

**VENDOR LICENSE AGREEMENT  
BETWEEN  
JACKSON MULTIPLE LISTING SERVICE, INC.  
AND**

**THIS LICENSE AGREEMENT** (the "Agreement") is made by and between Jackson Multiple Listing Service, Inc. ("JMLS"), a subsidiary of Jackson Area Association of REALTORS ("JAAR") and \_\_\_\_\_ of \_\_\_\_\_ ("Vendor") and shall be effective on \_\_\_\_\_ (the "Effective Date").

**BACKGROUND**

JMLS owns the copyrights to and maintains Listing Content for the Greater Jackson area. Real estate agencies use this information in their businesses and desire to contract with third-party Vendors to have the Listing Content placed on websites, printed material, and other media. To protect the confidentiality and to ensure Vendors do not use the Listing Content for abusive, unauthorized purposes, the parties desire to enter into this Agreement to effect the grant of a limited License from JMLS to Vendor for limited use of the Listing Content.

**TERMS AND CONDITIONS**

**1. Definitions and Interpretation**

**1.1** **Definitions.** In addition to the definitions provided above, the following words or phrases are included in this Agreement to improve clarity and for purposes of this Agreement will take on the specific meaning provided below:

- (A) **"Broker"** – A licensed real estate broker in good standing with JMLS who has entered into an agreement with the Vendor for advertising, marketing, and/or other uses of Listing Content as permitted by JMLS and the terms and conditions of this Agreement.
- (B) **"Broker's Consent Form"** – A consent form, a blank copy of which is attached as Exhibit A, that must be completed and signed by the Broker contracting with the Vendor prior to JMLS's release of Listing Content to Vendor.
- (C) **"Facilities"** – Any and all places of business or other locations where Vendor processes and uses Listing Content.
- (D) **"License"** – Limited permission granted to Vendor to advertise, market, and/or use Listing Content as permitted by JMLS and the terms and conditions of this Agreement.
- (E) **"Listing"** – real estate Listing Content owned and maintained by JMLS.
- (F) **"Medium"** – the website or other medium where Listing Information is advertised, marketed or used as permitted by JMLS and the terms and conditions of this Agreement.
- (G) **"Prohibited Information List"** – a list provided as Exhibit B that contains categories of information that Vendor is prohibited from disclosing or publishing.
- (H) **"Vendor"** – any individual and/or corporation who has contracted with Broker or Agent for the purpose of advertising, marketing, or other use of Listing Content that is permitted by JMLS, including but not limited to, a real estate agent who maintains his or her own website or other Medium.

**1.2** **Interpretation.** The captions and numbers preceding the text of this Agreement are provided for organization and are not material to this Agreement or its interpretation. The defined words in this Agreement should be given their specific meanings. Words that are not defined by this Agreement, but have Michigan statutory definitions shall be given their statutory meaning.

## 2. License

- 2.1 **Grant of License.** Subject to the terms and conditions of this Agreement, JMLS hereby grants to Vendor a limited License to advertise, market, and/or use Listing Content as permitted by JMLS.
- 2.2 **Limitation on License.** Vendor is strictly prohibited from using the Listing Content for any and all purposes other than those expressly stated in § 2.1 of this Agreement. Vendor's use of the Listing Content for any other purpose shall result in a breach of this Agreement and will allow JMLS to terminate this Agreement immediately without liability.
- 2.3 **Ownership/Property Rights.** Vendor acknowledges and agrees that the Listing Content is proprietary, licensed by JMLS, and protected under United States copyright. Vendor further acknowledges and agrees that all rights, title, and interest in the Listing Content shall remain with JMLS. Any alterations and changes to the Listing Content by Vendor shall also become the exclusive property of JMLS and Vendor agrees to provide any and all documents necessary for JMLS to protect its ownership rights in those alterations and changes.
- 2.4 **License Fee.** Vendor agrees to pay an annual license fee in the amount of One Hundred Dollars (\$100.00) in consideration of JMLS's grant of permission to advertise, market, and/or use Listing Content as permitted by JMLS and the terms and conditions of this Agreement.

