



LERA MLS, LLC Broker Back Office Data License Agreement

This AGREEMENT is made and entered into by The LERA MLS, LLC MLS with offices located at 9110 IH 10 W. San Antonio, Texas 78230 and between ("Firm Name") \_\_\_\_\_ with offices located at ("Firm Address") \_\_\_\_\_, and ("Consultant Name"), \_\_\_\_\_ with offices located at ("Consultant Address"). \_\_\_\_\_.

DEFINITIONS

1. For purposes of this Agreement, the following terms shall have the meanings set forth below.

LERA MLS Data ("LERA MLS Data"): Data relating to real estate for sale, previously sold, or listed for sale and data relating to Subscribers (including but not limited to text, numeric data, and photographs) entered into LERA MLS's General Listing database by Subscribers and LERA MLS, or on their behalf.

BBO Data: LERA MLS Data or subset of LERA MLS Data to which LERA MLS, at its sole discretion, has granted access to Firm/Consultant, under this agreement.

LERA MLS Policies: LERA MLS's Rules and Regulations and Terms and Conditions of Use, as amended from time to time, and any operating policies relating to the LERA MLS's Data promulgated by LERA MLS.

Confidential Information: "Confidential Information" means information or material proprietary to LERA MLS or designated "confidential" by LERA MLS and not generally known to the public that the other parties may obtain knowledge of or access to as a result of this Agreement. Confidential Information includes, but is not limited to, the following types of information (whether in oral, visual, audio, written or other form): (a) all LERA MLS Data, except to the extent to which this Agreement and LERA MLS Policies permit its disclosure; (b) IP addresses, access codes and passwords; (c) any information that LERA MLS obtains from any third party that LERA MLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by LERA MLS; and (d) any information designated as confidential or private by any applicable state, federal, local or other law, regulation or directive. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party; independently developed by the receiving party; received from a third party who has obtained and disclosed it without breaching any confidentiality agreement; or already possessed by the receiving party at the time of its disclosure.

Data Interface: The transport protocols and data storage formats provided by LERA MLS for use by Firm and Consultant; LERA MLS may modify the Data Interface in its sole discretion from time to time.

Firm Affiliates: Consultant, if any, and employees of Firm who are not real estate licenses or broker/managers.

Subscriber: Any licensed real estate broker who is a Participant (as the term is defined in LERA MLS Rules and Regulations) together with salespersons and broker associates licensed to the Participant, for whom the Participant is responsible under the laws of the State of Texas.

Broker Back Office: The type of use by the Firm, of LERA MLS Data, for the benefit and in service of Firm's clients. Broker Back Office Use shall be limited to the following:

- a. Internal Brokerage Management Systems: the compilation of General Listing Database listings that may be used for internal brokerage management and only expose the BBO Data to Participants and Subscribers within the Firm. Such Tools include but are not limited to accounting software and proprietary internal software not viewed by a client or consumer.
b. Customer Relationship Management and Transaction Management Tools: the compilation of General Listing Database listings that may be used for agent/broker/client interactions for the purpose of establishing, maintaining, and executing the deliverables requisite from an agent-customer relationship. Such Tools may only expose the BBO Data to Participant, Subscribers affiliated with Participant, and their bona-fide clients as established under state law. Such Tools include but



are not limited to CRMs, and Transaction Management Systems (TMSs).

- c. Agent and Firm Productivity and Ranking Tools the compilation of General Listing Database listings or BBO Data that may be used for the purpose of creating agent, office, or Firm transaction analytics for internal use only, except such analytics that are aggregated demonstrations of market share or for comparisons of Firms may be published for public display in accordance with the NAR Handbook of Multiple Listing Policy, Policy Statement 7.80).
- d. Marketplace Statistical Analysis: the compilation of General Database Listings or BBO Data that may be used by Firm for the purpose of:
  - (i) Comparative Market Analysis : supporting an estimate of value on a particular property for distribution to, and use by, only a single, specific client (i.e., not for public display or use) to which only information that has been deemed non-confidential and necessary to support the estimate may be reproduced and attached to the estimate as supporting documentation. For the avoidance of doubt, an automated valuation model (AVM) is considered a Comparative Market Analysis.
  - (ii) Real Estate Market Analytics: creating real estate market analytics for internal, public display, or third party use, provided that for any public display or third party use, such analytics must only include truthful, non-disparaging, and non-misleading information, as well as a statement identifying the time period for which LERA MLS Data is displayed.
- e. My Brokerage Listings: Firm's own listings contained in LERA MLS Data for use in any manner Firm deems appropriate, including but not limited to public display or use. This use aligns with NAR's Participant Data Access Policy requirements (PDAP).

