



## **LIMITED NON-EXCLUSIVE LICENSE AGREEMENT**

This Agreement ("Agreement") is effective as of the \_\_\_\_\_ (the "Effective Date"), by and between \_\_\_\_\_ ("Provider"), whose principal place of business is \_\_\_\_\_ and Midwest Real Estate Data LLC, ("MRED") whose principal place of business is 2443 Warrenville Road, Ste. 600, Lisle, IL 60532. Provider will provide visual content and virtual tours to MRED's Subscribers including the production, distribution and management of visual content.

### **I. Provider will provide the following:**

1. During the term of this Agreement Provider will use its own trained and certified photographers (contractors and employees) to produce for Subscribers digital images and virtual tours of properties listed by Subscribers ("Visual Content"). Production includes the shooting of the images, post-production, hosting and distribution or delivery of the final product.
2. Provider will accept electronic orders from Subscribers.
3. Provider will deliver the Digital Images and Virtual Tours via the method and to the destination(s) designated by MRED and Subscriber.
4. Provider will pay MRED a one-time license fee of \$250.00.

### **II. MRED will provide the following:**

1. MRED will use reasonable efforts to inform its employees and Subscriber's of Provider's services.
2. MRED will provide a link on its private site to Provider for MRED Subscribers.
3. MRED will provide a reasonably acceptable method of accepting Visual Content link information necessary to post tours on the MRED's and Subscriber's web sites at Provider's expense. MRED will also provide a technical support contact during regular business hours, who can address technical issues with the processes of accessing Provider's service. MRED's sole obligation, regarding technical support, shall be to restore service as soon as reasonably possible in the event of service interruption. MRED shall not be obligated to provide any additional methods of technical support to address technical issues with the Provider website or application, other than that which is stated within.

### **III. Billing:**

1. Provider will bill and collect all payments due for services provided to Subscribers directly from Subscribers.

### **IV. Confidential Information:**

1. Confidential Information. "Confidential Information" means (i) any information marked or designated "confidential" or "proprietary," and (ii) any information that, by the nature of the information or the circumstances surrounding its disclosure, ought, in good faith, to be treated as confidential.
2. Confidentiality Obligation. All Confidential Information will be retained by the receiving party in confidence for the term of this Agreement and thereafter and will not be used except as necessary for the receiving party to perform its obligations under this Agreement. The receiving party agrees not to disclose or otherwise make available any of the Confidential Information to anyone, including employees and owners, except those employees or owners of the receiving party who need to know the Confidential Information for the receiving party to perform its obligations under this Agreement. The receiving party will (i) instruct any such employees and owners not to disclose or otherwise make available any of the Confidential Information to anyone, and (ii) be liable to the disclosing party for any action or inaction of such employees or owners that would violate this Agreement, had the action or inaction been that of the receiving party directly. The receiving party will protect the disclosing party's Confidential Information using not less than the same standard of care with which it treats its own Confidential Information, but at all times will use at least reasonable care.

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3. **Exceptions.** Nothing in this Agreement will in any way restrict the right of the receiving party to use, disclose, or otherwise deal with any information that (i) was already known to the receiving party at the time of disclosure as evidenced by written documents in the receiving party's possession prior to disclosure, (ii) is generally available to the public or becomes publicly known through no wrongful act of the receiving party, (iii) is received by the receiving party from a third party who had a legal right to provide it, or (iv) is developed independently of knowledge of Confidential Information received by the receiving party. Nothing herein will be deemed to prevent a party from disclosing information as may be required by law.

### **V. Warranty:**

1. Provider represents and warrants that (i) it has the full power and authority to enter into this Agreement and grant any rights granted herein, (ii) its services will be performed in a professional and workmanlike manner and (iii) no intellectual property used by Provider infringes upon any intellectual property rights of another. Provider DOES NOT WARRANT THE PERFORMANCE OF THIRD PARTY TECHNOLOGIES USED TO DISPLAY VISUAL CONTENT ON THE INTERNET AS THESE SERVICES ARE IMPACTED BY A VARIETY OF FACTORS OUTSIDE THE CONTROL OF PROVIDER, SUCH AS PC PROCESSOR SPEED, INTERNET CONNECTION, INTERNET SERVICE PROVIDER AND SOFTWARE UPGRADES.
2. MRED represents and warrants that it has the full power and authority to enter into this Agreement.
3. Each Party represents and warrants to the other party that (a) this Agreement constitutes its valid and legally binding obligation, enforceable in accordance with its terms, (b) it need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of, any government or governmental agency or other person or entity in order to consummate the transactions contemplated by this Agreement, (c) it is the owner of its Intellectual Property Rights, which rights do not violate the Intellectual Property Rights of any other person or entity, and (d) it has not incurred an obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.
4. **MRED DISCLAIMS, ANY AND ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE LICENSED DATABASE OR ACCESS TO THE LICENSED DATABASE OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT LICENSOR KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IS FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, MRED EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON WITH RESPECT TO THE LICENSED DATABASE, ACCESS TO THE LICENSED DATABASE OR ANY PART THEREOF.**

### **VI. Indemnification:**

1. **Indemnification by Provider.** To the extent of gross negligence or willful misconduct, or intellectual property infringement claims Provider will indemnify and hold MRED harmless from and against any and all liabilities, losses, damages and costs, including reasonable attorneys' fees, resulting from, arising out of, or in any way connected with third party claims arising out of (i) any breach by Provider of any warranty or obligation contained herein, (ii) the negligence or wrongdoing of its employees, owners or contractors or (iii) intellectual property infringement claims. Provider warrants that any effort or use of the MRED Data will not constitute patent infringement of any third party.
2. Provider indemnifies MRED, MRED's Subscribers, or customers of MRED or MRED's Subscribers, to whom Provider provides a product or service using MRED Data, against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from any third party claim of patent infringement.
3. **Indemnification Procedure.** In claiming any indemnification hereunder, MRED will provide Provider with written notice of any claim that MRED believes falls within the scope of the foregoing sections. The indemnified party may, at its own expense, assist in the defense if it so chooses, provided that the indemnifying party will control such defense and all negotiations relative to the settlement of any such claim. Any settlement intended to bind the indemnified party will not be final without the indemnifying party's written consent.

