

# **General Terms and Conditions for the use of the CASA UNITED Partner Network by registered Members**

## **§ 1 Services**

1. CASA UNITED AG — represented by its Managing Directors, and hereinafter referred to as "CASA UNITED" — operates a virtual, multilingual and global network for the commercial real estate industry, including an integrated real estate trading platform for the purpose of facilitating joint transactions between Members (hereinafter jointly referred to as the "CASA UNITED Partner Network"). These services, which are offered under various domain names, allow independent real estate brokers and other agents offering properties to advertise their properties to an international clientele.

CASA UNITED has developed a software application for this purpose, which automatically displays all listings that the Members of the CASA UNITED Partner Network have stored in the CASA UNITED database in at least ten other languages. CASA UNITED is thus offering an innovative sales platform that enables commercial real estate brokers (hereinafter referred to as "Property Agents" to address potential customers all over the world without having to incur the costs of establishing local branches and subsidiaries.

Members of the CASA UNITED Partner Network may also use the property exchange established by CASA UNITED to earn a commission by referring customers to other Members. The use of the those sections of the websites operated by CASA UNITED (hereinafter jointly referred to as the "CASA UNITED Website") that are accessible only to registered Members and the CASA UNITED Partner Network are subject to the following terms of service, as are all legal relations between Members.

2. The services provided by CASA UNITED as described below serve solely to provide a technical infrastructure for the sale and rental and/or referral of properties, as well as a browser application for using this platform. They do not guarantee the uninterrupted, defect-free or identical provision of the CASA UNITED database on all operating systems and user platforms. Instead, they serve only to provide access to this database for Members registered with CASA UNITED and who are using computers running standard operating systems and browsers. This access is provided insofar as the CASA UNITED Website does not report any errors or interruptions and/or display notices that it is temporarily unable to store new data or that access to previously stored data is temporarily unavailable. However, CASA UNITED will perform maintenance work outside of regular business hours as permitted by its technical and operational capabilities.

## **§ 2 Becoming a Member of the CASA UNITED Partner Network**

Use of the CASA UNITED Partner Network requires registration as a Member. The user (hereinafter referred to as the "Member") must register on the CASA UNITED Website and accept these General Terms and Conditions. By registering, a Member enters into a legal contract between the Member and CASA UNITED regarding the use of the CASA UNITED

Partner Network (hereinafter referred to as the "Contract of Use"), subject to the following terms and conditions. Membership is open to all natural and legal persons engaged in the commercial real estate industry, as well as attorneys and tax consultants.

### **§ 3 Property listings and referral of potential buyers within the CASA UNITED Partner Network**

1. Members of the CASA UNITED Partner Network may portray themselves and the properties they are listing on the CASA UNITED Website: they may make the listed properties available only to registered Members or to the Members of a closed user group, or – in return for payment of a special fee – to all users of this Website.
2. In addition to all of the contact details of the Property Agent, every property listing must also specify the listing price for the property and the commission that the seller undertakes to pay if a buyer is referred to them by another Member. The commission must be specified either as a fixed percentage of the listing price or as a fixed fee, in each case plus statutory VAT. While potential buyers may choose to have the fixed fee displayed in euros (EUR), British pounds (GBP), US dollars (USD) or Swiss francs (CHF), only the amount that the Property Agent specified in the base currency is binding. If no fixed commission is given, the percentage of the listing price as specified by the Property Agent shall be translated into the corresponding fixed amount in the same currency as the listing price.
3. All Professional Members may refer potential buyers to the Property Agent in the CASA UNITED Partner Network. The Member referring the potential buyer must use the online form provided by CASA UNITED to do so and include all of the potential buyer's contact details on this form. The Property Agent is then advised that a potential buyer is available for the property. If the Property Agent agrees to pay the sender the referral commission stipulated in the listing once the property is sold to the potential buyer as a result of the referral, then the seller must confirm this referral notification by clicking the "Accept" button. Clicking the "Accept" button establishes a listing agreement between the Property Agent and the referrer of the potential buyer, which CASA UNITED provides to both parties of the listing agreement as a PDF file. The referral is rejected automatically if the Property Agent does not issue a confirmation within seven days of the date on which they received the notification.
4. Any Member providing a potential buyer's first name, last name and address to the Property Agent must first obtain the potential buyer's consent to the transmission of said data — both to the Property Agent and to CASA UNITED.

