

VOW DATA LICENSE AGREEMENT

Northeast Florida Multiple Listing Service, Inc.

This License Agreement (the Agreement) is made and entered into by and between Northeast Florida Multiple Listing Service, Inc. ("MLS") and _____, a REALTOR® Participant of the Northeast Florida Multiple Listing Service, Inc., ("Participant"), and _____, an "Affiliated VOW Partner of Participant ("AVP").

RECITALS

Participant wishes to obtain and MLS wishes to provide MLS Listing Information, as defined in Section 1b of this Agreement, for use on Participant's or Participant's licensee's (Subscriber) Virtual Office Website (VOW), product or service. Participant wishes to engage an AVP to operate Participant's or Subscriber's VOW or to use the MLS Listing Information in a product or service on behalf of and subject to Participant's supervision, accountability, and compliance with the MLS's Rules as defined in Section 1 of this Agreement.

AVP wishes to and has or will enter into an agreement with Participant to operate Participant's or Subscriber's VOW, product or service and seeks to obtain access to the MLS Listing Information for such purpose.

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, MLS, Participant, and AVP agree as follows.

The Participant is requesting MLS Listing Information in the RETS format: (Real Estate Transaction Standard)

DEFINITIONS

1. For purposes of this Agreement, the following terms shall have the meanings set forth below.
 - a. **Affiliated VOW Partner (AVP)** means an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant's supervision, accountability, and compliance with the MLS's VOW Policy and Rules and Regulations.
 - b. **MLS Listing Information** means all listing information provided by Participants to the MLS and aggregated and distributed by the MLS to Participants that is not Confidential Information as defined in section 1g except for any listing for which the seller has withheld permission to have the listed property displayed on the Internet. "MLS Listing Information" shall also include information relating to properties that have sold only in those jurisdictions in which the actual sales prices of completed transactions are accessible from public records.
 - c. **MLS Server** means the computer server or servers, including both hardware and software, maintained by MLS which contains the MLS Listing Information and provides or provide the means for AVP to access the MLS Listing information.
 - d. **Participant** means any REALTOR® who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal who participates in the MLS by agreeing to conform to the rules and regulations thereof. For purposes of this Agreement, a Participant may permit their licensee (Subscriber) to operate a VOW with the Participant's consent.
 - e. **Rules** refer to the MLS Rules and Regulations, as amended from time to time; the VOW Policy; any applicable access standards and technology standards; and any operating policies relating to the MLS Listing Information. Participant and AVP acknowledge receipt of a copy of the Rules and Regulations.
 - f. **Virtual Office Website (VOW)** refers to an MLS participant's Internet website or a feature of a participant's website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and accountability.
 - g. **Confidential Information** means information in any form or medium that is either designated or considered as proprietary and/or confidential by MLS or, by the nature of the circumstances surrounding disclosure. Confidential information shall be treated as proprietary and confidential including, without limitation, information regarding MLS vendors, passwords, lock box codes, databases, passwords, logins, systems, Participant lists and information, financial, business and technical information, marketing plans, research methods, techniques, processes and know-how and the terms set forth in this Agreement.

- h. **Syndication** means distribution of Participant's listing data to third party real estate publishers.

LICENSE

2. License Grant. Subject to the terms and conditions of this Agreement, MLS hereby grants to AVP a License to receive from MLS access to the MLS Listing Information for use solely and exclusively in connection with the use of MLS Listing Information on Participant's authorized VOW, product or service. All rights not expressly granted in this Agreement are reserved to MLS.
3. Limitations on License. Except as expressly set forth in this Agreement, AVP shall not, and shall not facilitate, cause, or allow anyone else, to do any of the following: (a) use, display, access, distribute, transfer, alter, or modify the MLS Listing Information, or otherwise create any derivative works of the MLS Listing Information, (b) download, distribute, export, deliver, or transmit any of the MLS Listing Information, including to any computer or other electronic device, except to Participant's authorized VOW, product or service as permitted under this Agreement, or (c) sell, grant access to, or sublicense the MLS Listing Information, or any portion of the MLS Listing Information, to any third party. AVP agrees to take all reasonable steps necessary to protect the MLS Listing Information from unauthorized access, distribution, copying or use.
4. License Fees and Payment; Expenses. In consideration for the License granted under this Agreement, Participant, Subscriber or AVP agrees to pay to MLS the license fees and other fees as set by MLS from time to time. If AVP pays these fees, the Participant or Subscriber will not be required to pay these fees. All fees must be paid in advance and are non-refundable. All subsequent annual fees shall be due and payable on the applicable anniversary dates of the Effective Date.
5. No Warranties. THE LICENSE GRANTED UNDER THIS AGREEMENT, INCLUDING ACCESS AND DISPLAY OF THE MLS LISTING INFORMATION, IS PROVIDED "AS IS," AND, SET FORTH IN SECTION 19 OF THIS AGREEMENT, MLS DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

