

Sparks Media Group Terms of Service and Privacy Policy

[1] Definitions: "Image(s)" means all visual representations whether that be photos, video, 3D virtual tours, and other media furnished to the party ordering media services ("Client") by Sparks Media Group and its affiliated providers ("Provider"), whether captured, delivered, or stored in photographic, electronic, or any other media. Unless otherwise specified, Provider may deliver, and Client agrees to accept, Images encoded in an industry-standard data format that Provider may select, at a resolution that Provider determines will be suitable to the subject matter of each Image and the reproduction technology and uses for which the Image is licensed. Unless otherwise specifically provided elsewhere in this document, Provider has no obligation to retain or archive any of the Images after they have been delivered to Client. Client is responsible for attending or sending an authorized representative to the assignment. Client agrees to accept Provider's judgment as to the suitability and acceptability of the Images captured during the assignment.

[2] Artistic Interpretation: Provider will provide images/video/3D virtual tours, etc that are consistent with deliverables and business practices of Provider. Client is responsible for attending or sending an authorized representative to the assignment. Client agrees to accept Provider's judgment as to the suitability and acceptability of the Images, video, 3D tours, etc captured during the assignment. We use wide angle lenses to capture spaces and show more of what a real eye would see. Because of these wide angle lenses, combined with certain angles and certain room sizes some images can be distorted (rooms, items in the rooms, etc). We try to minimize this as much as possible. We do try to photograph each room from several angles to give options as to what images to use. Some angles that you may have expected or asked for may not be included if it does not fit within our deliverables and business practices. If you would like specific shots, please note it in the notes section at the time the order is placed, additional fees maybe involved for capturing these specific shots. As with photography, videography is an artform and open to artistic interpretation. Provider assumes client is ordering services based on doing research of previous examples of work done by provider. Should a change need to be made to a video (slideshow or moving video) there could be fees associated including but not limited to travel time back to the property, fees associated with editing costs and labor. Deliverables of video media is provided consistent with Providers business practices and may not be altered to meet clients needs.

[3] Delivery and Rights: Standard Media, which is defined as photos taken prior to 4pm are delivered usually by 12:30pm the day following your appointment. After Hours Media, which is defined as photos taken after 4pm are delivered usually by 12:30pm 2 business days later. Video, Matterport, iGuide, floor plans, may take an extended time period. Media is delivered into a software platform operated for your convenience, and this software platform may be modified or replaced without notice. When media is delivered, Provider grants to Client only, a non-exclusive, royalty-free license for use of the images, video and other media created or provided by Provider for use by Client and/or Client's affiliated brokerage firm to carry out normal business tasks associated with offering real estate properties to the public for sale or lease. Provider retains a perpetual, royalty-free license to utilize the media it creates for Client to promote Provider's services and offerings in a variety of public and private communications channels. Client may not authorize use and/or transfer use of images/media to others without Providers prior consent (example, Client may not authorize a stager to use photos of a staged home without consent of Provider). Custom URLs are ordered at the time the delivery is placed based on the address entered. An algorithm automatically selects the best URL for the address. If you'd like a specific URL please place that in the order notes and one will be ordered. If not available a suitable replacement selected by provider will be ordered. Custom URLs can be changed for an additional charge.

[4] Payments: Client is responsible for payment in full at the time the order is placed. All fees and expenses payable under this agreement are required irrespective of whether Client makes actual use of the media or the licenses to use them. Client and its principals, employees, agents, and affiliates are jointly and severally liable for the performance of all payments and other obligations hereunder. No amendment or waiver of any terms is binding unless set forth in writing and signed by the parties. However, the invoice may reflect, and Client is bound by, Client's oral authorizations for additional Images, fees and expenses that could not be confirmed in writing because of insufficient time or other practical considerations.

[5] Storage of Media: Upon delivery of media to Client via Provider's system(s), Client is responsible for downloading and archiving photographic media on Client's own storage systems. As part of its service offering, Provider offers storage of photos and other media on its systems for the life of the listing, or twelve (12) months, whichever is first. Provider may allow for longer storage of media on its systems at its own discretion. For Matterport or iGuide service, there is an annual hosting fee that applies after the first twelve-month hosting period. Please contact provider for storage fee rate.

