

THIS PARTICIPATION AGREEMENT ("Agreement") is entered into by and between the undersigned Participant, having a principal place of business as set forth below, and REcolorado, a Colorado corporation having a principal place of business at 6455 S. Yosemite St., Suite 500, Greenwood Village, CO 80111 ("REcolorado").

RECITALS:

- A. The Multiple Listing Service ("MLS") is that service as it is defined in the [MLS Rules and Regulations](#) adopted by the Denver, Evergreen/Conifer, Jefferson County, North Metro, South Metro, Douglas/Elbert, and Aurora Boards/Associations of REALTORS® for the operation of the MLS. (Hereafter, "MLS Rules and Regulations" shall refer to those MLS Rules and Regulations as they may be amended from time to time and any other rules and regulations adopted in substitution of the MLS Rules and Regulations.)
- B. REcolorado is a Colorado corporation organized to provide products and services, which products and services are related to the MLS and other real estate information.
- C. The Participant, as defined in the MLS Rules and Regulations, is an individual who desires to use all or a portion of the REcolorado products and services.
- D. The parties desire to enter into this Participation Agreement which, in addition to the MLS Rules and Regulations, will govern the use of the REcolorado products and services by the Participant and his/her Licensees and will govern the relationship between the parties.

NOW, THEREFORE, in consideration of the Recitals, and in further consideration of the mutual covenants and promises contained herein, and other good and valuable consideration between the parties, the receipt of which is hereby acknowledged, each of the parties AGREES as follows:

1. **AUTHORIZED PURPOSE/PARTIES.** Use by the Participant and his/her Licensees of the REcolorado products and services pursuant to this Agreement is provided solely for the benefit of the Participant, his/her Licensees, agents, and employees in the conduct of the Participant's real estate or appraisal business and shall not be used by, licensed to, transferred to, sold to, sublet to, or otherwise made available to any unauthorized party.
2. **TERM OF AGREEMENT.** This 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 Sections 17 or 18 below.
3. **IDENTIFICATION NUMBERS.**
 - a. **OFFICE ID.** REcolorado shall assign an Office ID to the Participant. An Office ID must be used to participate in the REcolorado products and services.
 - b. **USER ID AND PASSWORD.** REcolorado shall also assign a User ID and Password to each individual who participates in the REcolorado products and services. The User ID and Password shall be personal to the individual and may not be used by any other person. Each individual shall be responsible for the safekeeping of his/her Password.
4. **PARTICIPATION.** The Participant and those of his/her Licensees who are properly identified on User Forms shall be entitled to participate in the MLS by using their assigned Office ID, User IDs and Passwords. REcolorado may, in its sole discretion, make other products and services available to the Participant and/or his/her Licensees through proper use of the Office ID, User ID and Password. At all times during the term of this Agreement, the Participant and his/her Licensees shall comply with the MLS Rules and Regulations in the use of the REcolorado products and services.