COMPLIANCE

6. Rules and Regulations. Participant and AVP hereby acknowledge that MLS has provided each with a copy of the MLS Rules and Regulations and agree to be bound by and comply with the Rules and Regulations.
 - a. The Rules and Regulations may include terms and limitations in addition to those set forth in this Agreement. In the event of any inconsistency, the terms of the Rules and Regulations will govern.
 - b. MLS may modify the Rules and Regulations which would affect this Agreement at any time, in its sole discretion. MLS agrees to deliver to Participant and AVP any modification of the Rules and Regulations, and Participant and AVP shall comply with such modification not later than five (5) business days after receipt.
7. Means of Accessing the MLS Listing Information. Access by AVP to the MLS Listing Information shall be either via API or in the RETS format. MLS may, in its sole discretion and upon thirty (30) days prior written notice to AVP, change the means and nature of accessing the MLS Listing Information.
8. Authorization to Access the MLS Listing Information. AVP hereby acknowledges and agrees that (i) AVP has no independent participation rights in the MLS by virtue of this license; (ii) AVP shall not use MLS Listing Information except in connection with operation of Participant's authorized VOW, product or service pursuant to this Agreement; and (iii) access by AVP to MLS Listing Information is derivative of the rights of Participant.
9. MLS Access to the VOW. Participant shall at all times make Participant's authorized VOW, product or service readily accessible to MLS and to all MLS Participants for purposes of verifying compliance with the Rules. Participant's VOW, product or service is accessible by the following means or at the following URL including third-level domains:

10. Changes to MLS's Server. MLS shall not be obligated to make any changes to MLS's Server, including any software running on MLS's Server, the configuration, applicable protocols, or any other aspect of MLS's Server for any reason. Participant and AVP acknowledge that the MLS Server, together with access to the MLS Listing Information, may from time-to-time be unavailable to AVP, whether because of technical failures or interruptions, intentional downtime for service or changes to the MLS Server, or otherwise. Participant and AVP agree that any modification of the MLS Server, any interruption or unavailability of access to the MLS Server, or access to or use of the MLS Listing Information shall not constitute a default under this Agreement. MLS shall have no liability of any nature to Participant or AVP for, and Participant and AVP waive all claims arising out of, any such modifications, interruptions, unavailability, or failure of access.

OWNERSHIP

11. Ownership of Intellectual Property. AVP acknowledges and agrees that the MLS Listing Information is proprietary, original works of authorship of MLS, may consist of information for which MLS has sufficient rights to grant this license, and is protected under United States copyright law. AVP further acknowledges and agrees that all right, title, and interest in and to the MLS Listing Information and any modifications, enhancements, or derivative works of the MLS Listing Information, are and shall remain the sole property of MLS. This Agreement does not convey or grant to AVP an interest in or to the MLS Listing Information, but only a limited right to access, use or display the MLS Listing Information, and this right is revocable in accordance with the terms of this Agreement. AVP agrees that it will not challenge or take any action inconsistent with MLS's ownership of or rights to the MLS Listing Information as described herein.
12. Trademark License. MLS grants to AVP a limited, non-exclusive, revocable license to use MLS's trademark(s) identified for the sole purpose of identifying MLS as the source of the MLS Listing Information. AVP agrees that it shall not use MLS trademark(s), or any marks that are confusingly similar, assert any right, license, or interest with respect to any trademark(s) of MLS, or represent or suggest any affiliation between MLS and AVP. AVP agrees that it will not file any applications or assert any rights to the MLS trademark(s) in the United States, or any other country or territory. MLS may subsequently grant similar rights to AVP to use other trademark(s) of MLS, and AVP's use thereof shall be subject to the provision of this paragraph.
13. Proprietary and Other Notices. AVP agrees that it will include and not alter or remove any trademark(s), copyright, other notices, or any disclaimers located or used on or in connection with the MLS Listing Information. AVP agrees to provide notice to any person with access to the display of the MLS Listing Information that the source of the MLS Listing Information is MLS.