[6] Reshoots: Client will be responsible for a fee for any reshoot required by Client that is not as a result of any material defect to Images/Media caused by Provider, including, but not limited to specific shots captured. Client agrees that Provider works in all weather conditions, and Client is responsible for ensuring in advance that anticipated weather conditions are acceptable to Client. Client is responsible for ensuring the property/house is ready to photograph when provider arrives including light fixtures in good working order and window treatments set to clients wishes. Client understands that if provider arrives ready to work and property is not ready additional fees will be involved if Provider must wait on site, or if a re-schedule or re-shoot is required. For any re-shoot required because of any reason outside the control of Client, specifically including but not limited to acts of God, nature, war, terrorism, civil disturbance, Provider will charge no additional fee, but Client will pay all normal expenses associated with the assignment.

[7] Rescheduling, Cancellations and Refunds: Should Client need to modify or cancel a confirmed appointment for any reason, Client is responsible for notifying Provider no later than 24 hours prior to the appointment. If Client modifies or cancels an appointment with less than 24 hours notice prior to the shoot, a Late Notice Fee of \$75 will be assessed. This Late Notice Fee applies to reschedules, cancellations and postponements for any reason. For same day cancellations up to 3 hours prior to arrival will result in a 50% fee being charged. This 50% fee is of the entire order total. For notice of cancellations of less than 3 hours including on-site cancellations, no-shows and/or no notice given will result in full charge of total order price. Requests for refunds made prior to 24 hours before the scheduled appointment will be processed in full without a fee. Requests for refunds made with less than 24 hours prior to the appointment and up to three hours of the appointment will be processed in full but a Late Notice Fee of 50% of the total shoot price will be assessed in those circumstances. Requests for refunds with notice given within 3 hours of the appointment or following an on-site cancellation or no-show will not be honored. Provider shoots rain or shine. Client is responsible for verifying that the weather conditions will be satisfactory to the Client the day prior to the agreed appointment. Fees for cancellations and postponements will apply irrespective of the reasons for them, specifically including but not limited to weather conditions, acts of God, nature, war, terrorism, civil disturbance, and the fault of a third party (e.g., tenants, stagers, painters, landscapers, contractors, subcontractors, etc). Custom URL fees will not be refunded.

[8] Appointment Times: Provider will make every attempt to arrive at the requested time of shoot. We do reserve the right of allowing for a +/- 30-minute window of arrival due to previous appointments. Please ensure the property is ready to photograph at least 1 hour prior to scheduled start time. If we arrive onsite and the house is not ready to photograph, we will allow for a 10 minute grace period to prepare the house. If the house isn't ready within those 10 minutes, we will make every attempt to reach the agent. We may have to head to another appointment which will result in the full order fee being forfeited by client OR if time permits, we may be able to give an additional time to prepare and bill according to the amount of time it takes starting at \$25/each 15 min billed at start of 15 min block. Example scheduled shoot time is 1:00pm, We don't start until 1:30pm a \$50 fee would apply (10 min grace period plus two 15 min blocks of time).

[9] Alterations: Client may not make or permit any alterations, including but not limited to additions, subtractions, or adaptations of the Images, alone or with any other material, except for cropping and alterations of contrast, brightness, and color balance that are consistent with reproduction needs.

[10] Change orders: Any change orders must be communicated as soon as possible to ensure proper time/scheduling. Change orders may incur an additional charge as services may change. Change orders may result in an additional trip fee if needed. Video tours are generated automatically 24 hours after the images are uploaded. It is the Clients responsibility to ensure all info on listing is accurate (contact info, house details such as sq footage, number of beds/baths, etc). Any revision to video tours will result in a revision fee to be determined by the Provider but at a minimum of \$50. Revisions including but not limited to swapping out or removing of photos, changing contact info of agent, house details, etc).

[11] Transfer and Assignment (use license): A limited use license for media that Sparks Media Group creates is granted to the Client for the purposes of marketing the property in question. This use license expires once the property sells or at the end of the listing contract, whichever comes first. Client may not assign or transfer this use license, or any rights granted under it. The use license rights denoted herein also do not grant the Client the right to transfer media supplied by Sparks Media Group to another party (e.g., Real Estate Agent, Stager, Property Manager, Homeowner, etc.) for any purpose.

[12] Externally Provided Media: Sparks Media Group is a one stop shop for all media needs. This includes photo, video, floorplans, site plans, aerial (Drone) photos/video, 3D virtual tours, etc. Because of this we'd prefer you to order all services through us. If you have external media provided by another company, we can upload it to our property websites for a charge. Please see order form and/or website for current rates for photos/video/floorplans/site plans.

