

THIRD PARTY PROCESSING & SUPPLEMENTAL DATA SERVICES AGREEMENT
(the "Agreement")

BETWEEN _____ ("BROKER"),

Broker's *HRIS* Public ID: _____ Primary Office ID: _____

AND _____ ("VENDOR"),

Is Vendor a Corporation? [Yes - No] If Yes: The Corporation is chartered in the State of _____,

(Optional: Check here if there is another party assisting with Data Aggregation)

AND _____ ("SUB-VENDOR").

Is Sub-Vendor a Corporation? [Yes - No] If Yes: The Corporation is chartered in the State of _____,

Broker's Internal Accounting Note: _____
(For invoicing and tracking purposes)

RECITALS:

WHEREAS, the undersigned principal, partner, corporate officer or branch manager is authorized to act on behalf of BROKER who is a Participant Subscriber of the proprietary Multiple Listing Service ("MLS") of Houston Realtors Information Service, Inc. ("HRIS"), a wholly-owned subsidiary of Houston Association of Realtors, Inc. (sometimes referred to herein as "MLS Participant"); and

WHEREAS, the Rules and Regulations – Multiple Listing Service of HRIS (the "MLS Rules") require all MLS Participants who permit a VENDOR or SUB-VENDOR (sometimes referred to as "VENDORS") access to the MLS Data must provide an executed original of this Agreement to HRIS before HRIS issues access authorization privileges to VENDORS; and

WHEREAS, BROKER and VENDOR (and if applicable SUB-VENDOR) (collectively "parties") have entered into a written agreement ("Broker-Vendor Agreement") whereby VENDOR may operate and maintain BROKER's Internet website services or other related information system ("Vendor Service") or VENDOR may also be a consumer of BROKER'S services in conjunction with the buying and selling of residential property ("Broker Services") to which this Agreement provides, *inter alia*, that VENDORS may have access to a subset of the aggregated MLS listing information maintained in the MLS Data; and

NOW, THEREFORE, for valuable consideration, including the mutual covenants and agreements of the BROKER and VENDOR and, as applicable, SUB-VENDOR, it is agreed as follows:

1. **MLS Data**. The parties acknowledge that the MLS services offered by HRIS are a computer-based electronic information system of MLS Data (the "MLS Services") designed to provide, and which provides, MLS Participants with access to current and historical information and data, and compilations of such information and data, about residential real estate listings (the "MLS Data").
2. **Exclusive Rights**. The parties agree that only HRIS 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, including but not limited to, the MLS Services.
3. **Ownership of MLS Data**. The parties recognize that HRIS owns and claims all rights, titles, and interests (including but not limited to rights of copyright) in and to the MLS Data, the selection and arrangement of each and every item of information and data, and each and every compilation of information and data, which is at present and which shall be at any time and from time-to-time hereafter a part of the MLS Services and MLS Data; and access thereto and use thereof is strictly limited and regulated by the MLS Rules.

4. **Access and Use of MLS Data.** With consent from HRIS, BROKER hereby grants permission to VENDOR or SUB-VENDOR to access MLS Services, utilizing any of the software routinely made available to MLS Participants, or utilizing additional infrastructure maintained by HRIS, for the limited Vendor Service of displaying MLS Data on BROKER'S publicly-accessible website, BROKER'S publicly accessible mobile or similar application(s) or as a part of Broker Services and as expressly permitted under the MLS Rules and HRIS MLS Participant Subscriber License and Access Agreement (the "MLS Participant Agreement").

Select one of the following:

- VENDOR will operate and maintain BROKER'S website identified at the URL below

www. _____

- VENDOR will not operate and maintain BROKER'S website

The parties agree that the display of MLS Data on Broker's website shall be controlled by Broker and clearly identify the name of the brokerage under which it operates in a readily visible color and typeface as determined by HRIS in its sole discretion, and the mobile application is, and shall remain during the term of this Agreement, named and branded solely in the Broker's name. For purposes of this Agreement, "control" means the ability of Broker to add, delete, modify and update information as required by MLS Rules.

The parties 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 imposed by the MLS may require additional effort and may result in the occasional disruption of routine service delivery. HRIS's obligations are defined in the separate MLS Participant Agreement entered into between HRIS and BROKER and those obligations are not increased or expanded to include VENDORS in any way, except as specifically provided for in this Agreement.

