

This AGREEMENT is made and entered into by Metrolist, Inc. DBA; REcolorado, Inc., with offices at 6455 South Yosemite Street, Suite 500, Greenwood Village, CO 80111; and \_\_\_\_\_  
Partner, with offices at \_\_\_\_\_

This AGREEMENT is binding between you and REcolorado, Inc. You are permitted to access Matrix only by virtue of your assent to the terms of the AGREEMENT. If you decline to assent to the terms of this AGREEMENT, your use of the Matrix and all its products and services will terminate immediately.

1. **Term** of AGREEMENT shall become effective on the date signed. This AGREEMENT shall be in full force and effect for twelve months and shall automatically renew for equivalent successive twelve-month terms. This AGREEMENT may be terminated pursuant to Section 2 below.
2. **Termination**
  - a) By PARTNER: May terminate this AGREEMENT on any anniversary following the effective date with at least thirty days prior written notice to REcolorado and timely payment for all charges incurred. Within thirty days after REcolorado gives notice of an increase in Charges, without penalty, with at least twenty-four hours prior written notice and immediate payment for all charges incurred to date.
  - b) By RECOLORADO: Shall have the right to immediately impose penalties or other charges, suspend or terminate the Partner, including any or all provisions of products or services, or impose any combination thereof upon any of the following events:
    - i) Partner fails to pay for charges which he/she is liable
    - ii) Partner fails to correct within seven days of notification any errors, omissions or offensive words in the Contribution provided.
    - iii) Fail to comply with any of the rules and regulations or breach any terms of this AGREEMENT
3. **Authorized Purpose.** In consideration of Your compliance with the rules and procedures and this AGREEMENT REcolorado makes the certain portions and content of Matrix, its products, services and REcolorado.com available to you and licenses it for YOUR use, subject at all times to the terms and conditions of this AGREEMENT.
4. **Intellectual Property**
  - (a) License to RECOLORADO. You hereby grant to RECOLORADO an irrevocable and perpetual nonexclusive license in and to all text, information, supplements, and photographs (your "Contribution") that You submit, including any copyrights relating to such Contribution. The license permits REcolorado to use and compile items in Your Contribution and to sublicense the use of items in Your Contribution to others permitted or contemplated by the REcolorado Rules and the terms of this AGREEMENT. You also represent that you have been authorized to grant and thereby do grant to REcolorado the right and authority to use all such data in any way that REcolorado deems appropriate, in the sole discretion of REcolorado, without additional compensation.
  - (b) License to PARTNER. REcolorado hereby grants to YOU during the term of this AGREEMENT a revocable, limited, nonexclusive license to view compilations, text, information, supplements and photographs ("Information") from the Matrix MLS System and REcolorado.com, subject to the limitations set forth in this AGREEMENT and the rules. You may use the Information only in connection with your lawful business

activities. You may not display or post links to Information generated by REcolorado on any website or other publication available to the general public.

**5. Obligations and Acknowledgements**

- (a) Use Limited. Subject to the foregoing, you may use Matrix, REcolorado.com and the Information provided in Matrix and REcolorado.com solely for the purpose of listing, selling, leasing, exposing and/or appraising real estate. Your license to use Matrix may be revoked immediately, without notice from REcolorado, if You (i) use the Information for any purpose other than as set forth in the first sentence of this Section 5(a);(ii) violate any of the REcolorado rules; (iii) disclose, license to, transfer to, sold to, sublet to or otherwise make any of the Information available to any third party except as permitted in the AGREEMENT; (iv) grant access to Matrix to any third party.
- (b) Permitted disclosures. You may, during the term of this AGREEMENT, disclose Information to consumers for their non-commercial use to the extent permitted by REcolorado rules and the terms of this AGREEMENT.
- (c) Rules subject to change. The current version of the Rules is available at [www.REcolorado.com](http://www.REcolorado.com) and such Rules, as they are revised from time to time are incorporated into this AGREEMENT by Exhibit A. REcolorado may in its sole discretion may amend or revise the Rules.
- (d) Confidentiality. Partner pursuant to this AGREEMENT will be granted a User ID and Password to participate. The ID and password may not be used by or given to any other person. In the event that a third person accesses Matrix using your User ID and Password, You shall be responsible in accordance with the rules. (see Exhibit A)

**6. Fees.** This AGREEMENT is at all times conditioned upon the payment of the fees and any other amounts charged. Failure to pay may result in immediate termination of this AGREEMENT and all accesses and licenses hereunder, without notice to you. There shall be not refund or proration of any fees upon the termination of this AGREEMENT.