[13] iGuide and Matterport 3D Virtual Tours: iGuide and Matterport 3D virtual tours ("Virtual tours") are hosting for 1 year. If you'd like to extend hosting past 1 year please contact us for the current fees associated with that. Provider has discretion on the sequence or order of spaces scanned, how the scans are done, where scan points are placed, what items are captured by 3D camera systems, etc, as there are some limitations (such as shooting outside in daylight) where the lasers on the camera cannot pick up measurements or in extremely dark conditions where a light source isn't present. Because of this your tour maybe missing some areas that you'd like incorporated, may appear different from other tours, and may not be consistent with similar floorplans or properties. As lasers are used to measure space we don't include outside spaces in tours nor can we guarantee that outside spaces be captured accurately. Various factors can affect the quality of the tour as well, such as time of day the tour is photographed, window coverings, light coming into the house, mirrors, etc. We do have some flexibility to edit iGuide images to remove some items (charges will apply). We cannot alter/edit any Matterport images. Please contact us if you have a specific question about the limitations of the systems. Matterport and iGuide are hosted platform systems. They may make changes or alterations to specific details of tours and features of tours at anytime without any notice and without any repercussions.

[14] Applicable Law: This agreement incorporates by reference the Copyright Act of 1976, as amended. This agreement incorporates by reference those provisions of Article 2 of the Uniform Commercial Code that do not conflict with any specific provisions of this agreement; to the extent that any provision of this agreement may be in direct, indirect, or partial conflict with any provision of the Uniform Commercial Code, the terms of this agreement shall prevail. To the maximum extent permitted by law, the parties intend that this agreement shall not be governed by or subject to the UCITA of any state. Provider is an independent contractor and not an employee. If Provider is deemed under any law to be an employee of Client, and if the Images are therefore considered works made for hire under the U.S. Copyright Act, Client hereby transfers the copyright to all such Images to Provider. Client agrees to execute any documents reasonably requested by Provider to accomplish, expedite or implement such transfer.

[15] Aerial Photos: Should aerial photography and/or videography be ordered provider will try to get the specified number of photos and/or video clips. Certain conditions may limit us from doing that including power lines, poor/weak signal, trees, other obstacles. We are capped at flying below a set height (as determined by the FAA) and cannot/will not go over that height. We do not fly in the rain or strong wind.

[16] COVID-19 Terms: If residential real estate has been deemed an essential service in your area, Sparks Media Group will provide service under the following conditions: Do not schedule an appointment if you, your clients, or their tenants are ill, may become ill, or have come into contact with someone who is ill. Turn on all lights, turn off ceiling fans, put down toilet seats and open window treatments prior to the appointment to minimize the number of surfaces the photographer must touch while in the home. We do require properties be vacant with a combo/lockbox. If someone must grant us access to the property that's OK but we cannot have anyone in the house while we are working, no exceptions. If someone will meet us at property, please practice social distancing and avoid close contact with the photographer. Maintain a six-foot distance at all times and always wear proper PPE including but not limited to a face mask. Please avoid shaking hands with the photographer. If the owner/tenant/agent refuses to leave while we are working, we will not start the shoot and a full order fee will be forfeited by client. If someone comes in the house while we are working, we will politely give them 1 warning to vacate while we are working. If they continue to stay in the house or on the property while we are working, we will leave and a full order fee will be forfeited by client. Please follow all preventive guidelines provided by the Centers for Disease Control: <https://www.cdc.gov/>. By clicking Agree during your purchase transaction, you agree to hold Sparks Media Group harmless in the event that you or your clients become infected with the COVID-19 virus as a result of the provider performing this service.

[17] Indemnification and Disputes: Indemnification: Client will indemnify and defend Provider against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of any Images, video, 3D tours, media or arising out of use of or relating to any materials furnished by Client. Disputes: Any dispute regarding this agreement shall, at Provider's sole discretion, either:

(1) be arbitrated in Provider's City, Provider's State, under rules of the American Arbitration Association and the laws of Provider's State; provided, however, that irrespective of any specific provision in the rules of the American Arbitration Association, the parties are not required to use the services of arbitrators participating in the American Arbitration Association or to pay the arbitrators in accordance with the fee schedules specified in those rules. Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving \$5,000 or less may be submitted without arbitration to any court having jurisdiction thereof. Client is responsible for paying any arbitration fees.

OR

(2) be adjudicated in Provider's City, Provider's State under the laws of the United States and/or of Provider's State. (3) In the event of a dispute, Client shall pay all court costs, Provider's reasonable legal fees, and expenses, and legal interest on any award or judgment in favor of Provider.

