

# Bayou Board of REALTORS®

## Data Access Agreement

This **AGREEMENT** is made and entered into by Bayou Board of Realtors, with offices at 4651 West Park Avenue, Houma, Louisiana 70364; the real estate brokerage firm identified as “Firm” on the signature page below (“**Firm**”); and the individual or business association identified as “Consultant” on the signature page below, if any (“**Consultant**”). This Agreement describes certain rights and obligations of the “Salesperson Party,” which refers collectively to the Salespersons affiliated with Firm to whom Firm has permitted Consultant to provide services under this Agreement.

### DEFINITIONS

1. For purposes of this Agreement, the following terms shall have the meanings set forth below.

**Confidential Information:** “Confidential Information” means information or material proprietary to a party or designated “confidential” by the party and not generally known to the public that the other parties may obtain knowledge of or access to as a result of this Agreement. Confidential Information includes, but is not limited to, the following types of information (whether in oral, visual, audio, written or other form): (a) all BBR Data, except to the extent to which this Agreement and the BBR IDX Policies permit its disclosure; (b) IP addresses, access codes and passwords; (c) any information that BBR obtains from any third party that BBR treats as proprietary or designates as Confidential Information, whether or not owned or developed by BBR; (d) any information designated as confidential or private by any applicable state, federal, local or other law, regulation or directive; and (e) any claims and evidence presented by any party in any arbitration under this Agreement. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party; independently developed by the receiving party; received from a third party who has obtained and disclosed it without breaching any confidentiality agreement; or already possessed by the receiving party at the time of its disclosure.

**Data Interface:** The transport protocols and data storage formats provided by BBR for use by Firm, Salesperson Party, and Consultant; BBR may modify the Data Interface in its sole discretion from time to time.

**Back Office Use – Not for Publication:** Any use of those portions of the BBR Data relating to listings of Firm, and Participants other than Firm, that exposes BBR Data only to Firm-Related Persons and to Salespersons affiliated with Firm, subject to the BBR IDX Policies.

**Office Only Use:** Any use of those portions of the BBR Data relating to Firm’s listings.

**Firm-Related Persons:** Consultant, if any, and employees of Firm who are not Salespersons or broker/managers.

**BBR Data:** Data relating to real estate for sale, previously sold or listed for sale, and to BBR Participants (including text, photographs, and all other data formats now known or hereafter invented) entered into BBR’s databases by BBR Participants and BBR, or on their behalf.

**BBR IDX Policies:** BBR’s Rules and Regulations, as amended from time to time, and any operating policies promulgated by BBR. **IDX:** Use and display of portions of the BBR Data under the Internet Data Exchange provisions of the BBR IDX Policies.

**Mobile Applications:** Any displays of IDX data authorized by BBR IDX Policies and listed in Exhibit A that are not websites. “Mobile Applications” does not include mass media display of BBR Data.

**Participant:** This term has the meaning given to it in the BBR IDX Policies. For purposes of this Agreement, “Participant” does not apply to participants of MLSs other than BBR. Where applied in this Agreement to Participants other than Firm, “Participant” also includes Salespersons affiliated with those Participants for whom the Participants are responsible under the laws of the State of Louisiana.

**Salesperson:** Any person holding a real estate license in Louisiana who is not a Participant but who is subject to a Participant’s supervision under the laws of Louisiana.

**Second Level Domain:** “Second Level Domain” has the meaning given to it in this paragraph. “**URL**” means a web address, including the “HTTP://” and any material appearing after a slash in the address. “**Domain Name**” means a URL, less the “HTTP://” and any material appearing to the right of the next slash (‘/’) in the address. (So for example, in the URL

“[Http://janesmith.abcrealty.com/homepage.html](http://janesmith.abcrealty.com/homepage.html),” the Domain Name is “JANESMITH.ABCREALTY.COM.”) “**Top Level Domain**” means the portion of the Domain Name to the right of the right-most period. (In the example,

“COM.”) “**Second Level Domain**” means that portion of a domain name to the left of the right-most period, up to the second period from the right, if any, plus the Top Level Domain.  
(In the example, “ABCREALTY.COM.”) “**Third Level Domain**” means that portion of a domain name to the left of the second period from the right, if any, up to the third period from the right, if any, plus the Second Level Domain.  
(In the example,  
“JANESMITH.ABCREALTY.COM.”).