**7. Covenant Not to Compete.** The Partner may not during this AGREEMENT, either directly or indirectly, use access to Matrix and/or REcolorado.com' products and services to become engaged as a director, officer, majority shareholder/owner, employee or agent in any business or activity which is directly or indirectly in competition with any products or services sold or developed by REcolorado.

**8. Indemnification.** Partner shall indemnify and hold REcolorado, its officers, directors agents, employees, attorneys and affiliates harmless against any and all losses, claims, damages, liabilities, actions, costs, fines or expenses, including any legal expenses, insofar as such losses, claims, damages, liabilities, actions, costs, fines, or expenses arise out of or are based upon the negligent, intentional, or illegal acts of the Partner. Including, but not limited to, negligent Contributions, negligent use of Matrix, negligent use of REcolorado.com or any product and services of REcolorado, use of offensive words and any violation of fair housing laws or regulations. In the event REcolorado is named as a party in any claim or lawsuit with respect to the negligent, intentional or illegal acts of the Partner, REcolorado shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of the Partner. REcolorado and Partner shall cooperate in the defense of any such claim or lawsuit. The Partner shall not, without prior written consent of REcolorado, enter into any judgment or settlement of such action or lawsuit.

**9. Injunctive Relief.** Partners acknowledge and agree that the compilation of information from REcolorado is confidential, propriety and owned by REcolorado, except as authorized in this AGREEMENT. You make an unauthorized disclosure of any part of such information; no remedy at law will be adequate. You therefore agree in the event of such unauthorized disclosure that REcolorado may obtain injunctive relief or other equitable remedies against you in addition to all remedies available by law.

**10. RECOLORADO'S CONDITIONS, LIABILITIES, AND RESPONSIBILITIES.**

- a) **WARRANTY DISCLAIMER.** REcolorado, its licensors, and third-party information suppliers make no expressed or implied warranties hereunder including, but not limited to, the implied warranties of

merchantability and fitness for a particular purpose. REcolorado products and services are provided on an “as is,” “as available” basis. Participation in REcolorado products and services is at the sole risk of the Partner. REcolorado, its licensors, and third-party information suppliers do not warrant that REcolorado products and services will be uninterrupted or error-free.

- b) **CONTENT OF RECOLORADO PRODUCTS AND SERVICES.** REcolorado, its licensors, and third-party information suppliers do not warrant or guarantee the accuracy, adequacy, completeness, currency, reliability, or content of REcolorado products and services.
- c) **NO FAIR HOUSING WARRANTY.** REcolorado, its licensors, and third-party information suppliers do not warrant or guaranty that the content of REcolorado products and services complies with all fair housing laws and regulations. REcolorado shall not be responsible for reviewing the content of REcolorado products and services for compliance with fair housing laws and regulations.
- d) **CHANGE IN RECOLORADO PRODUCTS AND SERVICES.** REcolorado reserves the right to modify any or all REcolorado products and services.
- e) **INABILITY TO PERFORM.** REcolorado shall not be responsible for any failure or delay in performance under this Agreement if such failure or delay results from circumstances in any way beyond its control including, but not limited to, government regulations, fire, natural disaster, communication line failure, power failure, or act of God.
- f) **MAINTENANCE.** REcolorado shall not be responsible for or issue credits or refunds for any failure or delay in performance that result from the required procedures of system preventative maintenance, operations, or repair.
- g) **EDITORIAL CONTROL.** REcolorado shall not be responsible for reviewing, editing, or exercising any form of editorial control over the content of REcolorado products and services.

11. **ASSIGNABILITY.** The terms of this Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and assigns. This AGREEMENT shall be freely assignable, in whole or in part, by REcolorado. It shall not be assignable by the Partner.

- a) **COMPLETE AGREEMENT.** The terms and conditions of this AGREEMENT, together with any and all applicable forms and schedules attached hereto or referenced herein, constitute the final, complete, and exclusive understanding between the parties with respect to the subject matter of this AGREEMENT and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, expressed or implied, oral or written.
- b) **SEVERABILITY OF TERMS.** The terms of the AGREEMENT are independent of and severable from each other, and neither this AGREEMENT nor any provision shall be affected or rendered invalid or unenforceable by virtue of the fact that any other or others of them may be invalid or unenforceable, in whole or in part for any reason.
- c) **AMENDMENTS.** This AGREEMENT may not be modified or amended except by written agreement of the parties.
- d) **LAW.** This AGREEMENT and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Colorado.
- e) **CONSTRUCTION.** Nothing in AGREEMENT shall be considered to constitute or create a partnership, association, or joint venture between the Partner and REcolorado.