5. **ACCESS: ON-LINE SYSTEM.** If the Participant desires access to any part of the On-line System for himself/herself or any of his/her Licensees, the Participant shall subscribe to the On-line System at the desired On-line Service Level by signing a separate User Form for each individual user. The Participant shall be deemed to have subscribed to the On-line System, even if he/she has not signed the appropriate User Form, if he/she pays for products or services related to the On-line System without written objection.
 - a. **TECHNICAL SUPPORT.** By subscribing to the On-line System, the Participant and his/her Licensees consent to REcolorado using electronic detection software to identify the computer hardware and software configurations used by any individual accessing the On-line System with the Participant's Office ID. Such electronic detection may be used solely for REcolorado's technical support of the individual's use of the On-line System.
 - b. **SOFTWARE LICENSES.** By subscribing to the On-line System, the Participant and his/her Licensees agree to comply with the terms and conditions of any and all software licenses applicable to software they use to access the On-line System.
6. **DELIVERY.** All REcolorado products and services purchased, used, accessed, or otherwise participated in by the Participant and his/her Licensees which are charged to his/her Office ID shall be delivered or deemed delivered to his/her address shown below. All products and services which are not charged to an Office ID (for example those which are purchased in person at REcolorado's offices) shall be deemed delivered to the actual delivery location.
7. **EQUIPMENT.** The Participant is responsible for obtaining and configuring all personal computers, modems, telecommunications connections, and computer software that may be necessary or useful for accessing and using the On-line System and for the proper use thereof.
8. **PROCESSING FEE.** Upon execution of this Agreement, if the Participant is a member of a REALTOR® Board/Association, he/she shall pay the REALTOR® Processing Fee. If the Participant is not a member of a REALTOR® Board/Association, he/she shall pay the non-member Processing Fee. The Processing Fee may be greater for non-members. The Processing Fee is not refundable nor transferable to any person or entity.
9. **PAYMENT.**
 - a. **FEES, CHARGES, ETC.** Amounts ("Charges") which may be incurred by the Participant and his/her Licensees may include, but are not limited to: participation fees, book subscriptions, photos, brochures, other publications' costs, membership fees and rates, service charges, penalties or fines for violation of the MLS Rules and Regulations, and any other prices, fees, costs, rates, rents, expenses, penalties, fines, dues, and all applicable taxes. Discounts, if any, shall be determined by REcolorado, in its sole discretion, from time to time.
 - b. **NO REFUND.** All Charges incurred by the Participant and his/her Licensees under this Agreement for participation in the REcolorado products and services are non-refundable and subject to change at any time. REcolorado shall provide thirty days written notice of any such change. REcolorado's current Product Price List reflects Charges as they are in effect at the time REcolorado executes this Agreement and is hereby incorporated into and made a part of this Agreement. Upon request at any time, REcolorado will provide a copy of its most recent Product Price List.
 - c. **BILLING.** The Participant shall be billed for any and all Charges incurred pursuant to this Agreement on a monthly basis. The Participant shall pay all Charges for any participation in the REcolorado products and services, including the On-line System, through the use of his/her Office ID. The Participant is responsible for the safekeeping of his/her identification numbers.
 - d. **PAYMENT DUE.** Payment is due by the last day of the month in which the statement date falls. Accounts are delinquent by the 10th day of the following month. Failure to make payment when due shall result in service charges of one and one-half percent per month on all unpaid balances and may result in the suspension and/or termination of Participation pursuant to Section 18.
 - e. **REINSTATEMENT FEE.** If services have been terminated, for example, due to the Participant's failure to pay

Charges by the due date, REcolorado, in its sole discretion, may impose a Reinstatement Fee to reinstate the Participant and his/her Licensees.

- f. **COLLECTION COSTS.** The Participant shall be liable for all costs, expenses, and damages incurred in collection of payments which are past due including, but not limited to court costs, litigation expenses, and reasonable attorneys' fees.
10. **CONFIDENTIALITY.** The information contained in the REcolorado products and services belongs to REcolorado and is confidential and proprietary in nature. This Agreement and the MLS Rules and Regulations govern the extent to which the Participant and his/her Licensees may use the information. The Participant and his/her Licensees agree to hold all such information confidential and not disclose such information to any unauthorized party. This obligation to maintain the confidentiality of the information shall survive the termination of this Agreement.
11. **COVENANT NOT TO COMPETE.** The Participant and his/her Licensees may not, during his/her Participation, either directly or indirectly, use his/her access to the REcolorado 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. The Participant and his/her Licensees shall act in good faith when participating in the MLS.
12. **COPYRIGHT AND NON-EXCLUSIVE LICENSE.** The Participant hereby grants to REcolorado an irrevocable, non-exclusive license to use any and all information, data, and tangible or intangible property items including, but not limited to, real estate listings, textual data, photographs and images, and all other real estate information provided to REcolorado by the Participant or any of his/her Licensees. By the act of submitting any real estate data and information to REcolorado, the Participant and his/her Licensees represent that they have been authorized to grant and also thereby do grant to REcolorado the right and authority to use all such data and information in any way that REcolorado deems appropriate, in the sole discretion of REcolorado, without additional compensation. In connection with this license:
 - a. **DATA CLEANSING.** REcolorado may perform any and all necessary data cleansing procedures, as determined at the sole discretion of REcolorado.
 - b. **COPYRIGHT.** REcolorado may manipulate and/or compile the information, data, and tangible or intangible property items provided by the Participant and his/her Licensees. The Participant and his/her Licensees acknowledge that the manipulation or compilation being performed by REcolorado will result in a database containing various compilations of real estate data which are copyrightable material. By the act of submitting any real estate data and information to REcolorado, the Participant and his/her Licensees hereby consent to the use of their contributions in such copyrighted material, warrant that they will not challenge, interfere with or violate such copyright, and warrant that they will not seek compensation therefor.
 - c. **INTERNET DISPLAY AND OTHER THIRD PARTY USE.** REcolorado may use, or may arrange for third parties to use, the information, data, and tangible or intangible property items in products and services including, but not limited to, reference materials, books, brochures, flyers, electronic transmissions, advertisements, Internet or other computer network displays, on-line data, computer programming, and software, regardless of the form, whether printed, electronic, digital, magnetic media, or otherwise. By the act of submitting any real estate data and information to REcolorado, the Participant and his/her Licensees hereby consent to such uses and warrant that they will not challenge, interfere with or violate such uses, and warrant that they will not seek compensation therefore.
13. **PARTICIPANT INFORMATION.** REcolorado reserves the right to distribute to prospective Participants and other third parties certain non-confidential information concerning the Participant and his/her Licensees such as names and addresses. In addition, REcolorado may collect and compile information regarding frequency of use of, or specific uses of, the MLS and other REcolorado products and services by all users, but REcolorado may not distribute, publish, or disclose any information concerning frequency of use of, or specific uses of, the MLS and other REcolorado products and services specifically by the Participant or any of his/her Licensees.

