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17 *Attorneys for Plaintiffs*  
18 *and the Proposed Class*

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
20 **FOR THE COUNTY OF LOS ANGELES**

21 JOHN HERKENRATH and TINA  
22 WILSON, individually and on behalf of  
23 all others similarly situated,

24 Plaintiffs,

25 vs.

26 MOVE, INC., a Delaware Corporation;  
27 MOVE SALES, INC., a Delaware  
28 Corporation; and DOES 1 through 50;  
inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiffs John Herkenrath and Tina Wilson (collectively, “Plaintiffs”), individually and on  
2 behalf of all others similarly situated, make the following allegations based upon information and  
3 belief, except as to those allegations specifically pertaining to Plaintiffs and their counsel, which  
4 are based on personal knowledge. Plaintiffs bring this action for restitution and monetary damages  
5 against defendants Move, Inc. and Move Sales, Inc. and Does 1 through 50 (collectively,  
6 “Defendants” or “Move”), demanding a trial by jury.

### 7 8 **THE PARTIES**

9 1. Plaintiff John Herkenrath (“Plaintiff Herkenrath”) is a resident of Los Angeles  
10 County, California.

11 2. Plaintiff Tina Wilson (“Plaintiff Wilson”) is a resident of Ashtabula County, Ohio.

12 3. On information and belief, Move, Inc. (“Move, Inc.”) is a Delaware corporation  
13 with its principal offices at 30700 Russell Ranch Road, Westlake Village, California 91362.  
14 Move, Inc. is an electronic media company, and is in the business of providing real-estate related  
15 information on the internet. Move, Inc. operates a number of websites, including “realtor.com”  
16 which displays residential real estate listings, and sells advertising space to real estate agents,  
17 brokers and related professionals.

18 4. On information and belief, Move Sales, Inc. (“MSI”) is a Delaware corporation with  
19 its principal offices at 30700 Russell Ranch Road, Westlake Village, California 91362. MSI is  
20 an electronic media company, and is in the business of providing real-estate related information  
21 on the internet. MSI operates a number of websites, including “realtor.com” which displays  
22 residential real estate listings, and sells advertising space to real estate agents, brokers and related  
23 professionals.

24 5. The true names and capacities, whether individual, corporate, partnership, associate  
25 or otherwise of Defendants Does 1 through 50, inclusive, are unknown to Plaintiffs, who therefore  
26 sue these defendants by such fictitious names pursuant to section 474 of the Code of Civil  
27 Procedure. Plaintiffs will seek leave to amend this complaint to allege the true names and  
28 capacities of Does 1 through 50, inclusive, when they are ascertained.

1           6.     Plaintiffs are informed and believe, and based upon that information and belief  
2 allege, that the Defendants named in this complaint, including Does 1 through 50, inclusive, are  
3 responsible in some manner for one or more of the events and happenings that proximately caused  
4 the injuries and damages alleged herein.

5           7.     Plaintiffs are informed and believe, and based upon that information and belief  
6 allege, that each of the Defendants, including Does 1 through 50, inclusive, in performing or  
7 omitting to perform the acts alleged were, at various times, acting within the course and scope of  
8 his or her employment, authority, or apparent authority as an employee, agent and/or  
9 representative of the other Defendants. Plaintiffs are further informed and believe, and based  
10 upon that information and belief allege, that at various other times the Defendants, in performing  
11 or omitting to perform the acts alleged hereinafter, acted outside the course and scope of their  
12 employment, authority, or apparent authority, did not utilize or operate through any corporations  
13 or businesses, and were not engaged in any business activities whatsoever, but rather, were acting  
14 outside the realm of any business individually and are thus liable for all damages alleged herein,  
15 jointly and severally.

16           8.     Plaintiffs are informed and believe, and based upon that information and belief  
17 allege, that each Defendant named in this complaint, including Does 1 through 50, inclusive,  
18 knowingly and willfully acted in concert, conspired and agreed together among themselves, and  
19 entered into a combination and systemized campaign of activity, to inter alia damage Plaintiffs  
20 and the Class and to otherwise consciously and/or recklessly act in derogation of the rights of  
21 Plaintiffs and the Class, and the trust reposed by Plaintiffs and the Class in each of the Defendants,  
22 the acts being negligently and/or intentionally inflicted. This conspiracy, and Defendants'  
23 concerted actions, were such that, to the information and belief of Plaintiffs and the Class, and to  
24 all appearances, Defendants, represented a unified body so that the actions of one Defendant were  
25 accomplished in concert with, and with knowledge, ratification, authorization and approval of  
26 each of the other Defendants.

27     ///

28     ///

1 **JURISDICTION AND VENUE**

2 9. Plaintiffs bring this action to recover damages and to seek restitution and other relief  
3 available at law or in equity. A substantial part of the acts and omissions complained of in this  
4 action took place in the State of California. Plaintiffs assert no claims under federal law.

5 10. Venue is proper in this judicial district pursuant to California Code of Civil  
6 Procedure section 395 because a substantial part of the events or omissions giving rise to the  
7 claims occurred and/or emanated from Los Angeles County, where both defendant Move, Inc.  
8 and MSI have their corporate headquarters, and because Defendants have caused harm to class  
9 members residing in Los Angeles County, California.

10  
11 **FACTUAL ALLEGATIONS**

12 **A. Move's Lead Generation and Lead Sales Business.**

13 11. For real estate agents, there are, in general, two categories of leads: (i) "seller leads,"  
14 which consists of persons looking to sell a property; and (ii) "buyer leads," which consists of  
15 persons looking to purchase a property. While Move generates and sells both "seller leads" and  
16 "buyer leads," this action focuses on Move's "buyer leads" practices and products.

17 12. "Seller leads" are typically generated when a homeowner indicates that he or she  
18 may be interested in selling a property (by, for example, requesting a valuation of their property).  
19 In contrast, "buyer leads" are generated from the listings offering properties for sale that users can  
20 search and view on realtor.com. Every property listing on realtor.com contains a form where  
21 users can enter their contact information to receive "more information" about the property that  
22 they are viewing on the site:

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More about this property

Your Name

Email

Phone

I'm interested in \$ [ ] Lucerne Blvd [ ]

☐ Get pre-approved by a lender.

**Contact Agent**

By sending a request you agree to our [Privacy Policy](#)

13           13.    What happens with the information provided when a user submits a “more  
14 information” form for a particular property depends on the whether the agent listing the property  
15 has elected to pay Move.