TERM AND TERMINATION

14. The term of this Agreement shall commence on the "Effective Date" set forth on the signature page of this Agreement. MLS may, by delivery of written notice to Participant and AVP, terminate this Agreement effective immediately upon the occurrence of any of the following events:
 - a. AVP giving MLS, Participant and Subscriber written notice of the termination;
 - b. Participant or Subscriber giving notice to MLS they no longer intend to display the MLS Listing Information;
 - c. AVP being no longer designated to provide VOW services to Participant or Subscriber;
 - d. Participant or Subscriber ceasing to remain a Participant or Subscriber in the MLS;
 - e. AVP accessing, downloading, or using data in a manner not authorized for Participants that hinders the ability of Participant or Subscriber to download data;
 - f. Participant, Subscriber or AVP violating a VOW Policy, VOW Rule; or
 - g. Participant, Subscriber or AVP failing to make required payments to the MLS.
15. MLS acknowledges and agrees that it may not suspend or terminate AVP's access to data for reasons other than those that would allow MLS to suspend or terminate Participant's or Subscriber's access to data, or without giving the AVP, Participant or Subscriber prior notice of the process set forth in the applicable provisions of the Rules for suspension or termination of Participant's or Subscriber's access. MLS may also suspend or terminate AVP's access to data if AVP breaches this Agreement.
16. No fees, portion of the fees, or other fees payable by Participant, Subscriber or AVP under this Agreement will be refunded to Participant, Subscriber or AVP upon termination of this Agreement for any reason.

WARRANTIES, INDEMNIFICATION AND LIMITATION OF LIABILITY

17. Mutual Representations and Warranties.

- a. Each party represents and warrants to the others as follows: (a) this Agreement, when executed by such party, will be valid, binding and enforceable with respect to such party in accordance with its terms; (b) the execution of this Agreement and/or the performance of such party's obligations under this Agreement will not constitute a default, or an event which with the passage of time, the giving of notice, or both, would constitute a default, under any other agreement by which such party is bound; and (c) AVP is not and shall not be under any disability, restriction, or prohibition related to the execution of this Agreement and the performance of its obligations under this Agreement. AVP further represents and warrants to MLS that the grant of the License to AVP and the fulfillment of AVP's obligations as contemplated under this Agreement are proper and lawful.
- b. Confidentiality. AVP acknowledges that in the course of performing this Agreement, it will receive or be exposed to Confidential Information of MLS and its Participants. AVP acknowledges and agrees that all of this Confidential Information constitutes valuable trade secrets and that all of this information will be received and held by AVP in confidence, will be used only for the purposes set forth in this Agreement, and will not be disclosed to any person or entity without the prior written consent of MLS. AVP will take all precautions necessary to safeguard the confidentiality and security of the Confidential Information including, at a minimum, those precautions taken by AVP to protect its own confidential information, which will never be less than a reasonable degree of care. AVP acknowledges and agrees that AVP's protection of Confidential Information is essential to this Agreement. All Confidential Information shall (i) remain the sole property of MLS and (ii) be used by AVP only as authorized herein.
- c. Indemnification. Participant and AVP jointly and severally indemnify and hold harmless MLS, its officers, directors, employees, attorneys, and licensees, from and against any and all claims, demands, liabilities, and actions, including the payment of all legal expenses, including reasonable attorneys' fees and costs, arising out of or connected with any breach by Participant or AVP of any of the terms and conditions of this Agreement, including any breach of representation or warranty set forth in this Agreement, and the use and display of the MLS Listing Information. MLS shall have the right to control its own defense and engage legal counsel acceptable to MLS.
- d. Limitation of Liability. TO THE FULLEST EXTENT AVAILABLE UNDER APPLICABLE LAW, MLS'S ENTIRE AND CUMULATIVE LIABILITY TO PARTICIPANT AND/OR AVP, OR ANY THIRD PARTY, FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE USE OR DISPLAY OF THE MLS LISTING INFORMATION, INCLUDING ANY TORT, SUCH AS NEGLIGENCE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LICENSE FEE PAID TO MLS UNDER THIS AGREEMENT DURING THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ACCRUED. WITHOUT WAIVER OF THE LIMITATIONS SET FORTH IN THIS AGREEMENT, IN NO EVENT SHALL MLS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OR LOST PROFITS, EVEN IF MLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

