

# MAILING LIST LICENSE AGREEMENT

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the Emerald Association of Realtors® (hereinafter referred to as "ECAR"), a Florida not-for-profit corporation with its principal office located at 10 Hollywood Boulevard Southeast, Fort Walton Beach, Florida, 32548 and \_\_\_\_\_ (hereinafter referred to as "Licensee").

Whereas ECAR has developed lists of the names and mailing addresses of its members (hereinafter referred to as "Mailing Lists") which may be rented from time to time by interested parties for use in the promotion of various services and products; and

Whereas Licensee has expressed an interest in obtaining Mailing Lists to facilitate the promotion of its products or services,

Now, therefore, it is agreed as follows:

**Paragraph 1.** ECAR agrees to grant Licensee a license to use the Mailing Lists on the terms and conditions specified in this Agreement.

**Paragraph 2.** ECAR agrees to provide Licensee with the Mailing Lists as indicated on the Mailing List Specifications Form, attached hereto as "Exhibit A".

**Paragraph 3.** Licensee agrees to use the Mailing Lists only one time and only for the purpose of sending to ECAR members on the Mailing List a copy of the material(s) provided by the Licensee to ECAR and approved by ECAR in advance of the Licensee's use of the Mailing Lists. Licensee further agrees to use the Mailing Lists within 90 days of receipt of the Mailing Lists from ECAR. Any use of the Mailing Lists for a purpose other than expressed herein shall be cause for immediate termination of this Agreement, in which case ECAR reserves the right to seek monetary and injunctive relief for damages to the maximum extent allowed by law.

**Paragraph 4.** ECAR agrees to grant Licensee a license to use the Mailing Lists in consideration of the payment to ECAR of an amount described on the Mailing List Specifications Form attached hereto as "Exhibit A". Upon execution of this Agreement and prior to receipt of the Mailing Lists, Licensee agrees to pay ECAR the full amount, which shall be not less than \$25, plus any additional fee indicated on the Mailing List Specifications Form attached hereto as "Exhibit A", plus applicable tax and charges for shipping and handling.

**Paragraph 5.** Licensee agrees that the Mailing Lists provided to Licensee by ECAR are the sole and confidential property of ECAR, and Licensee agrees not to disclose the contents of the Mailing Lists to any third parties, contractors, agents, representatives, or employees other than those who are necessary to carry out the promotion of the products or services for which the Mailing Lists are being obtained as indicated in Paragraph 3, above. Further, Licensee agrees not to make any copies or other reproductions of said Mailing Lists other than as may be necessary to prepare mailing information, or other material required for the completion of this Agreement. Licensee agrees that upon completion of the mailing or other promotion intended by this Agreement to return to ECAR any copies of, or any other media containing information about, the Mailing Lists.

**Paragraph 6.** Licensee agrees to bar any third parties, contractors, agents, representatives, or employees who may have access to the Mailing Lists from making copies of said Mailing Lists other than those permitted by Paragraph 5 above, and to require said parties or individuals to keep the Mailing Lists confidential and to return any and all copies of said Mailing Lists to ECAR upon termination of this Agreement.

*(Continued...)*

**Paragraph 7.** Licensee agrees that Licensee's use of the Mailing Lists shall be in conformance with the Criteria for Use of Mailing Lists established by ECAR, as amended from time to time, a copy of which is attached hereto as "Exhibit B". Any failure to use the Mailing Lists in accordance with said Criteria shall be cause for immediate termination of this Agreement, in which case ECAR reserves the right to seek monetary and injunctive relief for damages to the maximum extent allowed by law.

**Paragraph 8.** Licensee agrees to and does hereby indemnify ECAR, its agents, officers, representatives and employees against any and all loss, costs, expense, damages and attorneys fees arising out of the use or misuse, either by act or omission, of the Mailing Lists by Licensee or any third parties, contractors, agents, representatives or employees granted access to said Mailing Lists by Licensee.

**Paragraph 9.** Licensee agrees the sole and only remedy it shall have pursuant to the agreement shall be a refund of the consideration paid to ECAR as specified in Paragraph 4, above. However, no refund will be given Licensee if this Agreement is terminated by ECAR due to fault of Licensee.

**Paragraph 10.** ECAR may terminate this Agreement and the use of the Mailing Lists by Licensee at any time and without prior notice upon a breach of this Agreement and the criteria attached hereto as "Exhibit B" by Licensee or any third parties, contractors, agents, representatives, or employees working on Licensee's behalf. Upon termination of this Agreement by ECAR, any and all media or copies thereof containing information in regard to the Mailing Lists shall be returned to ECAR, along with a written statement indicating that the information returned to ECAR constitutes all of the copies of that information held by Licensee and any third parties, contractors, agents, representatives, and employee having access to the Mailing Lists.

