



## Site License Agreement

7/2024

- 1) Print and read the following Multiple Listing Service Site License Agreement; and
- 2) For information regarding Maine Listings' multiple office Site License Policy Statement refer to the Maine Listings Rules and Regulations and read Addendum I; and
- 3) If you are uncertain if an additional office needs a Site License see the Site License Requirements; and
- 4) Complete ALL information including selecting your service type on Exhibit A, and
- 5) Election regarding copyrights in Participant Contributions. Participant must select an Option in Section 21. If no election is indicated, or if both options are checked, then Participant is deemed to have selected Option II.
- 6) SPECIAL NOTE: Site License Agreement processing for real estate companies does not begin until Maine Listings has been provided with a copy (scan, fax or mail) of the applicant's:
  - a. "Licensee Report" printed from the Maine Department of Professional & Financial Regulation's website at: <http://pfr.informe.org/ALMSOnline/ALMSQuery/SearchIndividual.aspx>. The "Licensee Detail" must clearly show that the applicant is actively licensed or certified.
  - b. If incorporated: "Information Summary" printed from the Maine Department of the Secretary of State's website at: [http://www.informe.org/icrs/ICRS;jsessionid=aaaQer7J9Br\\_Fm9HAys\\_b?MainPage=x](http://www.informe.org/icrs/ICRS;jsessionid=aaaQer7J9Br_Fm9HAys_b?MainPage=x)
- 7) Return the entire site license to: Maine Listings, 92 Darling Avenue, South Portland, ME 04106; or by email: [processing@mainelistings.com](mailto:processing@mainelistings.com) (or Fax: (207) 780-1367). Maine Listings will send an email with payment instructions within 24 hours.

**Together with one of the following:** (Note: Maine Listings only needs the names of the owners. You do not have to transmit any sensitive financial information.)

  - a) If a corporation or limited liability company: a copy of the documentation filed with the Secretary of State, or
  - b) If a partnership: a copy of your partnership agreement, or
  - c) If a sole proprietorship using a d/b/a: a copy of the Maine Real Estate Brokerage license.
- 8) Review the Site License Agreement with each new Authorized User.
- 9) If you still have questions call Maine Listings at (800) 779-4938 or 780-1366 (local to Portland).

AFTER PROCESSING IS COMPLETED A COPY OF THE EXECUTED SITE LICENSE WILL BE EMAILED TO YOU.

**MULTIPLE LISTING SERVICE SITE LICENSE AGREEMENT**

THIS MULTIPLE LISTING SERVICE SITE LICENSE AGREEMENT (“**Agreement**” or “**Site License Agreement**”) is made and entered into by and among the Maine Real Estate Information System, Inc. d/b/a Maine Listings (“**Maine Listings**”), a Maine business corporation, and the following party (the “**Participant**”):

I certify that I (print your full legal name) \_\_\_\_\_ am the (place a check mark in the appropriate form of ownership and your relationship from the pick lists below)

**Sole Proprietor**

- I am that Individual, or
- any \*person authorized by that Individual, or
- if a real estate licensee any person listed on the Maine Department of Professional & Financial Regulation as the "Responsible Person"

**Partnership**

- I am a General Partner (GP), or
- \*Person Authorized by A GP, or
- if a real estate licensee any person listed on the Maine Department of Professional & Financial Regulation as the "Responsible Person"

**Corporation**

- I am the President, or
- any \*person authorized by the entity, or
- if a real estate licensee any person listed on the Maine Department of Professional & Financial Regulation as the "Responsible Person"

**Limited Liability Company (LLC)**

- I am the President, or
- Manager (Corporate Manager), or
- any \*person authorized by the entity, or
- if a real estate licensee any person listed on the Maine Department of Professional & Financial Regulation as the "Responsible Person"

\* Requires letter of authorization

And I have the legal authority to register the Participant's Site listed below on behalf of Participant \_\_\_\_\_, (print full Legal name of firm exactly as it appears on its Maine Real Estate License) with the following State License Number \_\_\_\_\_, as such Participant's Authorized Representative.

**Real Estate Licensees Note:** For real estate licensees the firm is always the Participant.

The Participant has a (select all that apply)

Maine Real Estate Broker License

As the **Authorized Representative** of the above **Participant** I personally have a (select all that apply)

Maine Real Estate Broker License: License # \_\_\_\_\_

As the **Authorized Representative** of the above **Participant** I am a (select one)

REALTOR of (Name and State of Board)

Non- REALTOR

### Site Information

Site Address: \_\_\_\_\_ Mailing Address If Different from Site Address: \_\_\_\_\_  
Street: \_\_\_\_\_ Street: \_\_\_\_\_  
City: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Participant's Email Address: \_\_\_\_\_  
Authorized Representative's Email Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

WHEREAS, Maine Listings provides certain multiple listing services, including MLS system software, database services, other applications, and other related services; and

WHEREAS, Participant represents that it qualifies and will continue to qualify and meet the minimum criteria for "Participation" as set forth in the Maine Listings Bylaws; and

WHEREAS, Participant desires to purchase services from Maine Listings; and

WHEREAS, the undersigned Authorized Representative is signing this Agreement as the Guarantor of the Participant's prompt and full performance of Participant's obligations under this Agreement;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual agreements set forth below, the receipt and sufficiency of which consideration are hereby acknowledged, the undersigned parties hereby agree as follows:

### DEFINITIONS

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

- a. "**Authorized Representative**" or "**Guarantor**" means the person appointed by Participant to represent Participant on all Maine Listings matters and is responsible for Participant's conduct under the Maine Listings Policies. The Authorized Representative must be a REALTOR® in order for the REALTOR® fees to be applicable.
- b. "**Maine Listings Affiliates**" means Maine Listings and its officers, directors, employees, agents, representatives, licensors, shareholders, and parent company.
- c. "**Maine Listings Database**" means any and all data available to Participant on the Maine Listings System, including the Participant Contribution, and all other text, binary, and photographic image data, and all compilations and formats in which the Maine Listings compiles and presents real estate listing content, photographs, maps, virtual tours and other information submitted to and accessible via the MLS Service, including, but not limited to, any bound book, loose leaf, computer databases, card or other format now known or hereafter discovered.
- d. "**Maine Listings Policies**" means Maine Listings' then current bylaws, rules and regulations, and policies and procedures promulgated by Maine Listings, as Maine Listings amends them from time to time.
- e. "**Maine Listings Service**" means the services Maine Listings provides to Participant under this Agreement and similar services Maine Listings provides to third parties under similar agreements, including any access or license to the Maine Listings Software, the Maine Listings Database, and the Maine Listings System.
- f. "**Maine Listings Software**" means Maine Listings' proprietary web browser interface(s) to the Maine Listings System.
- g. "**Maine Listings System**" means the aggregate of all hardware, software and data connection systems that Maine Listings maintains, or that Maine Listings' contractors maintain on its behalf, in order to make access to the Maine Listings Database available to Participant.

- h. **“Other Participants and Subscribers”** means all participants, subscribers, and users of Maine Listings Service not party to this Agreement.
- i. **“Participant Compilation Contribution”** or **“PCC”** means all selection, coordination, and arrangement by Subscribers of the listing information submitted, contributed, or input in the Maine Listings System, including the choice, classification, categorization, ordering, and grouping of material or data that is included in the Maine Listings System. PCC does not include original text or photographs.
- j. **“Participant Contribution”** means all real estate listing content including but not limited to, text, photographs, images, graphics, audio and video records, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property and any other data, information and/or materials that the Subscribers submit, contribute, or input in the Maine Listings System, in any form now known or hereafter discovered, except the PCC.
- k. **“Site”** means Participant’s authorized business Site as specifically provided above. Participant and Guarantor acknowledge and agree that a separate site license agreement must be executed for each office or place of business where i) Participant wishes to have a separate identity and/or ii) authorized Subscribers. Participant represents and agrees that this Site License shall apply to the above-named place of business and no other.
- l. **“Subscribers”** means any individual licensed at Participant’s Site, any individual who is a personal assistant and/or support staff, or Participant’s employees who are authorized in writing by Participant to use the Maine Listings Service.
- m. **Usage.** The following usages apply to any interpretation or construction of this Agreement, unless the context clearly indicates otherwise.
  - (a) Wherever the term “including” is used, it means “including, but not limited to.”
  - (b) The singular and plural numbers and masculine, feminine, and neuter genders of words are fully interchangeable.
  - (c) Wherever the term “law” is used, it means all statutes, regulations, and case law, both state and federal, as they are amended. Without limiting the generality of the foregoing, “law” expressly includes all state and federal fair housing statutes and regulations.
  - (d) Wherever the term “person” is used it means any individual, partnership, corporation, limited liability company, limited partnership, joint venture or any other legal entity.

## MAINE LISTINGS’ OBLIGATIONS

2. **Services.** Subject to the terms and conditions of this Agreement and the Maine Listings Policies, Maine Listings shall provide one unique user ID and password to each of the Subscribers that are authorized to obtain access to the Maine Listings Service by virtue of this Agreement or another license agreement; and Authorized Representative for which Participant is responsible shall have all rights and obligations of a participant in Maine Listings as set forth in the Maine Listings Policies. The user ID and password will provide Participant and Authorized Representative access to all data and functions in the Maine Listings Service to which Participants are entitled under the Maine Listings Policies. Maine Listings may require Authorized Representative to change their password at any time. Maine Listings makes no warranties, however, that the Maine Listings Service will be available at all times. Maine Listings may use a third-party contractor, determined in Maine Listings’ sole discretion, to facilitate its responsibilities under this Agreement.
3. **Training.** Basic training on Maine Listings Software is provided to authorized Subscribers. Any such training shall be provided by Maine Listings in accordance with a schedule to be established by Maine Listings. There is no additional fee for initial training on Maine Listings Software. Maine Listings may provide additional training at their sole discretion; any such training, if any, shall be provided at the sole cost and expense, if any, of the Participant. Any such training provided after the initial training session will be conducted in accordance with the schedule established by the party providing the training.

## PARTICIPANT ACKNOWLEDGEMENTS

4. **Modifications to service.** Maine Listings may, but is not required to, modify the Maine Listings Service, including removing information and making additional information available, and adding and removing system functions. Certain products and services made available in conjunction with the Maine Listings Service may be subject to agreements other than this Agreement and may require payment of additional fees.
5. **Editorial control.** Maine Listings is not required to, and assumes no responsibility to, review, edit, or exercise editorial control over the Maine Listings Database or the Participant Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, Maine Listings may take any steps necessary in its judgment, including deleting the Participant Contribution or portions thereof, to avoid or remedy any violation of law, breach of the Maine Listings Policies or infringement of intellectual property right.