16           14.    When a real-estate listing is added to realtor.com, the listing agent can pay a fee to  
17 Move to create what is sometimes referred to as a “showcase listing.” In addition to the typical  
18 information provided with all listings on the realtor.com website, a “showcase listing” also  
19 includes the listing agent’s contact information (including telephone number), brokerage  
20 information, and headshot. Thus, anyone who is browsing a “showcase listing” on realtor.com,  
21 will have the listing agent’s name and contact information readily at hand. Not only is the listing  
22 agent’s contact information displayed alongside the listing, any leads generated from the listing  
23 are sent to listing agent who paid Move. Move explains this product, which it has called  
24 “Advantage Pro” as follows:

25  
26 ///

27 ///

28 ///

# Capture Leads & Promote Your Personal Brand with **realtor.com® Advantage<sup>SM</sup> Pro**

THE ULTIMATE ENHANCEMENT SOLUTION FOR YOUR LISTINGS

Get seen and stand out on your realtor.com® Listing Detail Pages. All leads from your listing are directed to you. Get higher level insights with more detailed reporting.

15. When a listing agent does not opt to pay Move a showcase listing, Move attempts to sell the leads generated from the listing to other agents. Move has called the products under which it sells these buyers leads by various names, including “Connection for Co-Brokerage” and “Connections for Buyers.”

16. Move sells buyer leads by zip code – that is, purchasers of leads “sign-up” for specific zip codes from which they would like to receive leads. In a January 23, 2014, posting on realtor.com titled “Lead Generation – Beyond The Numbers,” Suzanne Roy (realtor.com’s Director of Social Media and Industry Outreach), explained the process as follows:

We understand that some listing agents and brokers choose to work primarily with buyers on their own listings and opt to pay to have their branding and contact information on their listings on realtor.com®. However, there are other brokers and agents that prefer to not work with buyers, so they do not pay to have their listings enhanced with their contact information or branding. These listing agents and brokers are more than happy to have someone like you or your team members bring buyers to their listings and submit an offer. That way, they can focus just on the seller and get still get a commission.

The result is that many of the listings on our site have no agent branding or contact information. In order for us to get motivated buyers connected to willing agents, we have included a lead capture

1 form on all of the unbranded listings. We are sending these consumers  
2 to agents and brokers who want to work with buyers, through a system  
3 called Connection for Co-Brokerage. This system is based on ZIP  
4 codes. In each ZIP code we create a limited number of available  
5 spaces. Each space generates 20-24 leads over a six-month period,  
6 for each space you are able to secure. You can get as many leads as  
7 you wish based on availability. Every additional space will produce  
8 another 20-24 leads. For example, if you are able to secure 100 slots  
9 (such as across multiple ZIP codes) you can expect to work with 2000-  
10 2400 leads over six months.

11 17. Move touts the quality of its “buyer leads” (which Move repeatedly describes as  
12 “high-quality, actionable leads”) explaining that that the leads are “from consumers actively  
13 searching for their next home.” Move states on its website: “Realtor.com® leads are more  
14 accurate than our competitors’ leads because the listings are updated directly from the MLS and  
15 not a third-party aggregator. Brokers have found this increases their lead conversion ratio by  
16 avoiding leads requesting information about homes which may be pending or, worse yet, are not  
17 even on the market.”

18 18. Move explains that its buyer leads are “high-quality” and “actionable” because the  
19 leads are generated from users who are actively looking at properties on realtor.com, stating: (i)  
20 that its leads are “[m]ore motivated than typical internet leads”; (ii) that Move’s “high-quality,  
21 lead generation solution continues to [...] deliver leads from consumers actively searching for  
22 their next home”; (iii) that “[l]eads come from consumers who already have a specific house in  
23 mind”; (iv) that the “leads are looking for help from an agent, so it’s likely they don’t have  
24 representation to list or buy a home;”; (v) that “[t]he lead has requested communication from you  
25 with a specific listing in mind”; and (v) that “[t]hese prospective buyers have a property in mind  
26 and are prepared to hear from you.”

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## A steady source of leads

Designed and tested to provide a continuous flow of leads on a regular basis. The consumers already have a property in mind and are prepared to receive a communication from you. Because they are asking for an agent's help, they are less likely to be already committed to another agent.

19. According to Move, its generation of buyer leads was “[d]esigned and tested to provide a continuous flow of leads on a regular basis.” In fact, Move asserts that it “test[ed] each market area to know in advance that there will be a regular supply of leads.”



**Is there a specific amount of leads guaranteed?**

We test each market area to know in advance that there will be a regular supply of leads.

[Watch the video »](#)

20. In the aforementioned January 23, 2014 posting on realtor.com, Move asserts that its buyer leads are not resold, widely distributed or reused:

Also, unlike other lead generating websites which often send the exact same leads to multiple agents and brokers, our leads are sent out on a 1-to-1 ratio and these leads are not forwarded to anyone else.

[¶]

Because we do not share leads with other brokers or agents, conversion ratios have been proven to be higher compared to other lead generating sites which often send the exact same leads to three or four agents or brokerages at the exact same time.



1           21.     Beginning in or about July 2014, Move began offering both exclusive leads (which  
2 Move calls the “Flex Follow-up” option) and non-exclusive leads (which Move calls the “Fast  
3 Follow-up” option). Despite this change, Move has kept the January 23, 2014 posting on  
4 realtor.com and fails to provide any explanation of these two “options” on its websites.

5           22.     Move also asserts that the name, email and telephone number of its buyer leads are  
6 “checked,” stating: “Email address and telephone numbers are checked and noted in the lead  
7 notification if they are valid. [...] We verify phone numbers and email addresses by submitting  
8 them to a third-party service for the purpose of confirming that the phone number or email address  
9 does in fact exist. However, we are unable to determine whether the phone number or email  
10 address actually belongs to a person with the name provided by prospect.”

11           **B.     Move Fails to Implement Basic, Reasonable Safeguards for Its Putative Buyer**  
12                   **Leads and Thereby Fails to Deliver What It Was Paid to Deliver.**

13           23.     Move offers for sale and is paid for “leads from consumers actively searching for  
14 their next home.” Move, however, fails to implement basic safeguards regarding the collection  
15 of putative buyer leads and fails to undertake even the most basic review of the putative buyer  
16 leads that it sells. As such, Move frequently fails to deliver what it claims to be selling.