### **§ 4 Claim to payment of commission**

1. If a Member refers a potential buyer to another Member and receives the promise from the Property Agent that commission will be paid, together with the associated listing agreement made available by CASA UNITED, and if a property purchase agreement is closed regarding the respective property, then this Member has a claim against the Property Agent for payment of the commission specified in the listing in the displayed currency (hereinafter also referred to as the "Secondary

Commission"). The Property Agent must pay the Secondary Commission to the Member from whom the agent offering the property received the buyer referral even if the final purchase price is higher or lower than the price specified in the listing.

The Property Agent shall grant the referrer unrestricted customer protection. If the potential buyer purchases a property other than the one specified in the **listing agreement** or an additional property offered by the same Property Agent, then the Property Agent shall pay a Secondary Commission to the referrer of the potential buyer for such property that corresponds to the commission specified in the **listing agreement** relative to the purchase price of the property. If the referrer has entered into several **listing agreements** with the Property Agent for different properties in regards to which the potential buyer has made inquiries and if the potential buyer purchases a property that is not specified in any of these listing agreements, then the Property Agent shall pay a commission to the referrer of the potential buyer that corresponds in percentage terms to the highest commission contractually promised to the potential buyer's referrer. For the rest, the provisions of the listing agreement that the Property Agent made with the referrer shall apply; they shall supersede these General Terms and Conditions in the event of contradictions between those provisions and these General Terms and Conditions.

2. The Member is hereby advised of the possibility that several real estate brokers might list one and the same property on the CASA UNITED Website simultaneously and/or that the Property Agent might receive a potential buyer's contact details from several agents. If the respective property is sold in either of these cases, then the commission the seller owes shall be paid to the Member who was the first to receive the confirmation from the Property Agent pursuant to § 3 (3) and whose referral was instrumental to the closure of the property purchase agreement. In cases of doubt, the CASA UNITED system time given in the listing agreement specifies the time at which the Property Agent made the confirmation.

## **§ 5 Members' duties**

1. The Member is reminded that his or her membership in the CASA UNITED Partner Network, as well as the use of both the attendant Property Exchange and the CASA UNITED Database, are subject to the unconditional fulfillment of his or her duties under these General Terms and Conditions. In particular, all Members undertake
  - a) to describe every property that they list on the CASA UNITED Website carefully, accurately and to the best of their knowledge, and to refrain from making false or misleading statements about the nature of the listing and/or the property's location, size, price, year of construction or any other feature;
  - b) to list only those properties in the CASA UNITED Database for which they have been appointed to serve as a real estate broker by the owner or a third party with the owner's approval;
  - c) to respond without delay to all inquiries regarding a property that they have listed on the CASA UNITED Website and no later than seven days after receiving such an inquiry;
  - d) to inform, in a timely fashion, any Member of CASA UNITED who refers a new

customer to them that the listed property has been sold to this customer and to pay an agent commission sum to the referring member equivalent to the Secondary Commission offered and guaranteed for this property;

- e) to list the final and agreed sales commission and the Secondary Commission offered correctly in the CASA UNITED Database at the time the property is listed;
- f) to refrain from storing any content in the CASA UNITED Database if such content breaches the rights of third parties and/or fails to comply with laws and regulations in any way, shape or form;
- g) to mark every property sold as "Sold" in the CASA UNITED Database without delay and no later than one business day after the sale, thus ensuring that the CASA UNITED Database is always current and does not convey the misleading impression that the property is still available;
- h) to include personal headshot photos in their user profile (user profiles without a personal headshot photo will be rejected or deleted);
- i) to refrain from using groups that they themselves have established or other groups within the CASA UNITED Partner Network for self-promotion or for advertising third-party products or companies that compete with CASA UNITED;
- j) and to refrain from applying "bots" (i.e. computer programs that handle automated tasks, such as web crawlers) to their use of the CASA UNITED Website.

## **§ 6 Trademark**

1. The Member acknowledges that CASA UNITED is the owner of the corporate name "CASA UNITED" (in all orthographical variants) and the sole owner of the word mark and the combined mark shown in Appendices 1 and 2 (hereinafter referred to as the "CASA UNITED Trademarks"). The Member may utilize the trademark shown in Appendix 1 only in conjunction with the added text "CASA UNITED MEMBER" and as specified in the Appendix. Moreover, the trademark is to be used solely and exclusively in connection with the Member's property business or for the purpose of advertising current, undeleted property listings that the Member has stored in the CASA UNITED Database.
2. CASA UNITED reserves all other rights to the CASA UNITED Trademarks that are not expressly granted to the Member in par. (1) above, as well as all rights to the CASA UNITED corporate name and the combined mark shown in Appendix 2. In particular, the Member may not offer or grant to third parties any sublicenses to use the CASA UNITED Trademarks, nor may they use the CASA UNITED Trademark shown in Appendix 1 for any purposes other than those set forth in these General Terms and Conditions.