**VOW:** Use and display of portions of the BBR Data under the Virtual Office Website (VOW) provisions of the BBR IDX Policies.

### **BBR’S OBLIGATIONS**

2. BBR grants to Firm and Salesperson Party a non-exclusive, world-wide license to make copies of, display, perform, and make derivative works of the BBR Data, and the right to sublicense the same to Consultant, during the term of this Agreement, only to the extent expressly permitted by and subject at all times to the terms and restrictions of this Agreement; any other use of the BBR Data is hereby prohibited. All licenses hereunder shall terminate upon the termination of this Agreement. This Agreement is a non- exclusive license, and not a sale, assignment, or exclusive license. BBR retains all rights not expressly granted herein.

3. BBR agrees to provide to Firm, Salesperson Party, and Consultant, during the term of this Agreement, (a) access to the BBR Data via the Data Interface under the same terms and conditions BBR offers to other BBR Participants; (b) seven days’ advance notice of changes to the Data Interface; and (c) seven days’ advance notice of changes to the BBR IDX Policies. BBR does not undertake to provide technical support for the Data Interface or the BBR Data. The Data Interface, together with access to the BBR Data, may from time-to-time be unavailable, whether because of technical failures or interruptions, intentional downtime for service or changes to the Data Interface, or otherwise. Any interruption of access to the Data Interface or BBR Data shall not constitute a default by BBR under this Agreement.

### **FIRM’S OBLIGATIONS**

4. Firm and Salesperson Party shall comply with the BBR IDX Policies at all times. In the event of any perceived conflict between the BBR IDX Policies and this Agreement, the BBR IDX Policies shall govern.

5. The firm shall use the BBR Data obtained under this Agreement for Firm Back Office Use, Firm-Only Use, IDX, **IDX Plus** and VOW use only. Salesperson Party shall use the BBR Data obtained under this Agreement for **IDX and** VOW use only. Any other use is strictly prohibited. Firm and Salesperson Party shall not make the BBR Data or the Confidential Information available to any third party unless expressly authorized to do so under this Agreement. Firm and Salesperson Party may display the BBR Data on web sites and Mobile Applications only to the extent permitted by the BBR IDX Policies and then only on a site or sites resident at the second-level and third-level domain(s) and Mobile Applications indicated on the signature page and in Exhibit A of this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

6. **Firm and Salesperson Party acknowledge that ownership and use rights relating to copyrights in the BBR Data are defined in the BBR IDX Policies or the terms of the participant and subscriber agreements between BBR Firm and Salesperson Party, or both. Firm and Salesperson Party shall not challenge or take any action inconsistent with BBR’s ownership of or rights in the BBR Data. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.**

7. If BBR notifies Firm or Salesperson Party of a breach of the BBR IDX Policies or this Agreement and Firm or Salesperson Party does not immediately cure the breach, Firm and Salesperson Party shall hold Consultant harmless from any liability arising from Consultant’s cooperation with BBR under Paragraph **10.**

8. The firm shall pay the fees, which BBR (or its shareholder associations/MLSs) customarily charges other BBR Participants for data access. The firm acknowledges receipt of BBR’s current schedule of such fees, if any. BBR may in its sole discretion establish or modify its schedule of fees upon 30 days’ written notice to Firm. The firm shall be liable for all costs, including reasonable attorney fees, associated with collecting amounts due under this Agreement.

9. The firm is responsible for the performance of Salesperson’s obligations under this Agreement as if Salesperson had signed this agreement and Firm had agreed to be surety for Salesperson’s obligations hereunder. The firm is surety for Consultant’s obligations under this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

## CONSULTANT'S OBLIGATIONS

10. Consultant shall immediately correct any breach of this Agreement or violation of the BBR IDX Policies within its control, whether committed by Firm, Salesperson Party, or Consultant, upon notice from BBR. Refer to BBR IDX Policy

11. Consultant acknowledges that (as among the parties to this Agreement) Firm and BBR possess all right, title, and interest in all copyrights in the BBR Data. Consultant shall not challenge or take any action inconsistent with BBR's and Firm's ownership of or rights in the BBR Data. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