17           24.     Move’s failure to undertake appropriate and reasonable review of the putative buyer  
18 leads that it sells, results in Move: (i) counting the same individual as separate leads for each time  
19 the individual submits a contact form for a listing (whether in the different listings are in the same  
20 zip code or different zip codes); (ii) counting the same individual as separate leads despite the fact  
21 that the individual was already provided as a lead based on a prior contact form submission; (iii)  
22 failing to remove clearly duplicative leads (based on, for example, IP address and time of contact  
23 form submission) even if some of the contact information submitted is different; (iv) failing to  
24 remove clearly fraudulent and/or fake leads (based on, for example, IP address and geographic  
25 location of the person submitting the contact information, the information provided on the contact  
26 form, history of submissions from the same computer, smartphone and/or IP address); and (v)  
27 providing the same individual as a “lead” to multiple Move customers despite the fact that one or  
28 more of those customers were promised “exclusive leads.”

1           25. Move is not only in the best position to ensure that it is not selling its customers  
2     duplicative, fraudulent, fake and/or non-exclusive leads, Move is the only one who can implement  
3     basic safeguards for the collection and review of buyer leads. This is because Move’s customers  
4     do not have the metadata related to all contact form submissions submitted to Move and since  
5     Move’s customers do not know what putative leads are being provided to other customers.  
6     Despite this, Move fails to undertake reasonable safeguards for the collection and review of buyer  
7     leads. Furthermore, at no point does Move disclose to its potential or actual customers, that Move  
8     does not implement basic safeguards regarding the collection of putative buyer leads and that  
9     Move fails to undertake even the most basic review of the putative buyer leads that it sells. Such  
10    information would reasonably be material to anyone considering paying for buyers leads from  
11    Move.

12           26. Move promises its customers that it will provide them with a minimum number of  
13    leads per month. Indeed, Move assures its customers it has “test[ed] each market area to know in  
14    advance that there will be a regular supply of leads.” At the time that it makes these assurances,  
15    Move either lacks the information that it claims to possess regarding the number of leads that it  
16    is able to generate or affirmatively knows that it cannot supply the number of leads that it  
17    promises. These promises provide Move with a strong financial motivation to avoid doing  
18    anything (including employing basic safeguards and review of leads) that would reduce the  
19    number of putative leads that it sends to its customers. Despite this, Move is frequently unable to  
20    provide its customers with the number of monthly leads that it promises.

21           **C. Move’s Sales Practices and Sign-Up Process.**

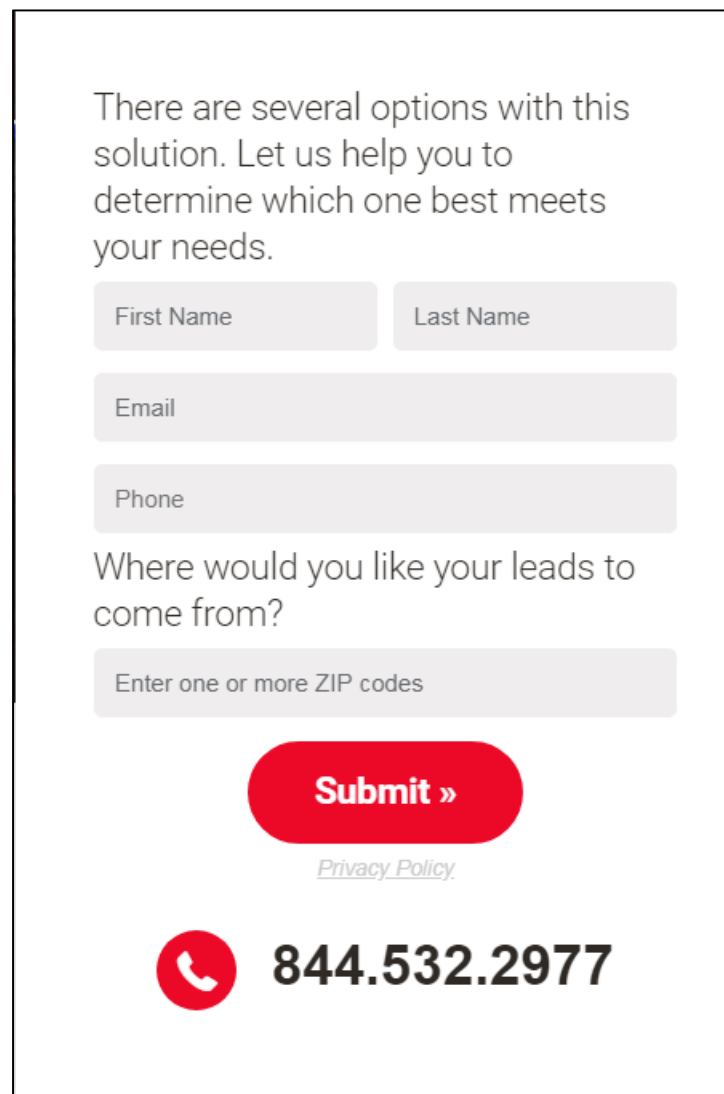
22           27. Move provides scant information about its buyer lead packages on its websites. For  
23    example, Move provides no pricing information and no information regarding different options  
24    or packages. Instead, Move sells its buyer lead packages by phone through individual sales people  
25    or account executives.

26    ///

27    ///

28    ///

1           28.     Move has a button on its website for potential customers to “Check Availability.”  
2 Clicking on this button calls a form which states: “There are several options with this solution.  
3 Let us help you to determine which one best meets yours needs.” The form, in addition to  
4 requesting contact information, also asks for the zip code from where the potential customer would  
5 like to receive buyer leads.



There are several options with this solution. Let us help you to determine which one best meets your needs.

First Name Last Name

Email


Phone

Where would you like your leads to come from?