5. **Restrictions on Use.** During the term of this Agreement, the parties agree that:

- a. Public display of the MLS Data shall be limited to listed properties whose status is: Active, Option Pending, Pending Continuing to Show, and Pending;
- b. Commingling of the MLS Data is only permitted in cases where the BROKER executing this Agreement is also a member of each MLS with which the MLS Data is being commingled and displayed and is in all other cases prohibited. If Broker augments its display or webpage of MLS Data with applicable property information from other sources, then such information must be clearly separated from the MLS Data;
- c. Except for dissemination by BROKER for its use as provided in the MLS Participant Agreement and in MLS Rules, any further dissemination, delivery, or distribution of the MLS Data, or any portion thereof, to any other party, website or application not identified in this Agreement is prohibited;
- d. The MLS Data obtained through the MLS Services shall not be reproduced or electronically manipulated for any other purpose than the buying, selling, listing or appraising of real estate, and may not be resold, licensed or otherwise distributed to or accessed by any other person or entity without the written consent of HRIS with the exception being for active listing information submitted by the BROKER who has the right to use that limited information. Under no circumstances shall BROKER receive any form of compensation for access to MLS Services or use of MLS Data by any person or entity;
- e. No other application of the MLS Data other than providing Vendor Service and Broker Services shall be undertaken or utilized by VENDORS; and
- f. Violation by BROKER or VENDORS of the MLS Participant Agreement, any MLS Rules, rules promulgated by the Texas Association of Realtors, National Association of Realtors or Texas Real Estate Commission or the failure by BROKER to make timely payment of dues or fees to such entities and agency shall allow for termination of this Agreement and of termination of access to the MLS Services by HRIS.

6. **Interface and Installation.** HRIS, at its sole discretion, may determine whether or not to provide any additional services requested by VENDORS, including but not limited to any software interface required by VENDORS to facilitate the Vendor Service to BROKER. VENDORS shall pay for all programming costs, installation costs, and other expenses involved in such interface. For purposes of resolving any technical or data related issues, VENDOR or SUB- VENDOR shall designate a single individual with whom HRIS may communicate. This person shall be the VENDOR Technical Contact (VTC). If BROKER has designated SUB-VENDOR to perform aggregation services, then VTC shall represent the SUB-VENDOR and HRIS will work solely with that contractor on all issues pertaining to MLS Services.

VTC Name: _____

VTC e-mail Address: _____

VTC Telephone Number: (_____) _____ - _____ x. _____

Primary IP Address: _____ . _____ . _____ . _____

Secondary IP Address: _____ . _____ . _____ . _____ (optional)

Note: IP authentication is used for data transmission, so the CPU used to retrieve MLS data must have an authorized IP address in order to process a data request.

7. **Use Reasonable.** The parties agree that the restrictions on access, use, display, and disbursal of the MLS Data as provided in this Agreement are reasonable. Any ambiguity found for the terms of this Agreement shall not cause their interpretation to be construed against HRIS.
8. **Ownership of Data.** The parties agree that ownership and control of the MLS Data shall remain in HRIS exclusively and neither VENDORS nor BROKER shall acquire or assert a claim to ownership of such data.
9. **Copyright Notice.** BROKER and VENDORS shall produce and include on any page or display screen containing the MLS Data the applicable copyright notice of HRIS’s copyright in and to the MLS Data, including any modification, adaptations or conversions. Furthermore, each page or display screen shall state that the information comprising the MLS Data is the property of HRIS using the following language:
Data provided by HAR.com © Copyright YYYY “All information provided should be independently verified.”
BROKER and VENDORS acknowledge that the MLS Data is sourced from third parties and therefore may be subject to copyright infringement claims for which HRIS has no liability. Thus, BROKER and VENDORS shall designate an agent to receive notification of claimed copyright infringement by providing contact information to the U.S. Copyright Office and posting such information and procedures for notice of a claim on BROKER’S website, in accordance with the Digital Millennium Copyright Act (“DMCA”). BROKER shall expediently respond to notifications of claimed infringement, remedy any claimed infringement and provide notice to HRIS of a claimed infringement, if needed, to resolve the alleged claim. Regarding a claimed infringement, HRIS, at its sole discretion, may remove the alleged infringing content from its MLS Data or may suspend MLS Services to BROKER and VENDORS until the alleged infringing content is removed. BROKER and VENDORS will not be entitled to reimbursement of any fees or expenses for website downtime resulting from a DMCA notification.
10. **Safeguard of Data.** VENDORS will take all appropriate steps and precautions to safeguard and protect the access, use, and security of the MLS Data. VENDORS will not reconfigure, reformat, resell, transmit, download, copy, furnish, or otherwise make available the MLS Data to any person or entity other than the parties.
11. **Confidentiality.** VENDORS will treat as confidential the MLS Data, keeping it private and for restricted use as provided in this Agreement, and VENDORS acknowledge that the MLS Data is proprietary property of HRIS. Nothing contained herein shall be deemed or construed to grant VENDORS any right, title, or interest in or to the MLS Data. VENDORS further acknowledge that the MLS Data is of substantial value to HRIS and that there exists a necessity to preserve the confidential nature of it. Accordingly, VENDORS shall implement and maintain all necessary controls to protect and safeguard the MLS Data from and against unauthorized use.