Additionally, Maine Listings shall have the right to alter and/or remove metadata and copyright management information contained in the Participant Contribution.

6. Conditions of service. Participant must at all times have an Authorized Representative designated for each office. Participant shall ensure that at all times Authorized Representatives for which Participant is responsible under this Agreement satisfy the prerequisites for participation in the Maine Listings Service. Subscribers may subscribe to Maine Listings Service only if Participant satisfies the prerequisites for participation. Subscribers must be affiliated with a Participant at all times during the term of this Agreement. Participant and Authorized Representative will comply at all times with (a) the Maine Listings Policies at all times, and (b) all applicable laws, statutes, ordinances and regulations in performance of their respective obligations under this Agreement, including the Fair Housing Act (42 U.S.C. §3601 et. seq.) and the Americans with Disabilities Act (42 U.S.C. §12101 et. seq.). Authorized Representative and Participant will ensure Subscribers' compliance with the foregoing.
7. Disclosure to third parties. Maine Listings reserves the right to distribute to third parties certain information about Participant, including Participant's and Authorized Representative's names and business addresses, phone numbers and email addresses. Maine Listings reserves the right to distribute to third parties aggregated information about Participant's, Authorized Representative, and Other Participants' and Subscribers' use of the Maine Listings Service, but not about Participant's or Authorized Representative's use specifically.
8. Disclosure to government. Participant acknowledges that Maine Listings may provide government agencies access to the Maine Listings Service at any time in Maine Listings' sole discretion.
9. Priority of agreements. Participant must enter into this Agreement before any Subscriber may obtain access to the Maine Listings Service.
10. IDX and VOW data access subject to separate agreement; third-party TOU. Participant acknowledges that access to Maine Listings' IDX or VOW database and other data feeds can occur only subject to a separate written agreement between Maine Listings, Participant and Subscriber, as applicable. Participant acknowledges that access to third-party software offered via Maine Listings Services may be subject to separate third-party terms of use ("Other TOUs"). For avoidance of doubt, Participant shall be subject to the terms and conditions of this Agreement as well as any Other TOUs for those products and services to which they apply.

## **PARTICIPANT'S OBLIGATIONS**

11. Use limited; Compensation Disclaimer. Participant shall use the Maine Listings Service solely for the purpose of selling, listing, leasing, valuing, and appraising real estate, strictly as permitted by the Maine Listings Policies. Except as expressly provided in this Agreement and the Maine Listings Policies, Participant shall not copy, create derivative works of, distribute, perform, or display the Maine Listings Service or any part of it, except the Participant Contribution. Participant acknowledges the following statements and may not communicate with any consumer in any manner that contradicts any of the following statements or brings them into doubt:
  - (a) A broker's compensation and fees for services are not set by law and are fully negotiable.
  - (b) A broker's compensation for services rendered to a seller or for services rendered to a buyer is solely a matter of negotiation between the broker and their client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage service agreement.
  - (c) The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and/or seller, and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker and/or seller.
12. Other restrictions on use. Participant and Subscribers shall not disclose, disseminate, publish, copy, distribute, de-compile, or otherwise use the computer programs, or data, or any portion thereof provided for, under, or pursuant to this Agreement other than as specifically provided in this Agreement. Participant and Subscribers shall not modify, convert, or otherwise manipulate the source code or object codes of the Maine Listings Software. Except as specifically provided for in this Agreement and/or elsewhere in the Maine Listings Policies, Participant and Subscribers shall not re-sell, lease, re-distribute, publish, post, copy, de-compile, reorganize, or otherwise disseminate the Maine Listings Software or Maine Listings Database, or any portion of the data, obtained or accessible pursuant to this Agreement including without limitation by web posting, framing on an Internet site or any other means or medium. Nothing in this Agreement shall permit or allow the Maine Listings Software or Maine Listings Database, or any portion thereof to a) be made available to the general public or non-participating brokers, or b) be used by any person using the Maine Listings Services for data mining, de-compiling, or reorganization of the data, or any portion thereof, including without limitation for use or distribution to other persons for customer lists, or prospective customer lists, or mailing, or e-mail lists. In the event of a breach or threatened breach of this paragraph, Maine Listings shall be entitled to injunctive relief

restraining the Participant and Subscribers from breaching the terms of this Agreement and directing compliance with this Agreement.