## EXHIBIT A - RULES

### Preface

REcolorado, Inc. maintains rules and regulations to ensure that cooperation and compensation is offered to all Participants and that the sharing of information among real estate professionals is centralized and standardized.

### Definitions

**MLS:** A facility for the orderly correlation and dissemination of listing information so Participants may better service their clients and the public. A means by which authorized Participations make blanket unilateral offers of compensation to other Participants. A means by which cooperation among real estate professionals is enhanced. A means by which information is accumulated and disseminated to enable appraisals, analyses and other valuations of real property. A means by which real estate professionals contribute to a common database.

**REcolorado.com:** The public facing website of the MLS that allows real estate professionals to contribute, accumulate and disseminate real estate information and listings to better service their clients and the public.

**Participant:** An individual or firm that has access to the MLS. Under no circumstances can access be granted unless the real estate professional holds a current, valid real estate license and actively endeavors to make or accept offers of compensation with respect to properties of the type that are listed in the MLS in which participation is sought or is licensed or certified by the state regulatory agency to engage in the appraisal of real property.

**Partner:** An individual or firm that contributes to the sharing of real estate information to REcolorado.

**Listing Procedures:** All Contributions must be submitted into Matrix MLS system for display on REcolorado.com within seven business days of NEED HELP DEFINING

**Reporting Changes:** When the status or content of the Contribution changes it must be updated within seven business days.

**Listing Price:** The estimated price of the Contribution or Development must be indicated.

**Public Remarks/Community Description:** Partner is prohibited from displaying any personal advertising, third-party advertising or banners at any time in the Public Remarks section. Restricted information includes, but is not limited to, phone numbers, e-mail addresses, web addresses, company and/or personal names, co-op

compensation and other financial information. The Public Remarks field enables Partners to describe identifying valuable qualities, details and inclusions. Information included in the Public Remarks is intended for public viewing on Internet sites, brochures, fliers, etc., and should identify features of the property rather than details about any individual and/or entity. When information is entered into the Public Remarks, it must be specific to the Contribution and must comply with all federal, state and local laws (e.g., fair housing and anti-discrimination laws).

**Photographs:** At least one photograph must be submitted within three seven business days; that primary photo must be germane or specific to that Contribution. Photographs may contain text that only describes valuable qualities, details and inclusions. It may not contain phone numbers, e-mail addresses, web address, company and/or personal names, co-op compensation and other financial information. The text must be subtle enough not to obscure or detract from the image it is describing. Borders, watermarks, and yard signs are allowed as non-predominant features of a listing photo. Promotions, personal and/or company branding, advertisement(s) and logos are prohibited. Partners may not submit any photograph where the true appearance of a property has been manipulated (i.e., removing a permanent object from the photograph, modifying the appearance of the landscape, making visual improvements that do not already exist).

Note: The term photograph in this section includes but is not limited to photographs, artist renderings, blueprints, illustrations, images, graphics and builder plans.

**Fair Housing:** The Partner is responsible for ensuring that no offensive words appear. The Partner is also responsible for withdrawing information contained in the Contribution when content may violate applicable federal, state and local fair housing. If any errors, omissions or offensive words appear the Partner will be liable and must, upon notification, immediately remove or correct the necessary information.

**Participation:** All Partners must sign the Builder/Development Agreement. An Office ID will be assigned to the Partner and must be used to participate. Every User will be assigned a username and password, which may not be used by any other person. Each User will be responsible for the safekeeping of his or her Password. Your password is for your exclusive use. You agree to not share your password with any other User, including but not limited to any customer, client, other brokers or assistants, vendors or 3<sup>rd</sup> party service providers. All Users must follow these MLS Rules & Regulations. This includes acknowledging that all Users who access the Matrix system must also be assigned a unique username and password.

All Users of REcolorado sharing username and passwords with those who should have their own account will be assessed a \$500 fine. Repeat offenses will be determined by the MLS Rules & Regulations Committee, with potential fines of up to \$15,000.

All Users of REcolorado sharing username and passwords with those who would not be approved to have REcolorado Membership or Partnership will be assessed a \$5,000 fine and subject to immediate suspension of their account. Reinstatement of account will require payment of the fine and application to the MLS Rules & Regulations Committee and /or the Board of Directors for reinstatement. Repeat offenses will be determined by MLS Rules & Regulations Committee and may include fines of up to \$15,000 and possible legal action.