Enter one or more ZIP codes

**Submit »**

[Privacy Policy](#)

 **844.532.2977**

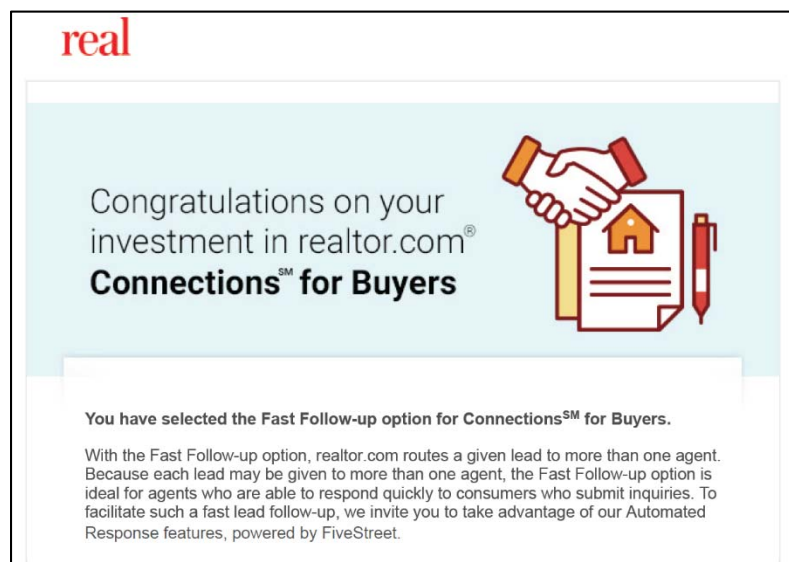
24           29.     Upon submitting the above form, a dialog box appears stating: “One our marketing  
25 consultants will be reaching out to you via the phone number or email address provided below.”

26           30.     The “marketing consultants” who sell buyer leads for Move are subject to unrealistic  
27 sales quotas and a significant portion of their salaries are based on commissions. Not surprisingly,  
28 these marketing consultants (who make hundreds of calls a day) are under extreme pressure. Not

only are these marketing consultants under extreme financial pressure, they are also subject to a culture promoted by Move of doing whatever it takes to close sales and meet their quotas – even if that means promising what Move cannot provide, failing to disclose putative contract terms, charging for services that were not requested and even charging for services that were not provided, and making unauthorized charges on customer credit cards. For Move’s marketing consultants, the goal is simple: do whatever it takes to get the potential customer to say “yes” and provide a credit card number.

31. Once a sale has been made over the phone, Move sometimes – although not always – sends an email “confirming” the purchase. When a “confirming” email is sent, it requires no signature or other indication of assent from the customer.

32. For example, on September 12, 2017 at approximately 7:36 p.m., Plaintiff Wilson received an email confirming her purchase of leads from Move. That email, which was sent by the Move “marketing consultant” with whom Plaintiff Wilson spoke on the phone, had the subject line: “Confirmation of your recent 'Fast Follow-up' purchase.” The body of the email states: “As we discussed, this email is being sent to you to complete your request for, or agreement to receive, advertising, promotional or other information. That information is provided below.” In reality, however, the rest of the email contains nothing other than a “congratulations,” some basic information about the Fast Follow-up option selected by Plaintiff Wilson, and a repetition of the same marketing information found on Move’s marketing website for Connections for Buyers.



33. A true and correct copy of the September 12, 2017 confirmation email to Plaintiff Wilson is attached as Exhibit A.

34. The September 12, 2017 confirmation email sent to Plaintiff Wilson contains a “click here” button “[f]or more details on the benefits of Connections for Buyers.” That button points to the Move’s “Connections for Buyers” marketing webpage (<http://marketing.realtor.com/connection-co-brokerage.php>); this is the same webpage discussed above where, as stated above, potential customers can click a link to “Check Availability.”

35. At the bottom of the September 12, 2017 confirmation email sent to Plaintiff Wilson there is a footer with four links: (i) realtor.com; (ii) Move.com; (iii) Terms of Use; (iv) Privacy Policy; and (v) Equal Housing Opportunity.

Move Sales, Inc., 30700 Russell Ranch Road, Westlake Village, CA 91362

realtor.com | Move.com | Terms of Use | Privacy Policy |  Equal Housing Opportunity  
customer care@realtor.com 800.878.4166

36. The “Terms of Use” link at the bottom of the September 12, 2017 confirmation email points to the following URL: <https://marketing.move.com/terms-of-service/>. This is the same URL to which Move customers are directed if they click on the “Terms of Use” link found on Move’s “Connections for Buyers” marketing webpage (found at <https://marketing.realtor.com/connection-co-brokerage.php>) where Move advertises its buyer leads products and where (as discussed above) potential customers can click to “Check Availability.”

37. Attached as Exhibit B is a print-out of the webpage found at <https://marketing.move.com/terms-of-service/> (i.e., the webpage for the “Terms of Use” link located at the bottom of the September 12, 2017 confirmation email and Move’s “Connections for Buyers” marketing webpage).

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///

1           38.     Under the heading, “Acceptance of Terms,” the “Terms of Use” provides in relevant  
2 part:

3           By accessing or using any part of the Move Network or the services  
4 provided on it or other Web sites as set forth below (collectively, the  
5 “Services”), you agree to accept and comply with the terms,  
6 conditions, and notices stated herein and as may be modified by Move  
7 from time-to-time without notice to you (the “Terms of Use”). These  
8 Terms of Use constitute a binding contract between Move and you.

9           [¶]

10           Additional terms may govern use of certain Web sites or Web pages  
11 within the Move Network. **In the event that any provision, term or**  
12 **guideline contained on a particular Web site or Web page in the**  
13 **Move Network conflicts with the Terms of Use, the terms of such**  
14 **Web site or Web page shall control over the Terms of Use except**  
15 ***with respect to the General Terms set forth below, which shall at all***  
16 ***times control.***

17 [Exhibit B (emphasis added).]

18           39.     Under the heading, “General Terms,” the “Terms of Use provides in relevant part:

19           **Applicable Law**

20           This Terms of Use is governed by the laws of the State of California,  
21 U.S.A. without regard to conflicts of laws principles. You hereby  
22 consent to the exclusive jurisdiction and venue of courts sitting in  
23 California, County of Los Angeles and/or Central District of  
24 California in all disputes arising out of or relating to accessing or using  
25 of the Move Network. Access or use of the Move Network is  
26 unauthorized in any jurisdiction that does not give effect to all  
27 provisions of these terms and conditions, including without limitation  
28 this paragraph.

[Exhibit B.]

