



SUBSCRIBER AGREEMENT

This Subscriber Agreement (the “Agreement”) is made and entered into and is effective as of the date the last party executes this Agreement, is between Texas Association of REALTORS®, Inc. (“TAR”), a Texas corporation having its principal offices at 1115 San Jacinto Blvd, Suite 200, Austin, TX 78701 and the undersigned individual Texas real estate License Holder, having its principal place of business at the address as set forth on the signature page hereof, as may be changed from time to time (“Subscriber”), and the undersigned individual principal real estate broker or head appraiser, having its principal offices at the address as set forth on the signature page hereof as may be changed from time to time (“Participant”) and is made with reference to the following facts and circumstances:

1. RECITALS.

1.1 TAR owns and operates a multiple listing service as it is defined in its Rules and Regulations.

1.2 TAR collects, primarily from real estate professionals, certain information including, but not limited to all data, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, and pricing information about real properties and businesses in certain geographic regions of the State of Texas and then aggregates and compiles this data into its proprietary database of MLS Database, as hereinafter defined, and displays, maintains and distributes the MLS Database principally for the benefit of those same real estate professionals.

1.3 Subscriber is a License Holder of Participant or affiliated with Participant who has Access to the TAR System, TAR Services and MLS Database as a direct result of Participant’s participation in TAR pursuant to the TAR Participant Agreement.

1.4 The parties desire to enter this Agreement which, in addition to the Rules, will govern the use of the Listing Content, the MLS Database, the TAR System and the TAR Services by Subscriber.

NOW, THEREFORE, in consideration of the Recitals, and the mutual promises and covenants contained herein and intending to be legally bound, each party agrees as follows:

2. DEFINITIONS

Capitalized terms in this Agreement shall have the meanings set forth opposite each, respectively, as follows:

2.1 “Access” means a right of entry to the TAR Services, MLS Database and TAR System.

2.2 “Affiliated VOW Partner” (AVP) means an entity or person designated by a Member to operate a VOW on behalf of the Member, subject to the Member’s supervision, accountability and compliance with the Rules.

2.3 “Effective Date” means the date on which the last party executes this Agreement.

2.4 “IDX” and “Internet Data Exchange” both mean the terms created by the National Association of REALTORS® for the Broker Reciprocity program mandated in January of 2002, which program allows both agents and brokers to show each other’s listings on other agents and brokers’ IDX Displays.

2.5 “IDX Developer” means an entity or person designated by a Member to operate an IDX Display on behalf of the Member, subject to the Member’s supervision, accountability and compliance with the Rules.

2.6 “IDX Display(s)” means a Member’s electronic IDX display of the Listing Content on authorized websites or mobile applications in accordance and compliance with the Rules.

2.7 “Listing Content” means data, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives and pricing information about real properties offered for sale in certain counties throughout the State of Texas and real properties in other geographic regions submitted to TAR by Subscriber and other Members.

2.8 “Members” means, collectively, TAR Participants and TAR Subscribers.

2.9 “MLS Database” means the aggregation and compilation of all Listing Content and changes thereto.

2.10 “Rules” means the rules and regulations of TAR MLS established and adopted by the Executive Board of Directors of TAR, as may be amended from time to time, which regulate Members in their Access to and/or use of the TAR System, TAR Services and MLS Database.

2.11 “TAR Participant(s)” means individuals who hold current, valid real estate brokers’ licenses in the state of Texas and offer or accept compensation to and from other TAR Participants or are registered, licensed or certified by the Texas Appraiser Licensing and Certification Board to engage in the appraisal of real property.

2.12 “TAR Services” means the display, maintenance, and distribution of MLS Database principally to Members together with other products and services which facilitate the business of Members.

2.13 “TAR Subscriber(s)” mean all employees or independent contractors of a TAR Participant who hold valid real estate licenses or appraisal licenses issued by the state of Texas and who have applied to participate or are participating in TAR Services.

2.14 “TAR System” means its computers, technology, software and hardware systems that support the technology and the TAR Services.

2.15 “Term” means the period during which the provisions, terms and conditions of this Agreement are in full force and effect.

