

MLS RELATIONSHIP AGREEMENT

This MLS Relationship Agreement ("Agreement"), effective as of _____, 2008 ("Effective Date"), is entered into by and between Fannie Mae, a federally chartered company with offices at 3900 Wisconsin Avenue, N.W., Washington, D.C. 20016 ("Fannie Mae"), and _____ with offices at _____ ("MLS").

WHEREAS, MLS is in the business of compiling certain multiple listings data regarding as further described in Exhibit A ("MLS Data").

WHEREAS, Fannie Mae is a federally chartered company that provides liquidity to the U.S. mortgage market.

WHEREAS, this Agreement documents the terms and conditions under which MLS will license MLS Data to Fannie Mae.

NOW, THEREFORE, in consideration of the premises and mutual covenants of this Agreement, the parties agree as follows:

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| <p>1. LICENSE</p> <p>1.1 <u>License Grant.</u> MLS hereby grants to Fannie Mae, commencing on the Effective Date, a non-exclusive, perpetual, irrevocable, royalty-free, license for Fannie Mae to use, reproduce, maintain, modify, create derivatives of, analyze, and display the MLS Data internally in the course of Fannie Mae's business. Notwithstanding the foregoing, Fannie Mae may disclose to third parties: (i) limited excerpts of the MLS Data, or (ii) limited aggregated MLS Data to be used for industry statistics.</p> <p>1.2 <u>Service Providers.</u> Fannie Mae may grant any person or entity that provides services to Fannie Mae, including outsourcing vendors, contractors, and consultants ("Service Providers"), the right to use MLS Data solely for the benefit of Fannie Mae.</p> <p>1.3 <u>License Restrictions.</u> Except as permitted under this Agreement, Fannie Mae may not resell MLS Data or assign or transfer the license granted under this Agreement to any third party.</p> <p>1.4 <u>Ownership of MLS Data.</u> Except for the rights granted to Fannie Mae in this Agreement, MLS shall retain all right, title, and interest in the MLS Data. Notwithstanding the foregoing, Fannie Mae shall own all right, title, and interest in and to any derivatives, models, reports, and analyses, that Fannie Mae creates using the MLS Data.</p> <p>2. DELIVERY</p> <p>2.1 <u>Delivery of MLS Data.</u> MLS shall deliver the MLS Data in accordance with the delivery schedule set forth in Exhibit A.</p> <p>2.2 <u>Format of MLS Data.</u> MLS shall provide all MLS Data to Fannie Mae in the format specified in Exhibit A or such other format reasonably requested by Fannie Mae.</p> | <p>3. NON-DISCLOSURE</p> <p>3.1 <u>Confidential Information.</u> If a party (the "Receiving Party") obtains access to Confidential Information (as defined below) of the other party (the "Disclosing Party") in connection with the negotiation of or performance under this Agreement, the Receiving Party agrees: (a) not to directly or indirectly disclose the Confidential Information to any third party without the Disclosing Party's prior written consent; and (b) to use the Confidential Information only as reasonably necessary to perform its obligations under this Agreement. "Confidential Information" shall mean: (i) all information about or belonging to the Disclosing Party or a third party that is disclosed or otherwise becomes known to the Receiving Party in connection with this Agreement and that is not a matter of public knowledge; (ii) all trade secrets, customer information and intellectual property owned or licensed by the Disclosing Party; and (iii) all personal information about individuals contained in the Disclosing Party's records (including, without limitation, names, addresses, social security numbers, and credit card and other financial information). The terms of this Agreement, along with the fact of this Agreement's existence, are the Confidential Information of both parties, which may be disclosed by a party, only to the extent reasonably necessary, to its legal and financial advisors and to subcontractors or other third parties that will be providing services in connection with this Agreement and who are under an obligation to protect the confidentiality of the Confidential Information. The Receiving Party shall use at least the same degree of care to protect the Confidential Information of the Disclosing Party from unauthorized disclosure or access that the Receiving Party uses to protect its own Confidential Information, but not less than reasonable care. The Receiving Party shall immediately notify the Disclosing Party of any actual or suspected loss or unauthorized use, disclosure of or access to the Disclosing Party's Confidential Information of which it becomes aware, and take all steps reasonably requested</p> |
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by the Disclosing Party to limit, stop or otherwise prevent such loss or unauthorized use, disclosure or access.

- 3.2 **Exclusions.** Information of the Disclosing Party shall not be considered Confidential Information if it: (i) was previously rightfully known by the Receiving Party free of any obligation to keep it confidential; (ii) is or becomes publicly known through no wrongful act of the Receiving Party; (iii) is independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party; or (iv) is subject to disclosure pursuant to a subpoena, judicial or governmental requirement, or order, provided that the Receiving Party has given the Disclosing Party sufficient prior notice of such subpoena, requirement, or order, to permit the Disclosing Party a reasonable opportunity to object to the subpoena, requirement, or order and to allow the Disclosing Party the opportunity to seek a protective order or other appropriate remedy.

