

## DATA PROCESSING AGREEMENT (FTP/RETS ACCESS BROKER/AGENT)

This Data Processing Agreement (the "Agreement") effective as of \_\_\_\_\_ (known as "Effective Date") is by and between the Greater Tyler Association of REALTORS® Multiple Listing Service (Provider) a Texas Corporation having its principal place of business at 2772 SSE Loop 323, Tyler, Smith County, Texas 75701, and \_\_\_\_\_ (Broker/Agent), with operations located at \_\_\_\_\_.

### RECITALS:

- A. The parties acknowledge that Provider operates an on-line computerized multiple listing service (MLS) which provides data and other information to its participants, subscribers and other authorized parties (Authorized Users).
- B. The parties agree that only Provider possesses the exclusive, non-transferable right and license to operate, administer and manage the ordinary and customary day to day operations, activities and services of the MLS. This Agreement is not transferable through right, ownership, consolidations or other subsidiaries of the Broker/Agent. Furthermore, it is recognized that Provider owns and claims all rights, titles and interests (including but not limited to rights of copyright) in and to the MLS data. Access thereto and use thereof is strictly limited and regulated by the MLS Rules and Regulations.

### IT IS AGREED:

- A. Subject to Broker/Agent's compliance with the terms and conditions of this Agreement, Provider hereby grants Broker/Agent limited, revocable, non-transferable access to a designated FTP site of select MLS data, as determined by Provider, solely for the purposes of Broker/Agent's own IDX website development and maintenance in accordance with Provider's MLS Rules and Regulations or to provide approved services to designated REALTORS® as authorized by Provider. Any other use of the MLS data by Broker/Agent is strictly prohibited. All rights not expressly granted in this Agreement, including but not limited to all copyrights in and to the MLS data, are expressly reserved by Provider. Broker/Agent shall comply with Provider's IDX rules, which are attached hereto as Exhibit A and incorporated herein by reference. Broker/Agent specifically identifies below the domain name and the full URL for where the MLS data will be posted or linked.

**Please identify the domain name and the full URL for where the data will be posted or linked:**

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If the MLS data is to be used on an Agent's website, the undersigned Requesting MLS Participant hereby acknowledges and gives consent for the undersigned Requesting Agent in the specified REALTOR® Brokerage Company to utilize such data and shall be responsible for such Requesting Agent's compliance with all terms and conditions of this Agreement, including but not limited to the IDX rules.

- B. This Agreement shall not be construed to grant the Broker/Agent any ownership of the MLS data provided and expressly prohibits Broker/Agent from reconfiguring, reformatting, reselling, transmitting, downloading, copying, furnishing or otherwise making such data available to any person, firm, corporation, or other entity other than an MLS Participant/Subscriber as authorized by Provider.
- C. All parties acknowledge and agree that the precise composition of the MLS data may change from time to time and that changes in technical specifications and software or hardware requirements may be imposed by Provider. The Provider shall not be responsible for any such work or additional costs that may be incurred by Broker/Agent due to such changes.
- D. Provider shall provide a connection to the provided data for Broker/Agent's authorized use via the following means (FTP site): ftp://idx.paragonrels.com.
- E. The Broker/Agent agrees to pay to the MLS the setup fee(s) described on the attached Exhibit A to this agreement (the "Fees"). The fee(s) shall be payable as provided on Exhibit A. If the Broker/Agent desires to contract with a Vendor to provide access to the MLS data on behalf of Broker/Agent, then the Vendor will have to contract with Provider through a Third Party Processing Agreement, and the Vendor shall pay all applicable fees for FTP access to the data pursuant to such Third Party Processing Agreement. Broker/Agent shall be responsible for any such Vendor's compliance with the terms and conditions of this Agreement.
- F. The term of this Agreement shall commence on the Effective Date and continue on a quarterly basis as long as no changes are made in Broker/Agent's REALTOR® membership, Brokerage Company sponsorship or affiliation, or in the address of the URL or previously approved links. Any change in Broker/Agent's REALTOR® membership, Brokerage Company sponsorship or affiliation, or address of the URL or previously approved links will require all parties to enter into a new Agreement to have FTP access to the data. Either party may cancel this Agreement on thirty days notice to the other party. Further, Provider reserves the right to terminate Broker/Agent's access to MLS data without notice for non-compliance with the terms of this Agreement.
- G. This Agreement provides no endorsement or implied recommendation of the Broker/Agent's product, program or service. Broker/Agent hereby agrees to indemnify and hold Provider and its officers, directors, shareholders, employees, and representatives harmless from and against any and all claims, demands, and actions, and any liabilities, damages, or expenses resulting there from, including court costs and reasonable attorney's fees, arising out of or relating to the Broker/Agent's access to or use of the provided MLS data.
- H. THE MLS DATA IS PROVIDED "AS IS" WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE FULLEST EXTENT ALLOWED BY LAW, PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

