

Terms of Use - Desertscape

Desertscape Online Terms of Use

These Terms of Use or “**Terms**” apply to your use of or access to our online interfaces and digital properties, including our websites that link to these Terms (collectively, the “**Sites**”). “**Desertscape**,” “**we**,” “**us**,” or “**our**” mean Desertscape and/or one of our brands, affiliates, or subsidiaries. By using or accessing the Sites, you acknowledge that you have read, understood, and agreed to be bound by these Terms and our [Privacy Policy](#), which contains important information about how we process personal information we may obtain through the Sites and is incorporated into these Terms by reference. If you do not wish to be bound by these Terms, please discontinue using and accessing the Sites.

PLEASE READ THESE TERMS CAREFULLY BEFORE ACCESSING OR USING THE SITES. THESE TERMS INCLUDE AN ARBITRATION CLAUSE AND A WAIVER OF YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE LAWSUIT. THESE TERMS TAKE EFFECT WHEN YOU ACCESS OR USE THE SITES. BY ACCESSING OR USING THE SITES, YOU ATTEST THAT YOU ARE AT LEAST THE AGE OF MAJORITY IN YOUR STATE OF RESIDENCE AND ARE LEGALLY CAPABLE OF ENTERING INTO A BINDING CONTRACT.

We reserve the right to change these Terms at any time, in our sole discretion and without prior notice. We will indicate changes to these Terms by updating the “Effective Date” above. Your use of the Sites following a change to these Terms signals your acceptance of the modification(s).

Some areas or functionalities of the Sites may have additional terms and conditions that apply to your access or use of those areas or functionalities of the Sites (“Additional Terms”). If there is a conflict or inconsistency between these Terms and any Additional Terms, the Additional Terms shall govern your access and use of the respective area or functionality of the Sites.

1. LIMITED LICENSE

Subject to your compliance with these Terms, you are granted a limited, non-exclusive, revocable, non-sublicensable, non-transferable license to access the Sites in accordance with the requirements and restrictions set forth below. If you do not agree to these Terms, or any amended Terms, you may not access or use the Sites for any purpose and shall promptly discontinue such use of the Sites.

2. INTELLECTUAL PROPERTY RIGHTS

The Sites and all of their content and information (collectively, “**Content**”), including all copyrights, trademarks, service marks, trade names, and all other intellectual property rights (“**Intellectual Property**”) are owned and controlled by us, our subsidiaries, or our licensors, and are protected by copyright or other applicable intellectual property laws. You may print one copy of the Content for your personal non-commercial use only. You may not, however, copy, use, reproduce, or distribute the Content or otherwise use our Intellectual Property in any way, absent specific, prior written permission from us.

3. CONTENT DISCLAIMER

The Content was believed to be accurate at the time it was published. Although we may periodically update the Content, it is subject to change without notice, and we make no guarantee as to the timeliness or accuracy of any Content presented on this Sites at the time accessed. We are not responsible, and hereby disclaim liability, for any errors, omissions, or availability of the Content. The Sites and Content are provided on an “as is,” and “as available” basis without representation or warranty of any kind whatsoever. We reserve the right to add, remove, and change information at any time without notice in our sole discretion.

4. USE OF THE SITES

The Sites are intended for personal use only. You agree not to use the Sites for any commercial purposes. You further agree that you will not:

- access or use the Sites (or any portion thereof) in violation of these Terms or applicable laws;
- attempt to modify, alter, recreate, or otherwise use the Sites for any purpose other than as specifically permitted in these Terms;
- attempt to probe, scan, or assess the vulnerability of the Sites;
- breach any security, technological, or authentication measures on the Sites;
- use any device, software, or routine to attempt to interfere with the Sites or otherwise disrupt the Sites or servers or networks connected to the Sites;
- use any robot, spider, scraper, data mining tools, data gathering and extraction tools, or other automatic device or manual process to access, copy, or scrape the Sites for any purpose;
- collect or store personal information about other users of the Sites without their consent;
- use any part or feature of the Sites for any purpose that is unlawful, tortious, libelous, defamatory, obscene, threatening, or intrusive on another person’s privacy;
- use the Sites to harm or harass any person or entity;
- take any action that imposes, in the Company’s sole discretion, an unreasonable or disproportionately large load on the Company’s infrastructure; or
- use the Sites for any reason for which the Sites are not intended.

