

**DATA PROCESSING AGREEMENT (Data Feed Broker/Agent)**

This Data Processing Agreement (the "Agreement") effective as of \_\_\_\_\_ (known as "Effective Date") is by and between the San Antonio Board of REALTORS, Inc. (Provider) a Texas Corporation having its principal place of business at 9110 IH 10 West, San Antonio, Bexar County, Texas 78230, and \_\_\_\_\_ (Broker/Agent), with operations located at \_\_\_\_\_.

**RECITALS:**

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

**IT IS AGREED:**

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

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

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

- B. This Agreement shall not be construed to grant the Broker/Agent any ownership of the MLS data provided and expressly prohibits Broker/Agent from reconfiguring, reformatting, reselling, transmitting, downloading, copying, furnishing or otherwise making such data available to any person, firm, corporation, or other entity other than an MLS Participant/Subscriber as authorized by Provider.
- C. All parties acknowledge and agree that the precise composition of the MLS data may change from time to time and that changes in technical specifications and software or hardware requirements may be imposed by Provider. The Provider shall not be responsible for any such work or additional costs that may be incurred by Broker/Agent due to such changes.
- D. Provider shall provide a connection to the provided data for Broker/Agent's authorized use via the following means (FTP or RETS site): \_\_\_\_\_.
- E. Brokers with in-house technical assistants to map and program the data will receive access at no charge under this Agreement. However, if the Broker/Agent desires to contract with a Vendor to provide access to the MLS data on behalf of Broker/Agent, then the Vendor will have to contract with Provider through a Third Party Processing Agreement, and the Vendor shall pay all applicable fees for FTP access to the data pursuant to such Third Party Processing Agreement. Broker/Agent shall be responsible for any such Vendor's compliance with the terms and conditions of this Agreement.
- F. The term of this Agreement shall commence on the Effective Date and continue on a quarterly basis as long as no changes are made in Broker/Agent's REALTOR membership, Brokerage Company sponsorship or affiliation, or in the address of the URL or previously approved links. Any change in Broker/Agent's REALTOR membership, Brokerage Company sponsorship or affiliation, or address of the URL or previously approved links will require all parties to enter into a new Agreement to have FTP access to the data. Either party may cancel this Agreement on thirty days notice to the other party. Further, Provider reserves the right to terminate Broker/Agent's access to MLS data without notice for non-compliance with the terms of this Agreement.

- G. This Agreement provides no endorsement or implied recommendation of the Broker/Agent's product, program or service. Broker/Agent hereby agrees to indemnify and hold Provider and its officers, directors, shareholders, employees, and representatives harmless from and against any and all claims, demands, and actions, and any liabilities, damages, or expenses resulting there from, including court costs and reasonable attorney's fees, arising out of or relating to the Broker/Agent's access to or use of the provided MLS data.
- H. THE MLS DATA IS PROVIDED "AS IS" WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE FULLEST EXTENT ALLOWED BY LAW, PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.
- I. This Agreement shall be governed by and construed in accordance with the Laws of the State of Texas, and exclusive jurisdiction and venue for its enforcement shall be maintained in a court of competent jurisdiction in Bexar County, Texas.
- J. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, representations, proposals, discussions, and communications of the parties, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the parties sought to be bound.
- K. Broker/Agent shall not assign its rights or obligations under this Agreement without the prior express written consent of Provider.
- L. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute a single agreement. This Agreement may be executed and delivered by facsimile transmission, and a signature executed by one party and delivered to the other party via facsimile transmission shall be binding on the executing party to the same extent as a manually signed and delivered original.

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

PROVIDER

BROKER/AGENT

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

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

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

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

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

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

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

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

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

Name of Requesting MLS Participant (if applicable): \_\_\_\_\_

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

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

Name of Requesting Agent (if applicable): \_\_\_\_\_

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

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

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

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

\_\_\_\_\_  
URL

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

\_\_\_\_\_  
URL

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Agent Name

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Agent Name

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Agent Name

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URL

Add additional forms as necessary. **Exhibit A**

Internet Data Exchange (IDX)

Section 18-IDX Defined: IDX affords MLS Participants the option of authorizing display of their active listings on other Participants' Internet web sites.

Section 18.1-Authorization: Participants' consent for display of their active listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants.

Section 18.2-Participation: Participation in IDX is available to all MLS Participants who are REALTORS® and who consent to display of their listings by other Participants.

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

18.2.2 -Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction or use of the MLS database.

18.2.3 -Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

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

18.2.5 - Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

18.2.6 -Except as provided elsewhere in this policy or elsewhere in the Rules and Regulations of MLS, an IDX site or Participant operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

18.2.7- When displaying listing content, a Participant’s or User’s IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

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

Section 18.3.1-Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited.

18.3.1 (a) The confidential information fields intended for cooperating brokers rather than consumers which may not be displayed on the internet are: Office information section (agent home phone, call for showing number, compensation, variable or dual rate, owners name); Description Section (Remarks, list date, expiration date, occupancy), and Financial Information (1st loan balance, payments made, as of date, 2nd loan balance, payment, term of loan, 2nd loan company, payment, principal and interest, loan transfer fee, equity.)

Section 18.3.2-Participants shall not modify or manipulate information relating to other Participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.)

Section 18.3.3-All listings displayed pursuant to IDX shall identify the listing firm.

Section 18.3.4-Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant’s consent and control and the requirements of state law and/or regulation.

Section 18.3.5-All listings displayed pursuant to IDX shall show the MLS as the source of the information.

Section 18.3.6 - Participants (and their affiliated subscribers, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing.

Section 18.3.7 - The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in the MLS.

Section 18.3.8 - Listings obtained through IDX must be displayed separately from listings obtained from other sources, except that information provided by other MLS's may be displayed and the source identified.

Section 18.3.9- Sold data is not permitted for public display by members or vendors.