12. **Data Services Fee.** BROKER shall pay to HRIS the fees and applicable sales tax as selected by BROKER below:

Please Select either “Active” Listings or “Active + Off Market” Listings

Active Listings - Access to MLS Data with status of Active, Option Pending, Pending Continuing to Show, and Pending. HRIS’ MLS Rules permit the display of “Active” listing information subject to “Internet Data Exchange” (IDX) guidelines.

Select preferred data access method below:

1. Direct Matrix RETS Server (see Note 1), or
2. CoreLogic “Trestle” RETS Server (RESO Data Dictionary Compliant - see Notes 2,5), or
3. CoreLogic “Trestle” WEB API (RESO API & Data Dictionary Compliant -see Notes 3,5), or
4. Bridge Interactive Web API (RESO API & Data Dictionary Compliant - see Note 4)

| Active (IDX) access have the following fees: | Amount | Amount Incl. Sales Tax |
|---|--------|------------------------|
| New Vendor Activation Fee (one time) | \$ 350 | \$ 378.88 |
| Annual Access Fee (paid yearly in advance) | \$ 500 | \$ 541.25 |

Active + Off Market Listings - Access to MLS Data with status of Active, Option Pending, Pending Continuing to Show, Pending and **36** prior months of: Expired, Terminated and Sold. Under HRIS’ MLS Rules, “Sold” listing information is subject to additional display restrictions including requirements for a “Virtual Office Website” (VOW).

Select preferred data access method below:

5. Direct Matrix RETS Server (see Note 1), or
6. CoreLogic “Trestle” RETS Server (RESO Data Dictionary Compliant - see Notes 2,5), or
7. CoreLogic “Trestle” WEB API (RESO API & Data Dictionary Compliant -see Notes 3,5), or
8. Bridge Interactive Web API (RESO API & Data Dictionary Compliant - see Note 4)

| Active + Off Market Listings (VOW) access have the following fees: | Amount | Amount Incl. Sales Tax |
|---|-----------------|------------------------|
| New Vendor Activation Fee (one time) | \$ 500 | \$ 541.25 |
| Annual Access Fee (paid yearly in advance) | \$ 1,200 | \$ 1,299.00 |
| _____ Additional Years of “Sold” Data | \$ 250 per year | \$ 270.63 per year |

Notes:

- (1) Direct Matrix RETS Server is connected to HRIS’ Matrix MLS System and contains a robust set of data fields which do not fully comply with RESO Data Dictionary standards.
- (2) CoreLogic, Inc.’s “Trestle” RETS server is connected to a replicated database and is RESO Data Dictionary compliant with a standardized subset of MLS Data that varies in several respects from the data stored and displayed in the HRIS Matrix MLS System. Corelogic provides this service subject to additional Terms of Services and Fees that are not set forth in this Agreement. For more information about CoreLogic’s Trestle Service please visit <https://trestle.corelogic.com>
- (3) CoreLogic, Inc.’s “Trestle” WEB API service is connected to a replicated database and provides data via a RESO compliant Web API. The Web API service is also RESO Data Dictionary compliant with a standardized subset of MLS Data that varies in several respects from the data stored and displayed in the HRIS Matrix MLS System. Corelogic provides this service subject to additional Terms of Services and Fees that are not set forth in this Agreement. For more information about CoreLogic’s Trestle Service please visit <https://trestle.corelogic.com>
- (4) The Bridge Interactive API (formerly known as Retsly) service is connected to a replicated database and provides access to a subset of Active MLS Data that complies with the RESO Data Dictionary and Web API standards. Bridge Interactive is a subsidiary of the Zillow Group, Inc. and provides this service subject to additional Terms of Services and Fees that are not set forth in this Agreement. For more information about the Bridge Interactive API Service please visit <http://www.bridgeinteractive.com>
- (5) The Real Estate Standards Organization (RESO) is a trade association that develops common specifications for the real estate industry. For more information about RESO, please visit <https://www.reso.org>