2.16 “Virtual Office Website” or “VOW” means an Internet website through which a Member provides real estate brokerage services to consumers where the consumer can search the Listing Content, subject to the Member’s oversight, supervision, and accountability.

3. GRANT OF ACCESS.

Subject to the provisions, terms and conditions of this Agreement and the Rules, TAR hereby grants to Subscriber during the Term a limited, non-exclusive, non-transferable revocable license to Access the TAR System, the TAR Services and the MLS Database for the purpose of adding, editing, reviewing, researching and retrieving the MLS Database and using the TAR System and the TAR Services to conduct the Subscriber’s real estate business.

4. METHOD OF ACCESS TO TAR.

Subscriber shall Access the TAR System, MLS Database, and the TAR Services through various types of electronic communications furnished to Subscriber by TAR and/or third-party vendors, upon the terms and conditions required by TAR and the third-party vendor. Subscriber acknowledges it may be required to execute a license agreement with a third-party service provider to Access the MLS Database, TAR System and TAR Services and agrees to comply with the terms of such agreement. Subscriber understands and agrees that it must execute a separate agreement with TAR, Subscriber’s Participant, and Subscriber’s IDX Developer or Affiliated Virtual Office Website Partner (AVP) for authority to display the MLS Database on an IDX Display or VOW.

5. SUBMISSION OF SUBSCRIBER’S LISTING CONTENT.

5.1 Grant of Rights to TAR. Subscriber, as the acquirer and provider of Listing Content relating to real estate properties for sale, including Subscriber’s personal listing agent information, remarks, virtual tours, videos and photographs, hereby assigns to Participant all right, title and interest in all Listing Content entered by Subscriber into the TAR System.

5.2 Submitted Information. Subscriber hereby warrants that it will have a valid listing agreement prior to submitting any Listing Content to TAR and warrants that the buyers, sellers, photographers and all applicable third parties have assigned to Subscriber or Participant all right, title and interest, including all copyright rights and other intellectual property rights in and to all Listing Content, including without limitation all virtual tours, photographs, videos, floor plans, remarks, or other information submitted to TAR through the TAR System. Subscriber represents and warrants that any Listing Content submitted to TAR by Subscriber does not violate any third-party rights, including without limitation any copyright and/or other intellectual property rights. Subscriber agrees Listing Content shall be submitted in the form and format and

according to the procedures set forth in the Rules and shall use reasonable care to ensure the accuracy and completeness of such submitted Listing Content. Subscriber shall be responsible for correcting and updating all submitted information in accordance with the Rules. Subscriber acknowledges TAR may, but is not obligated to, modify, edit, refuse to accept or include in, and may remove from, the MLS Database any Listing Content if TAR determines, in its sole discretion, that such Listing Content may violate or infringe upon the rights of a third party.

5.3 Copyright. TAR may edit, manipulate and/or compile the Listing Content and tangible or intangible property items provided by Subscriber without Subscriber's permission in accordance with the Rules. Subscriber acknowledges that the manipulation or compilation being performed by TAR will result in a database containing various compilations of real estate data which are copyrightable material. By the act of submitting any Listing Content to TAR, Subscriber hereby assigns its right, title and interest to copyright the Listing Content in the MLS Database to TAR and consents to the use of its contributions in such copyrighted material including the bringing of all actions and causes of action and warrants it will not challenge, interfere with or violate such copyright and warrants that it will not seek compensation therefor.

5.4 Internet Display and Other Third Party Use. TAR may use, or may arrange for third parties to use, the MLS Database in products and services including, but not limited to, reference materials, books, brochures, flyers, electronic transmissions, advertisements, Internet or other computer network displays, on-line data, computer programming, and software, regardless of the form, whether printed, electronic, digital, magnetic media, or otherwise. By the act of submitting any Listing Content to TAR, Subscriber hereby assigns its right, title and interest to allow Internet display and other third party use of the Listing Content in the MLS Database and consents to such uses and warrants that it will not challenge, interfere with or violate such uses and warrants that it will not seek compensation therefor.

