

## END USER LICENSE AGREEMENT (EULA)

**PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE SOFTWARE. BY USING THE SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT USE THE SOFTWARE.**

**UPDATED May 20, 2014**

WHEREAS, Realeflow Software (Realeflow LLC) develops, maintains, and licenses access to Realeflow, a web-based sales and marketing business management tool and information provider tool that allows real estate investors, real estate agents and other business owners to generate and manage numerous types of real estate transactions more effectively and efficiently; and

WHEREAS, Customer wishes to use Realeflow and obtain such related services, and Realeflow LLC desires to provide such services to Customer; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I. DEFINITIONS

**1.1 Definitions.** For purposes of this Agreement, the definitions set forth below shall be applicable:

**"Authorized User"** means an individual who is a principle, employee or contractor of a Customer who is acting within the scope of a formal employment or agency relationship and who agrees to be bound by the terms of this Agreement.

**"Front End Code"** means the user interface display and usability platform. This includes but is not limited to the layout, color scheme, HTML pages and source code etc.

**"Back End Code"** means the Realeflow application specific source code. This includes but is not limited to the database schema, field definitions, table relationships, marketing automation, work flow management, application methodology, linking and interface coding etc.

### ARTICLE II. OWNERSHIP AND USE

**2.1 Grant of License.** Subject to the terms and conditions of this Agreement, Realeflow LLC hereby grants to Customer and Customer hereby accepts a limited nonexclusive, nontransferable license to establish Online Access to the Realeflow Software to perform project management and marketing, lead and deal tracking, document preparation and other related business functions as the Software is designed to perform.

**2.2 Title.** Realeflow LLC shall retain all right, title, and interest (including all copyrights, patents, service marks, trademarks and other intellectual property rights) in and to Realeflow, including any and all updates, enhancements, customizations, revisions, modifications, future releases and any other changes thereto, and all related information, material and documentation, etc. Except for the license granted pursuant to this Agreement, Customer shall not acquire any interest in the Realeflow Software or any other services or materials, or any copies or portions thereof, provided by Realeflow LLC or any of its related entities pursuant to this Agreement.

**2.3 Customer Ownership of prospect, customer and employee Data.** Any Customer's Company-specific Data provided to Realeflow LLC hereunder, either in hard copy or electronic format is and shall remain Customer's property, subject to the terms set forth herein.

**2.4 Realeflow LLC intellectual property ownership and restrictions to product use.** Realeflow LLC shall retain all rights to proprietary application development, business and technical methodologies, implementation, business processes and all other aspects of Realeflow business, application(s) and services. Under no circumstances, will the Customer be permitted to use any Front or Back End Code to their advantage (or) the advantage of their partner company's (or) potential partner company's outside of the intended design and implementation for which the original service subscription agreement was executed. The technology and business methodologies are proprietary and the sole property of Realeflow LLC. Any technology or business replication of any aspect of the application or services provided used for the gain of the Customer or above mentioned business partners or for the use of any level of a competitive nature regarding these proprietary elements is strictly prohibited.

**2.5 Terms and Conditions.** The undersigned Customer hereby knowingly and specifically agrees to comply with all requirements set forth by Realeflow LLC as to how Realeflow will be used including but not limited to the number of users, the method and manner in which Realeflow is accessed. It is expressly understood that Realeflow is the intellectual property of Realeflow LLC and any attempts to copy, duplicate, imitate, share or modify Realeflow will be treated as a patent copyright or trademark infringement.

In each such instance of an infringement upon Realeflow LLC's patent, copyright or trademark on Realeflow shall bear liquidated damages in the amount of \$25,000 per instance to be paid by the Customer to Realeflow LLC.

It is further understood, acknowledged, consented to that the Customer alone bears all responsibility for verifying the accuracy and legal validity of all documents generated by Realeflow. Furthermore, Customer agrees to release Realeflow LLC and Realeflow from any and all liability, cost, or expenses that the Customer may incur as a result of using any of the documents, procedures, worksheets, formulas, marketing strategies, project estimation, selling system, appraisals and brokers price opinions. It is understood that the Customer is using Realeflow at their own risk and bears all responsibility for any lost, incomplete, or missing data or unsuccessful real estate deals or transactions.

