

- Robin Stanton, Broker

INFORMATION ACCESS AGREEMENT

THIS AGREEMENT is made as of this [] between the Jefferson City Area Board of REALTORS®, Inc. ("Board"), and Keller Williams Lake of the Ozarks Realty - Robin Staton, Broker ("Participant"), any Subscriber identified below, and Placester ("Provider"), provides for restriction on the use and accessibility of information made accessible to Provider in connection with computer information consulting and other information system services for which Provider has been engaged by Participant.

1. Definitions. In this Agreement, the following terms shall have the meaning ascribed in this section:

- a) Confidential Information: Any official information provided by the MLS or IDX Database for the exclusive use of the participants and subscribers of the MLS. This shall include all oral, written, graphic or electromagnetic forms of information treated or designated by MLS as proprietary information, or which is otherwise generally not available to the general public, including but not limited to, real estate data, transaction data, and all technical, operational, financial, business, and other information or data made available through the MLS, as well as passwords, access codes, software, object codes, or any other information that is not intended by MLS for use by non-participant (or non-subscriber) consumers. Confidential Information does not include information which is otherwise known or generally available to the general public.
- b) Internet Data Exchange ("IDX"): Rules and enabling technologies allowing MLS participants to give each other permission to display each others' listings on their web sites.
- c) Multiple Listing Service ("MLS"): a facility for the orderly correlation and dissemination of listing information among participant members of the Board.
- d) Rules and Regulations: the Rules and Regulations, as well as the Policies and Procedures, adopted and amended from time to time by the Board in connection with its operation of the MLS, or those policies and requirements pertaining to the use of MLS information as may be implemented by the National Association of REALTORS® ("NAR").
- e) Subscriber: A Missouri licensed real estate broker, broker-salesperson, or salesperson whose license is affiliated with Participant and who subscribes to the MLS.

[Check here if a specific Subscriber affiliated with Participant will be given direct access and/or is requesting that Provider be given direct access to the Confidential Information described herein, in which case Subscriber will also be required to execute this Agreement.]

Name of Subscriber (if applicable): []

2. **Recitals and Conditions or Agreement.** The Provider's access to Confidential Information as defined herein is hereby conditioned upon the Provider, Participant, and any undersigned Subscriber each acknowledging the following recitals by execution of this Agreement:

- a) Confidentiality: Participant and any undersigned Subscriber understand and acknowledge that Participant and Subscriber are required by the Rules and Regulations to maintain the confidentiality of the Confidential Information and are prohibited from distributing, licensing, re-selling, reproducing, or transmitting the Confidential Information except as expressly permitted by this Agreement and the Rules and Regulations.
- b) Accuracy Disclaimer: Provider, Participant, and any undersigned Subscriber understand and acknowledge

that the Confidential Information that is published and disseminated by the Service is communicated verbatim, without change by the MLS, as filed with the MLS by each of the MLS's various member participants and that the Board does not verify such information provided and disclaims any responsibility for its accuracy.

- c) Right, Title and Interest in Confidential Information: Provider, Participant, and any undersigned Subscriber understand and acknowledge that all right, title, and interest in the Confidential Information shall at all times remain vested in the Board and neither Provider, Participant, nor any undersigned Subscriber will receive any compensation relating to the transfer of Confidential Information to any third party except as expressly permitted by this Agreement and the Rules and Regulations. Notwithstanding the above, Provider acknowledges that the listing content contained within the Confidential Information is under the actual and apparent control of the Participant.
- d) Right to Revoke Passwords: Board reserves the right to revoke all passwords to any Participant, Subscriber, or Provider or any other person or entity in the event Board determines that there has been any unauthorized usage of any Confidential Information caused or occasioned by the actions or inactions of said Participant, Subscriber, Provider, or any other person or entity receiving access to the Confidential Information as a result of this Agreement.

3. Terms of Agreement. In consideration of the access to be allowed and disclosures to be made to Provider, Participant, and any undersigned Subscriber, and the mutual covenants and conditions stated in the entirety of this Agreement, and intending to be legally bound, the parties agree as follows:

- a) Limitations on Use and Access to Information: The Provider, Participant, and any undersigned Subscriber will use or access the Confidential Information only as expressly permitted under this Agreement, and none of the foregoing parties will use its access or the Confidential Information for any other purpose. When unauthorized use of Confidential Information occurs, the party making such unauthorized use shall be liable to the Board for liquidated damages in an amount equal to One Thousand Dollars (\$1,000.00) for each listing or other separate and distinguishable piece of Confidential Information subject to the unauthorized use, actual damages being difficult if not impossible to determine.
- b) Grant of License: Provider is a vendor of computer software products and desires access to the MLS for the sole purpose of providing Participant (and/or Subscriber) with the ability to distribute the Confidential Information within NAR guidelines, via the following products offered by Provider: Listing Search & Display For Visitors To Agent's Website