**D.     Plaintiffs’ Experiences.**

40.     In or about July 2017, Plaintiff Herkenrath – after speaking to a Move “marketing  
consultant” over the phone – agreed over the phone to purchase five leads per month from Move  
for a price of approximately \$500 per month and provided the Move marketing consultant his  
credit card information. Although Plaintiff Herkenrath, paid Move approximately \$500 per  
month, the putative “leads” that Move sent him were useless either because the contact

1 information provided was not accurate or – on those few occasions when correct contact  
2 information was provided – the person had no interest in actually purchasing a home. In January  
3 2018, Plaintiff Herkenrath contacted Move and informed Move that he no longer wished to receive  
4 putative leads from Move and would no longer be paying the \$500 per month that Move was  
5 charging him for putative leads. Although, Move initially argued to Plaintiff Herkenrath that he  
6 could not cancel because he was under a “year-long contract,” Move ultimate relented and stopped  
7 charging Plaintiff Herkenrath for the worthless leads.

8 41. In or about September 2017, Plaintiff Wilson spoke to a Move “marketing  
9 consultant” over the phone about purchasing buyer leads from Move. The Move marketing  
10 consultant told Plaintiff Wilson that for Move would provide Plaintiff Wilson with “10 viable  
11 leads a month” for \$120 per month. Plaintiff Wilson accepted the offer and provided the Move  
12 marketing consultant her credit card information. Although Plaintiff Wilson, paid Move  
13 approximately \$120 per month, the putative “leads” that Move sent her were not viable. On or  
14 about October 1, 2017, Plaintiff Wilson sent an email to the Move marketing consultant writing,  
15 in relevant part: “I was sent a lead yesterday that was not a viable contact. I called [the lead]  
16 within minutes of receiving notification, I was connected to message stating this was NOT a  
17 working number. I then sent an email to [the lead] not hearing back either.” On October 22, 2018,  
18 Plaintiff Wilson again sent an email to Move explaining that the leads she was receiving were  
19 useless. Finally, on November 12, 2017, Plaintiff Wilson sent an email to Move, requesting that  
20 her account be canceled immediately:

21 Realtor / Five Street is not performing to the standards it should.

22 I have had more false leads than positive leads. When I receive the  
23 leads I respond within minutes. I receive phone numbers that are no  
24 longer in service. Email addresses that are not valid. People whom I  
25 do reach that say I did not request this information, take me out of  
your system.

26 I receive nothing back, no answer to phone calls made within minutes  
27 of receiving request for information, no responds to text or emails  
28 after numerous tries. These leads are nothing but random false leads  
made to keep me paying. Not going to happen.





successors, and assigns of Defendants. Also excluded are the judges and court personnel in this case and any members of their immediate families.

47. Plaintiffs reserve the right to amend or modify the above class definitions with greater specificity or division into subclasses after having had an opportunity to conduct discovery.

48. This action has been brought and may be properly maintained on behalf of the classes proposed herein under section 382 of the California Code of Civil Procedure.

49. Numerosity. The member of each class is so numerous that joinder of all members is impractical. Plaintiffs are informed and believe that there are thousands of members of each of the classes. The precise number of class members can be ascertained from Defendants' records.

50. Commonality and Predominance. There are questions of law and fact common to each class, which predominate over any questions affecting individual members of each respective class. These common questions of law and fact include, without limitation:

- a. Whether Defendants entered into contracts with Plaintiffs and members of the Class;
- b. The construction of the agreement between Defendants on the one hand and Plaintiffs and members of the Class on the other;
- c. Whether Defendants breached their agreements with Plaintiffs and the Class;
- d. Whether Defendants breached the covenant of good faith and fair dealing;
- e. Whether Defendants' conduct as alleged herein is unfair, unlawful and or fraudulent in violation of the California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200, *et seq.*; and
- f. Whether Plaintiffs and the members of the Class have been damaged by the wrongs complained of herein, and if so, the measure of those damages and the nature and extent of other relief that should be afforded.

51. Typicality. Plaintiffs' claims are typical of the claims of the Class they seek to represent. Plaintiffs and all Class members were exposed to uniform practices and sustained injuries arising out of and caused by Defendants' conduct.

52. Adequacy. Plaintiffs are committed to the vigorous prosecution of this action and

1 have retained competent counsel experienced in the prosecution of class actions. Accordingly,  
2 Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the  
3 Class.

4 53. Superiority. A class action is superior to other available methods for the fair and  
5 efficient adjudication of this controversy. Since the amount of each individual Class member's  
6 claim is small relative to the complexity of the litigation, and due to the financial resources of  
7 Defendants, no Class member could afford to seek legal redress individually for the claims alleged  
8 herein. Therefore, absent a class action, Class members will continue to suffer losses and  
9 Defendants' misconduct will proceed without remedy. Even if Class members themselves could  
10 afford such individual litigation, the court system could not. Given the complex legal and factual  
11 issues involved, individualized litigation would significantly increase the delay and expense to all  
12 parties and to the Court. Individualized litigation would also create the potential for inconsistent  
13 or contradictory rulings. By contrast, a class action presents far fewer management difficulties,  
14 allows claims to be heard which might otherwise go unheard because of the relative expense of  
15 bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and  
16 comprehensive supervision by a single court. Finally, Plaintiffs know of no difficulty that will be  
17 encountered in the management of this litigation which would preclude its maintenance as a class  
18 action.

19 **FIRST CLAIM FOR RELIEF**

20 **Breach of Contract**

21 **(By Plaintiffs and the Nationwide Class, or, Alternatively,**  
22 **the California Class Against Defendants)**

23 54. Plaintiffs reallege and incorporate by reference the allegations contained in  
24 paragraphs 1 through 53, inclusive, of this Complaint, as though fully set forth herein and, to the  
25 extent necessary, plead this cause of action in the alternative.

26 55. Plaintiffs bring this claim individually and on behalf of the members of the  
27 Nationwide Class against Defendants under California law, or, alternatively, under the laws of the  
28 all states, as there is no material difference in the law of breach of contract as applied to the claims  
and questions in this case. Alternatively, Plaintiffs bring this claim individually and on behalf of

1 the California Class against Defendants under California law.

2 56. By paying Defendants' money for leads, Plaintiffs and the Class contracted with  
3 Defendants. Defendants entered into a contract with Plaintiffs and the members of the Class.  
4 These agreements contained an implied covenant of good faith and fair dealing that Defendants  
5 would not do anything that would have the effect of injuring the right of Plaintiffs and the Class  
6 to receive the benefits of the contract.