The Customer acknowledges that any and all information obtained via Realeflow relative to evaluations, appraisals and brokers price opinion is the confidential trade secret information of Realeflow LLC and Realeflow and further understands that the "Deal Filter" and "Power Matching" features of Realeflow are the confidential trade secret of Realeflow LLC. Any attempts to alter, copy, modify or otherwise infringe upon the intellectual property of Realeflow LLC by the Customer would be subject to paying the aforementioned liquidated damages.

Furthermore in an effort to prevent the unauthorized or inadvertent release of any of the concepts, ideas or information contained in Realeflow to an unintended recipient the parties agree that the undersigned Customer limit the access to and usage of Realeflow to the following specifically named person(s) who are the owners of or are employees of the undersigned Customer. Each of whom will be assigned their own separate password and username.

Upon initial usage and operation of Realeflow if the Customer believes that existing software owned by or developed by Customer is similar in operation, appearance, function, method of use to Realeflow in any way Customer shall immediately (within 48 hours) notify Realeflow LLC of all such similarities. Failure to so notify Realeflow LLC will be seen as conclusive proof in favor of Realeflow LLC in any potential question as to the source of any idea, concept or function in any intellectual property, copyright, trademark or patent dispute.

### **ARTICLE III. FEES & BILLING**

**3.1 Access Charges.** If there is a charge associated with the license granted pursuant to Section 2.1, and for the Services described herein, you agree to pay that charge. The price stated for the license and services excludes all applicable taxes and currency exchange settlements, unless stated otherwise. You are solely responsible for paying such taxes or other charges. We may suspend or cancel the license or services if we do not receive an on-time, full payment from you. Suspension or cancelation of the Services for nonpayment could result in a loss of access to and use of your account.

**3.2 Your Billing Account.** To pay the charges for the license and services, you will be asked to provide a payment method at the time you sign up for that service. You can access and change your billing account information and payment method in your Account Settings within the product. Additionally, you agree to permit Realeflow to use any updated account information regarding your payment method provided by your issuing bank or the applicable payment network. You agree to keep your billing account information current at all times. Changes made to your billing account will not affect charges we submit to your billing account before we could reasonably act on your changes to your billing account.

**3.3 Authorization.** By providing Realeflow with a payment method, you (i) represent that you are authorized to use the payment method that you provided and that any payment information you provide is true and accurate; (ii) authorize Realeflow to charge you for the licenses and services using your payment method; and (iii) authorize Realeflow to charge you for any paid add-ons (e.g. Direct Mail, Moby Minutes, Comparable Reports, etc.) that you choose to purchase while this Agreement is in force. We may bill you (a) in advance; (b) at the time of purchase; (c) shortly after purchase; or (d) on a recurring basis for subscription services. Also, we may charge you up to the amount you've approved, and we'll notify you in advance of any change in the amount to be charged for recurring subscription services. We may bill you at the same time for more than one of your prior billing periods for amounts that have not previously been processed.

**3.4 Automatic Renewal.** Provided that automatic renewals are allowed in your country, province, or state, we may inform you by email before automatically renewing your Services. We may automatically renew your license and services and charge you the then current price for the renewal term. You must cancel the Services before the renewal date to avoid being billed for the renewal.

**3.5 Trial-period offers.** If you are taking part in any trial-period offer, you must cancel the license and services by the end of the trial period to avoid incurring new charges, unless we notify you otherwise. If you do not cancel your license and services at the end of the trial period, we may charge you for the license and services.