12. Consultant shall not make the BBR Data or the Confidential Information available to any third party, except on behalf of Firm and Salesperson Party and in a manner consistent with Firm's and Salesperson Party's obligations under Paragraphs 4 through 9 of this Agreement; nor shall it make any other use of the BBR Data, whether commercial or personal. **In the event that Consultant provides services to Participants other than Firm, Consultant must enter separate contracts with BBR. The consultant must ascertain, using the Data Interface on a daily basis, that each Participant to which Consultant provides services remains an eligible Participant; and in the case of Salespersons, that each Salesperson Party remains affiliated with Firm. Failure to comply with the provisions of this paragraph will result in BBR terminating all of Consultant's access to the BBR Data under this Agreement and all similar agreements.** The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

13. Consultant warrants that any effort or use of the BBR Data will not constitute a patent infringement of any third party. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

14. Consultant shall pay the fees if any, that BBR customarily charges other consultants for data access. Consultant acknowledges receipt of BBR's current schedule of such fees if any. BBR may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Consultant. Consultant shall be liable for all costs, including reasonable attorney fees, associated with collecting amounts due under this Agreement.

15. The consultant is surety for Firm's obligations to pay fees under Paragraph 8. The provisions of the preceding sentence shall survive the expiration or other termination of this Agreement in perpetuity. Consultant shall notify BBR within five business days of any change to the information relating to it in this Agreement, including change of its corporate name or address.

## AUDITS OF COMPLIANCE

16. BBR may, or at its option may engage an independent third party to, review, inspect, and test the books, records, equipment, and facilities of Firm, Salesperson Party, and Consultant to the extent reasonably necessary to ascertain Firm's, Salesperson Party's, and Consultant's compliance with this Agreement ("Audit"). BBR may conduct an Audit upon any notice reasonable under the circumstances. Audit activities may include, without limitation, obtaining full access to Firm's, Salesperson Party's, and Consultant's web sites, Mobile Applications, and systems to ensure that BBR Data is displayed in accordance with the BBR IDX Policies; using all features available to end-users of Firm's, Salesperson Party's, and Consultant's systems that employ the BBR Data; and posing as consumers to register and test services Firm, Salesperson Party, and Consultant make available to consumers using the BBR Data. BBR shall pay the costs it incurs, and the out-of-pocket costs Firm, Salesperson Party, and Consultant incur, as part of any Audit; provided, however, Firm shall be liable for all costs of any Audit that discloses that Firm, Salesperson Party, or Consultant has breached this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement for one year.

## CONFIDENTIAL INFORMATION

17. The parties shall protect the Confidential Information with the same degree of care they take to protect their own sensitive business information of like kind but in no event less than reasonable care. A party may disclose Confidential Information if such disclosure is required by law or court order; provided, however, that such party makes commercially reasonable efforts to notify the others in writing in advance of the disclosure. Within five days after termination of this Agreement, the receiving party shall return to the disclosing party all Confidential Information of the disclosing party. The receiving party shall also erase or destroy Confidential Information stored on magnetic media or other computer storage. An officer of the receiving party shall certify in writing that all materials have been returned or destroyed.

## TERM AND TERMINATION

18. The term of this Agreement begins on the date that BBR signs it. This Agreement shall terminate upon the occurrence of any of the following events: (a) immediately upon termination of Firm's privileges as a Participant in BBR; (b) 30 days after any party's notice to the others of its intent to terminate; (c) 10 days after any party's notice to another that the other has breached this Agreement, provided the breach remains uncured; (d) immediately upon any party's notice to another that the other has breached this Agreement, provided the breach is not susceptible to cure, is one of a pattern of repeated breaches, or has caused the party giving notice irreparable harm; (e) immediately upon Firm's notice to a Consultant that Consultant is no longer designated to provide Firm Back Office Use, Firm- Only Use, IDX, or VOW services to it; (f) with regard to any Salesperson Party, immediately upon any event that results in the Salesperson Party no longer being affiliated with Firm; (g) as provided in Paragraphs 28 and 31.

19. In the event Firm's privileges as a Participant (or Salesperson Party's privileges of affiliation with Firm) are terminated while this Agreement is in effect, and BBR subsequently reinstates those privileges, this Agreement shall automatically be reinstated if BBR resumes its obligations under Paragraphs 2 and 3. In the event Firm, Salesperson Party, or Consultant breaches this Agreement and entitles BBR to terminate under Paragraph 18, BBR may in its sole discretion suspend its performance instead of terminating this Agreement. BBR may make this election by notice to the other parties within three days after the initiation of the suspension. Firms, Salesperson Party's, and Consultant's obligations hereunder continue during any period of suspension. In the event of any suspension or termination of this Agreement, Firm, Salesperson Party, and Consultant shall make no further use of the BBR Data or any derivative works based on it (except the portions of it relating to Firm's own listings) until and unless Firm's or Salesperson Party's rights under this Agreement are restored.