3. The Member's right to use the trademark shown in Appendix 1 with the suffix "MEMBER" expires automatically with the expiration of the Contract of Use. In this eventuality the Member shall immediately cease using the CASA UNITED Trademark shown in Appendix 1 and destroy all documents in their possession bearing the CASA UNITED Trademark and/or the CASA UNITED corporate name.

## **§ 7 Rights of use**

1. The Member hereby grants CASA UNITED the nonexclusive right to store, for the term of the Member's membership, any and all data and content that the Member uploads to CASA UNITED's servers and to display such data and content on the CASA UNITED Website until these are deleted by the Member. The Member undertakes to indemnify CASA UNITED against all third-party claims, including court costs and legal fees, which CASA UNITED incurs as a result of publishing content stored by the Member in the CASA UNITED Database on the CASA UNITED Website.
2. The Member is not granted any rights whatsoever to content published on the CASA UNITED Website by other Members or by CASA UNITED itself. Furthermore, the Member shall have no rights to the browser application made available by CASA UNITED for the term of this contract, with the exception of the right to utilize said browser application for storing and managing property listings in the CASA UNITED Database and/or forwarding customer contact details to other Members. In particular, any use of the content on the CASA UNITED Website (pictures, videos, text, etc.) for the purpose of advertising the Member's own listings and/or the services of another Member who has not made the respective content available on the CASA UNITED Website requires the consent of the person or entity holding the rights thereto.

## **§ 8 Compensation**

1. Membership in the CASA UNITED Partner Network and the use of the Basic package are free of charge. Using the Professional package or other services offered on the CASA UNITED Website is subject to a fee and described on the homepage [www.casaunited.com](http://www.casaunited.com).
2. Members shall pay the current price posted on the CASA UNITED Website for any fee-based products that they select at the time they register, using the international payment system that CASA UNITED makes available on its Website.

## **§ 9 Liability**

1. Service interruptions for which CASA UNITED is not responsible are of no consequence. The Member may report service interruptions that have a negligible effect on the functionality of the CASA UNITED Partner Network to CASA UNITED; however, CASA UNITED shall be free to refuse to fix such disruptions on materially relevant grounds, particularly in cases where curing the problem would entail unreasonable costs. This also applies to service interruptions caused by circumstances beyond the control of CASA UNITED, such as may result from the

overloading of networks outside the data network of CASA UNITED, the Member's own hardware and software, environmental conditions, processing errors, defective external data as supplied by the Member or other causes for which CASA UNITED is not responsible.

2. Interruptions to the functionality of the CASA UNITED Partner Network that are attributable to CASA UNITED and for which CASA UNITED is responsible shall be remedied as soon as possible once the Member has detected such a fault and reported this to CASA UNITED. Faults should be reported without delay. CASA UNITED shall cure any factual or legal defects to the extent possible and appropriate for CASA UNITED and reasonable for the Member. CASA UNITED has the right to refuse to resolve service interruption if a resolution is impossible or would impose an unreasonable burden on CASA UNITED. CASA UNITED may refuse to remedy defects in the services that it provides until a Member fulfills his or her payment obligations in connection with fee-based additional products pursuant to § 8 (2) of these General Terms and Conditions, and, specifically, to an extent corresponding to that portion of the service that is expected to be free of defects.
3. The exclusion of liability stipulated in the foregoing paragraphs shall not apply if liability has been excluded or limited by agreement as regards losses arising from harm to life and limb caused by a culpable breach of duty on the part of CASA UNITED and/or its statutory or vicarious agents. Nor shall such exclusion of liability apply if liability has been excluded or limited by agreement as regards other damage occurring as a result of an intentional or grossly negligent breach of duty on the part of CASA UNITED or an intentional or grossly negligent breach of duty on the part of a statutory or vicarious agent of CASA UNITED. In the event of any breach of a material contractual obligation [Kardinalpflicht] — i.e. a duty whose fulfillment makes due execution of the contract possible in the first place and regarding which the Member regularly has the right to trust that it will be fulfilled — liability shall not be excluded but instead limited to the foreseeable damage typical for a contract of this nature. Moreover, the exclusion of liability shall not apply in such cases where CASA UNITED is liable under product liability law for damage to persons or privately used property. Nor shall it apply to the assumption of a guarantee and to warranted characteristics if a defect covered by precisely that guarantee or warranty renders CASA UNITED liable. A guarantee or warranty entailing an intensification of liability or the assumption of a special responsibility shall be deemed to have been stipulated only if the terms "guarantee" or "warranty" are specified explicitly.

