



**USER AGREEMENT GRANTING DEPARTMENT OF REAL ESTATE ACCESS TO USER'S
ELECTRONIC MANAGEMENT SYSTEM**

I. Parties

This Agreement is made and entered into by the Arizona Department of Real Estate (hereafter referred to as "ADRE") and _____, a licensed designated broker (hereafter referred to as "Broker") for the brokerage licensed with ADRE under the name _____ (hereafter referred to collectively as "User" of the electronic transactional management system).

II. Background and Purpose

User is required by law to maintain certain records and to make those records available to ADRE for inspection upon notice with unlimited access. User currently uses an electronic transactional management system ("TM Program"), a computer or web-based transaction management system and/or document storage program, for maintenance of real estate records. The purpose of this Agreement is to grant ADRE electronic access to User's TM Program to enable streamlined exchanges of information when ADRE conducts records inspections as authorized by law, thereby minimizing disruption to User's business and making the process more cost-efficient for both User and ADRE.

III. Responsibilities

A. User agrees to:

1. Grant ADRE electronic, remote access to User's TM Program for the purpose of conducting records inspections authorized by law.
2. Set up on its TM Program an access code or other necessary authorization that will allow ADRE to obtain electronic, remote access to the records in the TM Program and to provide ADRE with the access code or other information needed to obtain that access.
3. Provide ADRE prompt access to User's records upon notice if ADRE is unable to remotely access User's electronic records for any reason.
4. Produce and provide legible, readable paper copies of any records maintained in accordance with law to ADRE upon notice.
5. Maintain complete records of all transaction and employment records in accordance with law.

B. ADRE agrees to:

1. Limit its access and use of User's TM Program to examining records in connection with User's real estate business as authorized by law.

2. Conduct inspections of User's records using its electronic, remote access to User's TM Program in lieu of requiring in-person access or physical production of User's records when reasonably possible.
3. Notify Broker by email when ADRE intends to access the User's TM Program.

IV. General Terms and Conditions

- A. Term: This Agreement is effective upon execution by both parties. This Agreement will continue in effect unless either party gives the other party written notice of its intent to terminate the Agreement at least thirty days in advance of the termination date. Termination does not relieve a party of its obligations incurred prior to the termination date.
- B. Amendments: User may only amend this Agreement with written consent of the Commissioner of ADRE. ADRE may amend this Agreement upon providing User with thirty days notice of the amendments, though User may reject the amendments by providing written notice of intent to terminate the Agreement in thirty days before the amendments go into effect.
- C. Applicable Law: This Agreement shall be governed and interpreted by the laws of the State of Arizona.
- D. Responsibility for Records: User has full responsibility for the accuracy, adequacy, and completeness of the records contained in its TM Program.
- E. Ownership: User warrants that it is the owner of or has the right to use the TM Program and has authority to permit ADRE access to the TM Program.
- F. Equipment: ADRE shall not be responsible in any manner for errors or failures of any hardware or software in User's possession. User shall promptly correct, at its own expense, any errors or failures resulting from the malfunction of the TM Program's software or hardware used in connection therewith.
- G. Malicious Programs: User warrants that the TM Program does not and will not contain any computer virus, disabling device, programming code, or instructions intentionally constructed with the ability to damage, interfere with, or otherwise adversely affect computer programs, data files, or hardware.
- H. Entire Agreement: This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements relating hereto, written or oral, between the parties.
- I. Indemnification: User agrees to indemnify, defend, and hold harmless ADRE from all damages of any kind, foreseen or unforeseen, that may arise as a result of this Agreement.
- J. ADRE Disclaimer: ADRE makes no promises, guarantees, or representations that its review or access of records contained in User's TM Program constitutes approval, ratification, or assumption of responsibility for the content or condition of User's records. ADRE specifically disclaims any liability for harm to User arising out of ADRE or User's use of the TM Program, including, but not limited to, damages incurred as a result of viruses, unauthorized access, User's inability to use the TM Program, or programming devices that might access, modify, delete, damage, corrupt, deactivate, disable, disrupt, or otherwise impede in any manner the operation of any of User's software, hardware, data, or property. This Agreement does not preclude or mandate legal action by ADRE for any violations

discovered while accessing the TM Program. Except as specifically provided in this Agreement, no other warranties or conditions, express or implied, are made or given by ADRE.

