

## **MOST HOME REAL ESTATE SERVICES END-USER LICENSE AGREEMENT FOR WIRELESS MLS SERVICE ONLY**

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### **1. DEFINITIONS**

1.1 ‘Fee(s)’ means the sums payable by You in respect of a license to use the Licensed Products for the Term. Fees will be billed by the Real Estate Board, Association or MLS as part of their regular billing schedule. In markets where the MLS, Board or Association has chosen not to bill its members for the use of the wireless MLS service, all references to ‘Fee’ or ‘Fees’ in this License Agreement should be disregarded.

1.2 ‘Licensed Product’ means the browser-based wireless MLS service supplied by Most Home Real Estate Services (“Supplier”), commonly branded as Wireless Realty™, Wireless Realty™ Lite, MLX Wireless, TEMPO™ Wireless, MarketLinx® Wireless or Matrix Wireless, together with any related online, electronic, or printed documentation, associated media, and all updates or upgrades of the above that are provided to You.

1.3 ‘MLS Data(base)’ means the collection and compilation of real estate listings and other content in electronic form as developed, copyrighted, and maintained by or for MLS. The MLS Database includes, by way of example, real estate listing information, property tax data records and information about MLS subscribers and members.

1.4 ‘MLS’ means the real estate board or association that You are a member of or that You subscribe to.

1.5 ‘Primary MLS Vendor’ means the software vendor that provides primary access to MLS Database through a contractual relationship between the software vendor and MLS.

1.6 ‘Supplier’ means Most Home Real Estate Services Inc., the real estate services company that created, developed, and owns Licensed Product and makes Licensed Product available to You through a contractual relationship with your MLS or the Primary MLS Vendor under contract with your MLS.

1.7 ‘You’ means the licensee and ‘Your’ means belonging to You or engaged by You or otherwise pertaining to You as the context so allows, whether on a temporary basis or otherwise.

### **2. OWNERSHIP**

This EULA gives you limited license to use the Licensed Product. Supplier retains all right, title and interest, including all copyright and intellectual property rights, in and to, the Licensed Product.

### **3. LICENSE GRANTS**

3.1.1 Supplier hereby grants to You a non-exclusive right to use Licensed Product for the License Term subject to the terms and conditions contained within this EULA.

3.1.2 You may use Licensed Product to query and view MLS Data from the MLS to which you subscribe to. Your access to the MLS Data is subject at all times to the rules and regulations and operating policies of your MLS and all agreements between You and your MLS.

### **4. LICENSE RESTRICTIONS**

4.1 If at any time MLS informs Supplier that You are no longer a member and/or subscriber in good standing with your MLS, your access to MLS Database through Licensed Product will be terminated within no longer than 24 hours from the time Your account is suspended or inactivated by MLS.

4.2 You are not permitted under any circumstances to use or make access to the MLS Database or any MLS IP (or any part thereof) or Licensed Product to any person not authorized by MLS or Supplier. You shall comply with all security and other requirements, processes and procedures established or required by MLS with respect to use of and access to MLS Database and MLS IP.

4.3 You may not sell, rent, lease, or sublicense the Licensed Product.

4.4 You shall not use the Licensed Product to develop any software or service having the same primary function as the Licensed Product, including but not limited to using the Licensed product in any development or test procedure that seeks to develop like software or service, or to determine if such software or other service performs in a similar manner as the Licensed Product.

## **5. WARRANTY DISCLAIMER**

5.1 SUPPLIER MAKES NO WARRANTIES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN RELATION TO THE LICENSED PRODUCT INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. SUPPLIER DOES NOT WARRANT THAT THE LICENSED PRODUCT IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION.

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5.4 SUPPLIER IS NOT YOUR MLS'S AGENT AND HAS NO AUTHORITY TO ENTER INTO ANY AGREEMENT ON MLS'S BEHALF OR TO OTHERWISE BIND MLS IN ANY MANNER. THE AGREEMENT BETWEEN SUPPLIER AND YOU DOES NOT CREATE ANY LIABILITY OR OBLIGATIONS ON THE PART OF YOUR MLS.

5.5 IN NO EVENT SHALL YOUR MLS HAVE ANY LIABILITY TO YOU OR TO ANY OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE MLS DATABASE OR ANY OTHER MLS IP, OR USE OF THE LICENSED PRODUCT.

5.6 YOU SHALL INDEMNIFY, DEFEND AND HOLD YOUR MLS, ITS DIRECTORS, STAFF, SHAREHOLDERS, LICENSORS, AND MLS SUBSCRIBERS/MEMBERS HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR IN CONNECTION WITH THIS EULA OR THE LICENSED PRODUCT.