**Paragraph 11.** The parties hereto acknowledge that the Mailing Lists constitute the sole, valuable and confidential property of ECAR and that any breach of the terms of this Agreement shall be such that ECAR cannot be adequately compensated by monetary damages, and thus, the parties agree that ECAR may pursue injunctive relief to restrain or stop any misuse or intended misuse of ECAR's Mailing Lists and to require the return of all such information. In addition, ECAR may pursue any remedies available to it at law in regard to any damages that it may sustain, either actual or consequential, as a result of the misuse of the Mailing Lists by Licensee or any of its third parties, contractors, agents, representatives and employees.

**Paragraph 12.** Licensee agrees to pay any and all attorneys fees incurred by ECAR as a result of any actual or threatened breach of this Agreement by Licensee, its third parties, contractors, agents, representatives and employees.

**Paragraph 13.** This Agreement shall be construed according to the laws of the State of Florida and any litigation arising out of this Agreement will be held in Okaloosa County, Florida.

**Paragraph 14.** This Agreement may not be assigned by Licensee without the prior written consent of ECAR.

*For the Licensee:*

*For the Emerald Coast Association of Realtors®:*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Exhibit A**

***Emerald Coast Association of Realtors®***  
**Mailing List Specifications Form**

**1. Description of Mailing List(s) ordered (check all that apply):**

Names and addresses of ECAR members:

- "Designated Realtors®"(one broker per office)     all brokers     sales associates  
 all members     other: \_\_\_\_\_

Geographic limitation:

- Entire Membership  
 Only the following counties or ZIP codes:  
\_\_\_\_\_

Data to be included in list (email address not available)

- Name                             Preferred Address (will be home or office)  
 Office Name                     Office Address  
 Office Phone                     Office Fax  
 License Type                     Other: \_\_\_\_\_

**2. Format of Mailing List(s) ordered (check only one):**

- Pressure sensitive labels (adhesive-backed, 'peel-and-press,' for manual or mechanical affixing)  
- Additional 25¢ per page fee.

Data to be included on labels:

- Name     Office Name     Preferred Address     Office Address  
 Data File (please indicate  ASCII Tab Delimited or  Microsoft Excel Spreadsheet)

**3. Fees**

When purchased by members of ECAR:

- All orders are two cents per name, minimum order is \$25.

When purchased by non-member Realtors:

- All orders are four cents per name, minimum order is \$25.

**NAR NRDS Num ber (required)** \_\_\_\_\_ (available from primary association)

To be completed by ECAR

<b>Total number of labels or names ordered:</b> _____
Handling & shipping: \$ _____
Express Delivery: \$ _____
Taxes (state sales tax and any applicable county surtax): \$ _____
<b>Total amount due ECAR:</b> \$ _____

Association approval: (to be initialed by Association representative after **all** blanks are filled in) \_\_\_\_\_

Send completed form, signed agreement and full payment (payable to "ECAR") to ECAR at:

(by mail or other delivery) ECAR, 10 Hollywood Blvd SE, Fort Walton Beach Florida 32548 (by fax) 850-275-1075

Labels/lists will be sent upon ECAR's receipt of signed agreement, completed form and full payment.

## **Exhibit B**

*Emerald Association of Realtors®*

### **Criteria for Use of Mailing Lists**

1. The product, service or information described in the material to be distributed must be clearly related to the real estate industry, or the normal business activities of those in the real estate industry. It must be of substantive interest and utility to the business activities of a significant portion of the membership of the Emerald Coast Association of Realtors®.
2. The product, service or information must be consistent with the purposes, policies, practices, interests, and philosophies of ECAR.
3. ECAR reserves the right to decline to grant a license to a requesting organization or individual when the product, service or information is deemed to be unreasonably duplicative of, or otherwise related to, the products, services, benefits, programs, or activities of ECAR, or when it may otherwise be adverse to the proprietary right of ECAR, or for any other reason that ECAR, in its sole descretion, may deem appropriate..
4. ECAR reserves the right to decline to grant a license to a requesting organization or individual if the product, service, or information may subject ECAR or its members to criticism, embarrassment, or risk of liability.
5. The requesting organization or individual must, upon ECAR's request, demonstrate the intent, ability and experience necessary to deliver the products, services or information as represented. Such demonstration may include, at ECAR's request, appropriate financial references, business references, or other references, or sources of such assurance deemed necessary and acceptable by ECAR.
6. The product, service or information and the material that represents it, must be in good taste, must not be offensive, and must not be of a political, religious, charitable or pornographic nature.
7. The labels shall not include the name of any member who has requested in writing that his or her name be excluded from the labels.

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