchase of Hometrack Real Estate Marketing products) shall be in the state or federal courts located in Los Angeles County, California. Any cause of action or claim you may have with respect to the site (including but not limited to the purchase of Hometrack Real Estate Marketing products) must be commenced within one (1) year after the claim or cause of action arises. Hometrack Real Estate Marketing's failure to insist upon or enforce strict performance of any provision of these terms and conditions shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any of these terms and conditions. Hometrack Real Estate Marketing may assign its rights and duties under this Agreement to any party at any time without notice to you.

#### **USE OF SITE**

Harassment in any manner or form on the site, including via e-mail, chat, or by use of obscene or abusive language, is strictly forbidden. Impersonation of others, including a Hometrack Real Estate Marketing or other licensed employee, host, or representative, as well as other members or visitors on the site is prohibited. You may not upload to, distribute, or otherwise publish through the site any content which is libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, abusive, illegal, or otherwise objectionable which may constitute or encourage a criminal offense, violate the rights of any party or which may otherwise give rise to liability or violate any law. You may not upload commercial content on the site or use the site to solicit others to join or become members of any other commercial online service or other organization.

#### **PARTICIPATION DISCLAIMER**

Hometrack Real Estate Marketing does not and cannot review all communications and materials posted to or created by users accessing the site, and is not in any manner responsible for the content of these communications and materials. You acknowledge that by providing you with the ability to view and distribute user-generated content on the site, Hometrack Real Estate Marketing is merely acting as a passive conduit for such distribution

and is not undertaking any obligation or liability relating to any contents or activities on the site. However, Hometrack Real Estate Marketing reserves the right to block or remove communications or materials that it determines to be (a) abusive, defamatory, or obscene, (b) fraudulent, deceptive, or misleading, (c) in violation of a copyright, trademark or; other intellectual property right of another or (d) offensive or otherwise unacceptable to Hometrack Real Estate Marketing in its sole discretion.

### **INDEMNIFICATION**

You agree to indemnify, defend, and hold harmless Hometrack Real Estate Marketing, its officers, directors, employees, agents, licensors and suppliers (collectively the "Service Providers") from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from any violation of these terms and conditions or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the site using your Internet account.

### **THIRD-PARTY LINKS**

In an attempt to provide increased value to our visitors, Hometrack Real Estate Marketing may link to sites operated by third parties. However, even if the third party is affiliated with Hometrack Real Estate Marketing, Hometrack Real Estate Marketing has no control over these linked sites, all of which have separate privacy and data collection practices, independent of Hometrack Real Estate Marketing. These linked sites are only for your convenience and therefore you access them at your own risk. Nonetheless, Hometrack Real Estate Marketing seeks to protect the integrity of its web site and the links placed upon it and therefore requests any feedback on not only its own site, but for sites it links to as well (including if a specific link does not work).