13. Confidentiality and security. Participant shall maintain the confidentiality of its user ID and password. Maine Listings issues each Subscriber a separate, unique ID and password. Participant shall ensure that (a) its Subscribers maintain the confidentiality of their user IDs and passwords, (b) Subscribers do not share their user IDs or passwords, and (c) that no one but authorized Subscribers obtains access to the Maine Listings Service or any part of it. To maintain the confidentiality of all user IDs, passwords, the Maine Listings Database, and the Maine Listings System, Participant shall take the greater of reasonable care or the care it takes to protect its own confidential information. Participant and Authorized Representative shall not make any user IDs, passwords, the Maine Listings Database, or the Maine Listings System available to any third party, including without limitation affiliates, franchisors, and subsidiaries, unless expressly authorized to do so under this Agreement or the Maine Listings Policies. Unauthorized use of the credentials will be considered a default under this Agreement, resulting in the immediate termination of all Maine Listings Service and entitling Maine Listings to all of its rights, remedies and damages. Failure to comply with this provision will result in a significant fine, as set forth in the Maine Listings Policies. Participant expressly agrees that, should any of Participant's Subscribers cause or allow the credentials to be removed, altered, damaged, or utilized by an unauthorized party (causing the security and integrity of the Maine Listings System to be jeopardized or destroyed), **Participant shall be liable for all costs and expenses of modifying or changing over the Maine Listings System** and any other lawful damages due Maine Listings. Participant may disclose information confidential under this Agreement if, and to the extent, the order of a court or other tribunal with jurisdiction requires disclosure; provided however, the disclosing Participant first gives reasonable notice to Maine Listings to permit Maine Listings to seek a protective order.
14. Equipment. Participant and Subscribers shall be solely responsible for their respective computer systems (including hardware and software), including purchase and maintenance, and shall provide suitable computer systems, electrical, telephone, and internet connections at their own expense necessary for Participant's and Subscribers' use of the Maine Listings Service. Maine Listings shall have no responsibility for Participant and Subscribers' supplied terminals, personal computers software or related equipment.
15. Connection Permission. Participant for itself and all of its Subscribers hereby grants to Maine Listings permission to connect with their respective computer systems and to electronically send program upgrades, modifications and/or other system data and information to the Participant's and Subscriber's computer systems, to read or modify data, security, and access privileges contained in the Participant's or Subscriber's computer systems, and to execute standard maintenance and service functions. Participant for itself and all its Subscribers hereby releases and agrees to indemnify and hold harmless Maine Listings from any all claims, causes of action, damages or liability related to any such computer system connection and related activities.
16. Participant Contribution. With regard to any Subscriber making a Participant Contribution to the Maine Listings Service, Participant warrants that the information submitted complies with all applicable laws, statutes, ordinances and regulations and the Maine Listings Policies in all respects, including with regard to (a) required data fields; (b) format of submission; (c) permitted and required listing types; and (d) procedures for submission. Participant warrants that the Participant Contribution does not infringe or violate any patents, copyrights, trademarks, trade secrets or other proprietary rights of any third party; and that there is no claim, litigation or proceeding pending or threatened with respect to the Participant Contribution.
17. Subscriber agreements. Participant shall ensure that each Subscriber who will have access to the Maine Listings System or Maine Listings Database, enters into an end user license and/or subscriber agreement with Maine Listings. Participant is liable for all fees due under each such agreement.
18. Subscriber supervision. Participant acknowledges its prior receipt and review of the Maine Listings Policies, and Participant shall ensure that all Subscribers comply at all times with the Maine Listings Policies and with applicable laws now existing together with any future changes, amendments, or modifications thereto made from time-to-time hereafter. Participant acknowledges and undertakes full responsibility for communicating to its Subscribers the full content of the Maine Listings Policies and any subsequent changes and any changes, amendments or modifications thereto made from time-to-time hereafter. Participant is liable for any Subscriber's breach of any agreement between the Subscriber and Maine Listings relating to the Maine Listings Service or violation of any of the Maine Listings Policies as if Participant had committed it.
19. List of Subscribers. Participant shall ensure Maine Listings has a current list of all of Subscribers; Participant shall utilize the electronic member portal software to inform Maine Listings of any change in the Subscribers within the time required in Maine Listings Policies.

20. Accurate information. Participant warrants that the Subscribers have used and will use reasonable care to ascertain the accuracy of the Participant Contribution and its compliance with all laws. Participant shall ensure that any changes to the Participant Contribution are made on the Maine Listings System within such time as Maine Listings shall provide in the Maine Listings Policies. Pursuant to the Maine Listings Policies, Participant shall provide to Maine Listings all documentation Maine Listings requests of Participant to ascertain Participant's compliance with this Agreement.

## INTELLECTUAL PROPERTY

21. Election regarding copyrights in Participant Contributions. Participant must elect from the following options. If no election is indicated, or if both options are checked, then Participant is deemed to have selected Option II.

**OPTION I**

(a) *Assignment from Participant.* Participant hereby unconditionally assigns to Maine Listings all right, title and interest in the Participant Contribution, including, without limitation, any copyrights therein under U.S. and international copyright law; Participant warrants that it has the authority to make this assignment. Participant acknowledges that once it has made the election agreeing to this section, all copyrights in all portions of the Participant Contribution, whether submitted prior to or after executing this Agreement, shall irrevocably vest in Maine Listings.

(b) *Maine Listings Obligations.* Maine Listings hereby grants to Participant a non-exclusive, perpetual, world-wide, royalty-free, license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Participant Contribution and those portions of the Maine Listings Database relating to Participant's listings. Maine Listings shall use commercially reasonable efforts to make periodic registrations of the Maine Listings' copyrights in the Maine Listings Database; Maine Listings shall employ commercially reasonable efforts to detect and hinder third parties using the Participant Contribution without Participant's permission.

**OPTION II**

(a) *License from Participant.* Participant hereby grants to Maine Listings a non-exclusive, perpetual, world-wide, transferable, royalty-free, license to use, reproduce, modify, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Participant Contribution. Participant warrants that it has the authority to grant this license.