**3.6 Billing Policy.** Realeflow LLC has adopted the following billing policy all customers must comply with: All accounts are set up on a prepay basis. Payment must be received by Realeflow LLC before any product or services are activated. Accounts to be paid by check must prepay six months service in advance. All International clients must pay by credit card. Realeflow LLC will not accept international checks. Customers are responsible for keeping all credit card information current. All changes must be communicated to Realeflow including changes to credit card type and expiration date, as well as a current e-mail address. All recurring charges are automatically generated, invoiced, and charged to the credit card on file according to contractual agreement. This includes monthly, quarterly and yearly charges. Charges are based on availability of products and services, not usage. Invoice and payment receipts are available to customers upon request.

**3.7 Billing Period.** Billing periods begin upon invoicing. Each customer is committed to the remaining term of the billing period and no refunds will be given. Customers are not required to use services during the period.

**3.8 Billing Disputes.** As a current or prior customer of Realeflow LLC, each customer agrees to provide Realeflow LLC thirty days to attempt settlement of any billing dispute before disputing with any third party, credit card company or bank. Realeflow LLC must be the first option in billing disputes. Should Realeflow LLC receive a chargeback or other reversed charge from a third party, Credit Card Company or bank on the customer's behalf before Realeflow LLC has been given a chance to resolve the issue, Realeflow LLC has the right to collect on the rendered services and any fees associated with those disputes. Realeflow LLC charges a \$50.00 Chargeback Fee per chargeback should a credit card company be used as a first resort in a billing dispute.

Not all billing disputes may be settled to a customer's satisfaction. Once Realeflow LLC has been given first right to settle a billing dispute, a customer may then use any third party, Credit Card Company or bank in an attempt to settle the dispute. However, Realeflow LLC still retains the right to collect on any rendered services or fees that are due. Should Realeflow LLC be unable to reverse any disputed amounts with a third party, credit-card company, or bank, Realeflow LLC will submit the full delinquent amount to a third party collection service.

**3.9 Payment Methods.** Realeflow LLC accepts payments via credit or debit card, and occasionally by check. Payment by check is on a per customer basis and must be agreed to by Realeflow LLC. Checks must be paid in US dollars and issued from a US bank. Realeflow LLC currently accepts American Express, MasterCard, Discover, and Visa credit cards.

**3.10 Billing Cycle.** All credit cards are automatically charged on the customer's specific billing cycle date. If the credit card is declined, Realeflow will attempt to charge the card on file for ninety days.

**3.11 Late Fee.** All accounts more than 30 days past due will be assessed a late fee of 5%. Three attempts to contact the customer will be made before any late fee is assessed.

**3.12 Disabling of Accounts.** All accounts 45 days past due will be disabled until balances are paid in full including any associated late fees. When disabled, all access will be suspended and data will be unavailable.

**3.13 Collections.** After an account is delinquent 60 days, it will be deactivated. Once deactivated, the customer will not be able to recover any files. The account record and delinquent balance may be passed on to a third party collection service.

#### **ARTICLE IV. CANCELLATION POLICY**

**4.1 Cancellation Policy.** As a Realeflow customer, you have the ability to cancel your account at any time without any termination charges or fees. You will not receive a refund for billing that has already occurred, except in the specific instances described below. Realeflow will not pro-rate any return for unused service and all outstanding invoices must be paid in full. By using Realeflow, each customer understands and agrees to this cancellation policy and understands that while no refund will be issued, customers are always free to keep accounts open for access for the full amount of time billed.

**4.2 Monthly subscriptions.** Once cancelled, your subscription will terminate at the end of the latest monthly billing period for which you have previously been charged. No further charges will be applied, and no refunds for unused time will be made.

**4.3 Annual subscriptions with monthly payments.** If you submit your cancellation request within the first 30 days following your initial billing, you are eligible for a refund of all charges for the service, minus the respective undiscounted monthly fee for your first month's subscription. If you submit your cancellation request more than 30 days after your initial billing, your subscription will remain active until the end of your current 12-month billing period. You will still be responsible for the complete unpaid balance of your annual subscription. This will continue to be billed monthly until your subscription expires. Realeflow may use an outside collection agency to collect any unpaid balances.

