

## License Agreement

### (IDX Display – FTP, RETS, or Web Services (XML))

This License Agreement (the “Agreement”) is made and entered into by and between Realtors<sup>®</sup> Association of Maui, Inc., a Hawaii non-profit corporation (“Licensor”), and \* \_\_\_\_\_, a \_\_\_\_\_ (the “Vendor Licensee”).

#### RECITALS

- A. Licensor is the owner of the IDX Database.
- B. Vendor Licensee is a service provider which has been requested by one or more Brokers to create and develop websites on behalf of Broker and its Agents, each of whom are participants in Licensor’s multiple listing service, and to display on such websites certain real estate listings contained in the IDX Database.
- C. Vendor Licensee desires to obtain a license to access and display on the websites the Licensed Listings. Licensor is willing to grant the licenses set forth in this Agreement upon the terms and conditions set forth in this Agreement.

#### AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Licensor and Vendor Licensee agree as follows:

1. Definitions. For purposes of this Agreement, the terms set forth on the attached Exhibit A, which is incorporated into this Agreement by this reference, shall have the meanings given them on the attached Exhibit A. Capitalized terms in any exhibit to this Agreement which are not defined in the exhibit shall have the meaning given them in the attached Exhibit A.
2. License Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Vendor Licensee a License. No License will be granted to Vendor Licensee with respect to a particular Display Website except upon execution by a Broker of a Broker Agreement for the respective Broker and the respective Display Websites, and execution by each Agent of an Agent Agreement. Vendor Licensee agrees and acknowledges that Licensor may modify the terms of this Agreement at any time, in its sole discretion. Licensor agrees to deliver to Vendor Licensee, each Broker, and each Agent notice of any modification to this Agreement. In the event any material modification to this Agreement is unacceptable to Vendor Licensee, a Broker, or an Agent, Vendor Licensee may terminate this Agreement in accordance with Section 24.b of this Agreement, or Broker or Agent may cause Licensor to terminate this Agreement for particular Display Websites in 24.e of this Agreement. In the event an Agent is no

longer an agent of the Broker which accepted the terms of a Broker Agreement for that Agent, then Licensor may suspend this Agreement with respect to the applicable Agent's Display Website in accordance with Section 23 of this Agreement.

3. Limitations on Display of Licensed Listings. The Licensed Listings may be displayed only as advertising on Display Pages, and only on Display Pages which are (a) in compliance with the Display Standards, (b) generated by the respective Display Server, and (c) displayed on the respective Display Website, and no other websites or media. No Licensed Listings, or portion of any Licensed Listings, may be displayed by Vendor Licensee except in accordance with the foregoing sentence. Specifically, but without limitation, Vendor Licensee shall not use or display Licensed Listings for, on, or in connection with any online brokerage services, or any website which accesses, directs Internet users to, or makes available online brokerage services, including websites commonly referred to as virtual office websites, or any similar website or individual web pages.

4. License Restrictions. Except as expressly set forth in this Agreement, no rights are granted to Vendor Licensee to do any of the following, and Vendor Licensee shall not, and shall not cause or allow anyone else, to do any of the following: (a) use, display, access, distribute, transfer, alter, or modify the Licensed Listings, or otherwise create any derivative works of the Licensed Listings, (b) download, Cache, database, store, distribute, export, deliver, or transmit any of the Licensed Listings, including to any computer or other electronic device, except the Display Server as permitted under this Agreement, or (c) sell, grant access to, or sublicense the Licensed Listings, or any portion of the Licensed Listings, to any third party. Vendor Licensee agrees to take all reasonable steps necessary to protect the Licensed Listings from unauthorized access, distribution, copying or use.

5. Ownership of Display Servers. All Display Servers shall be under the direct control and supervision of Vendor Licensee.

6. License Fees and Payment; Expenses. In consideration for the License granted to Vendor Licensee under this Agreement, Vendor Licensee (or a Broker, Brokerage Firm or an Agent on Vendor Licensee's behalf) shall pay the fees described on the attached Exhibit C, which is incorporated into this Agreement by this reference (the "License Fees"). The License Fees shall be payable as provided on Exhibit C. Unless otherwise expressly provided under this Agreement, Vendor Licensee agrees to pay for any set-up, support or other services provided by Licensor in connection with the Licensed Listings or this Agreement, at Licensor's then-current hourly rates. All amounts owing for such services shall be due within ten (10) days of receipt of invoice. Interest on all unpaid amounts owing to Licensor under this Agreement, including License Fees, shall accrue at the rate of fifteen percent (15%) per annum until paid. Broker, an Agent, or the Brokerage Firm, may pay on behalf of Vendor Licensee the License Fees and any other amounts owing by Vendor Licensee to Licensor under this Agreement, except that if Broker, Agent or the Brokerage Firm fails to pay any such amounts when due, Vendor Licensee shall be liable for such amounts until paid. Vendor Licensee agrees to pay all costs of collection of all unpaid amounts owing to Licensor

under this Agreement, including reasonable attorney's fees and costs. Vendor Licensee shall be responsible for its own expenses and costs under this Agreement, and Licensor shall have no obligation to reimburse Vendor Licensee for any expenses or costs incurred by Vendor Licensee in the exercise of Vendor Licensee's rights or the performance of Vendor Licensee's duties under this Agreement.

7. Compliance With Standards. Vendor Licensee agrees to be bound by and comply with all of the terms and conditions of the Access Standards, Technology Standards, and the Display Standards, including maintaining the Display Websites, Display Servers, and the Display Pages in accordance with the Access Standards, Technology Standards and the Display Standards. Vendor Licensee shall immediately notify Licensor of any failure to comply with the Access Standards, Technology Standards or Display Standards of which it becomes aware, including any actual or attempted material unauthorized access to or download or use of the Licensed Listings. Upon the occurrence of any such event or action, Vendor Licensee shall take all steps necessary, and cooperate with Licensor in every way requested by Licensor, to remedy and prevent the continuation or recurrence of such actions or event, including with respect to any litigation or other proceeding, as deemed necessary by Licensor. Vendor Licensee shall ensure that any display of Licensed Listings, and each Display Website and page on each Display Website, and each Broker and Agent, is in compliance with the terms of the Display Standards. Vendor Licensee shall not cause the display of any Licensed Listings, or any Display Website or page on such Display Website, to be inconsistent with the terms of the Display Standards, and Vendor Licensee shall not facilitate any noncompliance by Brokers or Agents with the terms of the Display Standards. The Access Standards, Technology Standards, and Display Standards may include terms and limitations in addition to or inconsistent with those set forth in this Agreement. In the event of any such inconsistency, the terms of the Access Standards, Technology Standards, and Display Standards will govern. Vendor Licensee acknowledges and agrees that Licensor may modify the Access Standards, Technology Standards and Display Standards at any time, in its sole discretion. Licensor agrees to deliver to Vendor Licensee, Broker, and Agent notice of any modification to the Access Standards, Technology Standards and Display Standards. In the event any material modification to the Access Standards, Technology Standards or Display Standards is unacceptable to Vendor Licensee, Broker, or Agent, Vendor Licensee may terminate this Agreement in accordance with Section 24.b of this Agreement, or Broker or Agent may cause Licensor to terminate this Agreement, or the display of Licensed Listings on a particular Display Website, in accordance with Section 24.e of this Agreement.

8. Means of Access to Licensed Listings. Access by Vendor Licensee to the Licensed Listings shall be exclusively through (a) FTP Download, (b) RETS Download, and/or (c) Web Services Access, as designated by Vendor Licensee on the attached Exhibit A to this Agreement, or another means determined by Licensor in its sole discretion, and in accordance with the Access Standards and Technology Standards. Licensor may, in its sole discretion and upon thirty (30) days prior written notice to Vendor Licensee, change the means and nature of accessing the Licensed Listings.

9. Changes to Licensor's Server. Licensor shall not be obligated to make any changes to Licensor's Server, including any software running on Licensor's Server, the configuration, applicable protocols, or any other aspect of Licensor's Server for any reason, including changes which Vendor Licensee believes may be necessary to facilitate access to the Licensed Listings. Notwithstanding the foregoing, Licensor may, at any time, modify or replace Licensor's Server, in its sole discretion, and Vendor Licensee understands that a modification of Licensor's Server may require changes to any applicable websites, including the Display Websites, hardware, software, or configurations to provide for access to the Licensed Listings. Licensor makes no representations or warranties with respect to the response time for access to the Licensed Listings. Vendor Licensee acknowledges that Licensor's Server, together with access to the Licensed Listings may from time to time be unavailable to Vendor Licensee, whether because of technical failures or interruptions, intentional downtime for service or changes to Licensor's Server, or otherwise. Vendor Licensee agrees that any modification of Licensor's Server, and any interruption or unavailability of access to Licensor's Server, or access to or use of the Licensed Listings shall not constitute a default under this Agreement, and that Licensor shall have no liability of any nature to Vendor Licensee for any such modifications, interruptions, unavailability, or failure of access.