14. PARTICIPANT'S CONDITIONS, LIABILITIES, AND RESPONSIBILITIES.

- a. **CONDITION OF PARTICIPATION.** At all times during the term of this Agreement, the Participant, and his/her Licensees, shall not be under suspension or expulsion from the MLS and shall be in compliance with the MLS Rules and Regulations.
- b. **LICENSEE IDENTIFICATION.** The Participant shall notify REcolorado and shall complete a User Form within two weeks of adding or deleting a Licensee authorized to use the Participant's Office ID.
- c. **CHANGE OF ADDRESS OR AFFILIATION.** The Participant shall notify REcolorado and shall complete a new Office Form within seven days of relocating; changing office information; or changing REALTOR® Board/Association affiliation, if any.
- d. **LISTING AGREEMENT.** The Participant hereby warrants that he/she has a valid listing agreement for each listing he/she or his/her Licensee provides to REcolorado.
- e. **BROKER LOAD.** If the Participant subscribes to the On-line System, he/she shall enter all of his/her real estate listings using the "Broker Load" method explained during REcolorado training classes. The Participant shall be responsible for ensuring that no Offensive Words are used and that only trained personnel enter the listings. The Participant shall also be responsible for promptly withdrawing the listings or other information when necessary and appropriate.
- f. **ERRORS, OMISSIONS, ETC.** If any errors, omissions, or Offensive Words occur in the data provided by the Participant, his/her Licensee, agent, or employee, the Participant shall be liable therefore and shall use his/her best efforts to immediately correct such errors, omissions, or Offensive Words when notified of their existence. Failure on more than one occasion to make such corrections within twenty-four hours of notification may subject the Participant to additional charges or penalties and/or may be grounds for termination of Participation.
- g. **FAIR HOUSING LAWS.** The Participant and his/her Licensees shall comply with all applicable federal, state, and local fair housing laws and regulations which are now in force or which may be adopted hereafter.
- h. **LAWFUL USE OF THE RECOLORADO PRODUCTS AND SERVICES.** The Participant and his/her Licensees shall use the REcolorado products and services lawfully and, without prior written consent by REcolorado, may not reproduce, sell, license, rent, transfer, transmit, broadcast, display, publish or otherwise distribute, or in any manner commercially exploit or allow anyone else to reproduce, sell, license, rent, transfer, transmit, broadcast, display, publish or otherwise distribute, or in any manner commercially exploit any information obtained from REcolorado products and services in any format to anyone.
- i. **VIOLATION OF MLS RULES AND REGULATIONS.** Alleged violations of the MLS Rules and Regulations by the Participant or any of his/her Licensees shall be addressed in accordance with those MLS Rules and Regulations, except in the case of alleged violations of the Standards of Conduct, as defined in the MLS Rules and Regulations.
- j. **VIOLATION OF STANDARDS OF CONDUCT.** Alleged violations of the Standards of Conduct by the Participant or any of his/her Licensees shall be addressed in accordance with the Professional Standards Process, as described in the National Association of REALTORS® Code of Ethics and Arbitration Manual. (Hereafter, "Professional Standards Process" shall refer to that Professional Standards Process as it may be amended from time to time and any other process adopted in substitution of the Professional Standards Process.) REcolorado, in its sole discretion, shall select the appropriate entity for the Professional Standards Process. REcolorado may, in its sole discretion, deny service to any Participant or Licensee who has violated the Standards of Conduct when such violation has resulted in Declaratory Judgment being entered by a Court of competent jurisdiction.
- k. **ARBITRATION: OTHER PARTICIPANTS.** The Participant and his/her Licensees shall arbitrate any and all disputes with other Participants or their Licensees arising out of Participation in the MLS. Such arbitration shall be conducted pursuant to the MLS Rules and Regulations and the Professional Standards Process in effect at the time the dispute arose. REcolorado, in its sole discretion, shall select the appropriate entity for arbitration.
- l. **ARBITRATION: RECOLORADO.** The Participant and his/her Licensees shall arbitrate any and all disputes with REcolorado arising out of this Agreement. Such arbitration shall occur in Arapahoe County, Colorado, and shall be conducted by the arbiter(s) selected by REcolorado, in its sole discretion, 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 award in any court having jurisdiction and may make application to the court for enforcement.