5.5 Enforcement. Subscriber understands TAR may exercise all rights necessary for TAR to protect and enforce all intellectual property rights and to prevent the misuse, infringement or misappropriation of the Listing Content, including without limitation, the right to (a) add watermarks or other means of identification to the Licensed Content; (b) monitor usage of the Licensed Content; (c) send demand letters to investigate and/or prosecute alleged infringers; (d) arbitrate or litigate potential claims of infringement or misappropriation; and (e) collect applicable damages.

6. CONDITIONS, PROHIBITIONS AND LIMITATIONS ON ACCESS.

6.1 Compliance with Rules and Notification of Changes. Subscriber certifies it has read a copy of and agrees to comply with the Rules, as may be amended from time to time. Failure to comply with the Rules and/or this Agreement may result in discipline or probation, including without limitation warnings, fines, suspension and/or termination of Subscriber's participation in TAR. Subscriber agrees to submit commission disputes for arbitration to the Texas Association of REALTORS® in accordance with the Code of Ethics and Arbitration Manual of the National Association of REALTORS®. Subscriber shall notify TAR within seven (7) days of relocating, changing office information, or changing REALTOR® Board/Association affiliation, if any.

6.2 Use Prohibitions. Subscriber agrees that it will not reproduce, redistribute, publish, display, retransmit, broadcast, electronically manipulate, sell, license, rent, transmit, or in any manner commercially exploit or allow anyone else to reproduce, redistribute, publish, display, retransmit, broadcast, electronically manipulate, sell, license, rent, transmit or in any manner commercially exploit the MLS Database or any portion thereof in any format to anyone for any purpose other than the selling, listing or appraising of real estate. Under no circumstances shall Subscriber receive any form of compensation for the MLS Database, except as part of Subscriber's real estate brokerage services, nor may Subscriber receive any compensation for unauthorized access to the MLS Database from any third party for any reason. Subscriber acknowledges that the MLS Database is confidential and its use is restricted to Subscriber.

6.3 Certain Data Subject To Consent Withdrawal. Subscriber acknowledges that certain data fields of the MLS Database available through the TAR System are subject to the continued consent of supplying third parties. If at any time any supplying third party's consent is withdrawn, all information supplied by such party shall be removed from the MLS Database.

6.4 Consumer Privacy and Information Security. Subscriber agrees to comply with all applicable consumer privacy and information security laws. In the event of a breach of Subscriber's computer network or computerized systems containing MLS Database by unauthorized persons or in the event of a loss of Subscriber's laptop which may contain personally identifiable information or MLS Database, Subscriber agrees to notify the Chief Executive Officer of TAR within twenty-four (24) hours of discovery of such event. Subscriber agrees to use commercially reasonable security measures to protect the MLS Database.

6.5 Membership Status. Subscriber acknowledges that if Subscriber is no longer a member of TAR or if Subscriber's status with TAR is inactive, Subscriber shall not be granted access to the MLS Database, TAR System and TAR Services until Subscriber's status is returned to active.

7. FEES.

In consideration for the rights to Access and/or use the MLS Database, the TAR System and the TAR Services, Subscriber shall pay TAR the annual non-refundable fees established by the Executive Board of Directors and set forth in the TAR Schedule of Fees. TAR reserves the right to change its fees at any time. Subscriber acknowledges all fees are nonrefundable.

8. SET UP COSTS.

Subscriber is responsible for obtaining and maintaining in proper working order all personal computers, Internet connections, and computer software and shall bear all programming, technology and methodology expenses relating to accessing and using the MLS Database, the TAR System and the TAR Services and for the proper use thereof. Subscriber shall not be entitled to a refund or reimbursement under any circumstances for any hardware, software or Internet connection that is unable to access the MLS Database, TAR System or the TAR Services.