## **§ 10 Claims for damages and other liability**

1. The following provisions shall apply to breaches of duty above and beyond the liability for material and statutory defects in cases where the browser application supplied by CASA UNITED or its services are defective; these provisions shall neither exclude nor limit any statutory right on the part of the Member to rescind the contract. Likewise, statutory or contractual rights and claims to which CASA UNITED may be entitled shall not be excluded or limited.
2. CASA UNITED does not act as a real estate broker, vicarious agent or intermediary for any Member of the CASA UNITED Partner Network. Nor does CASA UNITED

enter into any contracts concerning the referral of customers to specific Members. Hence Members are hereby expressly advised that they themselves bear sole responsibility for notifying another Member of the sale of a property to a customer as referred to them by this Member and are solely responsible for paying the Secondary Commission stipulated in § 4 to the Member making the referral. Furthermore, CASA UNITED and Member agree that a Member shall have a claim to payment of commission only against that Member to whom they referred a buyer for a property that said Member had listed. Hence CASA UNITED shall not be liable for any claims to payment of commission to which a Member is entitled against another Member in connection with a property sale. By entering into the Contract of Use, subject to these General Terms and Conditions of CASA UNITED, the Member undertakes to pay the Secondary Commission to which another Member is entitled under § 4; in the event the law applicable to the listing agreement between two Members requires fulfillment of additional prerequisites for any claim to commission to arise, each Member shall themselves be responsible for fulfilling the respective requirements before granting other Members access to their own customers' contact details.

3. CASA UNITED does not guarantee that all properties listed on the CASA UNITED Website have been accurately described and portrayed, nor that these properties are available at the price specified in the listing and/or that other details as published by Members (e.g. personal details) are accurate. The responsibility in such cases shall rest solely with the Member who published the data on the CASA UNITED Website.
4. CASA UNITED shall pay damages and reimburse futile costs, as well as lost profits, on any legal ground whatsoever (e.g. breach of contractual subsidiary obligations, default, impossibility or tort) only under the following circumstances and to the following extent:
  - a) CASA UNITED shall be liable in full if it culpably caused harm to life and limb, and also in cases of willful misconduct, assumption of a guarantee, willfulness and gross negligence on its part and/or on the part of its statutory and/or vicarious agents;
  - b) In other cases, CASA UNITED shall be fully liable for typical, foreseeable damages only if a duty material to the contract has been breached; and
  - c) CASA UNITED shall only be liable for such disruptions and defects extant at the time the contract was closed where these are the responsibility of CASA UNITED.
5. The Member shall have no additional claims on any legal grounds whatsoever (in particular, claims under breach of contractual subsidiary obligations) if none of the exceptions set forth in § 10 (4) apply. The above provision applies in particular to claims arising from losses incurred outside of the services of CASA UNITED, as well as to claims for lost profits. Claims that do not arise from any defect in the services of CASA UNITED shall also be covered by this exclusion of liability.

## § 11 Term of the agreement, termination and rescission

1. Basic membership in the CASA UNITED Partner Network, which is subject to these General Terms and Conditions, begins once the Member has completed registration on the CASA UNITED Website. Basic membership is free of charge and may be terminated by the Member at any time. Unless specified otherwise, the minimum membership period for other, fee-based membership models is 30 days. Membership is automatically renewed by another 30 days if it has not been terminated in writing no later than 3 days prior to the end of the term of the contract. If CASA UNITED raises the membership fee after the minimum membership period of 30 days has expired, Members have the right to terminate their membership for cause. This right to terminate the membership for cause must be exercised no later than two weeks after the first increased monthly or annual membership fee has been debited from the Member's credit card. In this case, any amounts already debited will be refunded by CASA UNITED.
2. Specific terms posted on the [www.casaunited.com](http://www.casaunited.com) Website shall apply to any additional products the Company may offer and are supplementary to these General Terms and Conditions. The terms posted on the Website shall take precedence if they differ from the termination provision given in par. (1).
3. The right to extraordinary, immediate termination for cause as applicable to the Contract of Use and thus also the membership in the CASA UNITED Partner Network is not hereby affected. In particular, CASA UNITED shall have cause to terminate if
  - a) An application for the institution of insolvency proceedings is filed against the member or such application is denied;
  - b) The Member assigns or attempts to assign rights under this contract to third parties or transfers or attempts to transfer obligations under this contract to third parties without being authorized to do so and without the express written consent of the party making the termination;
  - c) The member fails to cure the defect within five business days of being reminded to perform the contract;
  - d) The Member defaults on any payment for additional products pursuant to § 8 (2);
  - e) The Member participating in the Property Exchange fails to notify another Member of CASA UNITED of the sale of a property to a customer and fails to pay to this other Member the Secondary Commission posted on the CASA UNITED Website out of their own commission, in cases where the other Member referred this new customer to the Member for said property. Any claims for damages on the part of the Member entitled to the commission against the Member owing the commission shall not be hereby affected;
  - f) The Member abuses the group function or a forum to engage in self-promotion,

invites Members to use a competing product or disseminates messages that constitute breaches of ethics, personality rights or the law or are obscene or pornographic;