**4.4 Annual subscriptions paid annually.** If you submit your cancellation request within the first 30 days following your initial billing, you are eligible for a refund of all charges for the service, minus the respective undiscounted monthly fee for your first month's subscription. If you submit your cancellation request more than 30 days after your initial billing, your subscription will remain active until the end of your current 12-month billing period. You will not receive a refund and you will not be billed for the service again.

**4.5 Refunds.** Realeflow will honor all refund requests for specific marketing promotions that state or that imply a refund request will be honored within the first thirty days. All refund requests must occur within the first 30 days of service and be tied to a specific marketing promotion. All other refund requests will be denied.

#### **ARTICLE V. CONFIDENTIALITY**

**5.1 Confidentiality.** Each party agrees that the Customer's company associated Data (referred to herein as the "Customer Confidential Information") and any and all documentation and information pertaining to Realeflow (referred to herein collectively as the "Realeflow Confidential Information") is the confidential property of Customer and Realeflow LLC, respectively (Customer Confidential Information and Realeflow Confidential Information referred to hereinafter collectively as the "Confidential Information"). The party receiving the Confidential Information, including such party's employees, officers, directors and agents, (collectively, the "Receiving Party") shall hold in confidence all Confidential Information and shall not disclose or distribute Confidential Information, or any portion thereof, in any form or format to any person except on a strict "need to know" basis for the purpose of performance of this Agreement, or as required by valid legal process.

Customer agrees it shall not copy, alter, decompile, disassemble, reverse engineer, or otherwise modify (except with Realeflow LLC's prior written consent) or directly or indirectly disclose any Realeflow Confidential Information. Confidential Information under this Section 5 shall not include information that: (i) is or has become publicly available without restriction through no fault of the Receiving Party; or (ii) has been received without restriction from a third party lawfully in possession of such information.

## **ARTICLE VI. TERM & TERMINATION**

**6.1 Term.** The term of this Agreement begins on the Date the Customer first accessed the Realeflow service and shall continue as long as the Customer has access to the Realeflow product(s), until terminated as provided for in this Section.

**6.2 Termination without cause.** Either party may terminate this Agreement by providing 30 days' notice to the other party. Customer cancellations can only be done by phone conversation with authorized Realeflow representatives.

**6.3 Fees, Return of Data.** In the event of termination or expiration of this Agreement, all Fees due and payable to Realeflow LLC must be paid in full. At Realeflow LLC's election, upon its receipt of all such Fees, or after notice of intent to terminate has been received by from the Customer by Realeflow, Realeflow will make all company Data available for a period of 30 days and then remove Customer from the environment.

## **ARTICLE VII. STANDARD MARKETING**

**7.1 Standard Marketing.** Realeflow LLC reserves the right to use Customer name and credentials in an appropriate and acceptable manner for standard marketing promotions including e-mail promotions. Acceptable and standard marketing promotions include but are not limited to: Client listings, press releases, surveys, interviews, reputable business publications, television, radio and web site presentation and promotion etc. Please provide written instructions to support@realeflow.com if you would like to be removed from any marketing or promotions from Realeflow LLC.

## **ARTICLE VIII. WARRANTIES/LIMITATION OF LIABILITY/INDEMNITY**

**8.1 Disclaimer of warranties.** This agreement is an agreement for services. Notwithstanding the foregoing, Realeflow LLC specifically disclaims all warranties with regard to the Realeflow software and services, express or implied, including the warranties of merchantability, non-infringement, uninterrupted service or fitness for a particular purpose.

**8.2 Limitation of liability.** Realeflow LLC shall not be liable to any other party for any indirect, special, incidental, punitive, or consequential damages, including, but not limited to loss or theft of data, confidential customer information, loss of business or other loss arising out of or resulting from this agreement even if the other party has been advised of the possibility of such damages. The foregoing shall apply regardless of the negligence or other fault of the party and regardless of whether such liability sounds in contract, negligence, tort, strict liability or any other theory of legal liability. Notwithstanding the foregoing, in no event shall Realeflow LLC's cumulative liability under this Agreement exceed the amount actually paid by Customer to Realeflow LLC in the immediately preceding three (3) month period.