m. INDEMNIFICATION.

- i. The Participant 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 Participant or any of his/her Licensees including, but not limited to, negligent listings, negligent use of or participation in the MLS, negligent use of or participation in the REcolorado products and services, use of erroneous language or listings, use of Offensive Words in real estate listings or information submitted to the MLS, and violation of any fair housing laws or regulations.
- ii. 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 Participant or any of his/her Licensees, 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 Participant. REcolorado and the Participant and his/her Licensees shall cooperate in the defense of any such claim or lawsuit. The Participant and his/her Licensees shall not, without the prior written consent of REcolorado, enter into any judgment or settlement of such action or lawsuit.
- iii. These indemnification provisions shall survive the termination of the Participant's Participation in the MLS and the termination of this Participation Agreement.

15. 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 Participant and his/her Licensees. 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 results 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.

16. VOLUNTARY TERMINATION.

- a. **BY PARTICIPANT.**
 - i. Within the first thirty days after the execution of this Agreement, the Participant may terminate this Agreement, without penalty, with at least twenty-four hours prior written notice to REcolorado and immediate payment for all Charges incurred to date.
 - ii. The Participant may terminate this Agreement on any anniversary following the effective date of this Agreement, without penalty, with at least thirty days prior written notice to REcolorado and timely payment for all Charges incurred.

- iii. Within the first sixty days after REcolorado gives notice of an increase in Charges, the Participant may terminate this Agreement, without penalty, with at least twenty-four hours prior written notice to REcolorado and immediate payment for all Charges incurred to date.
- b. BY RECOLORADO.
 - i. If REcolorado permanently ceases to provide MLS products and services, for any reason, this Agreement shall terminate at the same time.
 - ii. If REcolorado permanently ceases to operate the On-line System in whole or in part for any reason, this Agreement, as it pertains to such discontinued portions of the On-line System, shall terminate at the same time.
 - iii. REcolorado may terminate this Agreement at any time without cause by providing a thirty-day prior written notice to the Participant.