5.7 IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE LICENSED PRODUCT, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF DELIVERY.

5.8 (USA only) SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE. WITHOUT LIMITATION TO THE FOREGOING, SUPPLIER DOES NOT WARRANT THAT THE LICENSED PRODUCT WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE PRODUCT WILL BE ERROR FREE OR UNINTERRUPTED OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED.

## **6. LIMITATION OF LIABILITY**

6.1 YOU USE THE LICENSED PRODUCT AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SUPPLIER BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGE OR LOSS OF ANY KIND INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF CONTRACTS, BUSINESS INTERRUPTIONS, LOSS OF OR CORRUPTION OF DATA HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT OR TORT, INCLUDING NEGLIGENCE, EVEN IF SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.2 YOU AGREE TO INDEMNIFY AND HOLD SUPPLIER AND ITS DEALERS, DISTRIBUTORS, AGENTS AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS AND DEMANDS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD PARTY DUE TO OR

ARISING OUT OF ANY INFORMATION, INCLUDED BUT NOT LIMITED TO MLS DATA MADE ACCESSIBLE TO YOU BY SUPPLIER THROUGH LICENSED PRODUCT.

6.2 IF ANY LIMITATION, EXCLUSION, DISCLAIMER OR OTHER PROVISION CONTAINED IN THIS EULA IS HELD TO BE INVALID FOR ANY REASON BY A COURT OF COMPETENT JURISDICTION AND SUPPLIER BECOMES LIABLE THEREBY FOR LOSS OR DAMAGE THAT MAY LAWFULLY BE LIMITED, SUCH LIABILITY WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE GREATER OF \$50 US DOLLARS OR THE AMOUNT PAID BY YOU FOR THE LICENSED PRODUCT THAT CAUSED SUCH DAMAGE.

## **7. BASIS OF BARGAIN**

The Warranty Disclaimer and Limitation of Liability set forth above are fundamental elements of the basis of the agreement between Supplier and You. Supplier would not be able to provide the Licensed Product on an economic basis without such limitations. Such Warranty Disclaimer and Limitation of Liability inure to the benefit of Supplier's licensees.

## **8. LICENSE TERM**

This EULA is effective from the moment of acceptance as described in the first paragraph of this EULA, and shall remain in effect until terminated as provided below. Your obligations under this EULA in respect of the intellectual property and confidential information of Supplier shall survive any expiry or termination of this EULA.

## **9. TERMINATION**

This EULA and Your rights under it will terminate immediately if: (i) You fail to pay the Fee in accordance with the agreed payment terms; or (ii) You fail to comply with any of the terms and conditions of this EULA; or (iii) if Your MLS elects not to make or allow Licensed Product to be available within its geographic territory. All fees paid or payable are non-refundable.

## **10. CONFIDENTIALITY**

10.1 You agree that Supplier may send emails to You to provide information and goods and services to You and to let You know about other goods and services in which You may be interested.

10.2 If You do not wish to give Supplier permission under Clause 10.1, You must notify Supplier that permission is not granted. Such notifications can be sent via return email to Most Home Real Estate Services with a request in the subject header to UNSUBSCRIBE You.

10.3 You agree that Supplier may use any user and technical information provided by You for its business purposes, including without limitation for product support and development.

10.4 Notwithstanding the foregoing, Supplier will only process personal information in accordance with the provisions of the Data Protection Act 1998.

## **11. GENERAL**

11.1 Most Home Real Estate Services may amend the terms and conditions of this EULA at any time by reasonable notice, including without limitation by posting revised terms on its website at the URL <http://wireless.mosthome.com/eula>, which amended terms and conditions shall be binding upon You.

11.2 No dealer, agent or employee of Supplier is authorized to make any amendment to this EULA.

11.3 The failure or delay of Supplier to exercise any of its rights under this EULA or upon any breach of this EULA shall not be deemed a waiver of those rights or of the breach.

11.4 The illegality, invalidity or unenforceability of any part of this EULA will not affect the legality, validity or enforceability of the remainder.

11.5 The construction, validity and performance of this EULA shall be governed by and submitted to the laws of the province of British Columbia, Canada. Notwithstanding the foregoing, Most Home Real Estate Services shall have the right to seek injunctive, or similar, relief in any courts of competent jurisdiction. Any notices required to be given in writing to Supplier or any questions concerning this EULA should be addressed to The Company Secretary, Most Home Real Estate Services, #1 – 11491 Kingston Street, Maple Ridge, British Columbia, Canada, V2X 0Y6.