- I. This Agreement shall be governed by and construed in accordance with the Laws of the State of Texas, and exclusive jurisdiction and venue for its enforcement shall be maintained in a court of competent jurisdiction in Smith County, Texas.
- J. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, representations, proposals, discussions, and communications of the parties, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the parties sought to be bound.
- K. Broker/Agent shall not assign its rights or obligations under this Agreement without the prior express written consent of Provider.
- L. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute a single agreement. This Agreement may be executed and delivered by facsimile transmission, and a signature executed by one party and delivered to the other party via facsimile transmission shall be binding on the executing party to the same extent as a manually signed and delivered original.

WHEREFORE, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

PROVIDER:

BROKER/AGENT:

By: Greater Tyler Assoc of REALTORS®

By: \_\_\_\_\_

Name: Edward M. Moore

Name: \_\_\_\_\_

Title: President & CEO

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Brokerage Company: \_\_\_\_\_

Name of Requesting MLS Participant (Broker): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Requesting MLS Subscriber (Salesperson): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Do any other agents of this Brokerage Company display IDX data on their websites? Please list:

\_\_\_\_\_  
\_ Agent Name

\_\_\_\_\_  
URL

\_\_\_\_\_  
\_ Agent Name

\_\_\_\_\_  
URL

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URL

\_\_\_\_\_  
\_ Agent Name

\_\_\_\_\_  
URL

## **EXHIBIT A**

### **FEES**

**Effective January 1<sup>st</sup>, 2023, Greater Tyler Association of REALTORS®**, will charge the following to our FTP/RETS subscribing members:

- IDX: one time set up fee of \$300 plus \$50 for any additional feeds, up to a maximum of 3 feeds.
- Broker/Agent will be charged via an order placed on their MLS account. GTAR reserves the right to change the fees with thirty (30) days notice to Participant.

*Note: The Broker/Agent must keep his/her GTAR association account current. Data feeds to delinquent accounts will stop immediately upon suspension of services and will not be restored until account is brought current, all reinstatement fees have been paid and GTAR consents to such reinstatement.*

**THIRD PARTY PROCESSING AGREEMENT (VENDOR FTP/RETS ACCESS)**

This Third Party Processing Agreement (the "Agreement") effective as of \_\_\_\_\_ (known as "Effective Date") is by and between the Greater Tyler Association of REALTORS® Multiple Listing Service (Provider), a Texas Corporation having its principal place of business at 2772 SSE Loop 323, Tyler, Smith County, Texas 75701, and \_\_\_\_\_ (Vendor), with operations located at \_\_\_\_\_.

**RECITALS:**

- A. The parties acknowledge that Provider operates an on-line computerized multiple listing service (MLS) which provides data and other information to its participants, subscribers and other authorized parties (Authorized Users).
- B. The parties agree that only Provider possesses the exclusive, non-transferable right and license to operate, administer and manage the ordinary and customary day to day operations, activities and services of the MLS. This Agreement covers only one Vendor product line and is not transferable through right, ownership, consolidations or through other subsidiaries of the Vendor. Furthermore, it is recognized that Provider owns and claims all rights, titles and interests (including but not limited to rights of copyright) in and to the MLS data. Access thereto and use thereof is strictly limited and regulated by the MLS Rules and Regulations.

**IT IS AGREED:**

- A. Subject to the timely payment of all required fees and compliance with all other terms and conditions of this Agreement, Provider hereby grants Vendor limited, revocable, non-transferable access to a designated FTP site of select MLS data, as determined by Provider, solely for the purposes of IDX website development and maintenance for Authorized Users or to provide other services to Authorized Users as authorized by Provider. Any other use of the MLS data by Vendor is strictly prohibited. All rights not expressly granted in this Agreement, including but not limited to all copyrights in and to the MLS data, are expressly reserved by Provider. In providing its services to Authorized Users pursuant to this Agreement, Vendor shall fully comply with Provider's IDX rules, which are attached hereto as Exhibit A and incorporated herein by reference. Vendor specifically identifies below the type of service provided, the name of each Authorized User for whom the service will be provided, and the URL for where the MLS data will be posted or linked. Vendor agrees to provide to Provider a list of clients who are Providers' members, and their URLs. Vendor agrees to supply an updated list to the Provider showing all Authorized Users for whom the service will be provided, and the URL for where the MLS data will be posted or linked.