10. Intellectual Property. Vendor Licensee acknowledges and agrees that the IDX Database and the Licensed Listings are proprietary, original works of authorship of Licensor, or licensed to Licensor, protected under United States copyright, trademark, patent and trade secret laws of general applicability. Vendor Licensee further acknowledges and agrees that all right, title, and interest in and to the IDX Database and Licensed Listings, together with all modifications, enhancements, and derivative works of the IDX Database, including all copyright rights, are and shall remain with Licensor. Notwithstanding the prohibition against modification of the IDX Database, in the event Vendor Licensee makes any such modification, then any modifications to the IDX Database, shall be the sole property of Licensor. Vendor Licensee hereby assigns to Licensor any and all modifications to the IDX Database made by Vendor Licensee, or anyone within the control of Vendor Licensee. Vendor Licensee agrees to execute all documents and take all action reasonably requested by Licensor in connection with the assignment of rights to Licensor. This Agreement does not convey or grant to Vendor Licensee an interest in or to the IDX Database or Licensed Listings, but only a limited right to use the Licensed Listings, revocable in accordance with the terms of this Agreement. In the event of any claim for infringement or misappropriation of the IDX Database or Licensed Listings, all damages awarded and other awards and recoveries shall be the exclusive property of Licensor, and all such amounts shall be paid to Licensor. In the event, for any reason, Vendor Licensee obtains possession or control of any such damages or awards, Vendor Licensee agrees to hold all such funds as trustee in trust for the exclusive benefit of Licensor. Vendor Licensee agrees that it will not challenge or take any action inconsistent with Licensor's rights to the IDX Database or Licensed Listings.

11. Trademarks. No right, license, or interest to any trademark of Licensor is granted to Vendor Licensee under this Agreement, except that Licensor grants to Vendor Licensee a limited, non-exclusive, revocable license to use Licensor's designated

trademarks only for the limited purpose of identifying Licensor as the source of the Licensed Listings (“Licensor’s Trademarks”). Any use of Licensor’s Trademarks shall be solely for the purpose of identifying Licensor as the source of the Licensed Listings, used exactly in the form designated by Licensor, and shall be used strictly in accordance with the Display Standards. The license granted under this Section 11 of this Agreement may be terminated at any time by Licensor, in its sole discretion, upon written notice. Vendor Licensee acknowledges and agrees that the license of the Licensor’s Trademarks is made without any representations or warranties of any kind or nature. Licensor does not make any representations or warranties regarding title to Licensor’s Trademarks, the rights of any other persons or entities to Licensor’s Trademarks. Except as provided in this Section 11 of this Agreement, no other right is granted to Vendor Licensee under this Agreement with respect to any trademarks of Licensor. Vendor Licensee agrees that it shall not use any trademarks of Licensor, or any marks that are confusingly similar, assert any right, license, or interest with respect to any trademarks of Licensor, or represent or suggest any affiliation between Licensor and Vendor Licensee. Vendor Licensee agrees that it will not file any applications or assert any rights to any of Licensor’s trademarks in the United States, or any other country or territory.

12. No Warranties. THE LICENSE GRANTED UNDER THIS AGREEMENT, INCLUDING TO ACCESS AND DISPLAY THE LICENSED LISTINGS, IS “AS IS,” AND LICENSOR DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

13. Audit. Licensor may, or at its option may engage an independent third party to, audit, test, and inspect the books, records, equipment, and facilities of Vendor Licensee, including each Display Server, and to perform tests of Vendor Licensee’s controls, systems and procedures, and of the Display Websites, as often as deemed reasonably necessary by Licensor, in its sole discretion. The audit and inspection may include, without limitation, (a) external attempts to penetrate any firewalls established in connection with any Display Server and protection of the Licensed Listings, (b) viewing all of the pages constituting each Display Website, (c) using the Display Websites to initiate and execute searches, (d) using all other features and functions available on the Display Websites, and if any of the features or functions of a Display Website are protected by a user authentication device, such as a password, or require registration or similar function, then using all of such features and functions. If any features or functions of a Display Website require registration or other content, Licensor may input content which is not accurate in order to access the feature or function. Vendor Licensee shall not attempt to block or otherwise interfere with Licensor’s monitoring or review of, attempts to penetrate, or access to, any Display Server or Vendor Licensee’s other systems and controls. Each such audit shall be performed in accordance with audit standards and procedures established by Licensor, in its sole discretion, and shall be performed to monitor and review (i) the adequacy of Vendor Licensee’s internal controls; (ii) the adequacy of Vendor Licensee’s security system and procedures; (iii) Vendor Licensee’s compliance with the Access Standards and Technology Standards; (iv) Vendor Licensee’s compliance with applicable laws and the MLS Rules and Regulations;

and (v) Vendor Licensee's compliance with any other terms of this Agreement. The costs of such audits and tests shall be at Licensor's expense, except that if at any time an audit discloses that Vendor Licensee is not in full compliance and has otherwise not met the audit standards established by Licensor in its sole discretion, Vendor Licensee shall pay all costs of the audit, including Licensor's internal costs, the independent auditor costs, and other out-of-pocket expenses incurred by Licensor.

14. Representations and Warranties of Vendor Licensee. Vendor Licensee represents and warrants the following to Licensor:

a. This Agreement, when executed by Vendor Licensee, will be valid, binding and enforceable with respect to Vendor Licensee in accordance with its terms. The execution of this Agreement and/or the performance of Vendor Licensee'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 Vendor Licensee is bound.

b. The grant of the License to Vendor Licensee and the fulfillment of Vendor Licensee's obligations as contemplated under this Agreement are proper and lawful.

c. Vendor Licensee 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.

d. Each Broker is (i) a principal real estate broker or broker in charge licensed in accordance with the laws of the state of Hawaii, (ii) is a participant in good standing in Licensor's multiple listing service who has entered into an agreement with Licensor for participation in Licensor's multiple listing service, which agreement is not in default, and (iii) is an IDX Participating Broker.

e. Each Agent (i) is a real estate agent, sales licensee or non-principal broker of Broker, (ii) licensed as a real estate agent, sales licensee or non-principal broker in accordance with the laws of the state of Hawaii, and is in good standing, (iii) has entered into an agreement with Licensor for participation in Licensor's multiple listing service, and (iv) Agent's respective participation agreement is not in default.

f. Each Broker is, and throughout the term of this Agreement shall continue to be, the principal real estate broker or broker in charge of each Brokerage Firm.

g. Each Broker manages, supervises and has control over the operation of each Brokerage Firm and shall continue to manage supervise and control the operation of each Brokerage Firm throughout the term of this Agreement.

h. Each Broker has requested and consents to the grant of the License to Vendor Licensee under this Agreement, including without limitation the license for access to and display on Display Websites of the Licensed Listings.

- i. Each Broker has entered into a Broker Agreement.
- j. Each Agent has entered into an Agent Agreement.

15. Contract Administration; Technical Contact. Each party shall designate the name, address, telephone number, fax number, and email address of a person who shall be the contract administrator under this Agreement (each a "Contract Administrator"), and the name, address, telephone number, fax number, and email address of a person who shall be the technical contact for technical (the "Technical Contact"). The Contract Administrator and/or Technical Contact may be changed from time-to-time, but not prior to delivery of notice to the other party. Each party's Technical Contact will be the point of contact for technical issues related to the IDX Database, Display Server(s), and other technical issues arising under this Agreement.

16. Disclaimer. Vendor Licensee acknowledges and agrees that use of access to and the display of the Licensed Listings by Vendor Licensee does not constitute an endorsement, acceptance, or approval by Licensor of any display of the Licensed Listings, or the means of displaying the Licensed Listings, including the Display Websites, or the content of the Display Websites. Licensor expressly disclaims any responsibility for the content of the Display Websites and any other medium of display of the Licensed Listings, including without limitation, intellectual property infringement, content, accuracy, defamation, and other unlawful content.

17. Operation in Accordance with Law. Vendor Licensee agrees that it will at all times develop, maintain, and display, as applicable, the Licensed Listings, the Display Websites, the Display Servers, the content of the Display Websites, and all of Vendor Licensee's business and business operations in a professional manner and in accordance with all applicable federal, state, and local laws, ordinances, and regulations, and the MLS Rules and Regulations. Further, Vendor Licensee will not include in the content of the Display Websites any material which is illegal, immoral, unethical, or offensive.

18. Confidential Information. Vendor Licensee agrees and acknowledges that in addition to any copyright and other proprietary rights, the Licensed Listings are confidential content of Licensor. The Licensed Listings, any non-public content delivered by or under the direction of Licensor or used by Vendor Licensee in connection with access to the Licensed Listings, and the terms and conditions of this Agreement (collectively "Confidential Information"), shall be maintained by Vendor Licensee as confidential and available exclusively for use by Vendor Licensee as provided in this Agreement, and for no other purposes. Vendor Licensee shall not disclose any Confidential Information to anyone, including without limitation to Broker, except as ordered by a court of competent jurisdiction or as otherwise required by law. Vendor Licensee shall not disclose any Confidential Information pursuant to a court order or as required by law until Vendor Licensee has given Licensor ten (10) days prior written notice and an opportunity to oppose such disclosure.

19. Indemnification. Vendor Licensee hereby agrees to indemnify and hold harmless Licensor, and its officers, directors, employees, 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 material breach by Vendor Licensee of any of the terms and conditions of this Agreement, hosting of the Display Websites, the use and display of the Licensed Listings and any breach of any representation or warranty made by Vendor Licensee under this Agreement. Vendor Licensee shall further indemnify Licensor from and against any and all claims, demands, liabilities, and actions, including the payment of all legal expenses, including reasonable attorney's fees and costs, based on any breach of any warranty set forth in Section 14 of this Agreement. Licensor shall have the right to control its own defense and engage legal counsel acceptable to Licensor.