**8.3 Customer Warranty.** Customer represents and warrants that it shall, at all times, comply with, and shall remain solely responsible for compliance with, all applicable Federal, State and Local laws and regulations. Customer shall indemnify and hold Realeflow LLC harmless from and against any and all damages, costs, losses, claims, causes of action and lawsuits and expenses, including reasonable attorneys' fees, relating to breach of the aforementioned representation and warranty. Customer represents and warrants that it shall fully comply with the Realeflow Acceptable Use Policy, which is incorporated herein by reference.

**8.4 Legal Documents and Forms.** Customer understands and acknowledges that each real estate form and legal document created by using Realeflow must be reviewed by customer's own attorney to verify its accuracy and validity. Realeflow LLC is not authorized to practice law and each jurisdiction has different legal and procedural requirements.

**8.5 Smart Internet Marketing Systems.** Customer understands and acknowledges that in the event that the customer chooses to implement the Smart Internet Marketing Systems (S.I.M.S.) in conjunction with Realeflow usage that each real estate form and each legal document created or inspired by using either Realeflow or Smart Internet Marketing Systems must be reviewed by Customer's own attorney to verify its accuracy, applicability and validity. Customer further acknowledges that Realeflow LLC is not authorized to practice law and that each jurisdiction in which Customer may be engaging in business activities may have differing and various legal and procedural requirements for real estate investing and/or private lending.

Furthermore, the Customer understands and acknowledges that local, state and Federal regulations apply to private lending activities; therefore the Customer agrees to abide by and not remove, tamper with or alter the following disclosures provided by Realeflow as part of the Smart Internet Marketing Systems.

**8.6 Usage of Private Lending Materials.** Customer agrees to make sure that all communications with any potential private lender will be in compliance with both federal and state regulations governing securities. The Customer acknowledges that it is against federal and state Securities and Exchange Commission laws to solicit funding or loans in an improper manner. Prior to using Realeflow to download various potential and private investor leads, the Customer agrees that they are solely and

fully responsible for knowing the laws of their state as well as the federal securities laws. The customer acknowledges that it will hold Realeflow as well as all of its officers, directors, members, employees, consultants and legal counsel harmless of any potential liability or litigation that may result from the usage of Private Lending materials or in inappropriate private lending transactions.

**8.7 Earnings & Income Disclaimers.** ANY EARNINGS OR INCOME STATEMENTS, OR EARNINGS OR INCOME EXAMPLES, ARE ONLY ESTIMATES OF WHAT WE THINK YOU COULD EARN. THERE IS NO ASSURANCE YOU'LL DO AS WELL. IF YOU RELY UPON OUR FIGURES, YOU MUST ACCEPT THE RISK OF NOT DOING AS WELL.

WHERE SPECIFIC INCOME FIGURES ARE USED, AND ATTRIBUTED TO AN INDIVIDUAL OR BUSINESS, THOSE PERSONS OR BUSINESSES HAVE EARNED THAT AMOUNT. THERE IS NO ASSURANCE YOU'LL DO AS WELL. IF YOU RELY UPON OUR FIGURES; YOU MUST ACCEPT THE RISK OF NOT DOING AS WELL.

ANY AND ALL CLAIMS OR REPRESENTATIONS, AS TO INCOME EARNINGS ON THIS WEB SITE, ARE NOT TO BE CONSIDERED AS AVERAGE EARNINGS. TESTIMONIALS ARE NOT REPRESENTATIVE.

THERE CAN BE NO ASSURANCE THAT ANY PRIOR SUCCESSES, OR PAST RESULTS, AS TO INCOME EARNINGS, CAN BE USED AS AN INDICATION OF YOUR FUTURE SUCCESS OR RESULTS.