Broker Tools Use: The following broker tool usage options, as selected by the Firm on Exhibit A: (a) Internal Brokerage Management Systems, (b) Customer Relationship Management and Transaction Management Tools, (c) Agent and Brokerage Productivity and Ranking Tools, (d) Marketplace Statistical Analysis; and (e) My Brokerage Listings.

#### LERA MLS'S OBLIGATIONS

LERA MLS grants to Firm and Consultant a non-exclusive, non-transferable, non-assignable, non-sublicensable, world-wide license to LERA MLS Data, during the term of this Agreement, only to the extent expressly permitted by and subject at all times to the terms and restrictions of this Agreement; any other use of LERA MLS's Data is hereby prohibited. All licensees hereunder shall terminate upon the termination of this Agreement. This Agreement is a non-exclusive license, and not a sale, assignment, or exclusive license. LERA MLS retains all rights not expressly granted herein. For the avoidance of doubt, nothing in this Agreement grants Firm or Consultant the right to use LERA MLS Data for any marketing or promotional

- 2. Each reproduction or display, if any, of LERA MLS Data, or any portion of it, including display on any web page, to persons other than Subscribers shall be accompanied by the following notice or one substantially similar and appropriate to the circumstances: "Based on information from the LERA MLS, LLC (alternatively, from LERA MLS) for the period[date] through [date]. LERA MLS does not guarantee or is in any way responsible for its accuracy. All data is provided 'AS IS' and with all faults. Data maintained by LERA MLS may not reflect all real estate activity in the market."
- 3. Firm shall display LERA MLS copyright notice on each display screen, web page (whether Internet or intranet), and printout displaying LERA MLS Data. The Firm shall not alter LERA MLS Data to remove or modify any LERA MLS copyright notice. LERA MLS copyright notice must take the following form: "Copyright 2010 LERA MLS, LLC".
- 4. Firm shall pay the initial and periodic fees, if any, that LERA MLS customarily charges other Subscribers for data access.



Firm acknowledges receipt of LERA MLS's current schedule of such fees, if any. LERA MLS may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Firm.

5. Firm shall employ commercially reasonable measures designed to prevent third parties from unauthorized access to and/or use of LERA MLS Data. These measures must include, but are not limited to, protection against data mining by scraping or similar means, implementation of security policies and procedures, restriction of network traffic to necessary ports and protocols, use of secure protocols for maintenance, implementation of intrusion prevention systems, configuration and security patching of servers based on best practices, implementation of a program to manage software vulnerabilities so as to conform with generally accepted industry standards such as those promulgated by the Open Web Application Security Project (OWASP - [www.owasp.org](http://www.owasp.org)), implementation of physical security measures such that Licensed Content is not transported outside of secure data centers or other secure facilities, software security testing taking place monthly and when major releases are performed, and engaging a third party to perform a security audit at least annually. The firm shall further prohibit any third party, including Consultant, from viewing, monitoring, altering LERA MLS Data. Notwithstanding the foregoing, this restriction is not meant to limit use of Broker Use Tools created by Firm with LERA MLS Data. Firm shall stand as surety for Consultant's performance of all Firm's obligations under this Agreement.

### CONSULTANT'S OBLIGATIONS

6. Consultant agrees that at all times during this Agreement it shall abide by LERA MLS Rules and/or Policies. Consultant shall immediately correct, or cause to be corrected, any breach of this Agreement or violation of LERA MLS Rules and/or Policies, whether committed by Firm or Consultant, upon notice from LERA MLS. Notwithstanding anything to the contrary, property specific sold data shall not be used in any publication or marketing materials utilized by Consultant.