## GENERAL PROVISIONS

20. **Applicable law.** This Agreement shall be governed by and interpreted according to the laws of the State of Louisiana, without regard to its conflicts and choice of law provisions.

21. **Survival of Obligations.** The "Definitions," "Confidential Information," and "General" provisions of this Agreement shall survive its termination or expiration in perpetuity. Other provisions shall survive according to their terms.

22. **BBR's Remedies.** (a) Injunctive relief: Because of the unique nature of the BBR Data and Confidential Information, Firm, Salesperson Party, and Consultant acknowledge and agree that BBR would suffer irreparable harm in the event that any of them breaches or threatens to breach its obligations under this Agreement, and that monetary damages would be inadequate to compensate BBR for a breach. BBR is therefore entitled, in addition to all other forms of relief, to seek injunctive relief to restrain any threatened, continuing or further breach by Firm, Salesperson Party, or Consultant, or any one of them, without showing or proving any actual damages sustained by BBR, and without posting any bond. (b) Liquidated damages: Firm, Salesperson Party, and Consultant acknowledge that damages suffered by BBR from access to the BBR Data by an unauthorized third party as a result of disclosure of any passwords or unauthorized disclosure of the BBR Data to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to BBR to enter into this Agreement, Firm, Salesperson Party, and Consultant agree that in the event Firm, Salesperson Party, Firm-Related Persons, or Consultant, or its employees, agents, or contractors, disclose any password to access the BBR Data or disclose the BBR Data itself to any unauthorized third party, regardless of whether such disclosure is intentional or negligent, Firm, Salesperson Party, and Consultant shall be liable to BBR for liquidated damages in the amount of \$15,000 for each such disclosure and termination of this Agreement. Liability of Firm, Salesperson Party, and Consultant under this paragraph is joint and several.

**23. Limitation of liability/exclusion of warranties. IN NO EVENT SHALL BBR BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (EVEN IF BBR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), OR LOST PROFITS ARISING FROM THIS AGREEMENT OR ANY BREACH OF IT. IN NO EVENT SHALL BBR BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY AMOUNT IN EXCESS OF THE GREATER OF (A) THE FEES FIRM, SALESPERSON PARTY AND CONSULTANT HAVE PAID BBR, IF ANY, IN THE YEAR, IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES; OR (B) \$100. FIRM, SALESPERSON PARTY, AND CONSULTANT ACKNOWLEDGE THAT BBR PROVIDES THE BBR DATA ON AN “ASIS,” “AS-AVAILABLE” BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTY OF TITLE, NON-INFRINGEMENT, AND ACCURACY. BBR SHALL NOT BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY CLAIM ARISING FROM INACCURACIES IN THE BBR DATA, ANY FAILURE TO UPDATE THE BBR DATA PROMPTLY, OR THE BBR DATA’S INADEQUACY FOR ANY PARTICULAR USE, WHETHER PERSONAL OR COMMERCIAL. BBR MAKES NO WARRANTY, INCLUDING THOSE REGARDING TITLE, AVAILABILITY, OR NON-INFRINGEMENT REGARDING TRADEMARKS LICENSED UNDER THIS AGREEMENT IF ANY.**

**24. Dispute resolution; Attorney’s fees.** In the event BBR claims that Firm, Salesperson Party, or Consultant has violated the BBR

IDX Policies, BBR may, at its option, resolve such a claim according to the disciplinary procedures set out in the BBR IDX Policies, provided BBR does not also base a claim that Firm, Salesperson Party, or Consultant has breached this Agreement on the same facts. Except as set forth in the preceding sentence, any controversy or claim to which Consultant is not a party arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, including its Optional Rules for Emergency Measures of Protection (collectively, the “Arbitration Rules”), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties irrevocably agree, consent, and submit themselves to personal jurisdiction in the courts of the State of Louisiana located in Jefferson Parish or the federal court of the United States situated therein, as applicable, which shall have sole and exclusive jurisdiction over any action under this Agreement not subject to BBR’s disciplinary procedures or to arbitration. If any party prevails in an action or proceeding to enforce or interpret this Agreement or any provision hereof, it shall be entitled to reasonable attorney’s fees and costs for the legal action.

