

THE TERMS AND CONDITIONS CONTAINED HEREIN WILL BE LEGALLY BINDING ON PARTICIPANT UPON EXECUTION OF THE CONTENT LICENSE AGREEMENT AND ARE HEREBY INCORPORATED INTO THE CONTENT LICENSE AGREEMENT. ALL REFERENCES TO THE CONTENT LICENSE AGREEMENT OR AGREEMENT SHALL REFER TO THE CONTENT LICENSE AGREEMENT AND THE TERMS AND CONDITIONS CONTAINED HEREIN (COLLECTIVELY, THE "AGREEMENT"). PARTICIPANT SHOULD CAREFULLY READ THE FOLLOWING TERMS BEFORE EXECUTING THE AGREEMENT.

- 1. DEFINITIONS.** The following capitalized terms shall have the meanings set forth below.
 - 1.1. "RECOLORADO" means Metrolist, Inc. d/b/a REcolorado, a Colorado corporation having a principal place of business at 6455 S. Yosemite St., Suite 500, Greenwood Village, CO 80111.
 - 1.2. "PARTICIPANT" means the party entering into the Content License Agreement with RECOLORADO, as defined in the Content License Agreement.
 - 1.3. "EFFECTIVE DATE" means the date that the last signing party executes the Content License Agreement.
 - 1.4. "MLS CONTENT" means those portions and categories of data and information specifically identified in Section 1 of the Agreement, that are licensed to PARTICIPANT under the Agreement.
 - 1.5. "LOGIN" means the unique account name and/or number, login and passwords whereby PARTICIPANT is authorized to access and use the MLS Content.
 - 1.6. "LISTING" shall mean content and information pertaining to real estate listed for sale or lease with a real estate Broker including, but not limited to, residential homes (including single and multi-family dwellings, condominiums, cooperatives and townhouses) land, farms, exotic homes, vacation homes, or improved or unimproved commercial real property.

- 2. GRANT OF LICENSE.** Subject to PARTICIPANT's compliance with the Agreement, RECOLORADO hereby grants to PARTICIPANT a limited, non-exclusive, non-transferable, revocable license to access and use the MLS Content solely as expressly authorized in this Section.
 - 2.1. RECOLORADO will make the MLS Content available to PARTICIPANT. All costs and expenses associated with PARTICIPANT's access to and receipt of the MLS Content, including network, telecommunications, hardware, software, and maintenance costs, shall be borne by PARTICIPANT.
 - 2.2. All of PARTICIPANT's access to and use of the MLS Content shall be through PARTICIPANT's own Login. Only PARTICIPANT's direct employees may use PARTICIPANT's Login to access the MLS Content. PARTICIPANT shall not allow any other party to access and use the MLS Content. PARTICIPANT shall actively monitor all activities conducted under its Login, and shall promptly enforce compliance with the Agreement. PARTICIPANT shall remain at all

times primarily and directly responsible and liable to RECOLORADO for all activities conducted by any party, whether or not associated with PARTICIPANT, through PARTICIPANT's Login.

23. PARTICIPANT shall not access or use the MLS Content through the account or logins of, or license granted to, any other licensee of RECOLORADO unless expressly so authorized under the terms of a separate agreement between PARTICIPANT, RECOLORADO, and such other licensee.
24. PARTICIPANT's access to and use of the MLS Content shall at all times fully comply with the Agreement, all laws, regulations, and legal obligations of PARTICIPANT governing such access and use.
25. PARTICIPANT shall pay RECOLORADO the fees applicable to the service and access levels selected by PARTICIPANT, as set forth in the Participant Fee Schedule attached hereto as Exhibit B and made a part hereof. RECOLORADO may at any time update and modify the Participant Fee Schedule by a minimum thirty (30) day prior written notice to PARTICIPANT.
26. Participant shall publish the Login ID assigned by RECOLORADO to Participant on all pages where MLS content is publicly displayed.

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<div itemscope itemtype=http://schema.org/Product>  
  
<meta itemprop="provider" content="<LOGINID>" />  
  
<meta itemprop="owns" content=" RECOLORADO" />  
  
</div>
```

.....where <LOGINID> is your username. It is acceptable to merge the productID, provider, and owns attributes within an existing itemscope where applicable.