- g) The Member copies content posted in the listings on the CASA UNITED Website and/or Member profiles for his or her own commercial purposes without first obtaining the approval of the person holding the respective rights of use;
  - h) The Member applies “bots”, i.e. computer programs that handle automated tasks, such as web crawlers, to his or her use of the CASA UNITED Website;
  - i) and the Member makes false statements regarding his or her commercial status and/or VAT number and/or company record in the Commercial Register.
4. Fee-based memberships and the Contract of Use underlying such membership may only be terminated in writing, regardless of the reason for such termination.
5. CASA UNITED shall have the right to rescind its Contract of Use with the Member at any time. In this case, any membership fees already paid will be refunded by CASA UNITED.

## **§ 12 Final provisions**

1. The domicile of CASA UNITED shall be the place of performance for all of the parties' obligations under the Contract of Use.
2. All claims of the contracting parties under the Contract of Use shall expire within one year. In each case, the period of limitation shall begin at the close of the year during which the claim arose and in which the beneficiary became cognizant of the circumstances giving rise to the claim. The parties are in agreement that curtailing the period of limitation serves to facilitate the short-term resolution of any differences between the parties.
3. The invalidity of any provision of these General Terms and Conditions, whether now or in the future, shall not undermine the validity of the remaining provisions. The parties shall stipulate an appropriate provision in lieu of the invalid provision such that the new provision approximates the desired outcome for the contracting parties had they contemplated the issue at the time they entered into the Contract of Use. The same shall apply to omissions in the contract.
4. No oral ancillary agreements have been made. Any amendments or modifications to these General Terms and Conditions shall be made in writing. The above also applies to this provision requiring the written form.
5. These General Terms and Conditions, together with the contract with the Member that arises at the time the Member registers on the CASA UNITED Website (regulating the use of the CASA UNITED online portal and membership in the CASA UNITED Partner Network), are governed by Swiss law; neither the United Nations Convention on Contracts for the International Sale of Goods (CISG) nor the conflict

of law rules provisions under international private law shall apply. The parties shall first attempt to settle any dispute under this contract, including those concerning its effectiveness, through negotiation. The domicile of CASA UNITED shall be the sole place of jurisdiction if the contracting parties fail to resolve their differences of opinion within 30 days of initiating negotiations.

6. CASA UNITED reserves the right to amend these General Terms and Conditions at any time if and to the extent this is required by changes in legal regulations, changes in the market environment or decisions by the highest court, or in order to eliminate ambiguities. The amended General Terms and Conditions shall be sent to all Members by email no later than two weeks prior to their effective date. If the amendment is not exclusively in favor of the Member or neutral, the Member may object to the amendment. The amended General Terms and Conditions shall be deemed to have been accepted unless the Member objects to the imposition of the new General Terms and Conditions within two weeks of receiving the notice regarding the amended Terms and Conditions.

In the email containing the amended General Terms and Conditions, CASA UNITED shall include a separate note advising Members of the importance of this two-week period and explain the reasons for the amendment. If the Member objects to the amendment of the General Terms and Conditions, membership may be terminated by both parties for cause if facts exist which, taking into account all aspects of the individual case and weighing the interests of both parties, reasonably prevent the terminating party from continuing the agreement until the end of the regular period of notice. This shall not affect the right to terminate the contract by giving due notice.

These General Terms and Conditions were authored in English. Additional versions of these General Terms and Conditions in other languages are not legally binding.

## **Appendix 1:**

The right to use the combined mark as set forth and described below is reserved solely for Members of the CASA UNITED Partner Network and, specifically, only in cases where the suffix "Member" is also applied. The relevant download is available from the menu item "Settings" on the Website.

Color code:

Pantone:

202 C

CMYK:

32/ 95/69/ 34

RGB:

134/33/49 (#862131)

Font:

Trade Gothic



## **Appendix 2:**

The logo in this form may only be used by CASA UNITED AG.  
All rights reserved. © CASA UNITED.