**25. Indemnification.** Subject to Paragraph 23, in the event a party breaches any provision of this Agreement, that party (the Indemnifying Party) shall indemnify the other parties, their subsidiaries and affiliated companies, and all their respective employees, directors, agents, and authorized successors and assigns (the Indemnified Parties), against any and all losses, damages, and costs (including reasonable attorneys’ fees) arising from each claim of any third party resulting from the breach. Consultant indemnifies BBR, Firm, Salesperson Party, or customers of BBR, Firm, or Salesperson Party, to whom Consultant provides a product or service using BBR Data, against any and all losses, damages, and costs (including reasonable attorneys’ fees) arising from any third party claim of patent infringement. The Indemnified Parties shall (a) promptly notify the Indemnifying Party of any claim and give the Indemnifying Party the opportunity to defend or negotiate a settlement of any such claim at the Indemnifying Party’s expense, and (b) cooperate fully with the Indemnifying Party, at the Indemnifying Party’s expense, in defending or settling any claim. The Indemnified Parties shall be entitled to engage their own local counsel at the Indemnifying Party’s expense.

**26. Notice.** All notices to be given under this Agreement shall be mailed, sent via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth herein or such other address of which any party may advise the others in writing during the term of this Agreement; and shall be effective the earlier of the date of receipt or three days after mailing or other transmission.

**27. No Waiver.** No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.

**28. No Assignment.** No party may assign or otherwise transfer any of its rights or obligations under this Agreement to any other party without the prior written consent of all other parties to this Agreement. Any purported assignment or delegation in contravention of this paragraph is null and void and shall immediately cause this Agreement to terminate.

29. **Entire Agreement; Amendment.** Subject to BBR IDX Policies, this Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings, whether oral or written, relating to the same. BBR may amend this agreement by providing 30 days' advance notice of the amendment to all other parties; if any party continues to use the Data Interface or the BBR Data after the expiration of the 30-day notice period, that party will be deemed to have agreed to the terms as amended.

30. **Relationship of the Parties.** The parties hereunder are independent contractors. No party shall be deemed to be the agent, partner, joint venture, franchisor or franchisee, or employee of BBR or have any authority to make any agreements or representations on behalf of BBR. Each party shall be solely responsible for the payment of compensation, insurance, and taxes of its own employees.

31. **Severability.** Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. In the event that any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the parties, the invalid or unenforceable provision shall be replaced, if possible, with a valid provision which most closely approximates the intent and economic effect of the invalid provision. In the event any provision of the limitation of liability, exclusion of warranties, or indemnification is held invalid or unenforceable, this Agreement shall immediately terminate.

(The remainder of this page intentionally left blank.)

## **Bayou Board of REALTORS Data Access Agreement**

Under this Agreement, **FIRM AND SALESPERSON PARTY ARE PERMITTED TO WORK ONLY WITH THE CONSULTANT NAMED HERE.** If Firm or Salesperson Party chooses to engage a different consultant or additional consultants, Firm must enter into a new version of this Agreement with BBR and each such consultant.

Under this Agreement, **CONSULTANT IS PERMITTED TO WORK ONLY WITH THE FIRM NAMED HERE.** The consultant may not use data obtained under this Agreement to provide any services to Participants other than Firm. The consultant must enter into a new version of this Agreement with BBR and each additional Participant.

If Firm will perform its own technical work and there is no Consultant party to this Agreement, Firm will complete the Consultant signature box.