3. ADDITIONAL RESTRICTIONS AND LIMITATIONS. PARTICIPANT's access to and use of the MLS Content is subject to the following additional restrictions and limitations. Any breach or threatened breach of any provision in this Section shall be grounds for termination of the Agreement and PARTICIPANT's license to the MLS Content, and furthermore grounds for termination of any other agreements entered into by and between RECOLORADO and PARTICIPANT.

- 3.1. Section 1 of the Agreement hereto sets forth the manner and purpose of PARTICIPANT's access to and use of the MLS Content. PARTICIPANT's use of the MLS Content solely for the purpose(s) stated in Section 1 of the Agreement is required as a condition to gaining access to the MLS Content. Whether PARTICIPANT's access and license to data from RECOLORADO

will be authorized shall in all events be at RECOLORADO's sole discretion.

- 3.2. PARTICIPANT shall not use the MLS Content for any purpose other than the conduct of PARTICIPANT's own real estate brokerage business. No uses that are not expressly identified in Section 1 of the Agreement will be implied to be included within the scope of authorized purposes and uses of the MLS Content.
- 3.3. PARTICIPANT shall not allow any party other than its employees, end user customers and other authorized third parties to use the MLS Content, and any party accessing the MLS Content must do so only on PARTICIPANT's behalf. PARTICIPANT shall promptly notify RECOLORADO if it becomes aware that the security or confidentiality of its Login has become jeopardized.
- 3.4. PARTICIPANT shall not in any manner alter or obscure any portion of the MLS Content, or in any manner interfere with RECOLORADO's access to and use of the MLS Content.
- 3.5. PARTICIPANT shall not exceed the scope of license expressly granted hereunder, or attempt to circumvent the security or access restrictions that protect the MLS Content.
- 3.6. The grant of license to PARTICIPANT hereunder may not be assigned, sublicensed, or in any manner transferred or shared with any other party, in whole or in part. PARTICIPANT shall in no event act as a reseller or distributor of MLS Content in whole or in part, or transfer, republish or allow access to the MLS Content to anyone other than PARTICIPANT's own end user customers. Any purported or attempted assignment, sublicense, transfer, or sharing of rights in or access to any portion of the MLS Content is strictly prohibited, and shall be null and void.
- 3.7. PARTICIPANT shall implement the following security measures for all hardware, including but not limited to, computing and communications equipment, and for all software, including but not limited to, operating systems, middleware, web services, database programs, applications and any other software products or tools used to host or transmit MLS Content:
 - 3.7.1. Physical security and software-based security schemes that limit access to hardware and software to authorized personnel only.
 - 3.7.2. Securely configured firewall (e.g. bastion firewall that includes stateful packet inspection).
 - 3.7.3. Anti-virus software with current virus definitions and a minimum update schedule of no longer than seven (7) days (one (1) day recommended).
 - 3.7.4. Software patching schedule that ensures critical security patches are installed within 14 days of the patch becoming available (seven (7) days recommended).

- 3.7.5. Scheme(s) to prevent “data mining” and other inappropriate access and use.
 - 3.7.6. Maintain an audit trail of user activity within the application. Archives of this audit trail must be kept for a minimum of 180 days (365 days recommended).
- 3.8. PARTICIPANT warrants that it is in full compliance with all security measures under the Agreement prior to accessing the MLS Content.
- 3.8.1. RECOLORADO reserves the right by a minimum 48-hour advance written notice to audit PARTICIPANT’s security measures to confirm adequacy and compliance with the Agreement. PARTICIPANT agrees to cooperate and allow RECOLORADO or its designee access to perform such audit.
 - 3.8.2. If RECOLORADO has a reasonable belief that a breach has occurred in the security of the MLS Content, PARTICIPANT shall, upon request, provide RECOLORADO a copy of the record of the name, e-mail address, username, current password, and audit trail of any user identified by RECOLORADO suspected of involvement in the security breach. PARTICIPANT shall cooperate with any RECOLORADO investigation of security breach or improper use.
 - 3.8.3. RECOLORADO reserves the right to require PARTICIPANT to implement additional security measures from time to time. Failure to implement all security measures required by RECOLORADO shall be deemed a material breach.