Identify the type of service to be provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Identify the preferred access delivery: FTP: \_\_\_\_\_ RETS: \_\_\_\_\_

Name of Authorized User clients for whom the service will be provided:

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Please identify the URL for where the MLS data will be posted or linked:

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- B. This Agreement shall not be construed to grant the Vendor any ownership of the MLS data provided and expressly prohibits Vendor from reconfiguring, reformatting, reselling, transmitting, downloading, copying, furnishing or otherwise making such data available to any person, firm, corporation, or other entity other than an Authorized User.
- C. All parties acknowledge and agree that the precise composition of the MLS data may change from time to time and that changes in technical specifications and software or hardware requirements may be imposed by Provider. The Provider shall not be responsible for any such work or additional costs that may be incurred by Vendor due to such changes.
- D. Provider shall provide a connection to the provided data for Vendor's authorized use via the following means (FTP site): ftp://idx.paragonrels.com or if (RETS) the URL will be supplied in the setup confirmation email with authorization credentials.
- E. The term of this Agreement shall commence on the Effective Date and continue on a quarterly basis as long as data service fees (if any) are paid and current; provided, however, either party may cancel this Agreement on thirty days notice to the other party. Further, Provider reserves the right to terminate Vendor's access to MLS data without notice for financial delinquency or non-compliance with the terms of this Agreement.
- F. This Agreement provides no endorsement or implied recommendation of Vendor's product, program or service. Vendor hereby agrees to indemnify and hold Provider and its officers, directors, shareholders, employees, and representatives harmless from and against any and all claims, demands, and actions, and any liabilities, damages, or expenses resulting there from, including court costs and reasonable attorney's fees, arising out of or relating to Vendor's services or Vendor's access to or use of the MLS data.
- G. THE MLS DATA IS PROVIDED "AS IS" WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE FULLEST EXTENT ALLOWED BY LAW, PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

- H. This Agreement shall be governed by and construed in accordance with the Laws of the State of Texas, and exclusive jurisdiction and venue for its enforcement shall be maintained in a court of competent jurisdiction in Smith County, Texas.
- I. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, representations, proposals, discussions, and communications of the parties, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the parties sought to be bound.
- J. Vendor shall not assign its rights or obligations under this Agreement without the prior express written consent of Provider.
- K. . This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute a single agreement. This Agreement may be executed and delivered by facsimile transmission, and a signature executed by one party and delivered to the other party via facsimile transmission shall be binding on the executing party to the same extent as a manually signed and delivered original.

WHEREFORE, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

PROVIDER:

VENDOR:

By: Greater Tyler Assoc of REALTORS®

By: \_\_\_\_\_

Name: Edward M. Moore

Name: \_\_\_\_\_

Title: President & CEO

E-Mail: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**Greater Tyler Association of REALTORS® Multiple Listing Service, Inc.**  
**IDX & VOW Rules & Regulations**

**SECTION 18: INTERNET DATA EXCHANGE (IDX)**

**Section 18.0 – IDX Defined:** IDX affords MLS Participants the option of authorizing display of their listings on other Participants' Internet web sites. *(Amended 11/09)*

**Section 18.1 – Authorization:** Participants' consent for display of their listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants. Even where Participants have given blanket authority for other Participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. *(Amended 11/09)*

**Section 18.2 – Participation:** Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. *(Amended 11/09)*

**Section 18.2.1 –** Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

**Section 18.2.2 –** MLS participants may not use IDX-provided listings for any purpose other than display on their websites. This does not require participants to prevent indexing of IDX listings by recognized search engines *(Amended 11/09)*

**Section 18.2.3 –** Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. *(Amended 11/09)*

**Section 18.2.4 –** Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant. *(Amended 11/06)*

**Section 18.2.5 –** Participants must refresh all MLS downloads and refresh all MLS data at least once every three (3) days. *(Amended 11/09)*

**Section 18.2.6 –** Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

**Section 18.2.7 –** When displaying listing content, a Participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operated in a readily visible color and typeface.

**Section 18.2.8 – Any IDX site that:**

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or a hyperlink to such estimate) in immediate conjunction with the listing,

shall disable or discontinue either or both of those features as to the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participant's websites. Except for the foregoing and subject to Section 18.2.9, a participant's IDX site

may communicate the participant's professional judgment concerning a listing. Nothing shall prevent and IDX site from notifying its customers that a particular feature has been disabled at the request of the seller. **(Adopted 11/09)**

**Section 18.2.9** - Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the IDX site. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. **(Adopted 11/09)**

**Section 18.3 – Display:** Display of listing information pursuant to IDX is subject to the following rules:

**Section 18.3.1** – Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.

**Section 18.3.1.1** – The type of listing agreement (e.g. exclusive right to sell, exclusive agency, etc.) may not be displayed on IDX sites.