9. PROPRIETARY RIGHTS.

Subscriber acknowledges that the MLS Database, the TAR System and the TAR Services are valuable commercial products, the development of which has involved the expenditure of substantial time and money, that the MLS Database may include textual, statistical, financial, photographic, video and audio components which are proprietary information of TAR under copyright, and have been furnished to Subscriber in trust. All rights, title and interest in the MLS Database, the TAR System and the TAR Services, including the ownership of the copyright therein, shall at all times remain vested in TAR. Except for the rights granted Subscriber herein, Subscriber agrees and understands that TAR shall remain the exclusive owner of all rights, title, and interest in the MLS Database, the TAR System and the TAR Services licensed hereunder and all copyrights and renewals thereof, heretofore and hereafter secured therein. All publication, dissemination and other rights in and to the MLS Database, the TAR System and the TAR Services licensed hereunder are reserved for TAR in all languages, formats and media throughout the world for the sole and exclusive use or any other disposition by TAR, its respective assignees or grantees at any time and from time to time without obligation or liability to Subscriber. Subscriber agrees not to not alter or remove any trademarks or copyright notices, watermarks, logos or other notices and disclaimers located or used on, or in connection with, the MLS Database or any printouts of the MLS Database allowed under this Agreement.

10. USERNAME AND PASSWORD.

10.1 Username and Password. TAR shall provide Subscriber a username and password to participate in and Access the MLS Database, the TAR System and the TAR Services. Each token, username and password shall be personal to the individual and may not be used by any other person. Subscriber shall be responsible for the security and safe keeping of its token, if applicable, and its password.

10.2 Secure Computing. TAR reserves the right to establish additional security measures and establish practices and procedures to safeguard the MLS Database, the TAR System and the TAR Services and Subscriber agrees to abide by such security measures and procedures to safeguard the MLS Database, the TAR System and the TAR Services.

10.3 Confidentiality. Subscriber shall treat the username and password as private, confidential and personal and shall safeguard and maintain its confidentiality. Use by any other person or entity shall be considered as theft. Subscriber shall be liable for any consequences that may result from unauthorized disclosure of Subscriber's username and/or password, whether intentional, negligent or inadvertent, including but not limited to immediate termination of this Agreement and liability for liquidated damages. Subscriber acknowledges that TAR may seed the MLS Database and watermark digital photographs, virtual tours, videos or other media and undertake monitoring on a regular random basis such that violations of the security of Subscriber's username or password will be detected. This obligation to maintain confidentiality shall survive the termination of this Agreement.

11. INTERRUPTION IN SERVICE.

Subscriber acknowledges that access to the MLS Database may from time-to-time be unavailable to Subscriber, whether due to technical failures or interruptions, intentional downtime for service or changes to the TAR System or TAR Services, or otherwise. Subscriber agrees that any modification of the TAR System, and any interruption or unavailability of access to the MLS Database shall not constitute a default of any obligations of TAR under this Agreement, and TAR shall have no liability of any nature to Subscriber for any such modifications, interruptions, unavailability, or failure of access.

12. TAR USE OF SUBSCRIBER INFORMATION.

TAR reserves the right to distribute to prospective Subscribers and other third parties certain non-confidential information concerning Subscriber. In addition, TAR may collect and compile information regarding frequency of use of, or specific uses, of the MLS Database, the TAR System and the TAR Services by all users, including Subscriber.

13. TERM AND TERMINATION.

13.1 Term. The Term of this Agreement shall commence upon the Effective Date and shall automatically renew and extend for one (1) year terms on January 1st of each year, unless sooner terminated in accordance with Section 13.2 or 13.3 hereof, or upon cancellation by either party upon twenty-four (24) hours written notice to the other party.

13.2 Termination.

13.2.1 This Agreement and the rights granted hereunder may be terminated by either party in the event that the other party has not performed any material obligation or has otherwise breached any material term of this Agreement. TAR may immediately terminate this Agreement in the event Subscriber is no longer licensed to practice real estate or to engage in the appraisal of real property in the State of Texas.

13.2.2 Promptly upon any termination of this Agreement, TAR shall deactivate Subscriber's username and password, and Subscriber shall have no further access to the TAR System, the MLS Database or the TAR Services.

13.3 REALTOR® Membership Termination. Should Subscriber terminate its REALTOR® membership with Subscriber's REALTOR® Association or terminate its participation in TAR, this Agreement and the rights to access the TAR System, MLS Database and TAR Service shall terminate.