- K. Headings, Construction: The paragraph and section headings in this Agreement are for convenience only and shall not in any way affect the meaning or interpretation of this Agreement.
- L. Severability: If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall nevertheless continue in full force and effect.
- M. Conflict of Interest: This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.
- N. Arbitration: To the extent required pursuant to A.R.S. § 12-1518, the parties agree to use arbitration to resolve any dispute arising out of this Agreement.
- O. Audit: Pursuant to A.R.S. § 35-214, all books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State for five years after completion of this Agreement. Upon notice request, the original of such records shall be produced at ADRE, 2910 N. 44th Street, Phoenix, Arizona 85018.
- P. Nondiscrimination: The provisions of Executive Order 75-5, as amended by Executive Order 2009-09, are incorporated herein by reference. These provisions mandate, in part, that contractors will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex or national origin.
- Q. Limitations: Nothing in this Agreement shall be construed as limited or expanding the statutory responsibilities of the parties or relieving the parties of any obligation or responsibility imposed by law.
- R. Parties in Interest: This Agreement shall bind User, which includes both the employing broker and entity, and its successors and assigns, including subsequent owners, designated brokers, and managers of the User.

V. Notice

Notice under this Agreement shall be provided to:

For ADRE:
Auditing Division
Arizona Department of Real Estate
2910 N. 44th St.,
Phoenix, AZ 85018
auditing@azre.gov

For Broker:
Name: _____
Address: _____

Email Address: _____

VI. Required Disclosures: User hereby agrees to disclose information included in “Exhibit A” and incorporated herein by reference. User agrees to promptly update this information if any changes are made to the TM Program.

VII. Authority

By signing below, the signatory certifies that he or she has the authority to enter into this Agreement, has read the foregoing, and agrees to accept the provisions herein.

For Arizona Department of Real Estate:

Signature

Date

Printed Name

Position

For User - Brokerage:

Signature

Date

Printed Name

Position

Designated Broker:

Signature

Date

Printed Name

Designated Broker

Position

Exhibit A

Name of Licensed Real Estate Brokerage: _____

Name of Licensed Real Estate Employing Broker: _____

Disclosures Relating to User’s Electronic Transactional Management System

- A. **Nature of TM Program:** User’s hereby discloses to the Department that its records are maintained on a TM Program that is one of the following (indicate with an “X”):
1. [] A web based electronic transaction management and/or document storage program;
 2. [] An electronic program maintained on servers owned entirely by the broker; or
 3. [] An electronic program maintained on servers of which the broker’s ownership interest extends throughout the mandatory timeframes statutorily required for maintenance of the records.

- B. **TM Program Vendor:** User hereby discloses to the Department that its records are maintained with the following TM Program Vendor:

- C. **Access Rights Authorization:** User hereby discloses to the Department that if an access rights user profile or code is necessary for access, the following information is required:

- D. **Address of Offsite Location of Server or Legal Address of Web Provider:**

Granting ADRE Access to AAR TM Files

Once a broker has opted to sign the User Agreement Between A Licensed Broker And The Arizona Department Of Real Estate For Unlimited Access Rights To Web Based Electronic Records, the broker must complete and send the following to the Arizona Association of REALTORS® (AAR):

Dear AAR,

I have opted to grant the ADRE access to my AAR TM files for audit and investigative purposes. I authorize you to provide that access by:

- Creating an ADRE Auditor Security profile in our AAR TM account.
- Creating an ADRE Auditor profile using the ADRE Auditor Security profile in our AAR TM account, make sure this profile has:
 - auditing@azre.gov as the notification email
 - A password set to never expire (until I send AAR written notice revoking ADRE's access to my firm's AAR TM files)
- Instructing SureClose® to add the ADRE Auditor profile using the ADRE Auditor Security profile to all existing files in our AAR TM account.
- Adding the ADRE Auditor profile using the ADRE Auditor Security profile to all templates in our AAR TM account.
- Sending ADRE the login and password to auditing@azre.gov.

Please notify me at the email address below when this has been accomplished.

Broker's Name (Printed): _____

Broker's Signature: _____

Broker's Email: _____

Broker's Phone: _____

Firm Name: _____

Date: _____

Completed form should be emailed to tmsupport@aaronline.com or mailed to:

**Transaction Management
c/o Arizona Association of REALTORS®
255 E. Osborn Rd., Suite 200
Phoenix, AZ 85012**

Without this request, AAR will not have the authority to make the changes necessary to provide the Arizona Department of Real Estate access to files.