**Section 18.3.2** – Participants shall not modify or manipulate information relating to other Participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

**Section 18.3.3** – All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. **(Amended 11/09)**

**Section 18.3.4** – All listings displayed pursuant to IDX shall identify the listing agent.

**Section 18.3.5** – Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant's consent and control and the requirements of state law and/or regulation.

**Section 18.3.7** – All listings displayed pursuant to IDX shall show the MLS as the source of the information.

**Section 18.3.8** – Participants and their affiliated licensees shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MLS from liability.

**Section 18.3.10** – The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office holding participatory rights in this MLS.

**Section 18.3.11** – Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.

**Section 18.3.12** - Display of expired, withdrawn, pending, and sold listings is prohibited. **(Amended 11/09)**

**Section 18.3.13** - Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and e-mail address(es) is prohibited.

**Section 18.3.14** - Participants are required to employ appropriate security protection such as firewalls, provided that any security measures required may not be greater than those employed by the MLS.

**Section 18.3.15** - IDX operators must maintain an audit trail of consumer activity on the IDX site and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

**Section 18.3.16** - Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. **(Adopted 11/09)**

**Section 18.4 Service Fees and Charges** - Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. **(Adopted 11/01, Amended 5/05)**

## **SECTION 19: VIRTUAL OFFICE WEBSITE (VOW'S)**

### **Section 19.1 - VOW Defined:**

(a) A 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. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant's oversight, supervision, and accountability.

(b) As used in Section 19 of these Rules, the term "Participant" includes a Participant's affiliated non-principal brokers and sales licensees – except when the term is used in the phrases "Participant's consent" and "Participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a Participant.

(c) "Affiliated VOW Partner" ("AVP") refers to 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 VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

(d) As used in Section 19 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

**Section 19.2 (a):** The right of a Participant's VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

(b) Subject to the provisions of the VOW Policy and these Rules, a Participant's VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange ("IDX").

(c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant's VOW.

**Section 19.3 (a):** Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

(i) The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

(ii) The Participant must obtain the name of, and a valid email address for, each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.

(iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

(b) The Participant must assure that each Registrant's password expires on a date certain but may provide for renewal of the password. The Participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The Participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant's password.

(c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

(d) The Participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to, a "Terms of Use" provision that provides at least the following:

(i) That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

(ii) That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use;

(iii) That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;

(iv) That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant's consideration of the purchase or sale of an individual property;

(v) That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.

(e) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.

(f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

**Section 19.4:** A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee

licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

**Section 19.5:** A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

**Note:** MLSs may adopt rules requiring Participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.

**Section 19.6 (a):** A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

(b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision:

<b>Seller Opt-Out Form</b>
<b>1. Check One:</b>
a. <input type="checkbox"/> I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.
b. <input type="checkbox"/> I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
<b>2. I understand and acknowledge that, if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.</b>
_____   _____ < <b>Initials of seller(s)</b>

(c) The Participant shall retain such forms for at least one (1) year from the date they are signed, or one (1) year from the date the listing goes off the market, whichever is greater.

**Section 19.7: (a)** Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

**Section 19.8:** A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove

any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 19.9:** A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

**Section 19.10:** Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

**Section 19.11:** A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 19.12:** A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

**Section 19.13:** A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

**Section 19.14:** A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant.

**Section 19.15:** A participant's VOW may not make available for search by or display to Registrants any of the following information:

- a. expired, withdrawn, or pending ("under contract") listings
- b. the compensation offered to other MLS participants
- c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property
- f. sold information

**Section 19.16:** A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

**Section 19.17:** A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

**Section 19.18:** A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

**Section 19.19:** A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 5% of current listings and not more than 0% sold listings in response to any inquiry.

**Section 19.20:** A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

**Section 19.21:** A participant may display advertising and the identification of other entities (“co-branding”) on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant’s logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

**Section 19.22:** A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

**Section 19.23:** A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

**Section 19.24:** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

**Section 19.25:** Where a seller affirmatively directs his or her listing broker to withhold either the seller’s listing or the address of the seller’s listing from display on the Internet, a copy of the seller’s affirmative direction shall be provided to the MLS within forty-eight (48) hours. **(Adopted 11/08)**