## 3. Duties of Vendor

- 3.1 **Non-Delegation.** The Vendor's Medium shall be under the Vendor's direct control and supervision at all times during the term of this Agreement and Vendor shall not delegate any duties in maintaining and protecting the Listing Content without the express written consent of JMLS.
- 3.2 **Nondisclosure/Confidentiality.** Vendor shall not disclose any information included in this Agreement or obtained by Vendor as a party to this Agreement that is not expressly authorized by JMLS. Further Vendor acknowledges the Prohibited Information List, included as Exhibit B and incorporated by reference and agrees not to publish or disclose any information found on the Prohibited Information List. Vendor's failure to comply with this requirement will result in a breach of this Agreement and will allow JMLS to terminate this Agreement immediately without liability.
- 3.3 **Protection Mechanisms.** Vendor acknowledges the sensitivity of the Listing Content and agrees to protect the same by the following Protection Mechanisms:
- (A) **Firewall.** If applicable, Vendor agrees to maintain an active firewall to protect the Listing Content posted on its website or other electronic medium from hacking or other abusive intrusion.
  - (B) **Anti-Virus Software.** If applicable, Vendor agrees to purchase at its own expense and maintain an updated Anti-Virus Software to protect the Listing Content from being attacked by viruses.
  - (C) **Password Protection.** If applicable, Vendor agrees to protect all computer terminals and other electronic devices which contain Listing Content by requiring a password be entered prior to accessing the Listing Content.
  - (D) **Secure Facilities.** Vendor agrees to secure the Facilities where Listing Content is stored or processed so that only Vendor and/or its employees have access to the Listing Content.
- 3.4 **Compliance With Law.** Vendor agrees to operate its business at all times during the term of this Agreement in full compliance with federal, state, and local law.
- 3.5 **Compliance with JMLS Policies.** Vendor agrees to be bound by and comply with all the policies adopted by JMLS, as amended hereafter, including but not limited to the Internet Data Exchange ("IDX") Policy. Vendor acknowledges review and understanding of the JMLS policies and acknowledges that such documents are available for review at:

[http://www.jacksonmihomes.com/home/docs/IDX\\_Policy.pdf](http://www.jacksonmihomes.com/home/docs/IDX_Policy.pdf).

**3.6 Copyright Statement.** Vendor agrees to identify any and all Listing Content used in its Medium as copyrighted by JMLS.

#### **4. Disclaimer of Warranties**

JMLS makes no warranty concerning Listing Content, express or implied. The Listing Content provided to Vendor is provided "**AS IS.**" Further, JMLS expressly disclaims the implied warranties of merchantability, fitness for a particular purpose, and non-infringement with respect to Listing Content. JMLS shall have no duty to verify the accuracy of the Listing Content and shall not be liable for any inaccuracy provided thereto.

#### **5. Audit**

JMLS may at its option perform an audit of the Vendor's Medium, process, or Facilities. JMLS may contract with a third party to perform audits and Vendor agrees to cooperate with JMLS and its third-party contractors in the audit process. The audit may be conducted to determine if the requirements of § 3.3 are satisfied. If the results of the audit show inadequate Protection Mechanisms as determined by JMLS in its sole discretion, JMLS may terminate this Agreement immediately without liability.

#### **6. Mutual Representations**

Both parties represent and warrant that this Agreement, when fully executed, will be valid, legally binding, and enforceable. Further, both parties represent and warrant that they have the right, authority, and legal capacity to enter into this Agreement.

#### **7. Broker's Consent**

Vendor acknowledges and agrees that this Agreement is conditional on the Broker's consent and authorization to transmit the Listing Content to Vendor. Prior to any Listing Content being transmitted from JMLS to Vendor, a signed Broker's Consent Form as well as a copy of a written agreement between Vendor and Broker for the advertisement of Listing Content which must be by JMLS in its sole discretion.

#### **8. Term and Termination**

**8.1 Term.** The term of this Agreement shall commence on the Effective Date and expire on the following November 15<sup>th</sup> unless otherwise terminated earlier.

**8.2 Termination.** This Agreement can be terminated with or without cause, but must be terminated in accordance with the requirements listed below. This Agreement will terminate upon the earliest occurrence of one of the following:

- (A) JMLS terminates this Agreement at any time under Article 2, §2.2; Article 3, § 3.2; or Article 5.
- (B) JMLS terminates this Agreement at any time by giving Vendor ten (10) days written notice.
- (C) Vendor terminates this Agreement at any time by giving JMLS thirty (30) days written notice.
- (D) If Vendor is also a licensed real estate agent, this Agreement terminates immediately upon agent's disassociation with the Broker listed on the Broker's Consent Form.

The terminating party shall immediately notify the Broker listed on the Broker's Consent Form of the termination of this Agreement under this section.

**8.3 Vendor's Duty Upon Termination.** Upon termination of this Agreement, Vendor agrees to immediately remove all Listing Content from its Medium.

**8.4 Survival of Vendor's Duties.** Vendor's duty to protect and keep confidential the information in this Agreement and in the Listing Content shall survive the termination of this Agreement.