20. Limitation of Liability. TO THE FULLEST EXTENT AVAILABLE UNDER APPLICABLE LAW, LICENSOR'S ENTIRE AND CUMULATIVE LIABILITY TO LICENSEE, 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 LICENSED LISTINGS, INCLUDING ANY TORT, SUCH AS NEGLIGENCE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LICENSE FEES PAID TO LICENSOR UNDER THIS AGREEMENT. WITHOUT WAIVER OF THE LIMITATIONS SET FORTH IN THIS SECTION 20 OF THIS AGREEMENT, IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, GENERAL, SPECIAL, OR EXEMPLARY DAMAGES OR LOST PROFITS, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

21. Injunction. The parties agree that a breach or violation of Sections 4, 7, 10, 11, 13, 17, 18 and 22 of this Agreement will result in immediate and irreparable injury and harm to Licensor. In such event, Licensor shall have, in addition to any and all remedies of law and other consequences under this Agreement, the right to an injunction, 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 Licensor may have, including, without limitation, the right to seek monetary damages.

22. Proprietary and Other Notices. Vendor Licensee agrees that it will include and not alter or remove any trademark, copyright, or other notices, or any disclaimer or disclaimer field, or other text located or used on, or in connection with the Licensed Listings, or otherwise required by Licensor. Vendor Licensee agrees to provide notice to any person with access to the display of any the Licensed Listings that the source of the Licensed Listings is Licensor, and the Licensed Listings are confidential content of Licensor. Specifically, without limitation, such notices shall be displayed on the Display Pages in a reasonably conspicuous manner.

23. License Suspension. Upon the occurrence of any default by Vendor Licensee under this Agreement, including any violation of or noncompliance with the Access Standards, the Technology Standards, or the Display Standards by Vendor Licensee, Licensor may, at its option and without prior notice to Vendor Licensee,



immediately suspend the License, including access to or display of the Licensed Listings, or the display of the Licensed Listings on any particular Display Website for a period of up to thirty (30) days. Licensor shall provide Vendor Licensee with written notice of suspension of the License within three (3) days following the first day of suspension. In addition, Licensor may, at its option, immediately suspend the License with respect to any particular Display Website (a) upon the occurrence of any default by the respective Broker or Agent of an applicable Broker Agreement, Agent Agreement, the MLS Rules and Regulations, or any other agreement with Licensor, including failure to pay any fees owing to Licensor when due, or (b) if, at any time, the respective Broker or the Broker of the respective Agent is not an IDX Participant. Nothing under this Section 23 of this Agreement shall be construed as requiring Licensor to suspend the License prior to exercising its right of termination under Section 24 of this Agreement.

24. Term and Termination.

a. The initial term of this Agreement shall commence on the Effective Date, and unless earlier terminated, continue for a period of one (1) year, and shall automatically renew for additional one (1) year terms thereafter unless either party gives written notice to the other party of non-renewal at least thirty (30) days prior to the expiration of the then-current term.

b. Vendor Licensee may terminate this Agreement at any time prior to the expiration of the initial term or any renewal term by delivering to Licensor prior written notice of termination.

c. Licensor may terminate this Agreement at any time after Licensor has given ten (10) days notice to Vendor Licensee of any of the defaults set forth in this Section 24.d of this Agreement, and such defaults have not been cured within such ten (10) day period; provided, however, that if, in the reasonable discretion of Licensor, the default by Vendor Licensee or Broker could result in irreparable harm to Licensor, Licensor may terminate this Agreement without prior written notice, if notice of such termination is delivered to Vendor Licensee and Broker within ten (10) days of termination by Licensor.

d. The foregoing Section 24.c applies to the following defaults; (i) Vendor Licensee (or Broker or Brokerage Firm on Vendor Licensee's behalf) fails to pay any amounts owing to Licensor under this Agreement when due; (ii) Vendor Licensee discloses or uses in any manner not expressly permitted under this Agreement any Confidential Information, except as expressly provided in this Agreement; (iii) the License is suspended pursuant to Section 23 of this Agreement, and Vendor Licensee fails to cure the reason for suspension within the thirty (30) day suspension period provided under Section 23 of this Agreement; (iv) at any time, any representation or warranty made by Vendor Licensee is false or misleading, whether based on facts or events existing on the Effective Date, or any time thereafter; or (v) Vendor Licensee otherwise defaults under any other material term or condition of this Agreement.

e. Licensors may terminate the License with respect to a particular Broker or Agent and their respective Display Websites immediately upon notice to Vendor Licensee upon (i) occurrence of any default by such Broker or Agent under any applicable Broker Agreement, Agent Agreement, or the MLS Rules and Regulations, or any other agreement entered into with Licensors and such Broker or Agent, (ii) if, at any time, the respective Broker is not an IDX Participating Broker; (iii) delivery of notice by such Broker or Agent to Licensors that the License should be terminated with respect to the Broker or Agent, or an Agent of the Broker, or a particular Display Website of such Broker or Agent or Broker's Agent, or (iv) Broker's or Agent's failure to pay any fees owing by such Broker or Agent under the applicable Broker Agreement or Agent Agreement. Upon termination of the License for a particular Broker's or Agent's Display Website in accordance with this Section 24.e of this Agreement, the terms of Sections 24.f and 24.g of this Agreement shall apply with respect to the Display Website for which the License is terminated.

f. Upon the termination of this Agreement, for any reason, the License shall terminate and Vendor Licensee shall, within ten (10) business days of the date of termination, (i) if Vendor Licensee, contrary to the terms of this Agreement, has downloaded or copied any portion of the IDX Database or Licensed Listings, then permanently delete or remove all copies of the IDX Database or Licensed Listings, or portions thereof, and such software from all computers and other storage devices on which they were loaded or copied, including the Display Servers, and (ii) cease to display and otherwise terminate the use of any Licensed Listings, and (iii) deliver to Licensors written certification acceptable to Licensors of Vendor Licensee's compliance with the provisions of this Section 24.f of this Agreement.

g. No License Fees, or portion of the License Fees, or other fees payable by Vendor Licensee under this Agreement will be refunded to Vendor Licensee upon termination of this Agreement for any reason, whether termination is by Vendor Licensee or Licensors.

## 25. General.

a. Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the state of Hawaii. Vendor Licensee acknowledges that by entering into this Agreement, and by obtaining the License, Vendor Licensee has transacted business in the state of Hawaii. Vendor Licensee hereby voluntarily submits and consents to, and waives any defense to the jurisdiction of courts located in the state of Hawaii as to all matters relating to or arising from this Agreement.

b. Notices. All notices, demands, or consents required or permitted under this Agreement shall be either in writing and shall be delivered personally or sent by registered mail, certified mail, return receipt requested, or by a reputable overnight courier service, or delivered by email, to the appropriate party's Contract Administrator at the following addresses:

If to Licensor:

Realtors® Association of Maui, Inc.  
441 Ala Makani Place  
Kahului, Maui, Hawaii 96732  
Attention: Chief Staff Executive  
Email: [terry@ramau.com](mailto:terry@ramau.com)

With a copy to:

Callister Nebeker & McCullough  
10 East South Temple, Suite 900  
Salt Lake City, Utah 84133  
Attention: John H. Rees  
Email: [jhrees@cnmlaw.com](mailto:jhrees@cnmlaw.com)

If to Vendor Licensee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

The foregoing addresses may be changed from time-to-time by delivering notice of such change to the other party to this Agreement. Technical issues should be addressed to the parties' respective Technical Contacts.

c. Costs of Litigation. If any action is brought by either party to this Agreement against the other party regarding the subject matter of this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney fees, costs, and expenses of litigation.

d. No Joint Venture. Nothing in this Agreement shall be construed to create a partnership or joint venture between Licensor and Vendor Licensee. Vendor Licensee shall be responsible for the wages, hours, and conditions of employment of Vendor Licensee 's personnel during the term of this Agreement. Nothing in this Agreement shall be construed as implying that Vendor Licensee or employees of Vendor Licensee are employees of Licensor.

e. 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.

f. 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. The subsequent acceptance of any payment due under this Agreement by any party shall not be deemed to be a waiver of any preceding breach of the party making payment with respect to any term, covenant or condition contained in this Agreement.

g. No Assignment. Vendor Licensee agrees that it will not assign or delegate, license, or otherwise transfer this Agreement, any licenses granted under this Agreement, or any of the rights or obligations of Vendor Licensee under this Agreement.

h. Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of Licensor and Vendor Licensee, and is not intended to benefit any third party, including any Broker, Agent, Brokerage Firm, or users of the Display Websites. No third party may claim any right or benefit under or seek to enforce any of the terms and conditions of this Agreement.

i. Entire Agreement. This Agreement includes any schedules attached to this Agreement, which schedules are incorporated into this Agreement by this reference. This Agreement constitutes the entire agreement between Vendor Licensee and Licensor concerning the subject matter of this Agreement. This Agreement supersedes any contemporaneous or prior proposal, representation, agreement, or understanding between the parties. This Agreement may not be amended except in writing signed by Vendor Licensee, Broker and Licensor.

j. Survival. The provisions of Sections 6, 10, 12, 16, 18, 19, 20, 21, 24.f, 24.g, and 25, shall survive the termination of this Agreement.

Dated effective \_\_\_\_\_.

LICENSOR

REALTORS<sup>®</sup> ASSOCIATION OF MAUI, INC.

By \_\_\_\_\_  
\_\_\_\_\_[Name]  
Executive Vice President

LICENSEE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_[type name of officer]  
\_\_\_\_\_[type title of officer]

Exhibit A  
Defined Terms

1. Access Standards means the additional terms and conditions for accessing the Licensed Listings, which terms and conditions are established and amended by Licensor from time-to-time. The Access Standards current as of the Effective Date are set forth on the attached Exhibit D to this Agreement, which is incorporated into this Agreement by this reference.