(b) *Maine Listings has no obligations to protect.* Participant acknowledges that: (i) Maine Listings makes no grant of license or assignment to Participant of any rights in the Maine Listings Database except as set forth in Paragraph 23; (ii) Maine Listings will make no effort to register the copyrights in the Participant Contribution, and Participant will be responsible for all costs and efforts associated with registration; (iii) timely copyright registration is a prerequisite to suing a copyright infringer, and is necessary in order to obtain certain remedies available under the U.S. Copyright Act; (iv) **Maine Listings will employ no efforts whatsoever to detect or hinder third parties using the Participant Contribution without Participant's permission;** (v) Maine Listings will make no effort to secure for Participant the right to use copyright works created by Subscribers or third parties.

22. Other provisions. Pursuant to the Maine Listings Policies, the PCC shall be a work made for hire by Participant and Subscribers for the benefit of Maine Listings, which shall be deemed the PCC's author for purposes of copyright law. If for any reason the PCC cannot be provided as a work made for hire, you agree to assign and hereby do assign to Maine Listings all right, title and interest in the PCC, including, without any limitation, any copyrights therein under United States and international copyright law.

23. Licensed Materials. Maine Listings hereby grants Participant a personal, non-exclusive, non-transferable, and royalty-free license during the term of this Agreement to use the Maine Listings Software and the Maine Listings Database, including related data, information, trademarks, copyrights, trade secrets, products or other intellectual property rights (excluding the Participant Contribution) (collectively, the "Licensed Materials"), only to the extent expressly permitted by this Agreement and the Maine Listings Policies and only to deliver real estate brokerage or appraisal services to Participant's bona fide customers. All uses of the Licensed Materials not expressly authorized in this Agreement and the Maine Listings Policies are prohibited. Nothing in this Agreement shall constitute a transfer or assignment to Participant of the Licensed Materials or any portion thereof; title to the Licensed Materials remains at all times in Maine Listings and shall not pass to Participant.

24. Further Participant warranty. Participant warrants that (a) the Participant Contribution does not infringe on the copyright or other intellectual property rights of any third party; and (b) Participant has the written consent of any party necessary to provide the Participant Contribution to Maine Listings.

25. Limitations on use by Maine Listings. Maine Listings agrees during the term of this Agreement not to license or distribute the Participant Contribution to any third party that is not a real estate brokerage or appraisal subscriber to the Maine Listings Service if Participant has indicated in writing its desire to withhold the Participant Contribution from such third party after Maine Listings has provided notice of its intention to provide the Participant Contribution to the third party. If Maine Listings enters a data sharing agreement with any other multiple listing service (as that term is defined in Maine Listings Policies) Maine Listings may license and distribute the Participant Contribution to the other multiple listing service in the data share and its users without obtaining any consent from Firm Participant.

## FEES AND PAYMENT TERMS

26. Fees and Payment. Participant shall pay to Maine Listings or its designee the fees and charges set forth in **Exhibit A** of this Agreement which is incorporated herein by reference. (The fees and charges in **Exhibit A** hereto which are related to payments to Maine Listings may be increased from time to time by the Maine Listings Officers and Directors. Pursuant to this Agreement, increases in fees and charges and any new fee or additional charge shall not be effective until a thirty (30) day written notice is first provided to the Participant.

Maine Listings will invoice or cause Participant to be invoiced for Maine Listings Service no later than the 15<sup>th</sup> day of each calendar month for the next month's service charges. All fees and charges shall be due monthly in advance and are payable upon receipt of invoice.

**Participant recognizes that members in the Maine Association of REALTORS® (“MAR”) receive certain discounted fees and suspended or reduced charges for participation in Maine Listings as member benefits in MAR and that upon termination of membership in MAR any discount of fees or suspension or reduction of charges shall immediately terminate and that certain suspended or discounted charges shall be immediately recaptured and become due and payable to Maine Listings.**

27. No refunds. Maine Listings need not refund or pro-rate fees in the event of termination or suspension of this Agreement unless the Maine Listings Policies provide otherwise. Initiation fees, if any, are not refundable.
28. Taxes. All fees for the Maine Listings Service are exclusive of federal, state, municipal or other governmental excise, sales, value-added, use, personal property and occupational taxes, excises, withholding obligations and other levies now in force or enacted in the future and, accordingly, Participant shall pay all such taxes and levies other than any tax or levy on the net income of Maine Listings.
29. Fines. Maine Listings may collect fines from Participant and from Authorized Representative for violation of the Maine Listings Policies by Participant, Authorized Representative, and Subscribers. Payment terms for fines are set out in the Maine Listings Policies. Maine Listings may amend its schedule of fines and terms for collecting them at its sole discretion at any time.

## TERM AND TERMINATION

30. Term. The Agreement shall commence upon acceptance by Maine Listings on the Effective Date listed below and shall continue on a month-to-month basis unless otherwise terminated as provided for herein. Any Participant who has not previously been a Maine Listings participant for an initial six-month period shall, in any event, be permitted to terminate this Agreement after expiration of a continuous initial six (6) month period by forwarding a written notice of termination to Maine Listings. Any other Participant shall, in any event, be permitted to terminate this Agreement at any time by forwarding a written notice of termination to Maine Listings (effective upon receipt of Maine Listings). In the event Participant provides said written notice and withdraws or ceases its participation in Maine Listings, all obligations due hereunder from Participant and all Maine Listings Service shall be terminated, except that Participant and Guarantor shall continue to be fully liable for obligations incurred or pertaining to the initial six (6) month period for new Participants or the period prior to the date of termination of this Agreement, whichever is later.

