USE OF MLS IDX LISTING DATA BY RETS COMPATIBLE VENDOR

This Agreement is entered into this ____ day of _____, 20____ between the Tucson Association of REALTORS, Inc. D.B.A MLS of Southern Arizona ("MLSSAZ") and _____ ("Vendor")

RECITALS:

A. MLSSAZ maintains certain real estate listing information and data ("Data Set") for the Multiple Listing Service ("MLS") which information is made available for the benefit of its Members;

B. The MLS Data Set is currently maintained on RETS compliant software and responds to requests from other computers for data from the Data Set;

C. Vendor, for the purpose of facilitating the providing of Internet Data Exchange (IDX) services to MLSSAZ Participants, shall be entitled to receive limited access to the Data Set by utilizing RETS compliant software;

NOW THEREFORE, in consideration of the mutual promises of the parties, it is hereby agreed as follows.

AGREEMENT:

Section I
Definitions

1.   For purposes of this Agreement, the following terms shall have the meaning;

        1.1   Multiple Listing Service.   A service available to Participants and Subscribers of MLSSAZ which includes assembling and distributing relevant information concerning real estate which is or has been for sale or lease and includes a means for real estate brokers and agents to make unilateral offers of cooperation and compensation. It also includes providing a method for data processing, technical support, consulting and other information technology services to real estate brokers, agents and appraisers in connection with the sale, lease and appraisal of real estate.

1.2 <u>Rules and Regulations</u>. The Rules and Regulations promulgated by MLSSAZ, and amended from time to time, and any other operating policies, currently in effect, relating to the use of the Data Set by its members.

1.3 <u>Vendor.</u> A service provider of MLSSAZ.

1.4 <u>Data Set</u>. The MLS Data Set is copyrighted information concerning real estate which has been compiled by and belongs to MLSSAZ.

1.5 <u>RETS</u>: Real Estate Transaction Standard or an open standard for exchanging real estate transaction information which currently is in a format known as version 1.01 but shall include any updated version(s) promulgated and approved by the National Association of Realtors® when implemented by MLSSAZ.

1.6 <u>Vendor RETS Client</u>: Vendor's Software which is RETS compliant that issues requests for data to and receives data from the MLSSAZ RETS Server.

1.7 <u>RETS Server</u>: The MLSSAZ System including software compliant with RETS that responds to requests from a Vendor RETS Client's computer for data from the MLSSAZ System.

1.8 <u>System:</u> The MLSSAZ computer system.

1.9 <u>Service(s)</u>: Vendor is by this Agreement contracting to provide Internet Data Exchange (IDX) services to MLSSAZ Participants;

Section II
<u>MLSSAZ Obligations</u>

2. Vendor has developed and shall use its RETS Client to receive and manipulate authorized MLS Data Set received from the RETS Server for the ultimate purpose of providing one or more services to MLSSAZ which services are outlined in Section I. Paragraph1.9 above. MLSSAZ, during the term of this Agreement, grants to Vendor a limited non-exclusive, non-transferable license to use such portions of the Data Set as is necessary to provide the contracted for service to MLSSAZ.

2.1 MLSSAZ currently has a RETS Server with software compliant with RETS which responds to requests from other computers for data from the System.

2.2 The RETS Client may be a stand-alone application or integrated in another software application developed by either Vendor or a third party.

2.3 Vendor acknowledges that MLSSAZ has no obligation to provide Vendor with any RETS software.

Section III
Confidentiality / Damages

3.   The parties agree that the Data Set is the confidential proprietary information of MLSSAZ and shall be treated accordingly by Vendor.

Section IV
Indemnification

4.   Vendor agrees to indemnify, hold harmless and defend MLSSAZ and its directors, officers, employees and agents from and against any action, claim, demand, dispute or liability, including reasonable attorneys fees and all associated costs arising from or relating to: (i) Vendor's breach of any provision of this Agreement; (ii) any negligence or willful misconduct by Vendor in relation to the means or method of accessing of the System; (iii) any allegation that Vendor or other RETS Clients of Vendor or Vendor's website or intranet infringes on a third person's copyright, trademark or proprietary or intellectual property right or misappropriates a third person's trade secrets; (iv) any action or conduct of MLSSAZ undertaken directly pursuant to and in furtherance of implementation of this Agreement; or (v) any interruption in its use and operation of the MLS database that results from Vendor's access to the MLSSAZ Data Set. Vendor agrees that MLSSAZ shall have the right to participate in the defense of any such claim through counsel of its own choosing.

Section V
Confidential Information

5.   Vendor agrees that in the exchange of information from the RETS Server to Vendor's RETS compatible computer system, certain information or material shall be received that is proprietary and/or is confidential to MLSSAZ. Proprietary and/or confidential information and material includes, but is not limited to, the following types of information, in any form.

> a. All Data Set information provided to Vendor. Information that is in the public domain at the time of disclosure shall not be deemed to be confidential information except to the extent MLSSAZ has a protected copyright to the information due either to the nature and extent of the compilation of the data or for any other reason. Any of the Data Set information that is used or disclosed by Vendor with the prior written consent of MLSSAZ, to the extent of such consent, shall not be deemed to be confidential information.