MONETARY AND INCOME RESULTS ARE BASED ON MANY FACTORS. WE HAVE NO WAY OF KNOWING HOW WELL YOU WILL DO, AS WE DO NOT KNOW YOU, YOUR BACKGROUND, YOUR WORK ETHIC, OR YOUR BUSINESS SKILLS OR PRACTICES. THEREFORE WE DO NOT GUARANTEE OR IMPLY THAT YOU WILL WIN ANY INCENTIVES OR PRIZES THAT MAY BE OFFERED, GET RICH, THAT YOU WILL DO AS WELL, OR MAKE ANY MONEY AT ALL. THERE IS NO ASSURANCE YOU WILL DO AS WELL. IF YOU RELY UPON OUR FIGURES, YOU MUST ACCEPT THE RISK OF NOT DOING AS WELL.

INTERNET BUSINESSES AND EARNINGS DERIVED THEREFROM, HAVE UNKNOWN RISKS INVOLVED, AND ARE NOT SUITABLE FOR EVERYONE. MAKING DECISIONS BASED ON ANY INFORMATION PRESENTED IN OUR PRODUCTS, SERVICES, OR WEB SITE, SHOULD BE DONE ONLY WITH THE KNOWLEDGE THAT YOU COULD EXPERIENCE SIGNIFICANT LOSSES, OR MAKE NO MONEY AT ALL. ONLY RISK CAPITAL SHOULD BE USED.

ALL PRODUCTS AND SERVICES BY OUR COMPANY ARE FOR EDUCATIONAL AND INFORMATIONAL PURPOSES ONLY. USE CAUTION AND SEEK THE ADVICE OF QUALIFIED PROFESSIONALS. CHECK WITH YOUR ACCOUNTANT, LAWYER OR PROFESSIONAL ADVISOR, BEFORE ACTING ON THIS OR ANY INFORMATION.

USERS OF OUR PRODUCTS, SERVICES AND WEB SITE ARE ADVISED TO DO THEIR OWN DUE DILIGENCE WHEN IT COMES TO MAKING BUSINESS DECISIONS AND ALL INFORMATION, PRODUCTS, AND SERVICES THAT HAVE BEEN PROVIDED SHOULD BE INDEPENDENTLY VERIFIED BY YOUR OWN QUALIFIED PROFESSIONALS. OUR INFORMATION, PRODUCTS, AND SERVICES ON THIS WEB SITE SHOULD BE CAREFULLY CONSIDERED AND EVALUATED, BEFORE REACHING A BUSINESS DECISION, ON WHETHER TO RELY ON THEM. ALL DISCLOSURES AND DISCLAIMERS MADE HEREIN OR ON OUR SITE, APPLY EQUALLY TO ANY OFFERS, PRIZES, OR INCENTIVES, THAT MAY BE MADE BY OUR COMPANY.



YOU AGREE THAT OUR COMPANY IS NOT RESPONSIBLE FOR THE SUCCESS OR FAILURE OF YOUR BUSINESS DECISIONS RELATING TO ANY INFORMATION PRESENTED BY OUR COMPANY, OR OUR COMPANY PRODUCTS OR SERVICES.

## **ARTICLE IX. GENERAL PROVISIONS**

**9.1 Assignment of Agreement.** Customer shall not assign its Rights or duties under this Agreement without the prior written consent of Realeflow LLC. This Agreement shall inure to the benefit of the authorized successors and assigns of the parties.

**9.2 Independent Contractor.** Customer is an independent contractor, and this Agreement does not in any way create the relationship of principal and agent, franchisee, joint venture, or partnership between the parties. Neither party shall be liable for any debts or obligations of the other.

**9.3 Entire Agreement; Precedence.** This Agreement contains the entire understanding between the parties and supersede any prior verbal or written agreement between the parties with respect to the subject matter hereof. No amendment or modification of the Agreement shall be valid, unless made in writing and signed (electronically or actually) by both parties hereto. In the event of any inconsistency or conflict between the terms and conditions of this Agreement and any term or condition of any Exhibit hereto, the terms and conditions of this Agreement shall, in all instances, govern and control.

**9.4 Governing Law.** This Agreement shall be governed by the laws of the State of Ohio without giving effect to conflict of laws principles.