7 57. Plaintiffs and the members of the Class fully performed and satisfied their  
8 obligations under the contract that Defendants formed with them.

9 58. Defendants breached the contracts with Plaintiffs and the Class, and the covenant  
10 of good faith and fair dealing, by collecting fees from Plaintiffs and the Class for leads even  
11 though Defendants knew, or should have reasonably known, that the leads were not actual,  
12 actionable leads. Defendants further breached the contract with Plaintiffs and the Class by failing  
13 to implement effective oversight over the generation and sale of leads.

14 59. As a direct and proximate result of Defendants breach of contract, Plaintiffs and the  
15 Class have been damaged in an amount to be determined at trial.

16 WHEREFORE, Plaintiffs and the Class pray judgment against Defendants as hereafter set  
17 forth.

18 **SECOND CLAIM FOR RELIEF**  
19 **Violation of California's Unfair Competition Law**  
20 **(By Plaintiffs and the Nationwide Class, or, Alternatively,**  
21 **the California Class Against Defendants)**

22 60. Plaintiffs reallege and incorporate by reference the allegations contained in  
23 paragraphs 1 through 53, inclusive, of this Complaint, as though fully set forth herein and, to the  
24 extent necessary, plead this cause of action in the alternative.

25 61. Plaintiffs bring this claim individually and on behalf of the members of the  
26 Nationwide Class against Defendants under California law. Alternatively, Plaintiffs bring this  
27 claim individually and on behalf of the California Class against Defendants under California law.

28 62. Plaintiffs have standing to pursue this cause of action as Plaintiffs have suffered  
injury in fact and have lost money or property as a result of Defendants' actions as delineated

1 herein.

2 63. Defendants' scheme, as delineated herein, constitutes unlawful, unfair, or fraudulent  
3 business practices in violation of California Business and Professions Code sections 17200, et seq.

4 64. Defendants' business practices, as alleged herein, violate the "unfair" prong of  
5 California Business & Professions Code sections 17200, et seq. because: (i) the utility of  
6 Defendants' scheme is significantly outweighed by the gravity of the harm the scheme imposes  
7 on Plaintiffs and the Class; (ii) the injury suffered by Plaintiffs and the Class as a result of  
8 Defendants' scheme is not one that Plaintiffs and the Class could have reasonably avoided; and  
9 (iii) Defendants' scheme runs counter to legislatively declared and public policy.

10 65. Defendants' business practices, as alleged herein, violate the "unlawful" prong of  
11 California Business & Professions Code sections 17200, et seq. because they constitute a breach  
12 of the contracts between Plaintiffs and Class members on the one hand and Defendants on the  
13 other, and because Defendants have been unjustly enriched.

14 66. Defendants' business practices, as alleged herein, violate the "fraudulent" prong of  
15 California Business & Professions Code section 17200, et seq. because they are likely to deceive  
16 a reasonable consumer.

17 67. Accordingly, Defendants' violated, and continues to violate, California Business  
18 and Professions Code section 17200's proscription against engaging in unlawful business acts or  
19 practices.

20 68. As a direct and proximate result of Defendants' unlawful, unfair, and fraudulent  
21 business practices, Plaintiffs and the Class have suffered injury in fact and lost money or property,  
22 in that they purchased and paid for leads which were useless.

23 69. Pursuant to California Business and Professions Code section 17203, Plaintiffs and  
24 the Class seek an order of this court enjoining Defendants from continuing to engage in unlawful,  
25 unfair, or deceptive business practices and any other act prohibited by law, including those acts  
26 set forth in the complaint.

27 70. Plaintiffs and the Class also seek an order requiring Defendants to make full  
28 restitution of all monies they wrongfully obtained from Plaintiffs and the Class.

WHEREFORE, Plaintiffs and the Class pray judgment against Defendants as hereafter set forth.

### **THIRD CLAIM FOR RELIEF** **UNJUST ENRICHMENT**

**(By Plaintiffs and the Nationwide Class, or, Alternatively,  
the California Class Against Defendants)**

71. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 53, inclusive, of this Complaint, as though fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

72. Plaintiffs bring this claim individually and on behalf of the members of the Nationwide Class against Defendants under California law, or, alternatively, under the laws of the all states, as there is no material difference in the law of unjust enrichment as applied to the claims and questions in this case. Alternatively, Plaintiffs bring this claim individually and on behalf of the California Class against Defendants under California law.

73. Defendants have received and retained a benefit from Plaintiffs and the other members of the Class, and inequity has resulted.

74. Plaintiffs and the other members of the Class conferred a tangible economic benefit upon Defendants. Plaintiffs and the other members of the Nationwide Class would have expected remuneration from Defendants at the time this benefit was conferred had they known that the leads that many, if not all, of the leads they were purchasing were valueless.

75. Defendants were enriched, at the expense of the Plaintiffs and other each member of the Class, through the payment by Plaintiffs and members of the Class for leads.

76. Under the circumstances, it would be against equity and good conscious to permit Defendants to retain the ill-gotten benefits that it received from Plaintiffs and the other members of the Class.

77. As such, it is inequitable for Defendants to retain the benefits of their misconduct.

78. As a result of Defendants' conduct, the amount of Defendants' unjust enrichment should be disgorged, in an amount according to proof, or such other appropriate equitable remedy as appropriate, to the Plaintiffs and other members of the Class.

1 WHEREFORE, Plaintiffs and the Class pray judgment against Defendants as hereafter  
2 set forth.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated,  
5 respectfully request that the Court enter judgment against Defendants, as follows:

- 6 1. An order certifying appropriate classes and/or subclasses, designating Plaintiffs as  
7 the class representatives and their counsel as class counsel;
- 8 2. An order enjoining Defendants from continuing to engage in the practices  
9 complained of herein;
- 10 3. An award of restitution, damages, and disgorgement to Plaintiffs and the Class in  
11 an amount to be determined at trial;
- 12 4. An order requiring Defendants to pay both pre- and post-judgment interest on any  
13 amounts awarded, as allowed by law;
- 14 5. An award of costs and attorneys' fees, as allowed by law; and
- 15 6. Such other or further relief as may be appropriate.
- 16