2. Agent means each real estate agent, sales licensee, or non-principal broker that is affiliated with Broker, who is a subscriber to Licensor's multiple listing service, and who requests that Licensor grant to Vendor Licensee a License to facilitate the display of applicable Licensed Listings on Agent's Display Website, and for which the Agent's Broker has executed the Broker Agreement and Agent has executed the Agent Agreement.

3. Agent Agreement means the agreement provided by Licensor, in a form acceptable to Licensor, in its sole discretion, and to be executed by an Agent in connection with the granting of a License to Vendor Licensee. Each Agent Agreement is incorporated into this Agreement by reference.

4. Agreement means this License Agreement, together with all exhibits attached to this Agreement and all documents identified in this Agreement which are incorporated by reference into this Agreement.

5. Broker means each principal real estate broker who is a subscriber to Licensor's multiple listing service, has requested that Licensor grant to Vendor Licensee a License to facilitate the display of applicable Licensed Listings on Broker's Display Website, the Display Website of his/her Brokerage Firm, or any of Broker's Agents' Display Websites, and has executed the Broker Agreement.

6. Broker Agreement means the agreement provided by Licensor, in a form acceptable to Licensor, in its sole discretion, and to be executed by a Broker for him/herself and/or his/her Agents in connection with the granting of a License to Vendor Licensee. Each Broker Agreement is incorporated into this Agreement by this reference.

7. Brokerage Firm means each of the real estate brokerage companies for which a respective Broker is the principal broker and with which Broker's Agents are affiliated.

8. Cache or Caching means the storing of data, as such data is received through Web Services (XML) on a computer hard drive, for any purpose, including accelerating the response to repeated requests for such data.

9. Confidential Information has the meaning set forth in Section 18 of this Agreement.

10. Contract Administrator has the meaning set forth in Section 15 of this Agreement.
11. Display Page means a webpage, regardless of whether such webpage is accessible with or without a password or any other means of security or limited access, which displays any portion of the Licensed Listings.
12. Display Standards means the standards for Display Pages established by Licensor, which standards may be amended from time to time by Licensor in its sole discretion. The Display Standards current as of the Effective Date are set forth on the attached Exhibit F to this Agreement, which is incorporated into this Agreement by this reference.
13. Display Server means all of the computer hardware and software, commonly referred to as a server, which generate the Display Pages for the respective Display Websites, and make them available through the Internet.
14. Display Website means each Internet website established for a Broker, or an Agent, or Brokerage Firm, located at and with the domain name identified in the applicable Broker Agreement, which domain name must be approved in writing in advance by Licensor.
15. Effective Date means the date identified as the effective date on the signature page of this Agreement.
16. FTP Download means download of Licensed Listings through Licensor's Server via file transfer protocol (FTP).
17. IDX Database means collectively the compilations of real estate listings and other data and content maintained by Licensor and known as the Realtors<sup>®</sup> Association of Maui, Inc. Multiple Listing Service Public Database or the IDX Database.
18. IDX Listings means real estate listings of all IDX Participating Brokers except as may be excluded by Licensor in accordance with the MLS Rules and Regulations, including all photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, and pricing content submitted by Participant to MLS with respect to each IDX Listing.
19. IDX Participating Broker means a Broker who participates in Licensor's Internet Data Exchange (IDX) program as described in the MLS Rules and Regulations.
20. IP Address means the Internet protocol address for each Display Server. As of the Effective Date, the IP Address for the only Display Server is identified in the Access Standards.
21. License means a non-exclusive, non-transferable license to access and display the Licensed Listings only on Display Pages which are generated by Display

Servers, and displayed on Display Websites, and not other websites or media, in accordance with the limitations and other terms and conditions of this Agreement.

22. License Fee has the meaning set forth in Section 6 of this Agreement.
23. Licensed Listings means the IDX Listings, consisting of only the specific data provided by Licensor in only the fields identified by Licensor from time to time, in its sole discretion.
24. Licensor's Server means the computer server or servers, including both hardware and software, maintained by Licensor which provides or provide the means for Vendor Licensee to access the Licensed Listings.
25. Licensor's Trademarks has the meaning set forth in Section 11 of this Agreement.
26. MLS Rules and Regulations means the MLS Rules and Regulations For Realtors<sup>®</sup> Association of Maui, Inc. Multiple Listing Service as amended by Licensor from time-to-time.
27. RETS Download means the download of Licensed Listings through Licensor's Server using real estate transaction standards (RETS) as described on www.rets.org, or a substitute website.
28. Technical Contact has the meaning set forth in Section 15 of this Agreement.
29. Technology Standards means the standards for maintaining technology used in connection with the access to and use of the Licensed Listings as established by Licensor. A copy of the then-current version of the Technology Standards is attached to this Agreement as Exhibit E, which is incorporated into this Agreement by this reference.
30. Web Services (XML) Access means access to the Licensed Listings through an electronic request for content initiated at a Display Website, delivery of the electronic request through the Display Website to the Licensor, and Licensor returning to the user through the Display Website search results subject to the limitations and restrictions imposed under this Agreement, the Access Standards, in the MLS Rules and Regulations, and as otherwise provided by Licensor.

Exhibit B

In connection with the Agreement, Vendor Licensee must provide the following content:

Designated Means of Access (See Section 8 of the Agreement)

- FTP Download
- RETS Download
- Web Services (XML) Access

Vendor Licensee's Contract Administrator (See Section 15 of the Agreement):

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

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Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

Vendor Licensee's Technical Contact (See Section 15 of the Agreement):

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

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Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

Vendor Licensee's Address for Notices (See Section 15 of the Agreement):

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

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Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_



## Exhibit C

### License Fees

The License Fee for Web Services Access is (a) set-up fee of fifty dollars (\$50.00); and (b) monthly non-refundable license fee in the amount of twenty-five dollars (\$25.00) per month, or partial month, per Display Website (the "Display Website License Fee for Web Services Access"), whether it is the Display Website of a Broker, Agent, or Brokerage Firm.

*11/1*  
*\$50.00* The License Fee for RETS Download is (a) set-up fee of one hundred ~~fifty~~ dollars (\$~~100.00~~); and (b) monthly non-refundable license fee in the amount of one ~~hundred~~ *Fifty* dollars (~~\$100.00~~) per month, or partial month, per Display Website (the "Display Website License Fee for RETS Download"), whether it is the Display Website of a Broker, Agent, or Brokerage Firm.

The License Fee for FTP Download is (a) set-up fee of five hundred dollars (\$500); and (b) Monthly non-refundable license fee in the amount of two hundred and fifty dollars (\$250) per month or partial month, per Display Website (the "Display Website License Fee for FTP Download"), whether it is the Display Website of a Broker, Agent, or Brokerage Firm.

The set-up fee is a one-time fee payable on the Effective Date.

The Display Website License Fee for Web Services Access for each Display Website is payable annually in advance and Licensor, will invoice the respective Broker or Agent for such fees on the invoice for the respective Broker's or Agent's annual subscription fees for subscription to Licensor's multiple listing service. For Display Websites added during a month other than the month of the effective date of respective Broker's or Agent's annual subscription, or subscription renewal, the Display Website License Fee for Web Services Access will be prorated for the remainder of the annual subscription period, and shall be payable on the date the applicable Broker or Agent informs Licensor of the additional Display Website which is acceptable to Licensor.

The Display Website License Fee for FTP Download and the Display Website License Fee for RETS Download for each Display Website is payable monthly in advance and Licensor will invoice the respective Broker or Agent for such fees. For Display Websites added during a month the Display Website License Fee for FTP Download and Display Website License Fee for RETS Download will be prorated.

The amount of License Fees may be increased at any time by Licensor, in its sole discretion. If the amount of increase is more than ten percent (10%) during any calendar year, Licensee may terminate this License upon thirty (30) days prior written notice to RAM.

Exhibit D  
Access Standards

**A. Access Standards for Web Services (XML) Access**

1. Applicability. This Section A of these Access Standards (the “XML Access Standards”) apply only if Vendor Licensee’s means of access to Licensed Listings includes through Web Services (XML) Access as designated on Schedule A of the Agreement.

2. Definitions. The following are additional terms which shall have the following meanings for purposes of these XML Access Standards:

a. Database Identification Number or DBID Number means, for each Display Website, a unique identification code for use only with the specific Display Website, and which must be transferred with each content request made from the specific Display Website, and/or additional or substitute security features in Licensor’s sole discretion.

b. Developer Instructions means the sample Web Services API, and all other computer files and other content provided by Licensor to Vendor Licensee for the creation, development, and testing of the respective Website Software and Web Services API, including sample files, data formats and other specifications as Licensor determines from time to time, in its sole discretion, are necessary for creation of the respective Website Software and Web Services API.

c. Developer License means a non-exclusive, non-transferable license to use the Developer Instructions only for the limited purpose of creating, developing, and testing the Website Software and Web Services API for each Display Website, and for no other websites, in accordance with the limitations and the other terms and conditions of this Agreement.

d. Web Services API means the application programming interface used for transferring files between Licensor and the Display Websites using Web Services (XML).

e. Website Software means the computer software or code to be used for the operation of each of the respective Display Websites.