 - 3.8.4. PARTICIPANT shall allow RECOLORADO access to PARTICIPANT’s computers, telecommunications, software, and other equipment and technology or resources as may be necessary for the purpose of monitoring and ensuring compliance with RECOLORADO required security measures, as well as the proper and lawful use of the MLS Content by PARTICIPANT.
- 3.9. PARTICIPANT shall promptly destroy, delete, expunge, and cease displaying any portion of the MLS Content upon receiving instructions to do so from RECOLORADO or from the original source of the information.
- 3.10. PARTICIPANT’s use of the MLS Content shall at all times be in full compliance with the Agreement, the MLS Rules and Regulations, the Participation Agreement, and all applicable laws and regulations governing PARTICIPANT and its activities.
- 3.11. All rights not expressly granted to PARTICIPANT in the Agreement are reserved by RECOLORADO.

4. PAYMENT.

- 4.1. INITIAL AND ONGOING CHARGES. On the Effective Date, PARTICIPANT shall pay RECOLORADO the Account Establishment Fee in the amount set forth in the Participant Fee Schedule. All other fees and charges payable by PARTICIPANT on an ongoing basis hereunder are identified and set forth in the Participant Fee Schedule. All amounts payable by PARTICIPANT hereunder, including all fees, costs and charges itemized in the Participant Fee Schedule and identified anywhere in the Agreement or the Exhibits(s), including any late fees and all applicable taxes, are hereinafter collectively referred to as “Charges”. No portion of Charges, once incurred, may be reversed, refunded, or credited to another party’s account.
- 4.2. PARTICIPANT FEE SCHEDULE. Exhibit B to the Agreement sets forth RECOLORADO’s Participant Fee Schedule in effect on the Effective Date. RECOLORADO may modify and update the Participant Fee Schedule at any time by a thirty (30) day prior notice to PARTICIPANT from RECOLORADO which may be given in any manner, including by email, facsimile or notice posted on RECOLORADO’s website.
- 4.3. INVOICES AND PAYMENTS. Unless otherwise provided in the Agreement, PARTICIPANT will be billed on an ongoing basis for all applicable fees (as indicated in Exhibit B) incurred under PARTICIPANT’s Login. PARTICIPANT is responsible for safekeeping the confidentiality of its Login. PARTICIPANT shall pay all invoices in full upon receipt. Any amount not paid within thirty (30) days of its due date shall incur a service charge in the amount of one and one half percent (1.5%) per month or the highest rate allowed by law if lower, on the overdue amount until paid in full. Failure to timely pay invoices in full shall entitle RECOLORADO to suspend PARTICIPANT’s services and/or termination of the Agreement.
- 4.4. REINSTATEMENT FEE. If the Agreement or any portion of products, services, or licenses provided by RECOLORADO to PARTICIPANT hereunder is terminated or suspended at any time due to PARTICIPANT’s noncompliance with the Agreement or its election to terminate or suspend the Agreement, RECOLORADO may, in addition to all other requirements identified in the Agreement, require PARTICIPANT to pay a reinstatement fee before PARTICIPANT may apply for any reinstatement or resumption of the license under the Agreement.
- 4.5. COLLECTION COSTS. In addition to all other amounts payable by PARTICIPANT to RECOLORADO under the Agreement, PARTICIPANT shall pay all costs, expenses, fees, and damages incurred by RECOLORADO to enforce payment or other compliance with the Agreement, including, without limitation, court and collectors’ costs and fees and reasonable attorneys’ fees.

5. PROPRIETARY RIGHTS.

5.1. RECOLORADO'S COPYRIGHTS. PARTICIPANT acknowledges that RECOLORADO has compiled, selected, assembled, and organized information, content, and tangible and intangible property at great investment of time, money and other resources, and that such investment has culminated in the highly valuable and proprietary MLS Content. PARTICIPANT understands and acknowledges that the MLS Content is furthermore protected by copyrights. PARTICIPANT shall not challenge, interfere with, attempt to circumvent or violate any of RECOLORADO copyrights or in any manner attempt to exceed the scope of license and rights expressly granted in the Agreement and Exhibit(s) with respect to the MLS Content and any other copyrights owned by RECOLORADO. PARTICIPANT acknowledges that obligations to preserve and maintain RECOLORADO's copyrights inviolate derive not only from the Agreement, but under the Copyright Act which automatically extends copyright protection to all copyrightable material whether or not notice to that effect is given or whether PARTICIPANT is aware that a specific work is copyrighted. All rights in RECOLORADO's copyrights and other proprietary and intellectual property rights not expressly granted in the Agreement and Exhibit(s) are reserved by RECOLORADO.