**9.5 Arbitration.** Any and all disputes, controversies and claims arising out of or relating to this Agreement or concerning the respective rights or obligations of the parties hereto shall be settled and determined by arbitration before a panel of one (1) arbitrator pursuant to the Commercial Rules of the American Arbitration Association then in effect. The foregoing notwithstanding, each party shall have no more than three (3) days to present its case to the arbitrator. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement. The parties agree that the arbitrators shall have the power to award damages, injunctive relief and reasonable attorneys' fees and expenses to any prevailing party in such arbitration.

**9.6 Force Majeure.** Neither party hereto shall be in default hereunder by reason of its delay or failure to perform any of its obligations hereunder for any event, circumstance, or cause beyond its control such as, but not limited to, acts of God, strikes, lock-outs, general governmental orders or restrictions, war, threat of war, hostilities, revolution, acts of terrorism, riots, epidemics, fire, earthquake, or flood. The performance of this Agreement shall then be suspended for as long as any such event shall prevent the affected party from performing its obligations under this Agreement.

**9.7 Invalidity; Waivers.** If any provision or portion of this Agreement is held invalid, illegal, void or unenforceable as it appears in this Agreement by reason of any rule of law, administrative or judicial provision or public policy, then such provision shall be construed as being enforceable to the extent such rule of law, administrative or judicial provision or public policy allows. All other provisions of this Agreement shall nevertheless remain in full force and effect. Neither of the parties shall be deemed to

have waived any of its rights, powers or remedies hereunder unless the waiving party expresses such a waiver in writing. The parties to this Agreement hereby waive the application of the doctrine that this document will be construed against the drafter in the event of any dispute or allegation that more than one reasonable meaning exists.

**9.8 Survival of Terms.** Notwithstanding the expiration or earlier termination of this Agreement for any reason, the provisions of Articles 5, 8, 9 and Sections 2.2 and 2.3 of this Agreement shall remain in full force and effect.

**9.9 Headings.** Paragraph headings used herein are for convenience purposes only and are not intended to be, nor shall they be, used as an aid in interpretation.

## **ARTICLE X. ACCEPTABLE USE POLICY**

**10.1 Usage.** All features and services provided by Realeflow Software may be used for lawful purposes only. Transmission or storage of any information, data or material in violation of any United States Federal, State or local law is strictly prohibited. Customer agrees to indemnify and hold harmless Realeflow from any claims resulting from Customer's use of the service which damages Customer or any other parties, including attorney's fees.

Realeflow will not be liable for any interruptions in service or other monetary loss related to a violation of this Acceptable Use Policy.

**10.2 Services Provided.** Realeflow provides Customer with Web-based marketing automation, document preparation, real estate deal evaluator, customer contact and business management software. All services provided must be used by Customer in compliance with this Acceptable Use Policy.

**10.3 Customer Obligations.** Customer agrees to use Realeflow's services and particularly the marketing component in a manner that is legal, ethical and in conformity with community standards and to respect the privacy of others. More specifically, Customer agrees to abide by Realeflow's requirements governing the use of the various components of Realeflow LLC's services, as described below.

**10.3.1 E-Mail.** Realeflow strictly prohibits any involvement in Unsolicited Commercial E-mail campaigns (UCE, more commonly called "spam"). Realeflow LLC maintains a Zero Tolerance policy against spam, be it direct, indirect, or through any affiliate or agent acting on the Customer's behalf. Realeflow LLC expects Customer to have proof that all individuals in the Customer's database have opted in or otherwise agreed to receive communications from Customer. All lists used in conjunction with the services provided by Realeflow LLC are required to be 100% opt-in lists. This means that the individuals on the list have agreed to receive information from YOUR COMPANY.

**10.3.2 Email Spamming.** Spamming, or the sending of unsolicited email, using an email address, URL that is maintained on a Realeflow machine, or directing traffic to a webpage that contains any reference to Realeflow is STRICTLY prohibited. Realeflow will be the sole arbiter as to what constitutes a violation of this provision. This action may result in immediate

termination of your account without refund. Subscriber will also be in violation of the Realeflow End User License Agreement and maybe subject to legal action.