NOTE: The initial term for an additional office Site License for any firm when the participating firm itself has been a Participant in good standing for the previous six months shall be reduced from 6 months to 3 months.

31. Termination for convenience. Either party may terminate this Agreement with or without cause, upon thirty days' written notice to the other party, subject to the initial six (6) month period for new Participants.
32. Default. Participant agrees that upon the failure of Participant or any of its Subscribers to perform or comply with any provision, term or condition provided in this Agreement, Participant shall be in default hereunder. If any such default is not cured within fifteen (15) days from said default, Maine Listings may, without limiting any of its rights and remedies



whatsoever, suspend the Maine Listings Service to the Participant and Subscribers or terminate the Maine Listings Service and this Agreement with the Participant and all Participant's Subscribers. Participant shall be responsible for paying interest charges on past due amounts at a rate of one and one-half (1-1/2) percent per month, beginning on the invoice date of each delinquent payment, plus any costs or expenses of administering this Agreement, if payment is not made within fifteen (15) days of each invoice. In the event Participant's and/or Subscriber's Maine Listings Service are suspended or terminated, Participant shall be responsible to pay to Maine Listings, in addition to any other amounts owing, any reinstatement fee and costs of enforcement and/or collection as set forth in the Maine Listings Policies, including reasonable attorneys fees, whether or not a court action is commenced.

33. Termination for breach of Maine Listings Policies. Paragraph 32 notwithstanding, Maine Listings may terminate this Agreement if Participant fails to comply with the Maine Listings Policies; if Participant violates or is alleged to have violated the Maine Listings Policies, this Agreement shall not be terminated in accordance with the terms of this section until any hearing or appeal rights of Participant have expired as provided in the Maine Listings Policies. If in Maine Listings' judgment, however, a violation or alleged violation of the Maine Listings Policies is resulting in a continuing harm to Maine Listings or Other Participants or Subscribers, Maine Listings may suspend Participant's access to the Maine Listings Database during the pendency of any hearing or appeal.
34. Events upon termination. Promptly upon any termination or expiration of this Agreement, (a) Maine Listings shall deactivate Participant's and Authorized Representative's user ID and password, and Participant and Authorized Representative shall have no further access to the Maine Listings Service; (b) Participant shall purge all copies of the Maine Listings Software and the Maine Listings Database (except the Participant Contribution) from Participant's computers, and shall cause Authorized Representative and Subscribers to do the same; and (c) all licenses granted hereunder, except the license to the Participant Contribution in Paragraph 21 Option I(b) and Paragraph 21 Option II(a), if any, shall immediately terminate.
35. Effect on Subscribers. In the event of any termination of this Agreement, all Subscriber license and access agreements will automatically terminate; the intellectual property option selected by Participant in this Agreement will survive termination. In the event of any suspension of this Agreement, upon Maine Listings notice to Subscriber, Maine Listings may in its sole discretion suspend Subscriber access to Maine Listings System and Subscriber license and access agreements. If Maine Listings does not exercise its right to suspend Subscriber access to the Maine Listings System or Subscriber license and access agreements, the Subscriber license and access agreement shall continue in force with the intellectual property option selected by Participant in this Agreement.

## **DISCLAIMERS, LIMITATION OF LIABILITY, AND INDEMNIFICATION**

36. DISCLAIMERS. THE MAINE LISTINGS SERVICES AND ALL COMPONENTS THEREOF PROVIDED PURSUANT TO AND IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS, AS AVAILABLE". USE OF THE MAINE LISTINGS SERVICES AND INFORMATION AVAILABLE THROUGH THE MAINE LISTINGS SERVICE ARE AT THE SOLE RISK OF THE PARTICIPANT. EXCEPT AS HEREIN SPECIFICALLY STATED, MAINE LISTINGS AFFILIATES MAKE NO ORAL, STATUTORY, EXPRESS, OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE MAINE LISTINGS SERVICE OR ANY EQUIPMENT, PRODUCTS OR ANY OTHER SERVICES TO BE PROVIDED HEREUNDER, ALL OF WHICH ARE SPECIFICALLY AND EXPRESSLY DISCLAIMED. FURTHER, MAINE LISTINGS DOES NOT WARRANT OR GUARANTEE ANY INFORMATION FURNISHED BY PARTICIPANTS IN THE MAINE LISTINGS SERVICES TO BE FREE FROM INACCURACY, LIBEL, INVASION OF PRIVACY, OR COPYRIGHT VIOLATIONS AND MAINE LISTINGS UNDERTAKES NO RESPONSIBILITY TO INVESTIGATE SUCH INFORMATION. The Maine Listings Service may contain third-party content, including hyperlinks to websites operated by parties other than Maine Listings; Maine Listings does not control such third-party content, including websites, is not responsible for their contents, does not endorse the sites or contents, and may have no relationship with the third-party content providers, including sites' operators.
37. Limitation of Liability. In no event will the Maine Listings Affiliates be liable to Participant or Subscribers or any other party for any special, incidental, indirect, or consequential damages, including but not limited to any lost revenue or profits based upon any claim, whether in contract, in tort, or otherwise arising out of or related to this Agreement or arising out of or related in any way to Maine Listings Services to be provided to Participant, Subscribers by Maine Listings, including, without limitation, any claims by Participant, Subscribers, or Participant's customers or clients related to errors, inaccuracies, or omissions, deletions, or delays in transmission of information, interruptions in data connections, viruses or failures in performance whether caused in whole or part by negligence, acts of God, data connection, failure, or theft of, destruction of, or unauthorized access to the Maine Listings Service and related information, records, and programs.