3. Developer License Grant. In addition to the License granted to Vendor Licensee under the Agreement, subject to the terms and conditions of the Agreement, Licensor hereby grants to Vendor Licensee a Developer License. For purposes of the Agreement, the term “License” shall expressly include the Developer License.

4. Limitations on Developer License. Except as expressly set forth in these XML Access Standards, no rights are granted to Vendor Licensee to do any of the following, and Vendor Licensee shall not, and shall not cause or allow anyone else, to do any of the following: (a) use, display, access, distribute, transfer, alter, or modify the Developer Instructions, or otherwise create any derivative works of the Developer Instructions, (b) download, Cache, database, store, distribute, export, deliver, or transmit the Developer Instructions, including to any computer or other electronic device, except the Display Server as permitted under these XML Access Standards, (c) use the Developer Instructions in connection with any website or other software, except a Display Website, or the design, creation or hosting of any website, except the Display Websites, or (e) reverse engineer, decompile, or disassemble the Developer Instructions. Vendor Licensee agrees to take all reasonable steps necessary to protect the Developer Instructions from unauthorized access, distribution, copying or use.

5. Technical Support Services. During the term of the Agreement, Licensor shall provide to Vendor Licensee reasonable technical support services by telephone for the Web Services API, without charge to Vendor Licensee. Licensor shall not be obligated to provide any other services under the Agreement or these XML Access Standards.

6. XML Access Standards. Access to the Developer Instructions and Licensed Listings shall be exclusively through the Web Services API, and in accordance with these XML Access Standards and the Technology Standards. Licensor will provide the Database Identification Numbers to Vendor Licensee by email, or by another means determined by Licensor, in its sole discretion. The Web Services API will be available to Vendor Licensee online through a website established by Licensor, or by another means determined by Licensor, in its sole discretion. Vendor Licensee agrees that all data requests from Display Websites will be made by individual human users accessing the Display Websites, and no automated processes shall be used to generate data requests from the Display Websites. Alternatively, requests may be made by non-human users and automated processes used to generate data requests from Display Websites if Licensor expressly approves a request in writing, or if the Web Services API provides for such requests. No more than one (1) data request per second, and 10,000 data requests per twenty-four (24) hour day, may be made from any one Display Website. Vendor Licensee agrees and acknowledges that the License is for the access, use and display, as applicable, only of Licensed Listings and the Developer Instructions, and accordingly, Vendor Licensee agrees that it shall not, and shall not allow any third party to, store the Licensed Listings or the Developer Instructions, or any portion of the Licensed Listings or the Developer Instructions, on any network, in any database, on any network of servers, or in any other location or repository; except, that Vendor Licensee may store the multiple listing service number of each Licensed Listing on the respective Display Servers solely for the purpose of facilitating mapping. Vendor Licensee shall not interfere or attempt to interfere with the proper working of the Web Services (XML).

7. Changes to Developer Instructions. Vendor Licensee agrees and acknowledges that notwithstanding Vendor Licensee's use of the Developer Instructions for the development, creation, and testing of the Website Software and the Web Services

API, and further notwithstanding that changes may have a material adverse affect upon the Website Software, Web Services API, Display Servers, and the Display Websites, and their functionality and operation, Licensor may, at any time, in its sole discretion, make changes to the Developer Instructions, including but not limited to, the table structures and data formats. Licensor agrees to notify Vendor Licensee by e-mail of all material changes made by Licensor to the Developer Instructions. Vendor Licensee agrees that Licensor shall have no liability of any nature to Vendor Licensee for any change in the Developer Instructions, or for any affect such change may have upon the Website Software or Display Servers.

8. Website Software Warranties. Vendor Licensee represents and warrants to RAM the following: (a) the Website Software shall substantially perform in accordance with the specifications and documentation (the “Vendor Specifications”) for the Website Software provided to RAM, an Agent Subscriber or Broker Subscriber by Vendor; (b) use of the Website Software by RAM, or the applicable Agent Subscriber or Broker Subscriber will not constitute infringement, or result in any other claim regarding any patent, copyright, trademark, trade secret, or any other intellectual property right anywhere in the world; (c) the media on which the Website Software is or will be contained shall not knowingly contain any computer instructions, or perform any functions, which result is to disrupt, damage or interfere with the use of the IDX Database or any other computer programs for their commercial purposes; and, (d) the Website Software shall not knowingly contain any viruses, bugs, or mechanism which electronically notifies the user of any fact or event, nor any key, node lock, time out, logic bomb or other function, implemented by any means, which may restrict use of or access to any programs, data or equipment. Vendor Licensee agrees to immediately notify RAM of any illicit code and promptly correct or replace the Website Software to eliminate any such illicit code. In the event the Website Software fails to perform in accordance with the Vendor Specifications, Vendor Licensee shall use its best efforts to immediately correct the error or problem. **VENDOR LICENSEE HEREBY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.**

9. Intellectual Property. Vendor Licensee acknowledges and agrees that the Developer Instructions are proprietary, original works of authorship of Licensor, or licensed to Licensor, protected under United States copyright, trademark, patent and trade secret laws of general applicability. Vendor Licensee further acknowledges and agrees that all right, title, and interest in and to the Developer Instructions, including all copyright rights, are and shall remain with Licensor. Subject to the rights of Licensor set forth in these XML Access Standards, all Website Software shall be the property of Vendor Licensee.

10. Audit Rights. Licensor’s audit rights under the Agreement shall include the right to audit, or engage a third party to audit, external attempts to penetrate any firewalls established in connection with protection of the Developer Instructions.

11. Disclaimer. Vendor Licensee acknowledges and agrees that use of the Developer Instructions, and access to, and display of the Licensed Listings by Vendor Licensee, does not constitute an endorsement, acceptance, or approval by Licensor of the Website Software or any display of the Licensed Listings, or the means of displaying the Licensed Listings, including the Display Websites, or the content of the Display Websites. Licensor expressly disclaims any responsibility for the Website Software, including without limitation, intellectual property infringement, content, accuracy, defamation, and other unlawful content.

12. Operation in Accordance with Law. Vendor Licensee agrees that it will at all times develop and maintain the Website Software in accordance with all applicable federal, state, and local laws, ordinances, and regulations and the Policies and Procedures.

13. Confidential Information. Vendor Licensee agrees and acknowledges that in addition to any copyright and other proprietary rights, the Developer Instructions are confidential content of Licensor and for purposes of the Agreement, “Confidential Information” expressly includes the Developer Instructions.

14. Indemnification. Vendor Licensee hereby agrees to indemnify and hold harmless Licensor, and its officers, directors, employees, and licensees, from and against any and all claims, demands, liabilities, and actions, including the payment of all legal expenses, including reasonable attorney’s fees and costs, arising out of or connected with any use of the Developer Instructions, or creation and content of the Website Software. Licensor shall have the right to control its own defense and engage legal counsel acceptable to Licensor.

15. Limitation of Liability. The limitation of liability set forth in Section 18 of the Agreement also applies with respect to any claims relating to use of the Developer Instructions.

16. Injunction. Licensor and Vendor Licensee agree that a breach or violation of Sections 4, 6, 12, and 17 of these XML Access Standards will result in immediate and irreparable injury and harm to Licensor. In such event, Licensor shall have, in addition to any and all remedies of law, the right to an injunction, specific performance or other equitable relief to prevent the violation of the obligation under these XML Access Standards; provided, however, that, this shall in no way limit any other remedies which Licensor may have, including, without limitation, the right to seek monetary damages.

17. Proprietary and Other Notices. Vendor Licensee agrees that it will include and not alter or remove any trademark, copyright, or other notices, or any disclaimers located or used on, or in connection with the Developer Instructions.

18. Termination. Upon termination of the Agreement, for any reason, the Developer License shall automatically terminate and Vendor Licensee shall within ten (10) business days of the date of termination permanently delete and remove all copies of the Developer Instructions, and such software from all computers and other storage

devices on which it was stored, and terminate the use of the Developer Instructions, and deliver to Licensor written certification in accordance with Section 22.e of the Agreement.

19. Survival. The provisions of Sections 7, 9, 11, 14, 15, 16, 18, and 19 of these XML Access Standards shall survive the termination of these XML Access Standards.

## **B. Access Standards for FTP Download and RETS Download**

1. Applicability. This Section B of these Access Standards (the “FTP/RETS Access Standards”) apply only if Vendor Licensee’s means of access to Licensed Listings will include through FTP Download or RETS Download as designated on Schedule A of the Agreement.

2. License Grant. In addition to the License granted to Vendor Licensee under the Agreement, Licensor hereby grants to Vendor Licensee a license to download the Licensed Listings exclusively through FTP Download or RETS Download, and subject to the other terms and conditions of the Agreement and these FTP/RETS Access Standards. Upon termination of the Agreement, for any reason, the license granted to Vendor Licensee under this Section 2 of these FTP/RETS Access Standards shall automatically terminate.

3. Change of Means of Access; Photographs. Licensor may, in its sole discretion and upon thirty (30) days prior written notice to Vendor Licensee, change the means and nature of downloading the Licensed Listings, and/or terminate the download of the Licensed Listings to the Display Server. Specifically, but without limitation, Licensor may change the applicable table structures at any time after fifteen (15) days notice to Vendor Licensee. The download of and access to photographs will be by providing to Vendor Licensee the photographs for each Licensed Listing included in the data feed in a compressed file containing the actual photographs.