13.4 No Refund of Fees Upon Termination. In the event of termination of this Agreement, TAR shall not be obligated to refund any fees for any unexpired portion of any term.

14. TAR SERVICE MARKS AND LOGOS.

TAR hereby grants to Subscriber, during the term of this Agreement, a limited revocable license to use the TAR trade name and logo for the TAR Services as available, in advertising, promotion and marketing materials solely for the purpose of announcing Subscriber's use of the TAR Services to prospective customers. Subscriber may re-publish any description of the TAR Services which have been published by TAR, provided the description is re-published on a verbatim basis, but shall not, under any circumstances, make any unauthorized representations or warranties regarding the TAR Services or the MLS Database.

15. WARRANTY DISCLAIMER.

SUBSCRIBER EXPRESSLY AGREES THAT THE TAR SERVICES, THE TAR SYSTEM AND THE MLS DATABASE ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, AND THAT USE OF THE TAR SYSTEM, TAR SERVICES AND THE MLS DATABASE ARE AT THE SOLE RISK OF SUBSCRIBER. TAR DOES NOT WARRANT THAT THE TAR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, AND TAR MAKES NO WARRANTY AS TO THE ACCURACY, COMPLETENESS OR RELIABILITY OF ANY MLS DATABASE AVAILABLE THROUGH THE TAR SYSTEM AND THE TAR SERVICES. TAR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TAR DOES NOT WARRANT THAT THE MLS DATABASE WILL MEET SUBSCRIBER'S REQUIREMENTS, NOR THAT ANY ELECTRONIC TRANSMISSION THEREOF WILL OPERATE IN AN ERROR-FREE MANNER. SUBSCRIBER IS NOT ENTITLED TO A REFUND FOR ELECTRONIC TRANSMISSION ERRORS OR OUTAGES AT ANY TIME UNDER ANY CIRCUMSTANCES.

16. LIMITATION OF LIABILITY.

16.1 Limitations and Exclusions. Neither TAR nor any of its officers, directors, employees, shareholders, agents, or representatives shall be liable to Subscriber or anyone else for any direct, indirect, incidental, special, or consequential damages that result from the use of, or inability to use, the MLS Database, the TAR System and/or the TAR Services, including but not limited to, reliance by any TAR Subscriber or authorized user on the MLS Database or other information obtained through use of the TAR System or the TAR Services or that result from mistakes, omissions, deletions or delays in transmission, interruptions in telecommunications or Internet connections to the TAR System and the TAR Services, viruses or failures of performance, whether caused in whole or in part by negligence, acts of god, telecommunications or Internet failure, theft or destruction of, or unauthorized access to the MLS Database, the TAR System and/or the TAR Services or related information, records or programs.

16.2 Third-Party Liability. Subscriber acknowledges and understands neither TAR, nor any of its officers, directors, employees, shareholders, agents or representatives shall be liable to Subscriber for any direct, indirect, incidental, special, or consequential damages that result from the use of any third-party product or service, including but not limited to any third-party products

or services that integrate the MLS Database. TAR shall not be responsible for any misuse, infringement, or unauthorized display of Subscriber's Listing Content by any third party. Subscriber understands it is Subscriber's sole responsibility to review such third-party products and/or services prior to entering into an agreement or accepting such products and/or services from a third party, and use of such third-party products and/or services shall be at Subscriber's sole risk.

16.3 Maximum Aggregate Liability. In no event shall any liability of TAR, its officers, directors, employees, shareholders, agents, or representatives arising out of any claim related to this Agreement exceed the aggregate amount paid by Subscriber hereunder in the twelve (12) months immediately preceding the event giving rise to such claim.

17. LIQUIDATED DAMAGES FOR UNAUTHORIZED USE.

Subscriber acknowledges that damages suffered by TAR from access to or use of the MLS Database, the TAR System or the TAR Services by an unauthorized third party as a result of disclosure of Subscriber's username and/or password would be speculative and difficult to quantify. Accordingly, as a material inducement to TAR to enter into this Agreement with Subscriber, Subscriber agrees that in the event that any disclosure of Subscriber's username and/or password results in access to or use of the MLS Database, the TAR System or the TAR Services by or for an unauthorized third party, or in the event Subscriber makes unauthorized disclosure of MLS Database, regardless of whether such disclosure is intentional, negligent or inadvertent, Subscriber shall be liable to TAR, at TAR's option, for liquidated damages in an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00).