38. **MAXIMUM AGGREGATE LIABILITY. IN NO EVENT SHALL MAINE LISTINGS BE LIABLE TO PARTICIPANT FOR ANY AMOUNT IN EXCESS OF THE GREATER OF (A) THE FEES PARTICIPANT HAS PAID MAINE LISTINGS, IF ANY, IN THE YEAR IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES; OR (B) \$100.**
39. Indemnification. Participant shall defend, indemnify and hold the Maine Listings Affiliates and Other Participants and Subscribers harmless from and against any and all liability, damages, loss or expense (including reasonable fees of attorneys and other professionals) in any claim, demand, action or proceeding initiated by any third-party against the Maine Listings Affiliates or Other Participants and Subscribers arising from any acts of Subscribers, including (a) putting inaccurate information into the Maine Listings Service; (b) making unauthorized use of Subscriber's password; (c) making unauthorized use of the Maine Listings Database; (d) infringing any proprietary or contract right of any third party; (e) breaching any term of this Agreement; and (f) violating this or any other Agreement or any law.
40. Acknowledgment. Participant acknowledges that Maine Listings has set its fees and other charges in reliance on the disclaimers of warranty and limitations and exclusions of liability set forth in this Agreement and that the same form an essential basis of the bargain between the parties.

## **DISPUTES AND REMEDIES**

41. Injunctive relief; liquidated damages.
- a. Participant acknowledges and agrees that the Maine Listings Software and Maine Listings Database are confidential and proprietary products of Maine Listings or its licensors and that in the event there is an unauthorized disclosure of them by Participant, no remedy at law will be adequate. Participant therefore agrees that in the event of such unauthorized disclosure of Maine Listings Software or Maine Listings Database, Maine Listings may seek injunctive relief or other equitable remedies against Participant in addition to all available remedies at law, without any showing of actual damages or posting any bond or security of any kind.
  - b. Participant acknowledges that damages suffered by Maine Listings from access to the Maine Listings Service by an unauthorized third party as a result of disclosure of Participant's password or an unauthorized disclosure by Participant of the Maine Listings Database to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to Maine Listings to enter into this Agreement with Participant, Participant agrees that (a) in the event that any disclosure of Participant's password results in access to the Maine Listings Service by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Participant shall be liable to Maine Listings for liquidated damages in the amount of \$5,000 (or the amount established in the Maine Listings Policies, whichever is greater) and termination of this Agreement; and (b) in the event that Participant makes unauthorized disclosure of any portion of the Maine Listings Database to any third party, Participant shall be liable for liquidated damages in the amount of \$5,000 (or the amount established in the Maine Listings Policies, whichever is greater) for each real estate listing disclosed and termination of this Agreement.
42. Dispute Resolution.
- a. In the event Maine Listings claims that Participant has violated the Maine Listings Policies, Maine Listings may, at its option, resolve such a claim according to the disciplinary procedures set out in the Maine Listings Policies, provided Maine Listings does not also base a claim that Participant has breached this Agreement on the same facts.
  - b. Except for actions seeking a temporary restraining order, injunction or equitable relief as provided for under this Agreement or suit to compel compliance with this dispute resolution provision, all disputes arising out of or in connection with this Agreement shall first be mediated by the parties with the assistance of a third-party mediator within thirty (30) days of first notice of the dispute. In the event the dispute is not resolved to the parties' mutual satisfaction by such mediation, the dispute shall be referred to an arbitrator for final resolution by binding arbitration. The arbitration shall be held in Portland or Augusta, Maine pursuant to the rules of the American Arbitration Association excluding the rules relating to selection of an arbitrator who shall be chosen by mutual agreement of the parties, except that the arbitration may be held by telephone or electronic means where the arbitration rules expressly so permit. If no agreement can be reached on selection of an arbitrator, then the rules of the American Arbitration Association shall govern the selection.
  - c. The prevailing party in any arbitration shall be entitled to reimbursement for fees and costs, including reasonable attorney's fees and costs, in addition to the arbitration award it receives. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties.