5.2. MUTUAL CONFIDENTIALITY. In addition to being a copyright asset, the MLS Content is a confidential, proprietary, trade secret and intellectual property asset of RECOLORADO, access to which is highly restricted and controlled. The integrity of the Agreement and the relationship between the parties depends on each party protecting and respecting the confidential and proprietary rights of the other. Accordingly, each party agrees that the MLS Content, and all knowledge and information regarding RECOLORADO's technology, intellectual property, products, services, and business (including member, vendor, and customer lists), financial, or personnel matters is the confidential and proprietary information of RECOLORADO, and all information disclosed by PARTICIPANT regarding its technology configuration and business strategy is the confidential and proprietary information of PARTICIPANT (both parties' information collectively "Confidential Information"). Furthermore, the terms of the Agreement and Exhibit(s) as well as the MLS CONTENT are the Confidential Information of RECOLORADO. Each party shall hold all Confidential Information of the other in confidence, shall not use the Confidential Information of the other except to the extent necessary to perform services or enjoy express rights under the Agreement, and shall not disclose the Confidential Information of the other to any third party except as expressly authorized in the Agreement. This obligation of confidentiality shall survive termination of the Agreement. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party, is independently developed by the receiving party, is received from a third party who has lawfully obtained and disclosed it without breaching any

confidentiality agreement or is already known by the receiving party at the time of its disclosure. The foregoing obligations of confidentiality shall not apply to information that is or becomes public through no fault of the recipient, or that is already lawfully and without restrictions in the possession of the recipient, or is independently discovered or developed by the recipient without reliance or use of the discloser's confidential or proprietary information.

5.3. OWNERSHIP AND CONFIDENTIALITY. PARTICIPANT agrees that all knowledge and information regarding the MLS Content and any other information provided to PARTICIPANT in connection with the Agreement and Exhibit(s) belongs to RECOLORADO, is protected by copyrights, and is furthermore confidential and proprietary in nature. PARTICIPANT covenants that it will not challenge, interfere with, or violate RECOLORADO'S copyrights, trade secret rights, or any other proprietary rights in the MLS Content. The Agreement and Exhibit(s) govern the extent to which PARTICIPANT may use or supply such information. PARTICIPANT agrees to hold all confidential data, trade secrets, source codes, and technical expertise obtained from RECOLORADO confidential and to not disclose such information to any third party. This obligation to maintain the confidentiality of the information shall survive termination of the Agreement.

6. PARTICIPANT'S OBLIGATIONS AND RESPONSIBILITIES.

6.1. PROTECTION OF MLS CONTENT AND RECOLORADO MLS SYSTEM. PARTICIPANT shall provide adequate protection of the MLS Content and RECOLORADO MLS System from theft, tampering, sabotage, or any unauthorized access, in a manner acceptable to RECOLORADO. PARTICIPANT agrees to implement all security measures outlined in the Agreement and any and all additional security measures required from time to time by RECOLORADO. Failure to implement security measures required by RECOLORADO or refusal to allow RECOLORADO access to ensure compliance shall be deemed a material breach of the Agreement. PARTICIPANT shall not make the MLS Content or the Confidential Information available to any third party unless expressly authorized to do so under the Agreement.

6.2. STANDARD OF SERVICE. RECOLORADO has established standards and a reputation for delivering high quality, prompt, efficient, and courteous services. PARTICIPANT shall at all times meet or exceed RECOLORADO's standards by delivering prompt, courteous, and efficient services to its potential and existing customers, shall at all times exhibit the highest standards of honesty, integrity, and fair dealing, including compliance with all applicable laws, ordinances, and regulations, and shall do nothing that would tend to discredit, dishonor, reflect adversely upon, or in any manner injure the reputation of RECOLORADO, its products, services, and goodwill associated therewith. PARTICIPANT shall at all times during the Agreement act in good faith and in the best interests of RECOLORADO, and shall only enhance the goodwill and reputation of RECOLORADO.