4. TERM AND TERMINATION

- 4.1 **Term.** The term of this Agreement ("Term") will commence on the Effective Date and will continue in effect for one (1) year. The Term shall automatically renew for successive one-year periods until either party notifies the other in writing of its intent not to renew at least thirty (30) days prior to expiration of the then-current Term.

- 4.2 **Termination.** Either party may terminate this Agreement if the other party materially breaches any of its terms and fails to cure such breach within thirty (30) days after receiving written notice of such breach. In addition, either party may terminate this Agreement for convenience by providing the other party with ninety (90) days' written notice.

5. WARRANTIES

- 5.1 **Authorization.** Each party represents, warrants and covenants to the other party that (a) it has the requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement; (b) it has obtained all necessary licenses and permits to perform its obligations under this Agreement; (c) the performance obligations described in this Agreement do not conflict with any other agreement either signed or contemplated by such party; and (d) it will comply with all laws and regulatory requirements applicable to its performance obligations under this Agreement.

- 5.2 **Warranty Disclaimer.** OTHER THAN AS PROVIDED IN THIS AGREEMENT, THERE ARE NO EXPRESS WARRANTIES AND THERE ARE NO IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF

MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

6. INDEMNITY

MLS shall indemnify, defend, and hold harmless Fannie Mae, its Service Providers, and customers, and their respective officers, directors, employees, agents, successors and assigns, from any and all losses, liabilities, damages and claims, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties), arising from or in connection with any claim that the MLS Data infringes on the intellectual property rights or other proprietary rights of a third party. MLS shall not settle any such suit or claim without Fannie Mae's prior written consent if such settlement would be adverse to Fannie Mae's interest. MLS agrees to pay or reimburse all costs that may be incurred by Fannie Mae in enforcing this indemnity, including attorneys' fees.

7. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY WITH RESPECT TO THIS AGREEMENT, OR FOR ANY ACT OR OMISSION OCCURRING IN CONNECTION WITH THIS AGREEMENT, FOR LOST PROFITS, LOSS OF BUSINESS OR ANY OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE OR UNDER ANY LEGAL THEORY WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE REASONABLY FORESEEABLE; PROVIDED, HOWEVER, THAT SUCH LIMITATION OF LIABILITY SHALL NOT APPLY TO OBLIGATIONS UNDER SECTIONS 3 OR 6 OF THIS AGREEMENT.

8. GENERAL

- 8.1 **Assignment.** Neither party may assign or transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

- 8.2 **Governing Law.** This Agreement shall be governed by and construed under the laws of the District of Columbia, without reference to or application of the conflicts of law principles. Any and all disputes between the parties that cannot be settled by mutual agreement shall be resolved solely and exclusively in the courts located within the District of Columbia. Both parties consent to the jurisdiction and venue of such courts and irrevocably waive any objections thereto.

- 8.3 **No Waiver of Default.** No waiver will be effective unless in writing signed by an authorized representative of the party against which enforcement of the waiver is sought. Neither the failure of either party to exercise any right of termination, nor the waiver of any default will constitute a waiver of the rights granted in this Agreement with respect to any subsequent or other default.
- 8.4 **Notices.** All notices, requests and demands, other than routine communications under this Agreement, will be in writing and will be deemed to have been duly given when delivered, or when transmitted by confirmed facsimile (with a copy provided by another means specified in this Section 8.4), or one (1) business day after being given to an overnight courier with a reliable system for tracking delivery, or three (3) business days after the day of mailing, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and sent to the address listed above.
- 8.5 **Severability.** If any provision of this Agreement is held invalid by a court with jurisdiction over the parties to this Agreement, such provision will

be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect.

- 8.6 **Survival.** Any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement will survive any termination or expiration of this Agreement and continue in full force and effect. Further, all perpetual licenses granted under this Agreement shall survive the termination of this Agreement for any reason.
- 8.7 **Entire Agreement; Amendments.** This Agreement, including any Exhibits attached to this Agreement, contains the entire agreement of the parties and supersedes all prior agreements and representations, whether written or oral, with respect to the subject matter of this Agreement as of the Effective Date. Modification or amendment of this Agreement may be made only by a written instrument executed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this Agreement effective as of the Effective Date.

Fannie Mae

[MLS]

(Authorized Signature)

(Authorized Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

EXHIBIT A

1. MLS Data

MLS Data shall include the following data fields, as available:

- Active listings
- Recent sales (for the past 24 months)
- Address
- Assessor Parcel Number (APN)
- Days on market
- First list prices
- Current listing price
- Date of sale
- Contract Date
- Listing modification history
- Final sales price
- Expired listing information
- Financing type (FHA/conforming/jumbo)
- Number of units for multifamily
- Seller (bank, REO, relocation)
- Listing Agent
- Subdivision
- Year built
- Lot size
- Square footage
- Number of bedrooms
- Number of baths
- Status (active/sold)
- Property Condition
- Property type
- Rental data
- Pictures/Virtual Tours

2. MLS Data Delivery Schedule

MLS shall provide the data to Fannie Mae on a weekly basis.

3. MLS Data Format

The format shall be as mutually agreed by the parties.