> b. Any software, source code, object code, diagrams, techniques, procedures, access codes and passwords of MLSSAZ shall be deemed to be proprietary and confidential.

c. Any information that MLSSAZ obtains from any third party that MLSSAZ treats or designates as proprietary shall be considered proprietary and confidential information.

5.1 Vendor agrees that it will only access and use that portion of the Data Set listed in the fields specified by MLSSAZ as being available to Vendor and only as expressly permitted under this Agreement and will not use its access for any other purpose. The fields which are accessible shall be limited to those fields which would otherwise be accessible for use on an Internet Data Exchange (IDX) internet or intranet site according to the Rules and Regulations. Other information available to Vendor is the following; _____

_____
_____
_____

5.2 Vendor agrees to instruct and cause its employees and agents to protect all MLSSAZ confidential and proprietary information and refrain from using such information in any manner other than as expressly permitted in this Agreement.

5.3 Vendor shall not provide access to any confidential or proprietary information to any third parties, including other consultants or independent contractors, without the prior written consent of MLSSAZ. If MLSSAZ grants such consent, then Vendor agrees to execute a separate agreement with the third party which agreement imposing the confidentiality and liability obligations contained in this Agreement on the third party including a hold harmless and indemnity provision in favor of MLSSAZ containing the provisions of Paragraph IV above.

Section VI
Remedies

6. Due to the confidential and proprietary nature of the information being provided to Vendor, Vendor agrees that in the event that any of such information is being misused, then MLSSAZ would suffer irreparable harm and monetary damages would not be adequate to compensate MLSSAZ. Therefore, in the event of such a breach of this Agreement, MLSSAZ, in addition to all other forms of relief, shall be entitled to immediate injunctive relief that is appropriate to the circumstances in order to prevent any continuing or further breach by Vendor without the necessity of proving any actual damages.

Section VII
Terms and Termination

7.   The term of this Agreement shall be for a period of one (1) year from the date of this Agreement. The Agreement shall thereafter automatically renew for successive one (1) year periods.

Unless otherwise specified herein MLSSAZ may terminate this Agreement at any time, in its sole and absolute discretion, by providing written notice of such termination to Vendor.   Termination shall be effective immediately upon communication of such notice to Vendor.

Vendor may terminate this Agreement at any time by providing MLSSAZ ninety (90) days advance written notice of termination which shall be effective at any time at the sole election of MLSSAZ during said ninety (90) day notice period. Upon receipt of such a notice of termination from Vendor, MLSSAZ may notify Vendor when during the ninety day period the contract shall actually terminate and the termination shall be effective as of that date. If no such notice is provided by MLSSAZ then the Agreement shall terminate at the end of the ninetieth (90th) day following communication of Vendor's written notice to terminate this Agreement with MLSSAZ.

Section VIII
Compensation

8.1   Set-up Fee. Vendor agrees to pay MLSSAZ a one-time set-up fee fifty dollars ($50) upon execution of this Agreement.

8.2   Annual License Fee. Vendor agrees to pay MLSSAZ Five Hundred dollars ($500) per year as consideration for the license granted herein. The annual license fee will be billed to the Vendor. Vendor agrees to make payment within thirty (30) days. If this Agreement is renewed beyond the initial term, as set forth below, Vendor acknowledges and agrees that MLSSAZ may modify the annual license fee.

Section IX
Warranty Disclaimers

9.   MLSSAZ MAKES NO WARRANTY REGARDING THE ACCURACY, TIMLINESS OR COMPLETENESS OF ANY CONTENT OF THE DATA SET NOR THAT VENDOR'S RETS CLIENT IS COMPATABLE WITH THE RETS SERVER.

Section X
General Provisions

10   The following general provisions shall apply to this Agreement

      10.1   Assignment. Vendor shall not voluntarily subcontract or assign any of its respective rights, duties or obligations hereunder without first obtaining MLSSAZ prior written consent.

      10.2   Amendments and Modifications. This Agreement may not be amended or modified orally, but only by an agreement in writing signed by the parties hereto.

      10.3   Governing Law. This Agreement will be governed by the laws of the State of Arizona, County of Pima, without regard to conflicts of laws or principles, excluding any conflicts or choice of law, rule or principle that might otherwise refer jurisdiction, construction or interpretation of this Agreement to a forum or to the substantive law of another jurisdiction.

      10.4   Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the parties hereto with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first written above.

Vendor/Service Provider Information and Signature

Vendor/Service Provider stated below is hereby authorized by the Participant to receive access to RETS Server for the purpose of providing the following services to Participant:

_____

_____

_____

Vendor/Service Provider agrees to adhere to the MLSSAZ Rules and Regulations

Company Name:_____

E-mail address: _____
(You *must* supply an e-mail address here. This address will be MLSSAZ 's principal means of communicating with you for notices under this Agreement.)

Street Address: _____

City, ST, ZIP: _____

Phone: _____ Fax: _____

Entered into on behalf of Vendor/Service Provider by:

Signature: _____Date:_____

Print Name: _____Title:_____

MLSSAZ:

Signature: _____Date:_____

Print Name: _____Title:_____