[18] Damage to property: Client will ensure that property is ready to photograph when provider arrives and understands that due to liability reasons, provider will not move any items in order to photograph the house. This includes, but is not limited to furniture, items, garbage cans, hoses, etc. Provider may adjust curtains, mini blinds, blinds, window coverings to achieve the most favorable photo but is not responsible for any damage that maybe caused by window coverings breaking, tearing, or falling down. Provider may need to turn off a ceiling fan or television but is not responsible for any damage caused to ceiling fan or television during the process of turning it off including but not limited to television or ceiling fan falling off the wall or ceiling, or any other damage to television or ceiling fan. Client agrees to hold harmless the provider and its affiliates.

Privacy Policy

Introduction

Sparks Media Group (“we” or “us”) values its visitors’ privacy. This privacy policy is effective as of January 1, 2018; it summarizes what information we might collect from a registered user or other visitor (“you”), and what we will and will not do with it. Please note that this privacy policy does not govern the collection and use of information by companies that Sparks Media Group does not control, nor by individuals not employed or managed by Sparks Media Group. If you visit a website that we mention or link to, be sure to review its privacy policy before providing the site with information.

What we do with your personally identifiable information

It is always up to you whether to disclose personally identifiable information to us, although if you elect not to do so, we reserve the right not to register you as a user or provide you with any products or services. “Personally identifiable information” means information that can be used to identify you as an individual, such as, for example:

- Your name, company, email address, phone number, billing address, and shipping address
- Your Sparks Media Group user ID and password
- Credit card information
- Account-preference information you provide us
- Your device’s domain name and IP address indicating where your device is located
- Session data for your login session

If you do provide personally identifiable information to us, either directly or through a partner, we will:

- Not sell or rent it to a third party without your permission — although unless you opt out (see below), we may use your contact information to provide you with information we believe you need to know or may find useful like news about our services and products and modifications to the Terms of Service;
- Take commercially reasonable precautions to protect the information from loss, misuse and unauthorized access, disclosure, alteration and destruction;
- Not use or disclose the information except:
 - As necessary to provide services or products you have ordered, such as providing it to a carrier to deliver products you have ordered.
 - In other ways described in this privacy policy or to which you have otherwise consented;
 - In the aggregate with other information in such a way so that your identity cannot reasonably be determined (for example, statistical compilations);
 - As required by law, for example, in response to a subpoena or search warrant.
 - To outside auditors who have agreed to keep the information confidential.
 - As necessary to enforce the Terms of Service.
 - As necessary to protect the rights, safety, or property of Sparks Media Group, its users, or others; this may include exchanging information with other organizations for fraud protection and/or risk reduction.

Other information we collect

We may collect other information that cannot be readily used to identify you, such as the domain name and IP address of your device. We may use this information, individually or in the aggregate, for technical administration of our website(s); research and development; customer and account administration; and to help us focus our marketing efforts more precisely.

External data storage sites

We may store your data on servers provided by third party hosting vendors with whom we have contracted.

Cookies

Sparks Media Group uses “cookies” to store personal data on your device. We may also link information stored on your device in cookies with personal data about specific individuals stored on our servers. If you set up your Web browser so that cookies are not allowed, you might not be able to use some or all of the features of our website(s).

Your privacy responsibilities

To help protect your privacy, be sure:

- Not to share your user ID or password with anyone else;
- To log off the Sparks Media Group website when you are finished;
- To take customary precautions to guard against “malware” (viruses, Trojan horses, bots, etc.), for example by installing and updating suitable anti-virus software.

Notice to European Union users

Sparks Media Group’s operations are located primarily in the United States. If you provide information to us, the information will be transferred out of the European Union (EU) to the United States. By providing personal information to us, you are consenting to its storage and use as described herein.

Information collected from children

The Sparks Media Group service is meant to be used by licensed real estate professionals who are at least 18 years of age. You must be at least 18 years old to use Sparks Media Group’s website(s) and service(s). Sparks Media Group does not knowingly collect information from minors under 18. (See the U.S. Children’s Online Privacy Protection Act.)

Changes to this privacy policy

We reserve the right to change this privacy policy as we deem necessary or appropriate because of legal compliance requirements or changes in our business practices. If you have provided us with an email address, we will endeavor to notify you, by email to that address, of any material change to how we will use personally identifiable information.

Questions or comments?

If you have questions or comments about Sparks Media Group's privacy policy, please contact us using the Contact page on this website or at order@sparksmediagroup.com or at 510-863-1912