17 Dated: April 20, 2018

ARIAS, SANGUINETTI, WANG  
& TORRIJOS, LLP

19 By:   
20 Mike Arias  
21 Alfredo Torrijos

22 BEROKIM & DUEL, P.C.  
23 Jasmine A. Duel  
24 Kousha Berokim

25 *Counsel for Plaintiffs and the Proposed Class*

26

27

28

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs, individually and on behalf of all others similarly situated, hereby demand a  
3 trial by jury of any and all issues in this action so triable of right.  
4

5 Dated: April 20, 2018

ARIAS, SANGUINETTI, WANG  
& TORRIJOS, LLP

6  
7 By:   
8 Mike Arias  
9 Alfredo Torrijos

10 BEROKIM & DUEL, P.C.  
11 Jasmine A. Duel  
12 Kousha Berokim

13 *Counsel for Plaintiffs and the Proposed Class*  
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## **EXHIBIT A**



From: **Joseph Ramos** <[REDACTED]>  
Date: Tue, Sep 12, 2017 at 7:36 PM  
Subject: Confirmation of your recent 'Fast Follow-up' purchase  
To: Tina Wilson <[REDACTED]>

*Hello Tina Wilson:*

*As we discussed, this email is being sent to you to complete your request for, or agreement to receive, advertising, promotional or other information. That information is provided below.*

**real**





Congratulations on your  
investment in realtor.com®  
**Connections<sup>SM</sup> for Buyers**



**You have selected the Fast Follow-up option for Connections<sup>SM</sup> for Buyers.**

With the Fast Follow-up option, realtor.com routes a given lead to more than one agent. Because each lead may be given to more than one agent, the Fast Follow-up option is ideal for agents who are able to respond quickly to consumers who submit inquiries. To facilitate such a fast lead follow-up, we invite you to take advantage of our Automated

**Information passed with the lead provides more knowledge about the consumer and their interests, including:**

-  Consumer's name, email and telephone number. *Email address and telephone numbers are checked and noted in the lead notification if they are valid.<sup>1</sup>*
-  Image and description of the property listing from which the lead was generated.
-  Description of the 3 most recent searches and recently viewed listings, if available.
-  Consumer profile information, such as age, job title, household income and years at current residence (where available) and links to a consumer's public profile on sites such as LinkedIn, Facebook and Twitter (when available).



**Automatically generated lead responses**

Lead responses designed to respond to the consumer within 5 minutes. These responses can be customized by the agent to provide a personalized consumer experience.



**A responsive web experience**

Consolidate leads from multiple sources (more than 50 sources) and track your leads from a simple lead dashboard. Compiling your leads into a single view avoids the pain of juggling multiple marketing vendors' lead dashboards.



**Courtesy leads**

Customers who update their Connections<sup>SM</sup> for Buyers profile with additional zip-codes of interest are eligible to receive courtesy leads for those zip-codes if and when they become available.

**For more details on the benefits of Connections<sup>SM</sup> for Buyers**

**CLICK HERE**

Thank you for being a loyal customer of realtor.com

<sup>1</sup>We verify phone numbers and email addresses by submitting them to a third-party service for the purpose of confirming that the phone number or email address does in fact exist. However, we are unable to determine whether the phone number or email address actually belongs to a person with the name provided by prospect.

---

Joseph Ramos  
Move, Inc. | [realtor.com](https://www.realtor.com) | Top Producer


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**(800) 878-4166 Ext: 77849**

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## **EXHIBIT B**

[About Move, Inc. \(https://marketing.move.com/\)](https://marketing.move.com/)

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[Investors \(http://investor.move.com\)](http://investor.move.com)

[Media Room \(http://news.move.com\)](http://news.move.com)

[Careers \(http://careers.move.com\)](http://careers.move.com)

[Contact \(https://marketing.move.com/contact-us/\)](https://marketing.move.com/contact-us/)

# Terms of Service

## General

Move, Inc., a subsidiary of News Corp, and its corporate affiliates including Move Sales, Inc. (collectively, "Move") operate a family of Web sites and associated Web pages. Move refers to this group of Web sites as the "Move Network™." Any person accessing or using the Move Network is referred to as "you".

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By accessing or using any part of the Move Network or the services provided on it or other Web sites as set forth below (collectively, the "Services"), you agree to accept and comply with the terms, conditions, and notices stated herein and as may be modified by Move from time-to-time without notice to you (the "Terms of Use"). These Terms of Use constitute a binding contract between Move and you. You are responsible for regularly reviewing the Terms of Use. You can review the most current version of the Terms of Use at any time at:

<http://www.move.com/company/terms.aspx>. If you do not wish to be bound by these Terms of Use, please do not access or use any part of the Move Network.

Additional terms may govern use of certain Web sites or Web pages within the Move Network. In the event that any provision, term or guideline contained on a particular Web site or Web page in the Move Network conflicts with the Terms of Use, the terms of such Web site or Web page shall control over the Terms of Use except with respect to the General Terms set forth below, which shall at all times control.

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Unless specified otherwise, Move offers you access to the Move Network solely for your personal and non-commercial uses. You agree to only access or use the Move Network only for legal purposes that are permitted by the Terms of Use. Among other things, you agree not to:

- except with the express written permission of Move, modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, frame in another Web page, use on any other Web site, transfer or sell any information, software, lists of users, databases or other lists, products or services provided through or obtained from the Move Network, including without limitation, engaging in the practices of "screen scraping," "database scraping," or any other activity with the purpose of obtaining lists of users or other information;

## Page Content

- General
- Acceptance of Terms
- General Use of the Move Network
- Content Contained in the Move Network
- Content You Provide
- General Terms
  - Applicable Law
  - Interpretation of the Terms of Use
  - Disclaimer of Warranties
  - Indemnification
  - Limitation of Liability
  - Copyright
  - Trademarks

- damage, disable, overburden, or impair the Move Network or interfere with any other party's use and enjoyment of the Move Network;
- obtain or attempt to obtain any materials or information through any means not made readily accessible by Move through the Move Network.

Except with the express written permission of Move, you agree that you will not access or attempt to access password protected, secure or non-public areas of the Move Network.