4. FTP Access Standards. Licensor will create an updated file of the Licensed Listings and photographs at least one (1) time every twenty-four (24) hours for a FTP Download. Vendor Licensee’s initial download of the Licensed Listings for a FTP Download shall be a full download. After the initial download, Vendor Licensee’s downloads of the Licensed Listings may be full or incremental as determined by Licensor in its sole discretion.

## Exhibit E

### Technology Standards

Vendor Licensee shall securely maintain at all times its computers and websites as secure sites, and the server on which any Licensed Listings or software for the Display Websites reside in a secure location, such that intruders may not access, damage, or alter files located on Vendor Licensee's computers or access the Licensed Listings or software for the Display Websites. In addition, Vendor Licensee shall use reasonable security measures to prohibit screen scraping and data mining.

Exhibit F  
Display Standards

1. Vendor Licensee shall clearly and conspicuously display any notices included by Licensor with transmission of the IDX Listings on each page on which Licensed Listings, or a portion of Licensed Listings are displayed, in a location satisfactory to Licensor in its sole discretion, and may not modify or alter any such notices.

2. The listing content displayed shall be limited to properties listed on an exclusive right to sell and an exclusive agency listing basis.

3. Vendor Licensee shall not modify or manipulate the content relating to Other Brokers' Listings. (This is not a limitation of design of Display Websites, but refers to changes to actual listing content.)

4. Listings obtained from sources other than Licensor and other multiple listing services, as multiple listing service is defined in the National Association of Realtors® Handbook on Multiple Listing Policy, may be displayed on Display Websites, only if the source of the other Listings is clearly and conspicuously displayed on each page on which the other content is displayed. An example of another source of Listings which must be searched and displayed on pages separate from pages on which IDX Listings are searched and displayed is Listings from non-IDX Participating Brokers. Otherwise, no other content not provided by Licensor may be displayed.

5. No portion of the Licensed Listings shall be used or provided to a third party for any purpose other than those expressly provided for in this Agreement.

6. Each display or use of the Licensed Listings, or any portion of the Licensed Listings, and each Display Website, including all content included on each Display Website shall be made and maintained strictly (a) in accordance with federal, state, and local laws, regulations, and ordinances, (b) in accordance with the Code of Ethics of the National Association of Realtors®, and (c) in a professional manner.

7. Each display or use of the Licensed Listings, or any portion of the Licensed Listings, shall be only (a) for a purpose which is expressly allowed under Broker's real estate license, and (b) for the solicitation of potential buyers and sellers of real estate through the advertising of listings. Specifically, but without limitation, no display or use of the Licensed Listings, or any portion of the Licensed Listings, shall be for any referral or relocation business, except referrals to Broker and Broker's agents, and except the solicitation of potential buyers and sellers of real estate.

8. No display or use of the Licensed Listings, or any portion of the Licensed Listings, shall be used in connection with sending unsolicited or unauthorized advertising, spam, unsolicited commercial email, unsolicited bulk email, promotional materials, or any other form of unsolicited message, whether commercial or otherwise.



For purposes of these Display Standards, unsolicited commercial email means any electronic communication sent for purposes of distributing commercial content of any kind, soliciting the purchase or sale of products or services or soliciting any transfer of funds to a recipient who has not agreed to receive such communication. For purposes of these Display Standards, unsolicited bulk email is defined as any electronic communication to multiple recipients who have not agreed to receive such communication.

9. The display or use of the Licensed Listings, or any portion of the Licensed Listings, and each Display Website, including all content included on each Display Website, shall not include any of the following:

- a. Any material which infringes the intellectual property rights of any third party.
- b. Any material which promotes pornography, violence, or discrimination on the basis of race, sex, religion, nationality, disability, age, or sexual orientation.
- c. Any material which is immoral, unethical, offensive, illegal, or inappropriate for a professional website or other display.
- d. Viruses, worms, “trojan horses” or other similar contaminating or harmful features.

10. Each Display Website must include terms of use which are substantially in conformance with the terms and conditions set forth on the attached Schedule 1 to these Display Standards.

11. These Display Standards comprise and include the Internet Data Exchange, Display, section of the MLS Rules and Regulations (the “IDX Policy”), as may be amended from time to time by Licensor in its sole discretion. If at any time the IDX Policy is more restrictive than these Display Standards, or is inconsistent with any portion of these Display Standards, these Display Standards shall be deemed automatically amended to include the more restrictive IDX Policy provisions and/or to replace the inconsistent provisions of these Display Standards with the current IDX Policy provisions.

**Website Terms of Use**

**THIS IS A BINDING LEGAL CONTRACT. CAREFULLY READ THESE WEBSITE TERMS OF USE (“TERMS OF USE”) BEFORE USING THIS WEBSITE (THE “WEBSITE”). BY ACCESSING OR USING THE WEBSITE, YOU AGREE TO BE BOUND BY THESE TERMS OF USE, AND BE LIABLE TO THE OWNER OF THE WEBSITE (THE “WEBSITE OWNER”) FOR ANY NONCOMPLIANCE WITH THESE TERMS OF USE. IF YOU DO NOT AGREE TO THESE TERMS OF USE, AS THESE TERMS OF USE MAY BE MODIFIED FROM TIME TO TIME, YOU MAY NOT USE THE WEBSITE, AND MAY NOT CREATE OR MAINTAIN A LINK TO THE WEBSITE.**

1. License. Website Owner hereby grants to you a revocable, limited, nonexclusive license for the duration of your current viewing session to access, download and print only individual real estate listings, comprising factual information and creative content displayed on the Website (the “Listing Content”), solely for personal and non-commercial purposes, and no other purposes, and subject to the limitations set forth in these Terms of Use. This license will terminate immediately upon any noncompliance by you with any of the terms of these Terms of Use, or at any other time upon notice to you. All rights not expressly granted in these Terms of Use are reserved.

2. Limitations on Use.

2.1 Except as expressly provided under these Terms of Use or upon Website Owner’s express prior written consent, you may not modify, copy, distribute, transmit, display, perform, reproduce, publish, upload, post, license, frame in another website, use on any other website, create derivative works of, transfer, sell, and/or exploit for commercial use, any Listing Content, information, software, compilation of real estate listings, databases (collectively “Information”) or other lists, products or services provided through or obtained from the Website, including by email or other electronic means, without the prior written consent of Website Owner. You may create a link from the Website only in accordance with these Terms of Use and, specifically, without limitation, Section 6 of these Terms of Use. In addition, you may not circumvent any technological measures or features of the Website that are intended to or effectively control access to the Listing Content, or any other protected content or information included on the Website. The Website may contain robot exclusion headers. The real estate listings displayed on the Website, including the Listing Content, may be updated on a real-time basis, and are proprietary or licensed to Website Owner. You agree that you will not use any robot, spider, scraper or other automated means to access the Website for any purpose without Website Owner’s express prior written consent. Website Owner expressly reserves all rights not expressly granted in these Terms of Use.

2.2 You further agree that you will not:

- (a) take any action that imposes or may impose (in Website Owner's sole discretion) an unreasonable or disproportionately large load on Website Owner's infrastructure;
- (b) interfere or attempt to interfere with the proper working of the Website or any activities conducted on the Website; or
- (c) bypass Website Owner's robot exclusion headers or other measures Website Owner may use to prevent or restrict access to the Website.

3. Your Representations and Warranties.

You represent and warrant to Website Owner that any information you provide on the Website will be true, accurate and complete, and will not violate any law, statute, ordinance or regulation. You warrant that you will not falsely identify yourself or impersonate or falsely represent your affiliation with any person or entity. Except with the written permission of Website Owner, you agree that you will not access or attempt to access password protected, secure or non-public areas of the Website. Unauthorized individuals attempting to access prohibited areas of the Website may be subject to legal prosecution. You further warrant to Website Owner that you will not use the Website for any purpose that is unlawful or prohibited by these Terms of Use, including without limitation the posting or transmitting of any threatening, infringing, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material.

4. Changes to These Terms of Use.

Website Owner reserves the right, in its sole discretion, to modify, update, or otherwise revise these Terms of Use at any time. Such revisions shall be effective immediately upon posting on the Website. By using the Website or creating, maintaining, or using, if authorized by the Website Owner, a link to the Website, after Website Owner has posted any modifications, updates or revisions, you agree to be bound by such revised Terms of Use. In addition to these Terms of Use, additional terms may govern use of certain web pages within the Website or the creation, maintenance and use of a link to the Website, as such terms may be contained on the web pages of the Website. Provided that such additional terms are not contrary to these Terms of Use, by accessing and using such web pages, and creating, using, and maintaining a link to the Website, you agree to be bound by such terms.

5. Links to Other Websites.

The Website may contain links to other websites (“Linked Websites”). The Linked Websites are provided for your convenience and information only and, as such, you access them at your own risk. You agree and acknowledge that Website Owner is not responsible for, and does not endorse, the content of or anything that may be delivered to you or your computer as a result of accessing any Linked Websites, whether or not Website Owner is affiliated with the owners of such Linked Websites. Without limiting the generality of the foregoing, Website Owner is not responsible and shall have no liability for any viruses or other illicit code that may be downloaded through a link found on the Website, or by accessing a Linked Website.

6. Terms for Creation of a Link.

6.1 Upon your acceptance of the terms and conditions of these Terms of Use, you are authorized to establish a hypertext link (the “Link”) from your website (“Your Website”) to the home page of the Website. Deep linking to content appearing in the web pages below the home page of the Website is not permitted.