7. Consultant acknowledges that LERA MLS possesses all rights, title, and interest in all copyrights in LERA MLS Data. Consultant shall be under the same obligations as the Firm related to any and all copyrights of LERA MLS Data.

8. Consultant shall not make any of LERA MLS Data or the Confidential Information available to any third party nor shall it directly access or make any other use of LERA MLS Data or Confidential Information, beyond the Permitted Uses, whether commercial or personal.

9. Consultant shall notify LERA MLS within three (3) days of any change to the information relating to it in this Agreement, including change of its corporate name or address.

### ADDITIONAL OBLIGATIONS

10. Neither Firm nor Consultant shall:

(a) Modify or remove URLs contained in LERA MLS Data, or employ any framing, or add any links or meta-tags, that constitute an alteration of any listings in LERA MLS Data that are presented or distributed via the Internet by Firm in a manner not permitted by this Agreement.

(b) Violate any applicable disclosure guidelines as set forth by the applicable local, county, and state real estate regulatory agencies;

(c) Add any name, mark or other material that may cause consumers or others to believe that Firm is the listing agent or broker for a property when, in fact, such is not the case;

(d) Use or continue to use or distribute any data, listing or other material that it has reason to believe is outdated, no longer valid or inaccurate;

(e) Modify any listing data (including LERA MLS Data), except for Firm's own listings;

(f) Use, distribute, publicly display, convey, make available to any party or permit any party to access LERA MLS Data, or any portion thereof, for any purpose other than for Broker Tools Use or that is otherwise inconsistent with the intent of this Agreement and LERA MLS Rules;

(g) Except as expressly permitted under this Agreement, sell, license, sublicense, assign, transfer, alter, modify, change or



create any derivative works of LERA MLS Data, in any manner (other than reformatting), without the written consent of LERA MLS;

(h) Use LERA MLS Data to create, host, or support any website or other internet-based technology or application available to the public that contains a database comprised on whole or in part of LERA MLS Data;

(i) Use LERA MLS Data to contact property owners, except for Firm's own listings;

11. The following Additional Obligations apply as follows:

(a) Consultant shall not provide services in connection with LERA MLS Data to Firm if Firm is in breach of its representations, warranties and obligations. If Consultant fails to comply with the provisions of this Section, LERA MLS has the right to terminate Consultant's access to LERA MLS Data

(b) under this or any other Agreement.

(c) Consultant shall pay the Fees, if any, that LERA MLS invoices Consultant pursuant to this Agreement. Consultant acknowledges receipt of LERA MLS's current schedule of such Fees. LERA MLS may in its sole discretion modify its schedule of Fees upon thirty (30) days' written notice to Consultant. Consultant shall be liable for all costs, including reasonable attorney's fees, associated with collecting unpaid amounts due under this Agreement plus interest at the rate of 5% per 12 months. All Fees paid under this Agreement by Consultant to LERA MLS are non-refundable.

(d) Consultant shall provide LERA MLS on a monthly basis, or at LERA MLS's request, a written report that details the Firms with which Consultant has contracted and is current using to perform services to support Broker Tools Use, and other fields of information as LERA MLS requests in its sole discretion.

(e) Consultant shall provide LERA MLS with reports on usage and other statistics concerning LERA MLS Data, with the fields, format, and frequency described in LERA MLS Rules.

(f) Consultant shall use its best efforts to use well- formed database queries and minimize its impact on the Data Interface. If, in the sole discretion of LERA MLS, Consultant's queries are causing unreasonable loads on the servers, LERA MLS shall, at its discretion, suspend or terminate Consultant's access to the LERA MLS Database.

(g) CONFIDENTIAL INFORMATION

(h) Firm and Consultant shall protect the Confidential Information with the same degree of care they take to protect their own sensitive business information of like kind, but in no event less than reasonable care. A party may disclose Confidential Information if such disclosure is required by law, court order or regulation; provided, however, that such party makes commercially reasonable efforts to notify LERA MLS in writing in advance of such disclosure.

(i) Within five (5) days after the termination of this Agreement, the receiving party shall return to LERA MLS all Confidential Information and materials provided by LERA MLS to the receiving party. The receiving party shall also erase or destroy Confidential Information stored on magnetic media or other computer storage, including system backups. Upon LERA MLS's request an officer of the receiving party shall certify in writing that all materials have been returned to LERA MLS or destroyed.