- 6.3. MLS RULES & REGULATIONS. PARTICIPANT shall not itself, and shall not cause or allow its resources, information, products, or services to be used by PARTICIPANT customers, vendors, or any other party to circumvent, override, modify, violate, or disregard any MLS rule, regulation or RECOLORADO policy, all of which PARTICIPANT is aware of and agrees to remain abreast of during the term of the Agreement. Most current version of MLS Rules & Regulations can be found on www.recolorado.com.
- 6.4. COST OF DOING BUSINESS. PARTICIPANT shall be responsible for all costs, risks, liabilities, and damages arising from the operation of its business including those incurred or arising in connection with the use of any products and/or services, including the MLS Content, provided under the Agreement. RECOLORADO shall not be held liable for any damages resulting from use, abuse, misuse of such products and/or service by anyone.
- 6.5. AUDITS OF COMPLIANCE. RECOLORADO may, or at its option may engage an independent third party to, review, inspect, and test the books, records, equipment, and facilities of PARTICIPANT to the extent reasonably necessary to ascertain PARTICIPANT's compliance with the Agreement (an "Audit"). RECOLORADO may conduct an Audit upon any notice reasonable under the circumstances. Audit activities may include, without limitation, obtaining full access to PARTICIPANT's VOW, web sites and systems to ensure that MLS Content is displayed in accordance with the RECOLORADO Policies; using all features available to end-users of PARTICIPANT's systems that employ the MLS Content; and posing as consumers to register and test services PARTICIPANT makes available to consumers using the MLS Content. RECOLORADO shall pay the costs of such Audit, however PARTICIPANT shall be liable for and shall reimburse RECOLORADO for all costs of any Audit that discovers or reveals any breach of the Agreement by PARTICIPANT.

7. PARTICIPANT LIABILITIES.

- 7.1. INJUNCTIVE RELIEF. PARTICIPANT acknowledges that any material violation of the Agreement will cause irreparable and continuing harm to RECOLORADO and/or its employees, customers, affiliates, other licensees of RECOLORADO, agents, or assigns and that specific monetary damages for a remedy would be inadequate or difficult to quantify. Therefore, in the event that PARTICIPANT violates any provision related to unauthorized use or disclosure of RECOLORADO products, services, or licenses, including the MLS Content and Confidential Information, or related to protection of RECOLORADO's proprietary rights, or prohibitions against use of RECOLORADO products or services to compete with RECOLORADO, or any section in any attachment hereto that references this injunctive relief provision, RECOLORADO shall, in addition to all other legal, equitable, and contractual remedies available to it, be entitled to injunctive relief, without posting a bond or any other

security.

7.2. **INDEMNIFICATION.** PARTICIPANT shall defend, indemnify and hold RECOLORADO, its officers, directors, agents, employees, attorneys, and affiliates, harmless against any and all losses, claims, damages, liabilities, actions, costs, or expenses, including reasonable attorneys' fees, arising from or based on any breach of the Agreement or any agreement between PARTICIPANT and PARTICIPANT'S customers or PARTICIPANT'S vendors, the negligent, intentional, or illegal acts of PARTICIPANT including, but not limited to, violation of any Fair Housing laws or regulations, negligent or intentional misuse of the MLS Content, RECOLORADO products, services, or licenses, or any violation of any other law. PARTICIPANT'S obligations to indemnify RECOLORADO shall survive termination of the Agreement.

7.3. **RIGHT TO PARTICIPATE.** In the event RECOLORADO is named as a party in any claim, lawsuit, or proceeding with respect to any event for which PARTICIPANT must indemnify RECOLORADO, RECOLORADO shall have the right to employ separate counsel and to participate in the defense of such claim, and the fees and expenses of such counsel shall be at the expense of PARTICIPANT. RECOLORADO and PARTICIPANT shall cooperate in the defense of any such claim or lawsuit. PARTICIPANT shall not, without the prior, written consent of RECOLORADO, enter into any judgment or settlement of such action or lawsuit, and such consent shall not be unreasonably withheld.