13. **Compliance with MLS Rules and Regulations.** VENDORS and BROKER acknowledge receipt and review of the current MLS Rules (available for download at <http://www.har.com/mls/MLSRules.pdf>), and that VENDORS and BROKER will comply with them, including without limitation, Section 12 – Use of Copyrighted MLS Compilations, Section 13.1 Prohibitions Against Re-commercialization of MLS Information, Section 18 Internet Data Exchange (IDX), and Section 19 Virtual Office Websites (VOW).
14. **Activation.** Upon HRIS’s receipt of the fees as provided in Section 12 hereof and a fully-executed copy of this Agreement, HRIS shall issue to VENDOR or SUB-VENDOR a public and private identification password to activate VENDOR’s or SUB-VENDOR’S access to the MLS Services.
15. **Term.** The term of this Agreement commences on the date hereof and continues for one year and shall, unless sooner terminated as provided herein, automatically renew for additional one year term(s) subject to the BROKER’S payment of the fees and sales taxes identified in Section 12 prior to the expiration of the then current term. If BROKER fails to timely remit payment to effect renewal of the term, this Agreement shall terminate upon the expiration of the then existing term, or upon either party notifying the other, in writing, of its intent to terminate this Agreement at least ninety (90) days prior to the end of the initial term, or any subsequent renewal term(s).
16. **Cooperation/Third-Party Beneficiary.** VENDORS agree to cooperate fully with the staff of HRIS and Houston Association of Realtors, Inc., as needed, in all matters relating to this Agreement, including VENDORS’ access to the MLS Data and compliance with the MLS Rules. All parties agree that HRIS shall be, and is hereby, a third-party beneficiary of this Agreement, and may enforce its rights received or conferred and its benefits contained in this Agreement.
17. **Default; Termination; Effect of Termination.** If BROKER, VENDOR, or SUB- VENDOR fail to perform or comply with any provision of this Agreement, then it shall constitute an event of default hereunder. If the defaulting party or parties fails to remedy the default within fifteen (15) days after receipt of notice of such default, then any non-defaulting party, shall have the right, at its sole option and upon written notice to the defaulting party or parties and other non-defaulting party (if applicable), to terminate this Agreement. The parties grant HRIS the right to terminate this Agreement and access to MLS Services, at its sole discretion, upon ten (10) days notice to the parties. VENDORS agree that immediately upon termination it shall cease any and all use of the MLS Data, and that HRIS’s obligations, if any, under this Agreement shall cease. Upon termination, VENDORS shall delete or destroy any copies, whether tangible or electronic, of the MLS Data received.
18. **Maintenance.** VENDOR’S inability to access, retrieve or download MLS Data during periods of maintenance or otherwise shall not be deemed an event of default.
19. **NO WARRANTIES.** ANY AND ALL SERVICES PROVIDED BY HRIS, INCLUDING, BUT NOT LIMITED TO, MLS SERVICES, ARE ON AN “AS AVAILABLE,” “AS IS” BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HRIS, ITS PARENT COMPANY, AFFILIATES, AND THIRD-PARTY SOFTWARE PROVIDERS DISCLAIM ALL WARRANTIES WITH RESPECT TO MLS SERVICES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF NON- INFRINGEMENT, TITLE, MERCHANTABILITY, QUITE ENJOYMENT, QUALITY OF INFORMATION, AND FITNESS FOR A PARTICULAR PURPOSE. HRIS DOES NOT WARRANT THAT MLS SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT THE OPERATION OF MLS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN MLS SERVICES OR MLS DATA WILL BE CORRECTED. THE PARTIES ACKNOWLEDGE THAT HRIS MAKES NO REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OR RELIABILITY OF MLS SERVICES OR THE ACCURACY OR COMPLETENESS OF MLS DATA. FURTHER, HRIS DOES NOT WARRANT THAT MLS SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY HRIS SHALL CREATE A HRIS WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF HRIS’S OBLIGATIONS HEREUNDER, IF ANY. THIS PARAGRAPH 19 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.
20. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL HRIS, ITS PARENT COMPANY, AFFILIATES OR THIRD-PARTY SOFTWARE PROVIDERS BE LIABLE TO BROKER OR VENDORS FOR ANY DAMAGES WHATSOEVER.