18. SUBSCRIBER AUTHORIZATION TO ENTER THIS AGREEMENT.

Subscriber represents and warrants it is a duly licensed real estate professional in the state of Texas and a License Holder of a TAR Participant as listed on the signature page of this Agreement, as may be changed from time to time upon notice to TAR.

19. SUBSCRIBER REPRESENTATIONS AND WARRANTIES.

Subscriber represents and warrants to TAR that: (a) Subscriber is a REALTOR[®] in good standing; (b) Subscriber holds a current, valid Texas real estate license or appraiser's license; and (c) if Subscriber holds a real estate license, Subscriber will actively endeavor to assist clients in the purchase or sale of real property of the type generally filed with TAR, in accordance with this Agreement and the Rules.

20. INDEMNIFICATION BY SUBSCRIBER.

Subscriber shall protect, defend, indemnify and hold harmless TAR and its officers, directors, employees, shareholders, agents, or representatives from any and all liability, damages, loss or expense, including reasonable fees of attorneys and other professionals, arising from any claim, demand, action or proceeding initiated by any third party against any of them based upon the negligent, intentional or illegal acts of Subscriber, including but not limited to: (a) inaccuracy

of any Listing Content supplied to TAR by Subscriber, (b) any unauthorized use of Subscriber's username and/or password, (c) any unauthorized use of the MLS Database, or (d) infringement of any proprietary or contract right of any third party as a result of the availability of the MLS Database through the TAR System and the TAR Services. Subscriber shall assist TAR, at Subscriber's expense, in the defense or settlement of any claim to which these indemnification obligations apply. These indemnification provisions shall survive the termination of the Subscriber's participation in TAR and the termination of this Subscriber Agreement.

21. INJUNCTIVE REMEDIES.

Subscriber acknowledges and agrees that the TAR System, the TAR Services and MLS Database are confidential and proprietary products and that in the event there is an unauthorized disclosure of such by Subscriber, no remedy at law may be adequate. Therefore, Subscriber agrees that in the event of such unauthorized disclosure or use of the TAR System, the TAR Services or MLS Database, TAR may seek injunctive relief or other equitable remedies against Subscriber in addition to all available remedies at law.

22. LEGAL FEES AND COSTS.

In the event legal action is taken against Subscriber or TAR, and TAR prevails in obtaining equitable relief or monetary damages, Subscriber will be obligated to reimburse TAR for the reasonable attorneys' fees, costs and expenses it incurred in pursuing such legal action. Subscriber will also be responsible for any legal fees and costs incurred by TAR in enforcing any order or collecting a judgment.

23. MISCELLANEOUS.

Subscriber agrees and acknowledges that TAR may change the terms of this Agreement as the result of any amendments to the Rules. Waiver by TAR of any breach of any provision of this Agreement by Subscriber shall not be construed as a waiver of any subsequent breach. Any notices required or permitted to be given hereunder shall be delivered personally or sent to each party at the addresses as set forth in this Agreement by certified mail, return receipt requested, or by other accountable means such as Federal Express or UPS or by confirmed facsimile. If any term or provision of this Agreement shall be found to be illegal or unenforceable then the remainder of this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken. This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. The parties agree this Agreement is personal to Subscriber and Subscriber may not assign this Agreement, or any rights granted to Subscriber hereunder. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth below.

SUBSCRIBER:

TEXAS ASSOCIATION OF REALTORS®, INC.

Signature of Subscriber

By: _____

Print Name

Print Name

Subscriber Texas License # _____

Title: _____

Date: _____

Date: _____

PARTICIPANT

Name of Participant Firm

Name of Broker Manager/Head Appraiser

Signature of Broker Manager/Head Appraiser

Date: _____

SUBSCRIBER INFORMATION

Name: _____

Nickname: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email Address: _____