Except with the express written permission of Move, you agree that you will not create links from any Web site or Web page to any page within the Move Network; provided however upon prior written notice to Move at Webmaster@move.com, you may create a link directly to any of the Move Network home pages, including, but not limited to pages currently located at <http://www.move.com/> (<http://www.move.com/>), <https://www.realtor.com/> (<https://www.realtor.com/>), <http://newhomes.move.com/> (<http://newhomes.move.com/>), <http://www.moving.com/> (<http://www.moving.com/>), <http://www.relocation.com/> (<http://www.relocation.com/>), <http://www.doorsteps.com/> (<http://www.doorsteps.com/>), <http://www.topproducer.com/> (<http://www.topproducer.com/>), <http://www.tigerlead.com/> (<http://www.tigerlead.com/>), <http://www.fivestreet.com/> (<http://www.fivestreet.com/>), [http://www.listhub.com](http://www.listhub.com/) (<http://www.listhub.com>) and <http://www.homefair.com/> (<http://www.homefair.com/>). The origin of any link to any Move Network home page must be accompanied by a clear and prominent attribution indicating that the link is connected to the Move Network home page. By creating a link to the Move Network, you agree that (a) you will not employ any technology that results in the placement of content from the Move Network in a frame and/or a reduced pop-up window and/or any other display mechanism which changes appearance of the Move Network from how it would appear if a user typed the URL in a typical browser line, (b) your site shall not display content or link to other web sites that contain content that is illegal, obscene, indecent, disparaging, discriminating or otherwise offensive, (c) you have duly registered your domain name and possess all rights necessary to use the same, and (d) you shall not in any manner access, collect, store, disclose, transfer or use any information obtained or derived from a user's access to or use of the Move Network. Move reserves the right to revoke your permission to create such link at any time in its sole discretion and you agree to immediately cease using the link at any time that Move so requests.

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You acknowledge that Move is not a real estate broker, mortgage broker or mortgage lender, and Move does not aid or assist borrowers in obtaining, solicit borrowers or lenders for, negotiate or make loans secured by liens on real property.

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You promise that you will not use the Move Network to:

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  - not related to appropriate subject matters;
  - which is misleading to others, including consumers;
  - that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically or otherwise objectionable;
  - that you do not have a right to post and transmit under any law or under contractual relationships;
  - such that such posting, uploading, or transmission constitutes the infringement of any patent, trademark, trade secret, copyright or other proprietary rights of any party;
  - and materials that contain software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; or
- intentionally or unintentionally violate any applicable local, state, national or international law, or any regulations having the force of law, including the Civil Rights Act of 1866, the Fair Housing Act, the Americans with Disabilities Act, and the Equal Credit Opportunity Act.

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- (ii) any information about any consumer, potential borrower or other person who submits or is the subject of an Inquiry, nor
- (iii) any information about, or in any rating of or feedback about, any advertiser, lender, broker or mortgage or loan professional

Move does not guarantee any information provided by any borrower, any specific loan terms and conditions offered by an advertiser, lender, broker or mortgage professional, or that any person will be offered or able to obtain any particular rates, loan, loan application, quote, pre-qualification, pre-approval, loan commitment or loan-related transaction.

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Move does not offer loans and does not solicit or participate in the solicitation of loans or loan applications.

Move does not take applications for loans or credit nor issue or participate in the issuance of pre-qualifications or pre-approvals.

Any request for, inquiry about or agreement to receive or be contacted about loans, loan applications, quotes, pre-qualifications, pre-approvals, loan commitments or loan-related transactions by any consumer or person (e.g., by way of advertisements on websites or mobile apps operated by Move) is not, and will not be responded to by Move as, an order, application, offer or transaction for any credit, loan, loan application, quote, pre-qualification, pre-approval, loan commitment or loan-related transaction or other loan or credit product.

Move does not endorse or recommend any lender, any borrower nor any of the products, rates or offerings of any lender, broker or mortgage professional.

Nothing contained in any mortgage-related ad or other ad is an offer to provide, or a solicitation for, any loan, loan application, quote, pre-qualification, pre-approval, loan commitment or loan-related transaction.

Move is not an agent of any consumer or borrower nor of any advertiser, lender, broker or mortgage or loan professional.

Move sometimes may provide advertising services, services to facilitate contact when consumers wish to be contacted by lenders, mortgage brokers or other loan professionals and/or other like services relating to use of websites or mobile apps Move operates.

Decisions regarding loans, loan applications, quotes, pre-qualifications, pre-approvals, loan commitments or loan-related transactions are not made by Move but are made by lenders, brokers or other loan professionals which might include participating advertisers of Move.

Move does not make or give any guarantee regarding, and assumes no responsibility for, any such decisions, nor any acts or omissions of lenders, brokers or other loan professionals, nor any result or consequence (direct or indirect) of any business transaction (actual, proposed or discussed) or related communications between lenders, brokers or other loan professionals and any other person, nor any rates, information or other content on or accessible through any website or app that did not originate solely from Move.

The foregoing disclosures reflect Move's good faith conclusions regarding the subject matter of such disclosures, and Move takes no responsibility for, and shall have no liability as a result of or in connection with, any assertions, findings or conclusions that might be made, adjudicated, established or otherwise reached by anyone other than Move, nor any actual or alleged inaccuracy of or other fault with any such disclosures.

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## General Terms

### Applicable Law

This Terms of Use is governed by the laws of the State of California, U.S.A. without regard to conflicts of laws principles. You hereby consent to the exclusive jurisdiction and venue of courts sitting in California, County of Los Angeles and/or Central District of California in all disputes arising out of or relating to accessing or using of the Move Network. Access or use of the Move Network is unauthorized in any jurisdiction that does not give effect to all provisions of these terms and conditions, including without limitation this paragraph.

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### Interpretation of the Terms of Use

If any part of the Terms of Use is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations contained herein, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Terms of Use shall continue in effect. Unless otherwise specified herein (or in any other definitive written agreement between you and Move), the Terms of Use constitutes the entire agreement between you and Move with respect to the Move Network and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and Move with



respect to the Move Network. A printed version of the Terms of Use and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to the Terms of Use to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

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YOU AGREE TO INDEMNIFY AND HOLD MOVE, ITS THIRD-PARTY VENDORS, CORPORATE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS AND DEMANDS, INCLUDING, BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD-PARTY DUE TO OR ARISING OUT OF ANY CONTENT, SUBMITTED, POSTED, OR OTHERWISE PROVIDED BY YOU TO THE MOVE NETWORK AND/OR MOVE AND/OR ITS THIRD PARTY ADVERTISERS AND ANY BREACH BY YOU OR YOUR AFFILIATES, EMPLOYEES, AGENTS AND REPRESENTATIVES OF THESE TERMS OF USE.

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