INCLUDING WITHOUT LIMITATION, DIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, WHICH SHALL INCLUDE, WITHOUT LIMITATION, DAMAGES FOR PERSONAL INJURY, LOST PROFITS, LOST DATA, BUSINESS INTERRUPTION, INFRINGEMENT OR CYBER ATTACK ARISING OUT OF THE USE OR INABILITY TO USE ANY OF MLS SERVICES OR MLS DATA, EVEN IF HRIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, HRIS'S ENTIRE RESPONSIBILITY FOR DAMAGES TO BROKER AND VENDORS UNDER OR RELATED TO THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY BROKER AS PROVIDED IN SECTION 12 FOR THE YEAR IN WHICH THE INCIDENT(S) OCCURS. VENDOR AND BROKER AND SUB-VENDOR AGREE THAT BROKER WILL HAVE SOLE AND COMPLETE RESPONSIBILITY FOR ANY DECISIONS MADE OR ACTIONS TAKEN BY VENDORS AND BROKER IN RELATION TO THIS AGREEMENT. THIS PARAGRAPH 20 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

21. **Indemnity.** BROKER AND VENDORS AGREE TO DEFEND AND INDEMNIFY HRIS AND ITS AFFILIATED ENTITIES, PARENT COMPANY, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, SUCCESSORS AND ASSIGNS (collectively "INDEMNITEES") OF AND FROM ANY THIRD-PARTY CLAIMS AND ALL DAMAGES OF ANY KIND (INCLUDING ATTORNEYS' FEES) INCURRED BY INDEMNITEES ARISING OUT OF OR IN CONNECTION WITH BROKER SERVICES, VENDOR SERVICE OR THE PARTIES USE OF MLS DATA OR ACCESS TO MLS SERVICES. THIS PARAGRAPH 21 SHALL SURVIVE TERMINATION OF THIS AGREEMENT
22. **Force Majeure.** HRIS shall have no liability for any delays, errors, failures to perform, interruptions or disruptions of services, including, but not limited to, MLS Services, Broker Services or Vendor Service, and any resulting damages, caused by any acts of God, viruses, quarantine, strikes, lockouts, riots, acts of war, terrorism, changes in law or regulations, fire, flood, earthquake, storm, power failure or failures of the Internet.
23. **Insurance Clause for Cyber-liability Insurance.** BROKER and VENDORS agree to purchase and maintain throughout the term of this Agreement a technology/professional liability insurance policy, including coverage for network security/data protection liability insurance (also called "cyber liability") covering liabilities for financial loss resulting or arising from acts, errors, or omissions, in rendering its services under this Agreement or in connection with the MLS Services and in relation to claims for violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended; data theft, damage, unauthorized disclosure, destruction, or corruption, including without limitation ,unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information in whatever form, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on third party computer systems;
24. **Notices.** All notices required or permitted to be given under this Agreement shall be in writing or printable and effective when hand delivered, delivered by courier, certified mailed upon deposit, emailed or sent by facsimile transmission to:

BROKER at:

Street: _____

City, ST ZIP: _____

Email Address: _____

Phone: (_____) _____ - _____

VENDOR at:

Street: _____

City, ST ZIP: _____

Email Address: _____

Phone: (_____) _____ - _____

SUB-VENDOR at:

Street: _____

City, ST ZIP: _____

Email Address: _____

Phone: (_____) _____ - _____

Houston Realtors Information Service, Inc. at:

3693 Southwest Freeway

Houston, Texas 77027

Phone: (713) 629-1900

- 25. **Assignment.** Neither BROKER nor VENDORS may assign this Agreement or the Broker-Vendor Agreement without the express written approval of HRIS.
- 26. **Modifications.** Any modification of the terms of this Agreement will not be effective unless BROKER and VENDOR obtain the prior written approval of HRIS to such modification.
- 27. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and the state courts of Harris County, Texas shall have exclusive jurisdiction and venue over the parties for any claim related to this Agreement.
- 28. **Legal Advice.** The parties acknowledge having sought and received legal advice from counsel of their own choosing concerning the terms and execution of this Agreement and are not in any way relying upon HRIS and its representatives and affiliates in entering into this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to evidence their agreement on this the _____ day of _____, 2020.

BROKER:

VENDOR:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

SUB-VENDOR:

By: _____

Name: _____

Title: _____

----- Do Not Write Below this Line. HRIS Use Only. -----
HRIS on this the _____ day of _____, 2020, acknowledges receipt of \$ _____ from BROKER and accepts this Agreement as having been fully executed between BROKER and VENDOR or SUB-VENDOR.

HRIS By: _____