## **MISCELLANEOUS**

43. No third party beneficiaries. This Agreement is entered into solely between, and may be enforced only by Maine Listings and Participant, and this Agreement shall not create or be construed to create any rights in any homeowner, home seller, home purchaser, board or association, or other third party. Furthermore, it is expressly understood and agreed that Participant is the only party to this Agreement and that no provision of this Agreement shall be deemed to provide any Subscriber, aside from Participant, with any contractual rights, benefits or standing under this Agreement and that no Subscriber (excepting Participant) shall be entitled to assert or raise any claims or causes of action arising from or related to the matters covered by this Agreement.
44. Force Majeure. Force majeure events include Acts of God, fires, floods, earthquakes, wars, sabotage, civil unrest accidents, labor disputes, pandemics, government laws, rules and regulations, whether valid or invalid, shortages and inability to obtain material, equipment or transportation, or communications lines failures. Maine Listings shall have no liability of any type in the event it is unable to perform under this Agreement, in whole or in part, due to a force majeure event.
45. Amendment, modification, waiver. Participant expressly consents to the execution of amendments by electronic means (such as website “click through” agreements or notices of amendment via email). Maine Listings may amend this Agreement by providing 30 days’ advance notice of the amendment to Participant. If Participant or any Subscriber continues to use the Maine Listings Service or Maine Listings Database after the expiration of the 30-day notice period, Participant will be deemed to have agreed to the terms as amended. Except as provided in this paragraph, this Agreement may not be amended except by written instrument executed by both parties. No failure or delay to exercise any right or remedy provided for by this Agreement shall be deemed a waiver of any such right or remedy.
46. Assignment. Neither this Agreement nor any obligations or duties hereunder, in whole or part, may be assigned or delegated, directly or indirectly by Participant. Any purported assignment in contravention of this section is null and void, including, without limitation, transfers which may occur by merger, acquisition, or transfer of ownership to a third party. Simple name changes in the Participant or his or her business entity shall not be considered an assignment or transfer but shall still require a written notification to and written acceptance by Maine Listings. Failure to provide such notice and obtain such acceptance shall constitute a breach of this Agreement and entitle Maine Listings to exercise all of its rights and remedies as provided for in this Agreement.
47. Governing law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Maine, excluding conflicts of laws.
48. Integration and severability. This Agreement, including all other documents and agreements expressly incorporated by reference, constitutes the entire agreement of the parties and supersedes any and all prior or contemporaneous agreements, representations or understandings, oral or written, with respect to the subject matter hereof. Each party shall perform any further acts, including the execution of further documents, which may be reasonably necessary to carry out the purposes of this Agreement. Each provision of this Agreement is severable from the whole. If any provision of this Agreement is held by a court or arbitrator to be contrary to law or inapplicable to a situation, the remaining provisions shall remain in full force and effect. The foregoing notwithstanding, if any provision of Paragraphs 36 through 40 is declared invalid or unenforceable by any court of competent jurisdiction, this Agreement and Participant’s access to the Maine Listings Service shall immediately terminate.
49. Headings. The headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement. In the event of any dispute regarding the interpretation of the terms of this Agreement, it shall not be construed for or against any party on the grounds that the Agreement was prepared by any one of the parties.
50. Independent contractors. The parties to this Agreement are independent contractors and may not bind the other by its acts. Nothing in this Agreement shall be construed or deemed to create a joint venture, partnership agency or other legal arrangement except independent parties to a contract.
51. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and delivered via electronic mail, provided sender requests a return receipt and Participant expressly elects to receive all communications from Maine Listings via electronic means, e.g., at the email address provided herein. All notices are effective on the date of receipt or three days after transmission, whichever is earlier. Authorized Representative is required to maintain a valid, updated email address with Maine Listings at all times and must notify Maine Listings immediately in the event Participant’s email address changes. Notices for Maine Listings should be sent to [processing@mainelistings.com](mailto:processing@mainelistings.com).

IN WITNESS WHEREOF, the parties hereto have executed this Multiple Listing Service Site License Agreement as of the date last set forth below:

**PARTICIPANT**

Participant Name: \_\_\_\_\_  
(Write full legal name of firm exactly as it appears on its Maine Real Estate License)

Signed By: \_\_\_\_\_ Date Signed \_\_\_\_\_  
(Full legal name of Authorized Representative/Guarantor)

Authorized Representative/Guarantor hereby guarantees the prompt performance of Participant's obligations hereunder.

Note: The Authorized Representative must be a REALTOR® in order for the REALTOR® fees to be applicable.

Participation Join Date\*: \_\_\_\_\_

**\*Maine Listings does not pro-rate fees. When joining Maine Listings, the monthly service fees are assessed for the entire month regardless of the join date (i.e., if the Participation Join Date is noted as May 26, the participant would be invoiced for the entire month of May).**

By signature above, I certify that Participant meets the criteria of Participation as defined in the Maine Listings Policies and I represent and warrant that I have all necessary power and authority to bind Participant and to execute this Agreement on Participant's behalf.

As the Authorized Representative, once your Site License Agreement has been processed, you will have the option to set-up recurring payments for your monthly service fees. To place a card on file, go to [www.MaineListings.com](http://www.MaineListings.com) and click the Member Portal button. Sign in with your user ID and password. Go to the Member tab and click My Profile. Click the AutoPay tab. Fill in the card details and click Submit Profile. Invoices are posted on the 15<sup>th</sup> day of every month with recurring payments processed Net 15.

**(MAINE LISTINGS USE ONLY)**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**Exhibit A**

**You Must Place A Check in One of The Definition Options Below**

***Maine Listings Fees and Costs Schedule  
Participation Fees as of January 2, 2024.***

SERVICE TYPE		INITIATION FEE	FEE	
			Month	Annual
<input type="checkbox"/> <b>REALTOR® Participant (CS)</b>	Member of the REALTOR® Association and real estate licensees- subject to dues formula and Code of Ethics; may access the full database.	\$100	<u>2024</u> \$190	<u>2024</u> \$2280
<input type="checkbox"/> <b>Non-Member Participant (CSNM)</b>	A real estate licensee who would otherwise qualify for REALTOR® membership, but chooses not to belong to the Organization; may access the full database.	\$925	<u>2024</u> \$254	<u>2024</u> \$3048