("Provider Products"). Board grants Provider (by and through the request of and access also granted to Participant and/or Subscriber) a limited non-exclusive license to access the Board's Confidential Information through a data delivery protocol as defined below for the sole purposes of enabling Participant and Subscriber to use Provider's products and services and the Confidential Information used as permitted herein in conjunction with providing of real estate licensing services to Participant's clients and customers. Board therefore authorizes transmission of the Confidential Information from the MLS as an FTP file, provided, however, that Board will retain the right to change or alter the method of connection or transmission of Confidential Information at its sole discretion. All use of Confidential Information hereunder shall be undertaken only in strict compliance with the Rules and Regulations, including any rules applicable to the release of Confidential Information on a publicly accessed IDX website, such as the requirement that any distribution, reproduction, or transmittal of Confidential Information to the public include the following, or substantially similar, notice:

"Based on information from the Jefferson City Area Board of REALTORS®, Inc. for the period (date) through (date) and is deemed reliable but not guaranteed."

- c) Protection of Confidential Information: Provider, Participant, and any undersigned Subscriber will employ

measures to protect the Confidential Information from disclosure in accordance with the MLS Rules and Regulations. Provider will employ measures to protect the Confidential Information from disclosure at least as rigorously as those it uses to protect its own trade secrets, but in no event less than reasonable care. Provider shall establish and maintain firewalls, filters, and such additional and/or complementary security systems in place as may be necessary to provide reasonable assurances that the MLS and its Confidential Information are secure and may not be accessed except as expressly permitted in this Agreement. Provider, Participant, and any undersigned Subscriber will cooperate with the Board on reasonable terms and conditions in an effort to prevent any unauthorized access to the Confidential Information or to assert or defend Board's intellectual property rights in the MLS or Confidential Information. Participant and Subscriber agree to hold the Board harmless and indemnify the Board from and against any loss, damage, or injury it shall suffer as a result of the any breach of the confidentiality obligations of this Agreement.

- d) Copying and Certain Uses Prohibited: Provider is expressly prohibited from copying, marketing, commercializing the MLS or the Confidential Information, or disseminating or displaying the MLS or the Confidential Information to any person or entity, other than to Participant, Subscriber, and/or their clients or customers, and then only in a manner that complies with the Rules and Regulations and as specifically authorized by this Agreement.
- e) Modification Prohibited: Neither Provider, Participant, nor any undersigned Subscriber will reverse engineer, decompile, or disassemble any software constituting part of the Confidential Information, nor will they incorporate the Confidential Information into any other work or product except as expressly permitted by the Rules and Regulations. Furthermore, Provider shall design or maintain its connection with the MLS in such a way that does not impair, retard, or damage the MLS or its Confidential Information in any way.
- f) Third-Party Access Prohibited: Except as expressly permitted hereunder, neither Provider, Participant, nor any undersigned Subscriber will provide access to the Confidential Information to anyone without prior written consent from Board. In the event Provider, Participant, or any undersigned Subscriber wishes to engage or employ any individual to perform data downloading, manipulation, and formatting, as well as programming and web design, or make the IDX Data available to any other third party, each understands and agrees that whichever shall engage or employ such individual shall be responsible for ensuring that such individual complies with the confidentiality related requirements of this Agreement.
- g) Hold Harmless: Provider, Participant, and any undersigned Subscriber hereby agree that Board will not be responsible for failure to perform, or delays in providing access to Confidential Information, for any services required of Board in connection with the access being provided pursuant to this Agreement. Provider, Participant, and any undersigned Subscriber hereby agree to hold Board harmless in such respects.
- h) Provider's License: Provider warrants that it has all necessary power and authority to enter into this Agreement, and that it is the sole owner of, or has secured all necessary licenses to, all intellectual property rights in and to Provider's Products.

4. General Terms. The following general terms shall apply to this Agreement:

- a) Nature of Agreement: Except as expressly provided herein, this Agreement shall not in any way operate as, nor constitute a grant of any license, title or right with respect to any Confidential Information to any party.
- b) Disclaimer of Warranties and Limitation of Liabilities:
 - (1) BOARD MAKES NO WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
 - (2) IN NO EVENT WILL BOARD BE LIABLE FOR ANY DAMAGES, LOST SAVINGS, OR OTHER ACTUAL, DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER

FORESEEABLE OR UNFORESEEABLE, INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM THE USE, LOSS OF USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF ASSETS, OR PERFORMANCE OR INACCURACY OF THE IDX DATABASE, EVEN IF BOARD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST PARTICIPANT, SUBSCRIBER, OR PROVIDER BY ANY OTHER PARTY ARISING HEREUNDER. PARTICIPANT'S, SUBSCRIBER'S, AND PROVIDER'S SOLE REMEDY FOR BOARD'S BREACH HEREUNDER SHALL BE TERMINATION OF THIS AGREEMENT OR RETURN OF ANY AGGREGATE AMOUNTS PAID BY PARTICIPANT OR PROVIDER, IF ANY, FOR ANY CONFIDENTIAL INFORMATION PROVIDED HEREUNDER WHICH CAUSES DAMAGES TO PARTICIPANT, SUBSCRIBER, OR PROVIDER ARISING FROM BOARD'S GROSS NEGLIGENCE OR INTENTIONAL FRAUD.

c) Notices and Termination: This Agreement shall commence upon the date executed by all parties and shall remain in full force and effect for a period of one (1) year from said date, except that any party may terminate this Agreement upon thirty (30) days written notice. Notwithstanding the above, the Board can terminate access of any party to the MLS immediately upon such party's breach of this Agreement and shall send notice to the defaulting party citing the reason for said termination within two (2) business days of such termination. Furthermore, this Agreement shall automatically terminate upon termination of Participant's (or undersigned Subscriber's) membership in the Board or participation in the MLS. All notices (including, but not limited to, the afore-mentioned notices of termination) to be given under this Agreement shall be mailed, postage prepaid by certified mail, to the parties at their respective addresses as set forth below, or to such other addresses as either party may advise the other party in writing. This Agreement shall terminate upon the occurrence of any of the following events:

(1) Board's written notice of termination to Provider, Participant, or any undersigned Subscriber sent postage prepaid to the following address for each respective party:

Participant: Keller Williams Lake of the Ozarks Realty
858 Hwy 42
Osage Beach, MO 65065

Undersigned:
Subscriber
(if any)
858 Hwy 42
Osage Beach, MO 65065

Provider: _____

(2) Participant's or Provider's written notice to the Board that it no longer intends to access Confidential Information sent postage prepaid to the following address:

Jefferson City Area Board of REALTORS®, Inc.
1906 Bubba Lane

- d) Status of Information Upon Termination: Upon termination of this Agreement, Provider will return and/or erase, delete, or destroy any Confidential Information in any medium, including computer storage and information system backups.
- e) Equitable Relief: Provider, Participant, and any undersigned Subscriber agree that due to the unique nature of the Confidential Information being accessed hereunder, Board would suffer imminent and irreparable harm in the event that Participant, Subscriber, or Provider breaches its obligation under this Agreement, and that monetary damages would be inadequate to compensate Board for any such a breach. Board is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any breach by Participant, Subscriber, or Provider, without showing or proving any actual damages sustained by the Board.
- f) Non-Assignability: Neither Provider, Participant, nor any undersigned Subscriber will assign, transfer, or delegate any of its rights, duties, or obligations hereunder without the expressed prior written consent of Board. Any attempt to do so is void.
- g) Headings: Paragraph headings are for reference purposes only and shall not affect the meaning, construction, or effect of this Agreement.
- h) Modification of Agreement: Except as otherwise provided in this Agreement, this Agreement can only be modified by a written agreement that is signed by all parties hereto.
- i) Non-waiver: No failure on the part of Board to give notice of default or to exercise (or delay in exercising) any right or remedy available to Board shall operate as a waiver by Board. No waiver by Board of any right, remedy, or of any provision of this Agreement shall imply or constitute a waiver of any other right, remedy, or provision.
- j) Damages, Attorney's Fees and Costs: All damages, costs, and expenses, including reasonable attorney's fees, incurred by Board as a result of any litigation arising in any manner associated with this Agreement shall be paid by the party found to be in default of this Agreement.
- k) Severability: Should any provision of this Agreement be declared void as against public policy or for any other reason, that provision shall not affect the validity of any other provision.
- l) Governing Law: This Agreement and all of the rights and obligations under this Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.
- m) Entire Agreement: The parties agree that this Agreement is the complete and exclusive statement of the agreement between the parties and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

PROVIDER, PARTICIPANT, AND ANY UNDERSIGNED SUBSCRIBER ACKNOWLEDGE THAT EACH HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

BOARD:

By: _____ Date: _____

Name Printed: Donna Stone
Authorized Representative

Email Address: donna@jcabor.com

PARTICIPANT:

By: Robin Staton Date:

Name Printed: Robin Staton

Authorized Representative/Broker of Participant

Email Address: RobinStaton@kw.com

Web Site URL:

SUBSCRIBER (if applicable):

By: _____ Date:

Name Printed:

Email Address:

PROVIDER:

By: _____ Date: _____

Name Printed: _____

Authorized Representative

Email Address: _____