8. MATERIAL BREACH. Failure to comply with the terms of the Agreement shall constitute a material breach, shall entitle RECOLORADO to injunctive relief pursuant to the Agreement, and may result in other immediate and cumulative remedies to RECOLORADO including compensation for damages and termination of the Agreement.

9. ARBITRATION. PARTICIPANT shall arbitrate any and all disputes arising out of the Agreement. Such arbitration shall occur in Arapahoe County, Colorado, and shall be conducted by the Judicial Arbitrator Group, Inc. in accordance with the rules of the American Arbitration Association in effect at the time the dispute arose. The arbitration award shall be final and binding. Either party may enter the arbitrator's award in any court having jurisdiction and may make application to the court for enforcement. The agreement to arbitrate shall not impact RECOLORADO'S right to immediately seek injunctive relief in court.

10. RECOLORADO'S DISCLAIMERS.

10.1. **NO WARRANTIES.** RECOLORADO, ITS LICENSORS, AND THIRD-PARTY SERVICE, CONTENT AND DATA SUPPLIERS MAKE NO EXPRESS OR IMPLIED WARRANTIES HEREUNDER OR WITH RESPECT TO THE SERVICE OR MLS CONTENT OR ACCESS, AND HEREBY DISCLAIM ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, UPTIME, AVAILABILITY, ACCURACY, ADEQUACY, COMPLETENESS, CURRENCY, OR RELIABILITY. MLS CONTENT AND ACCESS ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS. USE OF THE MLS CONTENT AND ACCESS IS AT THE SOLE RISK OF PARTICIPANT AND PARTICIPANT'S CUSTOMERS. RECOLORADO, ITS LICENSORS, AND THIRD-PARTY SERVICE, CONTENT, AND INFORMATION SUPPLIERS DO NOT WARRANT THAT MLS CONTENT AND ACCESS WILL BE UNINTERRUPTED OR ERROR-FREE.

102. NO FAIR HOUSING WARRANTY. RECOLORADO, ITS LICENSORS, AND ITS THIRD-PARTY INFORMATION SUPPLIERS DO NOT WARRANT OR GUARANTEE THAT RECOLORADO PRODUCTS AND SERVICES, INCLUDING THE MLS CONTENT, COMPLY WITH ALL FAIR HOUSING LAWS AND REGULATIONS. RECOLORADO SHALL NOT BE RESPONSIBLE FOR MONITORING AND REVIEWING ITS PRODUCTS AND SERVICES, INCLUDING THE LICENSED CONTENT, FOR COMPLIANCE WITH FAIR HOUSING LAWS AND REGULATIONS.
103. LIMITATION OF LIABILITIES. IN NO EVENT SHALL RECOLORADO BE LIABLE TO PARTICIPANT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER ARISING FROM RECOLORADO'S BREACH OF THE AGREEMENT, EVEN IF RECOLORADO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; PARTICIPANT'S SOLE REMEDIES AGAINST RECOLORADO HEREUNDER SHALL BE TERMINATION OF THE AGREEMENT AND DIRECT DAMAGES NOT IN EXCESS OF THE CHARGES PARTICIPANT HAS PAID RECOLORADO IN THE TWELVE MONTH PERIOD PRIOR TO PARTICIPANT'S CLAIM FOR DAMAGES. RECOLORADO DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES EXCEPT THOSE EXPRESSLY SET FORTH IN THE AGREEMENT. THIS PARAGRAPH SETS OUT PARTICIPANT'S EXCLUSIVE REMEDIES, AND UNDER NO CIRCUMSTANCES SHALL PARTICIPANT BE ENTITLED TO EQUITABLE REMEDIES. RECOLORADO MAKES NO WARRANTY, INCLUDING THOSE OF TITLE, AVAILABILITY, OR NON-INFRINGEMENT, REGARDING MARKS LICENSED UNDER THE AGREEMENT, IF ANY.
104. NO GUARANTEE OF CONTINUITY. Nothing in the Agreement shall be construed to require RECOLORADO to provide or continue to provide its products and services, including the MLS Content, to PARTICIPANT, or to maintain any features or functionality within its products and services.