**This Agreement is for the following uses (check all that apply):**

**Back Office Use – Not For Publication**  **Office Only Use**  **IDX**  **IDX (with Sold Data)**  **VOW**

<p><b>BBR:</b> Bayou Board of REALTORS®</p> <p>Signature</p> <p>Name</p> <p>Date: (effective date of this Agreement)</p> <p><b>Contact for notices and operations matters</b></p> <p>Name: Phone: Email:</p> <p style="border: 1px solid red; padding: 2px;">Broker signature needed</p>	<p><b>CONSULTANT</b></p> <p>Consultant name Constellation Web Solutions</p> <p><i>Dan Dlh</i> Signature of owner or officer</p> <p>Dan Dlh Name of owner or officer</p> <p><b>Contact for notices and operations matters</b></p> <p>Name: Dan Dlh Phone: 425-636-6910 Email: brokersolutions@constellationws.com Mailing: 6737 W. Washington St. Ste 2120 West Allis, WI 53214</p> <p style="border: 1px solid red; padding: 2px;">Agent signature needed</p>
<p><b>FIRM</b></p> <p><b>Firm name</b></p> <p><b>Signature of owner or officer</b></p> <p><b>Name of owner or officer</b></p> <p><b>Contact for notices and operations matters</b></p> <p><b>Name:</b> <b>Phone:</b> <b>Email:</b> <b>Mailing:</b></p> <p>Second or Third Level Domain or Mobile Application:</p> <p><input type="checkbox"/> Back Office - Not For Publication <input type="checkbox"/> Office Only <input checked="" type="checkbox"/> IDX <input type="checkbox"/> IDX (w/ Sold Data) <input type="checkbox"/> VOW (If more than one will be used, specify each in Exhibit A.)</p>	<p><b>SALESPERSON</b></p> <p><b>Salesperson name</b></p> <p><b>Signature of salesperson</b></p> <p><b>Name of Company/Broker)</b></p> <p><b>Contact for notices and operations matters</b></p> <p><b>Name:</b> <b>Phone:</b> <b>Email:</b> <b>Mailing:</b></p> <p><input checked="" type="checkbox"/> IDX <input type="checkbox"/> VOW (If more than one will be used, specify each in Exhibit A.)</p>

# BAYOU BOARD OF REALTORS®

## Data Access Agreement

### Exhibit A – Additional Domains and Mobile Applications

In addition to the Second and Third Level Domains specified on the signature page Firm may display BBR Data subject to the terms of this Agreement at the following Second and Third Level Domains and Mobile Applications (**attach additional pages if necessary**):

- IDX  IDX (w/Sold Data)  VOW
- IDX  IDX (w/Sold Data)  VOW
- IDX  IDX (w/Sold Data)  VOW
- IDX  IDX (w/Sold Data)  VOW
- IDX  IDX (w/Sold Data)  VOW
- IDX  IDX (w/Sold Data)  VOW

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### MONTHLY CHARGES

All Office Only Feeds	Free for all feeds
<b>IDX Active, Pending, Predicated (No Sold)</b>	\$25.00 each
IDX Plus Sold – Active, Pending, Sold	\$32.00 each
IDX Vow - All Data	\$100.00 each

**▶ Payment must be received in full prior to set up ◀**

**▶ Billed Quarterly ◀**

**▶ All Payments are Non-Refundable ◀**

Payment Due for Initial     \$25



Payment Option: Check  Visa  MasterCard  American Express

Discover Credit Card #: \_\_\_\_\_

Credit Card Information  
and signature needed

Signature to authorize credit card transaction \_\_\_\_\_

Expiration Date \_\_\_\_\_ / \_\_\_\_\_

## Bayou Board of REALTORS

### Data Access Policies

#### Internet Data Exchange (IDX)

**SECTION 18.** IDX Defined IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listings (Amended 5/17)

**Section 18.1 Option #1:** Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display. (Amended 05/12)

**Option#2-** Option Not Approved

#### Section 18.2

**Option#1-** Option Not Approved

**Option#2-** Option Not Approved **Option#3-**

Option Not Approved

**Option #4:** Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. (Amended 11/09)

**Section 18.2.1** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. (Amended 05/12).

**Section 18.2.2** MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 05/12)

**Section 18.2.3** Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs). (Amended 05/12)

**Section 18.2.4** Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location (“uptown”, “downtown”, etc.), list price, type of property, (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant. (Amended 11/06)

**Section 18.2.5** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve (12) hours. (Amended 11/14)

**Section 18.2.6** Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 05/12)

**Section 18.2.7** Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 05/12)

**Section 18.2.8** Any IDX display controlled by a participant or subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. (Adopted 05/12)

**Section 18.2.9** Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 05/12)

**Section 18.2.10** An MLS Participant may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 1/2015)

**Section 18.2.11** Participants shall not modify or manipulate information relating to other participant's listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. (Adopted 05/2015)

**Section 18.2.12** All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. \*(Amended 05/17)

**Section 18.3.** Display. Display of listing information pursuant to IDX is subject to the following rules:

**Section 18.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. (Amended 05/12)

**Section 18.3.1.1** The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 05/12)

**Section 18.3.4-** Option Not Approved

**Section 18.3.5-** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their participant's consent and control and the requirements of state law and/or regulation.