6.2 If you create a Link, Your Website shall not:

- (a) Create frames around the Website or otherwise alter the visual presentation of the Website.
- (b) Expressly state or otherwise imply that Website Owner is endorsing you, your products or services, or the content of Your Website.
- (c) Expressly state or otherwise imply an affiliation between you and Website Owner without the prior written consent of Website Owner.
- (d) Misrepresent your relationship with Website Owner or present false or misleading impressions about Website Owner’s products or services.
- (e) Disparage the Website or the Website Owner or display the Link in a manner that that diminishes Website Owner’s goodwill.
- (f) Include or display any material which is immoral, unethical, illegal or inappropriate for a professional website.

6.3 You acknowledge and agree that you are not a publisher, distributor, agent, partner, franchiser or endorser of the Website, and Website Owner is not a publisher, distributor, agent, franchiser or endorser of Your Website. Website Owner retains exclusive editorial control over the Website and has the right to make administrative or operational decisions it deems necessary or desirable in the normal course of business.

6.4 You warrant to Website Owner that (1) you have duly registered the domain name of Your Website with all applicable authorities and/or have a license to use Your Website, and you possess all rights necessary to use such the domain name for Your Website, and (2) the content of and materials placed on or within Your Website, and any hyperlinks on Your Website, do not and will not (i) infringe upon or violate any United States copyright, patent, trademark or other proprietary right of a third party, or (ii) violate any applicable law, statute, regulation, or non-proprietary right of a third party.

7. Proprietary Rights.

You acknowledge and agree that the trademarks of Website Owner (the “Marks”), the Website, Information, and the content and look and feel of the Website, to the extent protectable, are proprietary, original works of authorship of Website Owner, or licensors of Website Owner, protected under United States and worldwide copyright, trademark, and trade secret laws of general applicability. You further acknowledge and agree that all right, title and interest in and to the Marks, the Website, and the content and look and feel of the Website are and shall remain with Website Owner or its licensors. You agree not to contest or infringe these rights, directly or indirectly, at any time. Without the prior written consent of Website Owner, your modification of the content, use of the content on any other website or networked computer environment, or use of the content for any purpose other than personal, non-commercial use, violates the copyrights, trademarks or other intellectual property rights of Website Owner or its licensors, and is prohibited. Except as expressly provided under this Agreement, you may not use on any website, including Your Website, or on any other materials, the Marks, or any other trademarks or copyrighted materials appearing on the Website, including without limitation any logos, without the express prior written consent of the owner of the mark or copyright.

8. Interruptions in Service.

The Website and access to the content of the Website may from time-to-time be unavailable to you or users of Your Website, whether because of technical failures or interruptions, intentional downtime for service or changes to the Website, or otherwise. You agree that Website Owner shall have no liability of any nature to you or any third party for any modifications to the Website, and any interruption or unavailability of access to the Website or its content.

9. No Warranties; Exclusion of Liability.

YOU UNDERSTAND AND EXPRESSLY AGREE TO THE FOLLOWING:

- (a) YOUR USE OF AND RELIANCE UPON ANY AND ALL INFORMATION, PRODUCTS AND SERVICES, INCLUDING WITH RESPECT TO ANY REAL ESTATE LISTING, CONTAINED IN OR PROVIDED THROUGH THE WEBSITE IS AT YOUR SOLE RISK.

SUCH INFORMATION, PRODUCTS AND SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WEBSITE OWNER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES, OR GUARANTEES WITH RESPECT TO THE APPROPRIATENESS, ACCURACY, SUFFICIENCY, CORRECTNESS, VERACITY, VALUE, COMPLETENESS, AVAILABILITY, OR TIMELINESS OF THE DATA, METHODS, OR INFORMATION CONTAINED IN OR PROVIDED THROUGH THE WEBSITE. WEBSITE OWNER DOES NOT WARRANT THE FUNCTIONS CONTAINED IN THE WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVER THAT MAKES THE INFORMATION AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WEBSITE OWNER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

- (b) IN NO EVENT WILL WEBSITE OWNER BE LIABLE TO YOU, ANY USER OF THE WEBSITE OR YOUR WEBSITE, OR ANY THIRD PARTY FOR ANY DECISION MADE OR ACTION TAKEN IN RELIANCE UPON THE INFORMATION CONTAINED IN OR PROVIDED THROUGH THE WEBSITE. ANY INFORMATION YOU DOWNLOAD OR OTHERWISE OBTAIN THROUGH THE USE OF THE WEBSITE, OR ANY LINKED WEBSITE, IS AT YOUR OWN RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR EQUIPMENT, SOFTWARE, YOUR WEBSITE, LOSS OF DATA, THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO OR ALTERATION OF PERSONAL RECORDS, THE RELIANCE UPON OR USE OF INFORMATION, PRODUCTS OR SERVICES APPEARING ON THE WEBSITE OR A LINKED WEBSITE, OR OTHER PERSONAL LOSS THAT RESULTS FROM THE DOWNLOAD OR USE OF SUCH INFORMATION, PRODUCTS OR SERVICES ON THE WEBSITE OR A LINKED WEBSITE.
- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL WEBSITE OWNER BE LIABLE TO YOU, OR ANY USER OF THE WEBSITE OR YOUR WEBSITE, OR TO ANY THIRD PARTY FOR ANY LOSS, EXPENSE, OR DAMAGE, OF ANY NATURE, INCLUDING CONSEQUENTIAL, INCIDENTAL, SPECIAL, GENERAL OR PUNITIVE DAMAGES, AND INCLUDING LOST PROFITS OR LOST REVENUE, CAUSED DIRECTLY OR INDIRECTLY BY THE USE OR RELIANCE UPON INFORMATION, PRODUCTS OR SERVICES OBTAINED BY OR PROVIDED

THROUGH THE WEBSITE, OR FOR ANY ERROR OR OMISSION, OR OTHERWISE IN ANY WAY CONNECTED WITH USE OF THE WEBSITE, WHETHER BASED ON CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF FORESEEABLE OR WEBSITE OWNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Indemnification.

You agree to indemnify, defend and hold harmless Website Owner, its officers, directors, employees, shareholders, agents, affiliates, suppliers, successors and assigns from and against any and all liability, loss, claim, demand, suit, proceeding, damage, cost and expense, including reasonable attorneys fees and costs, arising out of or resulting from (a) any violation by you of these Terms of Use; (b) the content of Your Website; or (c) any negligent acts, errors or omissions of you or your agents or contractors.

11. Copyright

If you believe that a copyright work that you own (or have an exclusive license to) is accessible on this Website without your permission you may notify us by contacting our designated agent listed below. All such inquiries must include the information specified in Title 17, United States Code, Section 512.

Designated Agent:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Use of Mortgage Calculation Tools

The mortgage calculation tools available on the Website are for demonstration purposes only, and are not an offer to lend. Interest rates shown may differ from actual market interest rates. Website Owner does not guarantee the accuracy, sufficiency, correctness, veracity, completeness or timeliness of such service. You are responsible for confirming the sufficiency and reliability of any such service.

13. Miscellaneous.

13.1 These Terms of Use and all other terms and conditions related to the use of the Website shall be governed by and construed in accordance with the laws of the state of the principal place of business or primary residence of the Website Owner, United States of America, without regard to its conflict of law provisions. By use of the Website or creating a Link, you hereby consent to the exclusive jurisdiction of and venue in the federal and state courts located in the county and state of the principal place of business or primary

residence of the Website Owner, United States of America, for all disputes arising out of or related to the use of the Website, any information contained on or provided through the Website, and the creation and maintenance of a Link, and you waive all defenses to the exclusive jurisdiction of such courts.

13.2 If any provisions of these Terms of Use shall be unlawful, void or for any reason unenforceable, then such provision shall be deemed severed from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.

13.3 These Terms of Use supersede any prior agreements or understandings between you and the Website Owner not incorporated into these Terms of Use. In the event of any inconsistency between these Terms of Use and any future posted Terms of Use, the last posted Terms of Use shall control.

13.4 There are no third party beneficiaries of these Terms and Conditions

13.5 If you violate any of these Terms of Use, your permission to use the Website and to create or maintain a Link, and your license to the Marks shall immediately terminate without the necessity of any notice to you. Website Owner retains the right to deny access to the Website to anyone at its sole discretion, for any reason, including but not limited to violation of these Terms of Use. Website Owner may, at any time, in its sole discretion for any reason terminate only your right to create and maintain a Link, without affecting your right to otherwise access and use the Website in accordance with these Terms and Conditions. Upon notice of any termination of your right to create and maintain a Link and license to the Marks, and you shall immediately remove any and all Links and Marks from Your Website.



## Broker Agreement

This Broker Agreement (the “Broker Agreement”) is made and accepted by \_\_\_\_\_, a principal real estate broker (the “Broker”) for the benefit of Realtors® Association of Maui, Inc., a Hawaii non-profit corporation (“Licensor”). This Broker Agreement is made pursuant to the MLS Rules and Regulations of Licensor (the “MLS Rules and Regulations”). Broker hereby requests that Licensor grant a License, as such term is defined in the License Agreement, to the licensee identified on the attached Schedule A to this Broker Agreement (the “Licensee”) pursuant to the license agreement between Licensor and Licensee (the “License Agreement”), a copy of which is available upon request from Licensor.

The Display Website, as such term is defined in the License Agreement, of the Broker or his/her brokerage firm, so long as the brokerage firm’s website is under the control and direction of Broker, shall be the website having the domain name identified on the attached Schedule A to this Agreement (the “Broker Display Website”). The domain name for the Broker Display Website may be modified or changed upon request of Broker and the approval of Licensor. Licensor shall be deemed to have approved such request unless Licensor has given notice to Broker of non-approval within thirty (30) days of the date of the request. Additional Display Websites for Broker or Broker’s brokerage firm must be requested pursuant to a separate broker agreement.