105. NOTICE OF DOWNTIME. In the event of an unanticipated occurrence that may significantly limit PARTICIPANT's ability to access the MLS Content pursuant to the Agreement, if applicable, RECOLORADO shall make all reasonable efforts to notify PARTICIPANT.

10.6. MAINTENANCE. RECOLORADO shall not be responsible for or issue credits or refunds for any failure or delay in performance or unavailability of product or service offered hereunder. PARTICIPANT'S exclusive remedy and RECOLORADO'S sole obligation shall be for RECOLORADO to apply reasonable efforts to correct any errors that are caused by its systems and are under its control. If PARTICIPANT is not satisfied with such efforts, it may elect to terminate the Agreement, and doing so shall not entitle PARTICIPANT to any credits, refunds, or set-offs. RECOLORADO will, however, use its best efforts to conduct routine and special maintenance at times and in manners that minimize the disruption that may occur to PARTICIPANT as a result of such maintenance.

11. TERM AND TERMINATION.

11.1. TERM. The Agreement shall become effective on the Effective Date and shall continue for an initial term of twelve (12) months thereafter. The Agreement shall thereafter automatically renew for one month (1) month terms, unless earlier terminated pursuant to this Section.

11.2. TERMINATION FOR CONVENIENCE. After the initial twelve (12) month term, either party may terminate the Agreement at any time by a written notice of termination to the other no later than thirty (30) days prior to next automatic renewal date.

11.3. TERMINATION FOR CAUSE. Either party may terminate the Agreement at any time in the event the other party materially breaches the Agreement and fails to cure such material breach within thirty (30) days of its receipt of written notice of such material breach. Furthermore, if RECOLORADO permanently ceases to license the MLS Content for any reason, the Agreement shall automatically terminate at the same time. The Agreement shall also automatically and without further notice be coterminous with the Participation Agreement between the parties. RECOLORADO shall also have the absolute right to immediately impose fees or other Charges, or terminate the Agreement as whole (effective thirty days after written notice of breach to PARTICIPANT and PARTICIPANT's failure to cure such breach) or immediately suspend (without the need for prior notice to PARTICIPANT) all or a portion of products, services, and/or licenses provided to PARTICIPANT, or impose any combination of the foregoing upon the occurrence of the following:

11.3.1. PARTICIPANT's failure to pay any fees or Charges when due.

- 11.3.2. Any unauthorized use of PARTICIPANT's Login.
- 11.3.3. Any use of PARTICIPANT'S Login that RECOLORADO deems to be abusive and for which PARTICIPANT fails to take prompt action to remediate after being notified by RECOLORADO of such abusive use.
- 11.3.4. PARTICIPANT using or allowing a third party to use the MLS Content (or any part thereof), or other RECOLORADO products, services, or licenses (or any part thereof) in violation of the Agreement or for any unauthorized or unlawful purpose including, without limitation, for the purpose of directly or indirectly competing with RECOLORADO.
- 11.3.5. PARTICIPANT breaching any representation or warranty in the Agreement.
- 11.3.6. PARTICIPANT breaching or threatening to breach the copyright, confidentiality or proprietary rights provisions of the Agreement.
- 11.3.7. PARTICIPANT failing to timely notify RECOLORADO of relocation or change in its office or address.
- 11.3.8. Any unauthorized change in the nature or purpose of PARTICIPANT's business.
- 11.3.9. PARTICIPANT undergoing a change in ownership or control of its business.
- 11.3.10. PARTICIPANT discontinuing its business; commencing any insolvency, bankruptcy, or receivership proceedings, voluntarily or involuntarily; or becoming insolvent or otherwise unable to pay debts as they become due.
- 11.3.11. PARTICIPANT breaching the Agreement in any other way.
- 11.3.12. PARTICIPANT violating any international, federal, state, or local treaty, law, ordinance, rule, or regulation.

12. DUTIES FOLLOWING TERMINATION

12.1. Within six (6) days after the termination or expiration of the Agreement, each party shall return to the other party all Confidential Information and all other materials provided by the other party hereunder. PARTICIPANT shall also erase, delete, or destroy any Confidential Information stored on magnetic media or other computer storage, including system backups.