The Company reserves the right, in its sole discretion and without limiting its other remedies, to restrict, suspend, or terminate your access to, or use of, the Sites

at any time with or without cause, including if the Company believes that you may be in breach of these Terms or applicable laws or are misusing the Sites.

5. REGISTRATION

Some Sites may permit or require you to register for an online account with a user ID and/or password ("**Login Credentials**"). Otherwise, no account is needed to access the Sites. Your Login Credentials and any information that you provide in connection with your account must remain accurate and complete at all times. You are responsible for maintaining the confidentiality and security of your Login Credentials, and you are fully responsible for any and all access and use of your account. Please notify us immediately of any unauthorized use of your account, or any other known or suspected breach of security, including without limitation any loss, theft, or unauthorized use of your Login Credentials. If we have reasonable grounds to suspect that the security of your Login Credentials has been compromised, we may suspend or terminate your account, refuse any and all current or future use of the services, and pursue any appropriate legal remedies.

6. LINKS TO EXTERNAL WEBSITES

The Sites may include links to external websites or resources, for your convenience. Such third-party websites contain information created, published, maintained, or otherwise posted by organizations and entities independent of us. We are not responsible for the content of those websites, nor do we approve, endorse, or certify information available at these websites or any linked addresses contained therein. We make no warranties and hereby disclaim all liability as to the accuracy of the content and to any representations made concerning the quality of products or services provided on those websites or pages. We are also not responsible for the privacy policies or practices of those websites or of those companies.

7. SUBMISSIONS TO THE SITES

By providing information or materials to the Sites (other than personal information, which is subject to our [Privacy Policy](#)), you grant to us an unrestricted, irrevocable, worldwide, royalty-free license to use, reproduce, display, publicly perform, and transmit such information and materials for any purpose, including without limitation, disclosing any such information and materials as necessary to satisfy any law, regulation, or governmental request. You are prohibited from submitting or transmitting any material or communication through the Sites that we deem discriminatory, racist, offensive, pornographic, defamatory, harassing, threatening, inappropriate, violates any law, or infringes on any third party's intellectual property rights. We reserve the right to take any available steps to prevent or prohibit any such transmission that violates this provision, which shall be determined at our sole discretion, and to take any appropriate legal action.

8. CHANGES TO THE SITES; TERMINATION OF ACCESS

We reserve the right to, at any time, modify, suspend, discontinue, or reduce the functionality of the Sites (or any portion thereof), temporarily or permanently, with or without notice. In addition, we may suspend or terminate your access to the Sites at any time for any reason, at our sole discretion and without prior notice. To the fullest extent permitted by applicable law, you agree that we shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Sites (or any portion thereof) for any reason at any time.

9. DISCLAIMER OF WARRANTIES AND LIABILITY

Your use of this website and Content is at your own risk. Content may become inaccurate as a result of developments after its publication on these Sites. We assume no responsibility to keep Content current or to correct inaccuracies or errors in Content. The Content on these Sites and the operation of them are provided "as is," and we disclaim all representations or warranties of any kind, either express or implied, including warranties of merchantability, fitness for particular purpose, title, non-infringement, accuracy, completeness, and timeliness. Certain jurisdictions may not permit certain disclaimers of warranties. In such case, we disclaim warranties to the fullest extent permitted by the applicable law.

WE SPECIFICALLY DISCLAIM ANY LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, FOR DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, AND/OR EXEMPLARY DAMAGES CAUSED BY, ARISING OUT OF, AND/OR IN ANY WAY CONNECTED WITH FUNCTIONALITY OR OPERATION OF, ACCESS TO, USE OF, OR RELIANCE ON THE SITES OR THE CONTENT (EVEN IF WE OR OUR REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) OR THAT ARE CAUSED BY AND/OR ARISE IN CONNECTION WITH MISTAKES OR OMISSIONS IN, OR DELAYS IN TRANSMISSION OF, INFORMATION TO OR FROM THE SITES, INTERRUPTIONS IN TELECOMMUNICATIONS CONNECTIONS TO THE SITES, OR VIRUSES THAT MAY INFECT YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, THEFT, OR DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE SITES OR THE CONTENT. This limitation of liability may be different in connection with specific products and services offered by us. Some states do not allow the limitation of liability, so the foregoing limitation may not apply to you.