17. INVOLUNTARY TERMINATION.

- a. TERMINATION OF PARTICIPATION. REcolorado shall have the absolute right to immediately impose penalties or other charges, suspend or terminate Participation including any or all provision of products or services, or impose any combination of penalties, charges, suspension, and termination upon any one of the following events:
 - i. The Participant fails to pay when due any Charges for which he/she is liable.
 - ii. The Participant discontinues his/her real estate business or appraisal business.
 - iii. The Participant is suspended or expelled from the MLS for any reason.
 - iv. The Participant fails to timely notify REcolorado of adding or deleting a Licensee, of a relocation or other change in his/her office information, or of a change in his/her REALTOR® Board/Association affiliation, if any.
 - v. The Participant fails to correct within twenty-four hours of notification any errors, omissions, or Offensive Words in the data he/she or any of his/her Licensees provides.
 - vi. The Participant or any of his/her Licensees defaults under or fails to comply with the MLS Rules and Regulations.
 - vii. The Participant or any of his/her Licensees negligently or intentionally uses or participates in the MLS for an unauthorized or unlawful purpose or allows his/her Office ID to be used by an unauthorized party as described in Section 1.
 - viii. The Participant or any of his/her Licensees uses, without authorization, an Office ID other than his/her own to participate in the REcolorado products and services.
 - ix. The Participant or any of his/her Licensees breaches this Agreement in any way.
- b. TERMINATION OF LICENSEES. If the Participant is no longer eligible to participate or if he/she voluntarily terminates Participation, his/her Licensees shall no longer be eligible to participate in the MLS using his/her Office ID. Furthermore, REcolorado shall have the absolute right to immediately suspend or terminate Participation by a Licensee upon any one of the following events:
 - i. The Licensee discontinues his/her real estate business or appraisal business.
 - ii. The Licensee is suspended or expelled from the MLS for any reason.
 - iii. The Licensee defaults under or fails to comply with the MLS Rules and Regulations.
 - iv. The Licensee negligently or intentionally uses or participates in the MLS for an unauthorized or unlawful purpose or allows an Office ID to be used by an unauthorized party as described in Section 1.
 - v. The Licensee uses, without authorization, an Office ID other than his/her own to participate in the REcolorado products and services.
 - vi. The Licensee breaches this Agreement in any way.

18. DEFINITIONS. For purposes of this Agreement, the following definitions shall apply:

- a. "Licensee" shall mean any individual, corporation, partnership, trust, association, or other entity who purchases, uses, accesses, or otherwise participates in the REcolorado products and services with the Office ID assigned to the Participant.
- b. "User Form" shall mean the form used by REcolorado to identify, add, delete, or transfer a Licensee and to identify a user's applicable On-line Service Level. REcolorado's User Form is hereby incorporated into and made a part of this Agreement.

any other or others of them may be invalid or unenforceable, in whole or in part for any reason. Section headings are for convenience only.

- e. AMENDMENTS. This Agreement may not be modified or amended except by written agreement of the parties.
- f. 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.
- g. CONFLICTS. In the event of any irreconcilable conflict between this Agreement and the applicable MLS Rules and Regulations, this Agreement shall control.
- h. CONSTRUCTION. Nothing in this Participation Agreement shall be considered to constitute or create a partnership, association, or joint venture between the Participant or any of his/her Licensees and REcolorado.
- i. GENDER. The singular includes the plural. The masculine includes the feminine and the neuter.

20. **SIGNATURES.** Consent to this Agreement is evidenced by the signatures of the parties which may be executed in counterparts, each of which shall be deemed originals, and all counterparts or originals shall constitute one Agreement. Facsimile signatures shall be effective as originals.

I CERTIFY that I have received and read a copy of the [MLS Rules and Regulations](#), that I agree to comply with the MLS Rules and Regulations as they may be amended from time to time, that I agree to the terms and conditions of this Participation Agreement, and that the following information furnished by me is true and correct.

Participant information

● Denotes required field

● Name	● REALTOR board/assoc.	
● Email	● Password (6-12 characters)	
● CRE license number or Username (if current member)		
● Office name		
● Office address		
● City	● State	● Zip
● Office phone	● Cell phone	● Office fax

Office and payment information

Metrolist will assign an office ID, or you may choose a personalized Office ID (must be 5 characters) Office ID	● Participant type <input type="checkbox"/> Independent broker <input type="checkbox"/> Appraiser <input type="checkbox"/> Managing broker <input type="checkbox"/> Reinstating <input type="checkbox"/> New participant
● Payment type (provide credit card information, or attach check made payable to Metrolist) I authorize Metrolist to bill the initial setup fee to my credit card: <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> American Express <input type="checkbox"/> Discover <input type="checkbox"/> Check	● Expiration date
● Credit card number	

Please sign me up for the additional REcolorado services, included in my membership for no additional charge

- Include my listings on Realtor.com (REALTOR® Association members only)**
 REALTOR.com is the official site of the National Association of REALTORS®. Realtor.com provides the general public access to millions of home listings, spanning all 50 states and representing over 800 MLSs.
- Activate ShowingAssist for my listings**
 ShowingAssist provides the latest technology to improve showing management productivity. Arrange showings and communicate with other brokers, saving time, and reducing phone calls.

Service Center use only

Representative	Date
Special instructions	<input type="checkbox"/> Processing fee enclosed <input type="checkbox"/> Current member

● Participant signature	● Date
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