Upon the request of either party, an office of the other party shall certify in writing that all materials have been returned and all magnetic or computer data have been destroyed.

12.2. Upon termination of the Agreement, PARTICIPANT shall stop all use and display of MLS Content and notify all of its third party service providers to cease such use and display. Under no circumstances may PARTICIPANT retain MLS Content for display after the termination of the Agreement.

13. REINSTATEMENT. If following suspension or termination of PARTICIPANT'S license or access to the MLS Content PARTICIPANT desires to reinstate its license under the Agreement, it may apply to RECOLORADO in writing for such reinstatement. PARTICIPANT shall have fully remedied all outstanding violations and paid all outstanding fees, costs and Charges before it is eligible to apply for reinstatement. Reinstatement shall be in the sole discretion of RECOLORADO with no obligation, and may be subject to payment of reinstatement fees and other reinstatement requirements by RECOLORADO, in addition to all other remedies of RECOLORADO.

14. CUSTOMER NOTIFICATION. If RECOLORADO exercises its right to terminate the Agreement, it may, in addition to its other legal rights and remedies, notify PARTICIPANT'S vendors of such termination. Such notification will include RECOLORADO'S reason for termination. PARTICIPANT agrees and acknowledges that the notice given to PARTICIPANT'S vendors is necessary to ensure that such vendors remain in compliance with their respective agreement with RECOLORADO. PARTICIPANT hereby forever irrevocably waives any right to object or attempt to prevent or seek damages from RECOLORADO on account of RECOLORADO'S delivery of notice to PARTICIPANT'S vendors under this Section.

15. MISCELLANEOUS PROVISIONS.

15.1. APPLICABLE LAW. The laws of the State of Colorado shall govern the Agreement and its interpretation. Any action to enforce or interpret the Agreement shall have venue in Arapahoe County, Colorado and the parties hereby submit to personal jurisdiction in that venue.

15.2. OTHER DOCUMENTATION. The parties to the Agreement agree to execute and deliver any documents or legal instruments necessary or desirable to carry out the provisions of the Agreement.

15.3. ASSIGNABILITY. In no event shall PARTICIPANT assign the Agreement in whole or in part, whether by merger, change in control, equity transaction or otherwise by operation of law. Any assignment in violation of the foregoing shall be null and void. Subject to the foregoing, the Agreement shall be binding upon and inure to the benefit of the parties

and their respective legal representatives and authorized assigns.

- 15.4. NOTICES. All notices or other documents under the Agreement shall be in writing addressed to the parties at their addresses and email addresses identified in the Agreement. Notice given by email shall be deemed to be given in writing.
- 15.5. FORCE MAJEURE. Neither party shall be responsible for any failure or delay in performance under the Agreement, except for obligation to make payment, if such failure or delay results from circumstances in any way beyond its control including, but not limited to, government regulations, fire, act of terrorism, natural disaster, communication line failure, power failure, or act of God.
- 15.6. AMENDMENTS. Except for those provisions which may be amended by the sole discretion of RECOLORADO, the Agreement may be altered, amended, terminated or modified only by a written agreement executed by all of the parties to the Agreement.
- 15.7. COMPLETE AGREEMENT. The terms and conditions of the Agreement, together with any addenda, exhibits, and schedules attached hereto or referenced herein, constitute the final, complete, and exclusive understanding between the parties with respect to the subject matter of the Agreement and supersede all prior and contemporaneous agreements, understandings, inducements, and conditions, expressed or implied, oral or written.
- 15.8. NON-WAIVER. No delay or failure by either party to exercise any right under the Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided in the Agreement.
- 15.9. SEVERABILITY OF TERMS. The terms of the Agreement are independent of and severable from each other, and neither the Agreement nor any provision shall be affected or rendered invalid or unenforceable by virtue of the fact that any other or others of the provisions may be invalid or unenforceable, in whole or in part, for any reason. Section and paragraph headings are for convenience only.

- 15.10. CONSTRUCTION. Nothing in the Agreement shall be considered to constitute or create a partnership, association, or joint venture between PARTICIPANT and RECOLORADO.
- 15.11. GENDER. The singular includes the plural. The neuter includes the masculine and the feminine.

REFERENCE