#### TERM AND TERMINATION

12. The term of this Agreement begins on the last date that a Party signs it. This Agreement shall terminate upon the occurrence of any of the following events: (a) immediately upon termination of Firm's privileges as a Subscriber; (b) 30 days after any party's notice to the others of its intent to terminate; (c) one day after any party's notice to another that the other has breached this Agreement.

#### GENERAL PROVISIONS

13. Applicable law. This Agreement shall be governed by and interpreted according to the laws of the State of Texas, without regard to its conflicts and choice of law provisions. The parties agree that any action to enforce or interpret this Agreement shall have venue in Bexar County, Texas, and the parties hereby submit to personal jurisdiction in that venue.

14. Survival of Obligations. The obligations of Firm set forth under "Firm's Obligations" above and the obligations of Consultant under "Consultant's Obligations" above shall survive the termination or expiration of this Agreement for five years.

The "Definitions," "Confidential Information," and "General" provisions of this Agreement shall survive its termination or expiration in perpetuity.

15. LERA MLS's Remedies. Because of the unique nature of the LERA MLS Data and Confidential Information, Firm and Consultant acknowledge and agree that LERA MLS would suffer irreparable harm in the event that either of them breaches or threatens to breach its obligations under this Agreement, and that monetary damages would be inadequate to compensate LERA MLS for a breach. LERA MLS is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any threatened, continuing or further breach by Firm or Consultant or any one of them, without showing or proving any actual damages sustained by LERA MLS, and without posting any bond.

16. Limitation of Liability/Exclusion of Warranties. IN NO EVENT SHALL LERA MLS BE LIABLE TO FIRM OR CONSULTANT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (EVEN IF LERA MLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), OR LOST PROFITS ARISING FROM THIS AGREEMENT OR ANY BREACH OF IT. IN NO EVENT SHALL LERA MLS BE LIABLE TO FIRM OR CONSULTANT FOR ANY AMOUNT IN EXCESS OF THE FEES FIRM AND CONSULTANT HAVE PAID LERA MLS, IF ANY, IN THE YEAR IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES. FIRM ACKNOWLEDGES THAT LERA MLS PROVIDES THE LERA MLS DATA ON AN "AS-IS," "AS- AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTY OF TITLE, NON-INFRINGEMENT, AND ACCURACY. LERA MLS SHALL NOT BE LIABLE TO FIRM FOR ANY CLAIM ARISING FROM INACCURACIES IN THE LERA MLS DATA, ANY FAILURE TO UPDATE THE LERA MLS DATA PROMPTLY, OR LERA MLS DATA'S INADEQUACY FOR ANY PARTICULAR USE, WHETHER PERSONAL OR COMMERCIAL.

17. Attorney's fees. If any party prevails in an action or proceeding to enforce or interpret this Agreement or any provision hereof, it shall be entitled to reasonable attorney's fees and costs for the legal action.
18. Indemnification. Subject to paragraph 22, in the event a party breaches any provision of this Agreement, that party (the Indemnifying Party) shall indemnify the other parties, their subsidiaries and affiliated companies, and all their respective employees, directors, agents, and authorized successors and assigns (the Indemnified Parties), against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from each claim of any third party resulting from the breach. The Indemnified Parties shall: (a) promptly notify the Indemnifying Party of any claim and give the Indemnifying Party the opportunity to defend or negotiate a settlement of any such claim at the Indemnifying Party's expense, and (b) cooperate fully with the Indemnifying Party, at the Indemnifying Party's expense, in defending or settling any claim.
19. Notice. All notices to be given under this Agreement shall be sent certified mail, return receipt requested, via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth herein or such other address of which any party may advise the others in writing during the term of this Agreement; and shall be effective the earlier of the date of receipt or three (3) days after mailing or other transmission.
20. No Waiver. No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.
21. No Assignment. No party may assign or otherwise transfer any of its rights or obligations under this Agreement to any other party without the prior written consent of all other parties to this Agreement. Any purported assignment or delegation in contravention of this paragraph is null and void and shall immediately cause this Agreement to terminate.
22. Entire Agreement. Subject to LERA MLS Policies, this Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings, whether oral or written, relating to the same subject matter.
23. [Initial of the Broker and Vendor](#) Relationship of the Parties. The relationship of LERA MLS to the other parties hereunder is that of independent contractors. No party shall be deemed to be the agent, partner, joint venturer, franchisor or franchisee, or employee



of LERA MLS or have any authority to make any agreements or representations on the behalf of LERA MLS. Each party shall be solely responsible for the payment of compensation, insurance, and taxes of its own employees.