#### **9. Indemnification**

Vendor agrees to defend and hold harmless JMLS and/or JAAR from and against any third party claims arising out of or in connection with the Vendors adverting or marketing of the Listing Content or in connection within misuse of the Listing Content by the Vendor or any person who obtains the sensitive

information contained in the Listing Content via the Vendor's Medium. If legal or equitable action is filed and JMLS and/or JAAR is named as a defendant to the suit, Vendor agrees to cover JMLS and JAAR's legal and related costs from the action. JMLS reserves the right to choose its own legal counsel and Vendor agrees to pay the reasonable costs of the same. Payments from Vendor related to a legal or equitable action shall be paid within thirty (30) days of JMLS mailing a statement to Vendor at Vendors address as specified in Article 12.

#### **10. Merger and Integration**

The parties acknowledge and agree that this Agreement is complete and fully integrated and therefore all prior and/or simultaneous, oral and/or written negotiations and agreements are merged into and superseded by this Agreement.

#### **11. Choice of Law**

This Agreement shall be governed by Michigan law. Vendor acknowledges that by entering into this Agreement and receiving benefits under the same, that it has transacted business in the State of Michigan and therefore voluntarily submits, consents to, and waives any and all defenses to the jurisdiction of the Jackson County, State of Michigan courts, as to all matters relating to and arising out of this Agreement.

#### **12. Limitation on Liability**

The parties agree, to the extent enforceable under law, JMLS and JAAR's liability shall be limited in any claim arising out of this Agreement by Vendor and/or any third party to and shall not exceed the amount charged by JMLS as a license fee as set forth in Article 2, § 2.4 of this Agreement. Further, the parties agree that JMLS and/or JAAR shall in no way be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits.

#### **13. Non-Joint Venture**

In no way does this Agreement create a partnership or joint venture relationship between the parties. Further, in no way does this Agreement create an employer/employee relationship between JMLS and/or JAAR and Vendor or Vendor's employees.

#### **14. Notices**

All notices required under this Agreement shall be in writing and shall be either personally delivered or sent by registered or certified mail, return receipt requested to the appropriate party at the address for notices provided below:

If to JMLS:

Melissa Tee, Executive Vice President  
Jackson Multiple Listing Service, Inc.  
505 S. Jackson Street  
Jackson, MI 49203

If to Vendor:

#### **15. Arbitration**

The parties to this Agreement agree that any legal claim or controversy, excluding suits for specific performance of this Agreement, injunctive relief, and/or any other equitable action, arising out of this Agreement will be settled by arbitration in accordance with the Arbitration Rules of the American Arbitration Association. Further the parties agree that the venue for arbitration shall be Jackson County, Michigan and the judgment can be solely entered into any Jackson County, Michigan court having jurisdiction. This provision is made subject to and incorporates the provisions of Michigan law governing arbitrations, including MCL 600.5001 and MCR 3.602, as neither is amended. The parties agree that this provision of the Agreement shall survive termination of this Agreement.

#### **16. Wavier, Modification, and Illegality**

- 16.1 Waiver.** A waiver of any provision of this Agreement will not constitute a waiver of any other provision of this Agreement nor a waiver of this Agreement as a whole. For a waiver to any provision of this Agreement to be valid, it must be in writing and signed by the party making the waiver.

**16.2 Modification.** This Agreement can only be modified or amended if the modification or amendment is in writing and signed by both parties to this Agreement.

**16.3 Illegality.** If any provision of this Agreement is found to be illegal or otherwise invalid by any court of proper jurisdiction, the court's determination will not invalidate any other provision of this Agreement nor this Agreement as a whole, but rather all other provisions to this Agreement shall remain unchanged and in full force and effect.

**17. Electronic Communications and Electronic Signatures**

The parties agree that this Agreement may be executed, signed, and delivered by facsimile or electronic means. The parties further agree that such facsimile execution, signature, or delivery shall have the same force and effect as delivery of an original document with original signatures and either party may use facsimile or electronic signatures as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

The Parties have executed this Agreement by signing and dating below:

**JMLS**

\_\_\_\_\_  
Melissa Tee, Executive Vice President  
Jackson Multiple Listing Service, Inc. ("JMLS")  
505 South Jackson Street  
Jackson, Michigan 49203  
Phone: (517) 787-6175  
Fax: (517) 787-2223

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

**VENDOR**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

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



**Exhibit B**  
**Prohibited Information List**

Vendor is prohibited from disclosing or publishing the following information categories:

1. List Date
2. Expiration Date
3. Number of Days on the Market
4. Compensation Fields
5. Original Price
6. Seller's and Occupant's Names, Phone Numbers, and/or Email Addresses
7. Private Remarks
8. Sold Information
9. Type of Listing Agreement (i.e. exclusive right to sell, exclusive agency etc.)