10. INDEMNIFICATION

You agree to defend and indemnify us, our affiliates, employees, and officers of each, from and against any and all third-party claims, debts, losses, liabilities, demands, obligations, actions, and causes of action, alleged claims or litigation, damages, judgments, judgments for damages, fines, penalties, expenses, and costs (including, but not limited to, reasonable attorneys' fees) caused by, arising out of, or resulting from your use of the Sites or the Content in a manner not expressly authorized by these Terms or that violates these Terms, any law, or the rights of a third party.

11. DISPUTE RESOLUTION: MANDATORY BINDING INDIVIDUAL ARBITRATION AND CLASS AND COLLECTIVE ACTION WAIVER

The exclusive means of resolving any claim related to your use of the Sites or these Terms shall be BINDING ARBITRATION. Except as provided below in the

case of a Mass Filing, the arbitration will be administered by JAMS under the JAMS Streamlined Arbitration Rules & Procedures. If you are a consumer, as defined by JAMS in its Consumer Minimum Standards, you may request that the arbitration hearing be conducted in the area in which you reside. Otherwise, the hearing (if any) shall take place in Maricopa County, Arizona, United States of America.

You agree to first give us an opportunity to resolve any claims by contacting us in writing (the **Claims Notice**). After receipt of a Claims Notice, we may request an individualized video or telephone conference which both parties will personally attend (with counsel, if represented). If we are not able to resolve your claims within sixty (60) days of receiving the Claims Notice, you may seek relief through arbitration, as set forth in this section. You agree that you will not take any legal action, including any demand for arbitration, until after the expiration of this 60-day dispute resolution period.

EACH PARTY WAIVES ITS RIGHTS TO GO TO COURT, TO A TRIAL BY JURY, AND TO PARTICIPATE IN A CLASS ACTION, CLASS ARBITRATION, OR OTHER REPRESENTATIVE PROCEEDING WITH RESPECT TO ANY COVERED CLAIM.

If, at any time, twenty-five (25) or more claimants (including you) submit demands or seek to file demands for arbitration raising similar claims against us, and such circumstances meet the definition and criteria of Mass Filings ("Mass Filing") set forth in National Arbitration & Mediation's ("NAM") Mass Filing Supplemental Dispute Resolution Rules and Procedures ("NAM's Mass Filing Rules," available at <https://www.namadr.com/resources/rules-fees-forms/>), you and we agree that JAMS shall not serve as the arbitration administrator and that instead NAM shall administer any such Mass Filing and the NAM Mass Filing Rules in effect at the time such claim is filed shall apply. You agree that throughout this process, the parties' counsel shall meet and confer to discuss modifications to these procedures, including the possibility of procedural consolidation of similar claims for arbitration, based on the particular needs of the Mass Filing. You acknowledge and agree that by electing to participate in a Mass Filing, the adjudication of your dispute might be delayed.

You and we agree that each party values the integrity and efficiency of arbitration and wishes to employ the process for the fair resolution of genuine and sincere disputes between the parties. You and we acknowledge and agree to act in good faith to ensure the processes set forth herein are followed.

12. GOVERNING LAW AND JURISDICTION

These Terms shall be governed by, and construed in accordance with the laws of the United States and the State of Arizona, without giving effect to conflict of law principles thereof. Subject to Section 11, you hereby consent and submit to personal jurisdiction in the state and federal courts located in Maricopa County, Arizona.

13. COMPLIANCE WITH LAW

We provide our Sites in accordance with United States law. By using our Sites or providing us with any information through the Sites, you acknowledge that our Sites are subject to United States law and that other countries and jurisdictions may not provide the same rights or protections as those in the United States or in the country where you reside or are a citizen. Persons who access these Sites do so on their own initiative and are responsible for compliance with applicable local laws and regulations. By downloading software or other material from the Sites, you represent and warrant that you are able to do so in full compliance with the laws of the United States and your resident country, including any applicable export controls.

14. GENERAL INFORMATION

Except for any Additional Terms that apply, this is the entire understanding between you and us regarding the use of the Sites and supersedes all prior and contemporaneous agreements and understandings between you and us regarding this subject matter. If any provision of these Terms is held to be invalid or unenforceable, it will not affect the validity or enforceability of any other provision hereof. The failure of the Company to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

15. CONTACT INFORMATION

If you have questions regarding these Terms of Use, you can contact us by email at dsc@cobblestoneassets.com, by phone at 602.847.4440 or by postal mail at 2050 W Dunlap Avenue, Phoenix, AZ 85021.