24. Severability. Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. If any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the parties, the invalid or unenforceable provision shall be replaced, if possible, with a valid provision which most closely approximates the intent and economic effect of the invalid provision

SIGNATURES ON FOLLOWING PAGE



LERA MLS, LLC  
Broker Back Office Data License Agreement Signature Page

NOTE:

Under this Agreement, FIRM IS PERMITTED TO WORK ONLY WITH THE CONSULTANT NAMED HERE. If Firm chooses to engage a different consultant or additional consultants, Firm must enter into a new version of this Agreement with LERA MLS and each such consultant.

Under this Agreement, CONSULTANT IS PERMITTED TO WORK ONLY WITH THE FIRM NAMED HERE. Consultant may not use data obtained under this Agreement to provide any services to other brokerage firms. Consultant must enter into a new version of this Agreement with LERA MLS and each such brokerage firm.

If Firm will perform its own technical work and there is no Consultant party to this Agreement, Firm should cross out the Consultant signature box before returning this Agreement to LERA MLS.

FIRM

\_\_\_\_\_

Firm name

\_\_\_\_\_

Signature of owner or officer

\_\_\_\_\_

Name of owner or officer

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

Contact for notices and operations matters

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

Phone: \_\_\_\_\_

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

Mailing: \_\_\_\_\_

License Number: \_\_\_\_\_

<p>LERA MLS</p> <p>LERA MLS, LLC.</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Name</p>	<p>CONSULTANT</p> <p>_____</p> <p>Consultant name</p> <p>_____</p> <p>Signature of owner or officer</p> <p>_____</p> <p>Name of owner or officer</p>
--	---

<p>Date: _____</p> <p>(effective date of this Agreement)</p> <p>Contact for notices and operations matters</p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p>	<p>Date: _____</p> <p>Contact for notices and operations matters</p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p>
---	--

Broker Back Office Data License Agreement

Exhibit A –Permitted Uses (to contain description of product or service)

Check all that apply:

- a) Internal Brokerage Management Systems
  - Accounting Software
  - Proprietary Internal-Only Systems
  
- (b) Customer Relationship Management and/or Transaction Management Systems
  - Third party CRM Software  
Name: \_\_\_\_\_
  - Proprietary CRM Software
  - Third Party Transaction Management System  
Name: \_\_\_\_\_
  - Proprietary Transaction Management System
  
- (c) Agent and Firm Productivity and Ranking Tools
  - Agent/Office/Firm Production Compilation Details
  - Agent/Office/Firm Analytics for Marketshare
  
- (d) Marketplace Statistical Analysis
  - Comparative Market Analysis (CMA) services
  - Real Estate Market Analysis services
  
- (e) My Brokerage Listings
  - Office MLS ID(s): \_\_\_\_\_

Detailed Product Description:

LERA MLS Internal Purposes Only

Product/Service Demonstration Date:

Does Product/Service match use case in Exhibit A?

Does Product/Service align with LERA MLS Policies and MLS Rules?

Reviewed by:

Legal Approval:

---

Please initial here: \_\_\_\_\_

LERA MLS, LLC MLS Data Access Agreement

Participant Data Access Agreement

Exhibit B – Data Access Fees\*

Fees are due from Firm/Consultant (circle one) upon signing contract and before data access credentials will be delivered. Make checks payable to LERA MLS, LLC. Or you may choose to pay by credit card via IMS.

1. Quarterly fee - \$225.00 including applicable tax
2. There are no fees for Data Access when My Brokerage Listings is the only licensed use.

\* Fees are subject to sales tax.

Please initial here: \_\_\_\_\_