### **VII. Intellectual Property Rights**

1. Provider reserves all of its ownership rights, title and interest in its Intellectual Property Rights. Subject to the limited license granted to Provider, MRED reserves all of its ownership rights, title and interest in its Intellectual Property Rights. Neither Party grants any license to any of its Intellectual Property Rights to the other Party except as specifically set forth in this Section VII.

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2. Provider hereby grants to MRED, during the Term, a non-exclusive, non-transferable license to use Provider's Marks as reasonably necessary to perform its obligations under this Agreement.
3. MRED hereby grants to Provider, during the Term, a non-exclusive, non-transferable license to access the MRED's MLS Database on behalf of a Subscriber to download Provider's material into Subscriber's listing and Marks as reasonably necessary to perform its obligations under this Agreement; provided, however, that any use of promotional materials containing the MRED's Marks will be subject to the MRED's prior written approval.
4. Each Party will comply with the other Party's reasonable requests as to the use of the other Party's Marks and will avoid any action that diminishes the value of such Marks.
5. Provider shall not use MRED's database or any portion thereof to create derivative products.
6. Assignment of Intellectual Property Rights to Virtual Tours of Other Images into the MRED Database. Notwithstanding the foregoing paragraphs contained in Section VII or elsewhere in this agreement, Provider hereby assigns all right, title and interest, including but not limited to, all copyright and intellectual property rights of every origin and nature, to virtual tours, photographs, images and written word to MRED upon entry of such into the MRED database.

## VIII. Termination

1. Either Party may terminate this Agreement if the other Party (a) materially breaches this Agreement, and does not cure the alleged breach within twenty-one (21) days following its receipt of notice from the non-breaching Party, (b) ceases, as a result of insolvency or any other reason, to carry on the portion of its business that relates to this Agreement or (c) upon sixty (60) days written notice of termination from one party to another.
2. Upon termination of this Agreement, all links to Provider's Website will promptly be deleted from the MRED's Website.
3. Sections IV, VI, and VII (together with all other provisions that reasonably may be interpreted as surviving termination of this Agreement) will survive the termination of this Agreement.

## IX. Miscellaneous:

1. Term. This Agreement is effective on the Effective Date and continues in effect for a period of one year thereafter. The Agreement's effectiveness automatically renews for subsequent periods of one year unless either party gives the other written notice of termination at least 30 days prior to expiration of the current term.
2. Assignment. Either party may assign its rights and obligations under this Agreement (a) in whole or in part to any subsidiary, affiliate or successor of such party, and (b) as part of a corporate reorganization, consolidation, dissolution, merger, or sale of all or substantially all of its assets. This Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
3. Notices. All notices, authorizations, and requests required or desired to be given or made in connection with this Agreement must be in writing, given by certified or registered mail (return receipt requested), express courier (charges prepaid) or facsimile, and addressed as follows (or to such other address as each of the parties may designate by notice to the other):

If to Client, to: Midwest Real Estate Data LLC  
2443 Warrenville Road, Suite 600  
Lisle, Illinois 60532  
Fax: 630-955-0353  
Attn.: Virtual Tours

If to Provider: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If a notice is given by certified or registered mail, it will be deemed received on the third business day following the date on which it is deposited for mailing. If a notice is given by courier, it will be deemed received on the next business day following the date on which it is provided to the express courier. If a notice is given by facsimile, it will be deemed received upon confirmation of receipt.

4. Independent Contractors. The parties hereto are independent contractors and nothing in this Agreement is intended to, nor will it, create any agency, partnership or joint venture relationship between them. With respect to any third party, no party hereto, or any of its officers, directors, employees or owners, will have the right or authority to bind or otherwise obligate the other party hereto in any way.
5. Limitation. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE OR SPECIAL DAMAGES ARISING OUT OF THIS AGREEMENT, UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
6. Insurance. Provider will acquire and maintain throughout the term of this Agreement the following insurance policies covering its officers and employees: automobile, workers' compensation, and property and general liability insurance.
7. Choice of Law and Jurisdiction. The laws of the State of Illinois, excluding that body of the law controlling conflicts of law, will govern all disputes arising out of or relating to this Agreement.
8. Severability. If any term, provision, covenant, or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable, or against public policy, the remainder of this Agreement will remain in full force and effect.
9. Entire Agreement. This Agreement constitutes the entire agreement among the parties and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter of this Agreement.
10. No Waiver. The failure of any party to exercise any right or remedy provided for herein will not be deemed a waiver of any right or remedy hereunder.
11. Counterparts. This Agreement may be executed in two or more counterparts, each of which when so executed will be deemed an original, and all of which together will constitute one and the same instrument.
12. Amendment. This Agreement may be amended only by a writing that specifically refers to this Agreement and is signed by duly authorized representatives of both parties.
13. Attorneys' Fees. In the event of any litigation arising from this Agreement, the prevailing party shall be entitled to be paid its attorneys' fees and costs, including those on appeal, from the non-prevailing party.

Provider: \_\_\_\_\_

**Midwest Real Estate Data LLC**

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

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

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_