REMEDIES

18. MLS, Participant, and AVP agree that a breach of this Agreement will result in immediate and irreparable injury and harm to MLS. In such event, MLS shall have the right to immediately terminate AVP's access to the MLS Information and to obtain an injunction, temporary and permanent, specific performance, or other equitable relief to prevent the violation of the obligation under this Agreement; provided, however, that this shall in no way limit any other remedies which MLS may have including, without limitation, the right to seek monetary damages.
19. Costs of Litigation. If any action is brought by any party to this Agreement against another party regarding the subject matter of this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees, costs, and expenses of litigation, including on appeal and in bankruptcy.

GENERAL PROVISIONS

20. Governing Law; Submission to Jurisdiction. This Agreement is governed by and enforced according to the laws of the State of Florida. Participant and AVP hereby submit and consent to, and waive any defense to the jurisdiction of courts located in this Duval County, State of Florida, as to all matters relating to or arising from this Agreement.
21. Notices. All notices to be given under this Agreement shall be made in writing and delivered by U.S. certified mail, return receipt requested, UPS, FedEx, facsimile transmission, or email to the appropriate party at the address provided on the signature page of this Agreement. The foregoing addresses may be changed from time-to-time by delivering notice of such change to the parties to this Agreement. Notice shall be effective upon receipt.
22. No Joint Venture. Nothing in this Agreement shall be construed to create a partnership or joint venture between any parties to this agreement.
23. Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable shall not invalidate or make unenforceable any other provision of this Agreement.
24. No Waiver. The waiver by either party of or the failure of either party to take action with respect to any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach of the same, or any other term, covenant or condition contained in this Agreement.
25. No Assignment. Neither Participant nor AVP may assign or otherwise transfer any rights under this Agreement to any party without the prior written consent of MLS.
26. Execution and Amendment. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument. Electronic or facsimile signatures are deemed to be equivalent to original signatures for the purposes of this Agreement. This Agreement may not be amended except in writing signed by Participant, AVP, and MLS.

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SIGNATURE PAGE

WHEREFORE, the parties hereto have executed this Agreement by their authorized representatives as of the Effective Date: _____

Participant understands and agrees that Participant is responsible for Participant's licensees with regard to MLS Listing Information. MLS recommends that Participant secure a written agreement with their licensees as to the proper use of the MLS Listing Information.

SYNDICATION of LISTINGS: By initialing below Participant hereby grants permission for Vendor to syndicate all of Participant's active listings _____ only Subscriber's active listings _____ or both Participant's and Subscriber's active listings _____ to third party real estate publishers. No listings shall be syndicated if left blank.

Licensee Information

Affiliated VOW Partner Information and Signature

Print Name of Licensee

Signature of Affiliated VOW Partner

Title of Licensee

Print Name of Affiliated VOW Partner

Title of Affiliated VOW Partner

Member ID number

Phone Number of Affiliated VOW Partner

E-mail Address

E-mail Address

Participant /Broker Information and Signature

Northeast Florida Multiple Listing Service, Inc. Information and Signature

Signature of Broker of Record

Signature

Print Name of Broker of Record

Print Name

Title of Broker of Record

Title

Member ID number of Broker of Record

Jacksonville, FL 32256
City, State, Zip Code

Office Code of Broker of Record

idx@realtyweb.net
E-mail Address

E-mail Address of Broker of Record

904.394.9494
Phone Number