Broker acknowledges that the License includes a license to access and display on the Broker Display Website and the Agent Display Websites (defined below) the Licensed Listings, subject to and in accordance with the terms of the License Agreement. Broker hereby consents to and waives any and all claims against Licensor, now existing or hereafter arising, relating to the License Agreement, including the License granted to Licensee. The License may continue until the suspension or termination of the License Agreement, or suspension or termination of the License with respect to the Broker Display Website, in accordance with the terms of the License Agreement.

In consideration for the License granted by Licensor to Licensee with respect to the Broker Display Website, Broker agrees to pay to Licensor a license fee for the Broker Display Website in the amount set forth in the License Agreement (the “Display Website License Fee”). Interest on all unpaid Display Website License Fees shall accrue at the rate of fifteen percent (15%) per annum until paid. Licensor agrees to pay all costs of collection of all unpaid amounts owing to Licensor under this Broker Agreement, including reasonable attorney’s fees and costs. If Broker fails to pay any Display Website License Fee when due, Licensor may, without notice, suspend and/or terminate the License for the Broker Display Website as provided under the License Agreement. No Display Website License Fees, or portion of Display Website License Fees, or other fees payable by Broker under this Broker Agreement will be refunded to Broker upon termination or suspension for any reason of the License for the Broker Display Website.

The domain names for the Display Websites of Broker’s agents, as requested by an agent of Broker pursuant to an Agent Agreement, as such term is defined in the

License Agreement, shall be identified on the attached Schedule A to this Agreement (the “Agent Display Websites”). Domain names/websites for which the License is requested by an agent under an Agent Agreement shall be included as a Display Website under the License Agreement only upon acceptance and approval of each such domain name/website and the respective Agent Agreement by Broker and Licensors.

Broker represents and warrants to Licensors that Licensee is a Licensee, as such term is defined in the MLS Rules and Regulations. Broker further represents and warrants that Broker is (i) a principal real estate broker licensed in accordance with the laws of the state of Hawaii, (ii) is a subscriber in good standing to Licensors’ multiple listing service, and (iii) is an IDX Participating Broker, as such term is defined in the MLS Rules and Regulations. Broker further represents and warrants to Licensors the following: (a) each of Broker’s agents for whom Licensee shall be developing a website under the License Agreement, and/or who will have access to the display of Licensed Listings, is a licensed real estate agent of Broker, (b) each such agent has entered into a subscription agreement with Licensors for Licensors’ multiple listing service, (c) each such agent is not in default under the MLS Rules and Regulations, and (d) each such agent has entered into an Agent Agreement, as such term is defined in the License Agreement, for each Agent Display Website. Broker represents and warrants that Broker is the principal real estate broker of each brokerage firm for which Licensee shall be developing a website under the License Agreement.

Broker represents and warrants to Licensors that Broker has read and understands the terms and conditions of the License Agreement. Broker agrees and acknowledges that Licensors has no obligation to accept this Broker Agreement. Broker further agrees and acknowledges that if this Broker Agreement is accepted by Licensors, the License granted by Licensors under the License Agreement is an accommodation to Broker, and Broker is unconditionally, irrevocably, and personally jointly and severally liable and responsible for the performance by Licensee of all of Licensee’s obligations under the License Agreement and the compliance with all terms and conditions of the License Agreement. Specifically, Broker is responsible for the display of all Licensed Listings strictly in compliance with the MLS Rules and Regulations and the License Agreement, and compliance of Broker and Broker’s agents with all other agreements with Licensors, and with the applicable state rules and regulations regarding advertising and the display of listings. Broker acknowledges its obligation to monitor the use, handling and display of Licensed Listings by Licensee and Broker’s agents for such compliance. Broker agrees that, without affecting the liability and obligations of Broker under this Broker Agreement, and specifically in connection with the License Agreement, Licensors and/or Licensee may amend and modify the License Agreement without notice to or the consent of Broker.

This Broker Agreement is effective only if accepted by Licensors; provided, however, Licensors shall be deemed to have accepted this Broker Agreement unless Licensors has given notice to Broker of non-acceptance within thirty (30) days of the Effective Date. Any notice of non-acceptance by Licensors may be delivered by e-mail to Broker at the address maintained in the membership records of Licensors.

Dated effective \_\_\_\_\_

BROKER

\_\_\_\_\_  
\_\_\_\_\_  
Individually [type name of broker]

SCHEDULE A TO BROKER AGREEMENT

**Name of Licensee:**

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**Broker Display Website:**

Domain Name

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Server IP Address

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**Agent Display Websites:**

Name of Agent

Domain Name

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Server IP Address

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## Agent Agreement

This Agent Agreement (the "Agent Agreement") is made and accepted by \_\_\_\_\_, a real estate agent (the "Agent") who is affiliated with \_\_\_\_\_, a principal real estate broker (the "Broker"), for the benefit of Realtors<sup>®</sup> Association of Maui, Inc., a Hawaii non-profit corporation ("Licensor"). This Agent Agreement is made pursuant to the MLS Rules and Regulations of Licensor (the "MLS Rules and Regulations"). Agent hereby requests that Licensor grant a license, as such term is defined in the License Agreement (a "License"), to the Licensee identified on the attached Schedule A to this Agent Agreement as the "Licensee" ("Licensee") pursuant to the license agreement between Licensor and Licensee (the "License Agreement"), a copy of which is available upon request from Licensor. This Agreement applies to the particular Display Websites, as such term is defined in the License Agreement, of the Agent having the domain names identified on the attached Schedule A to this Agent Agreement (the "Agent Display Website"). This Agent Agreement and each Agent Display Website must be approved by Agent's broker and by Licensor before a specific Agent Display Website will be included as a Display Website under the License Agreement. The domain name for the Agent Display Website may be modified or changed, and additional domain names may be added, upon request of Broker and the approval of Licensor. Licensor shall be deemed to have approved such request unless Licensor has given notice to Agent of non-approval within thirty (30) days of the date of the request.

Agent acknowledges that Licensor may grant to Licensee a License to access and display on the Agent Display Websites the Licensed Listings, subject to and in accordance with the terms of the License Agreement. Agent hereby consents to and waives any and all claims against Licensor, now existing or hereafter arising, relating to the License Agreement, including the License granted to Licensee. The License for each Agent Display Website may continue until the suspension or termination of the License Agreement, or suspension or termination of the License with respect to the particular Agent Display Website, in accordance with the terms of the License Agreement.

In consideration for the License granted by Licensor to Licensee with respect to the Agent Display Websites, Agent agrees to pay to Licensor a license fee for each Agent Display Website in the amount and in accordance with the payment terms set forth in the License Agreement as the Display Website license fee (the "Display Website License Fee"). Interest on all unpaid Display Website License Fees shall accrue at the rate of fifteen percent (15%) per annum until paid. Licensor agrees to pay all costs of collection of all unpaid amounts owing to Licensor under this Agent Agreement, including reasonable attorney's fees and costs. If Agent fails to pay any Display Website License Fee when due, Licensor may, without notice, suspend and/or terminate the License for the applicable Agent Display Website(s) as provided under the License Agreement. No Display Website License Fees, or portion of Display Website License Fees, or other fees payable by Agent under this Agent Agreement will be refunded to Agent upon termination or suspension for any reason of the License for any Agent Display Website.

Agent represents and warrants to Licensor that Agent is a subscriber in good standing to Licensor's multiple listing service who has entered into a subscription agreement with Licensor for such services, and Agent's Broker is an IDX Participating Broker, as such term is defined in the MLS Rules and Regulations. Agent represents and warrants to Licensor that Agent has read and understands the terms and conditions of the License Agreement. Agent agrees and acknowledges that Licensor has no obligation to accept this Agent Agreement. Agent further agrees and acknowledges that if this Agent Agreement is accepted by Licensor, the license granted by Licensor under the License Agreement is an accommodation to Agent, and Agent's Broker, and Agent is unconditionally, irrevocably, and personally jointly and severally liable and responsible for the performance by Licensee of all of Licensee's obligations under the License Agreement and the compliance with all terms and conditions of the License Agreement. Specifically, Agent is responsible for the display of all Licensed Listings strictly in compliance with the MLS Rules and Regulations, and compliance with all other agreements with Licensor, and with the applicable state rules and regulations regarding advertising and the display of listings. Agent acknowledges its obligation to monitor the use, handling and display of Licensed Listings by Licensee for such compliance. Agent agrees that, without affecting the liability and obligations of Agent under this Agent Agreement, and specifically in connection with the License Agreement, Licensor and/or Licensee may amend and modify the License Agreement without notice to or the consent of Agent.

This Agent Agreement is effective only if accepted by Licensor; provided, however, Licensor shall be deemed to have accepted this Agent Agreement unless Licensor has given notice to Agent of non-acceptance within thirty (30) days of the Effective Date. Any notice of non-acceptance by Licensor may be delivered by email to Agent at the address maintained in the membership records of Licensor.

Dated effective \_\_\_\_\_

AGENT

\_\_\_\_\_  
\_\_\_\_\_  
Individually [type name of agent]

SCHEDULE A TO AGENT AGREEMENT

**Name of Licensee:**

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**Domain Names for Agent Display Websites:**

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**Server IP Address**

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