**Under Contract/Designated Address or Permitted:** It is recommended that once any of these events occur that the specific address is entered into the Matrix MLS system. If Partner does not have an MLS account or a relationship with a real estate professional, REcolorado can help locate a partner for them for inclusion into the MLS. If there is a cooperating broker involved in the transaction and if he/she is a member of MLS Partner could request that they input the property into the MLS for comparable purposes.

### **Use of MLS in Name and Web Address**

- 1. Use of REcolorado® Trademarks Prohibited:** Partners shall not use the copyrights or trademarks of REcolorado®, Inc. and shall not use REcolorado® logo (e.g., dynamic triangle), “REcolorado®”, “REcolorado® MLS” or derivatives thereof in Participant names, name of their firm, domain names, web addresses, uniform resource locators (URLs), or e-mail addresses. Participants, Users and Licensees shall not use REcoloado<sup>SM</sup> or REcolorado.com, MLS” or derivatives thereof in names, name of their firm, domain names, web addresses, uniform resource locators (URLs), or e-mail addresses.
- 2. Use of Term “MLS” Prohibited:** Partners shall not use the term “multiple listing service,” the acronym “MLS,” or derivatives thereof, in Participant names, except as provided in Section 3.4 (3). In addition, Participants, Users and Licensees shall not use the term “multiple listing service,” the acronym “MLS,” or derivatives thereof in names, name of their firm, domain names, web addresses, uniform resource locators (URLs), e-mail addresses, blog address, or in any other way represent, suggest or imply that the individual or firm is an MLS, or that they operate an MLS. Partners, Users and Licensees shall not represent, suggest or imply that consumers or others have direct or indirect access to MLS databases, or that consumers or others are able to search MLS databases (e.g., “Search the MLS”, “Access REcolorado.com, REcolorado® MLS”, etc.).

**Compensation:** In providing Contribution Partner is making blanket unilateral offers of compensation to others, regardless of the service level offered, and must; therefore provide compensation to any REcolorado member that is representing a buyer in the transaction of a purchasing a new construction home.

Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker’s performance as the procuring cause of the sale. The Partner’s obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the Partner and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the Partner to compensate. In such instances, entitlement to cooperative compensation offered would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances.

**Right, Title and Interest:** All right, title and interest in each copy of every MLS compilation created and copyrighted by REcolorado®, and in the copyrights therein, must at all times remain vested in REcolorado®.

**Editorial Control:** REcolorado® will not be responsible for reviewing, editing or exercising any form of editorial control over the content of REcolorado® products and services.

**Reproduction/Distribution:** Partners are prohibited from reproducing any MLS compilation or any portion thereof, except in the following limited circumstances:

Nothing contained herein precludes any Partner from utilizing, displaying, distributing or reproducing property listing sheets or other compilations of content pertaining to their own listings.

Any MLS information, whether provided in written, printed or electronic form, is provided for the exclusive use of Partners. Such information may not be transmitted, retransmitted or provided, in any manner, to any unauthorized individual, office or firm.

None of the forgoing prevents any individual legitimately in possession of current listing information, sold information, comparables or statistical information from utilizing such information to support an estimate of value on a particular property for a client. Only information that the MLS has deemed to be non-confidential and necessary to support an estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited

No Partner may distribute, provide or make any portion of the MLS database available to any person or entity that is not authorized by the MLS Rules & Regulations to receive such information. Partners may not reproduce, sell, license, rent, transfer, transmit, broadcast, display, publish or commercially exploit or allow anyone else to reproduce, sell, license, rent, transfer, transmit, broadcast, display, publish or commercially exploit any information obtained from the MLS without prior written consent from REcolorado®.

**Limitations on Use of MLS Information:** Content from the MLS compilation of current listing information, REcolorado's® Statistical Report and/or sold or comparable reports may not be used for public mass media advertising or other public representations.

**Downloading Restrictions:** Partners may not download more than 25,000 listings per property type. Offenses where there have been excessive exports of data or other abusive practices are subject to fines of up to \$15,000 and possible suspension of the Partner AGREEMENT. Offenses where a username and password was shared with unauthorized user(s) for excessive exports of data or other abusive practices will be assessed a \$15,000 fine and subject to immediate suspension. Reinstatement will require payment of the fine and application to the REcolorado Board of Directors for reinstatement. Repeat Offenses will be determined by legal counsel.

**Proper Use of MLS-Obtained E-mail Addresses:** E-mail addresses in listings are intended for MLS members to communicate about specific listings. For instance, e-mail addresses may be used to contact the listing broker with questions about the listed property, to respond to questions and to notify other Members about a new listing. Even when they pertain to real estate, e-mail addresses obtained from the MLS may not be used to indiscriminately send spam. MLS content or contact information may not be exploited for commercial use.