**Section 18.3.7-**All listings displayed pursuant to IDX shall show the MLS as the source of the information. (Amended 05/17)

**Section 18.3.8** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. \* (Amended 05/17)

**Section 18.3.9** The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer. (Amended 11/17) O

**Section 18.3.10** The right to display other participants' listings pursuant to IDX shall be limited to a participant's office(s) holding participatory rights in this MLS. O

**Section 18.3.11-** Option Not Approved

**Section 18.3.12** Display of expired (X) and withdrawn (W) listings are prohibited. (Amended 12/15)

**Section 18.3.13** Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and e-mail address(es) is prohibited.

**Section 18.3.14-** Option Not Approved

### **Section 18.3.15- Option Not Approved**

**Section 18.3.16 Option #2:** Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. (Adopted 11/09)

### **Section 18.4 Service Fees and Charges- Option Not Approved**

## **Section 19 Virtual Office Websites (VOWS)**

### **Section 19.1 VOW Defined**

- a. A "Virtual Office Website" (VOW) is a participant's Internet website, or a feature of a participant's website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant's oversight, supervision, and accountability.
- b. As used in Section 19 of these rules, the term "participant" includes a participant's affiliated non-principal brokers and sales licensees—except when the term is used in the phrases "participant's consent" and "participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an "Affiliated VOW Partner" (AVP) on behalf of a participant.
- c. "Affiliated VOW Partner" (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant's supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.
- d. As used in Section 19 of these rules, the term "MLS listing information" refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

### **Section 19.2**

- a. The right of a participant's VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b. Subject to the provisions of the VOW policy and these rules, a participant's VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., "Internet Data Exchange" (IDX).

- c. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant's VOW.

### **Section 19.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
- (i.) The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - (ii.) The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - (iii.) The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
- i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
  - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW

**iv.** that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property

**v.**that the registrant acknowledges the MLS' ownership of the validity of the MLS' copyright in the MLS database

- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f. The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

**Section19.4** A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions or get more information about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

**Section19.5** A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

**Note:** MLSs may adopt rules requiring Participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS

**Section19.6**

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.
- b. A participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision.

**Seller Opt-out Form**

- 1. Check one.
  - a. I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.
  - b. I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
- 2. I understand and acknowledge that if I have selected Option a., consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.

Initials of Seller

- c. The Participant shall retain such forms for at least one year from the date they are signed, or one year from the date the listing goes off the market, whichever is greater.

#### **Section 19.7**

Subject to Subsection b., below, a participant's VOW may allow third-parties:

- i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- a. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

**Section 19.8** A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 19.9** A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

**Section 19.10** Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS®, VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

**Section 19.11** A participant's VOW must display the participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 19.12** A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

**Section 19.13** A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.



**Section 19.14** A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

**Note:** Adoption of Sections 19.15 through 19.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on participants' use of MLS listing information in providing brokerage service through all other delivery mechanisms.

**Section 19.15** A participant's VOW may not make available for search by or display to Registrants any of the following information:

a. Expired and withdrawn listings

**Note:** Due to the 2015 changes in IDX policy and the requirements that participants are allowed to use the MLS listing information through all delivery mechanisms when providing brokerage services, MLSs can no longer prohibit the display of pending ("under contract") listings to the Registrants of a participant's VOW. b. the compensation offered to other MLS participants

c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency

d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)

e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property

f. sold information **Note:** If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15f. Must be omitted. (Revised 11/15)

**Section 19.16** A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

**Section 19.17** A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable but is not guaranteed accurate by the MLS.

A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

**Section 19.18** A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data

**Section 19.19** A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than \_\_\_\_\_ current listings and not more than \_\_\_\_\_ sold listings in response to any inquiry.

**Note:** The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule, but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less. (Amended 11/17) M

**Section 19.20-Option Not Approved**

**Section 19.21** A participant may display advertising and the identification of other entities (“co-branding”) on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant’s logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

**Section 19.22** A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

**Section 19.23- Option Not Approved**

**Section 19.24** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

**Section 19.25**Option Not Approved