**10.3.3 CAN-SPAM Act.** All customers must follow the rules of the federal CAN-SPAM act and Realeflow's Anti-Spam policy when sending e-mail through the service. Accordingly, we require the following of e-mail messages sent through the Realeflow system:

1. All e-mails must contain a one-click unsubscribe link.
2. All e-mails must contain non-Internet contact information of the sender, such as your company's address, or your company's phone number.
3. All e-mails must state the reason the recipient is receiving the message.

These 3 guidelines will help ensure that you maintain Realeflow's reputation and white-listing status and whitelisting programs. If at any time your mailing is flagged as SPAM by a recipient, Realeflow reserves the right to cancel your account without notice.

**10.3.4 Spoofing.** It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message that does not contain a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that (i) a recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and (ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message

**10.3.5 Purchasing email lists.** The practice of purchasing or renting lists of names and sending e-mails to those people is strictly prohibited.

**10.3.6 Email unsubscribe requests.** You are responsible for monitoring, correcting, processing unsubscribe requests within 10 days, and updating the email addresses to which messages are sent through any Realeflow account.

**10.3.7 Email Abuse.** Emails that you send through the Service may generate abuse complaints from recipients. You are responsible for ensuring that your (customers) email campaigns do not generate a number of abuse complaints in excess of industry norms. Realeflow, in its sole discretion, shall determine whether your level of abuse complaints is within industry norms, and its determination shall be final, binding and conclusive for all purposes under this Agreement.

**10.3.8 Number of email messages.** The number of permitted email messages per month is dependent upon your subscription plan. For information about your permitted email messages under your plan please contact Customer Service at support@realeflow.com. Emails in excess of your subscription plan will result in extra charges to the user per Realeflow's usage agreements. Realeflow, LLC reserves the right to limit the amount of emails any user may send, and Realeflow, LLC reserves the right to change or cancel any of these features or conditions upon reasonable notice to the user.

**10.3.9 Affiliates.** Any and all of Customer's affiliates are bound by the terms of this Acceptable Use Policy. Customer is responsible for ensuring that his or her affiliates are refraining from any

unsolicited communications involving the Realeflow services. Customer's failure to ensure his or her affiliates' compliance with this Acceptable Use Policy will be found in violation of the Policy and will be subject to the penalties stated in this Policy.

**10.3.10 Privacy Policy.** Customer must publish, enforce and abide by a privacy policy which protects its customers' personal information in its possession or under its control.

**10.3.11 Selling information.** Customer agrees that it will not sell, loan or in any way pledge or hypothecate the personal information of its customers to any other person or entity by way of joint venture or any other agreement.

**10.3.12 Phone Calls, SMS or Text Messages, Voice Mail, Faxes.** Customer will not use these services in connection with any unsolicited or harassing messages (commercial or otherwise) including but not limited to unsolicited or unwanted phone calls, SMS or text messages, voice mail, or faxes. Customer will not improperly engage in activity for which the United States Federal Communications Commission has restricted or regulated. Customer is personally responsible for all messages originated and sent via the application. Actions taken using Customer's credentials shall be deemed to be actions taken by the Customer, with all consequences including service termination, civil and criminal penalties.

**10.3.13 Images and Videos.** The Customer will only utilize licensed images/videos on the Customer's Websites, Squeeze Pages and any other marketing collateral where the Customer has the ability to insert or substitute their own images/videos. The Customer is fully responsible for any potential Copyright infringement notices, fees, or penalties associated with utilizing unlicensed or under-licensed images/videos that the Customer supplies.

**10.4 Violations and Penalties.** Customers who fail to comply with the terms of this Acceptable Use Policy will be subject to the following penalties, including, but not limited to, termination of service.

**10.4.1 Complaints.** A \$50 administration fee will be immediately charged to Customer's account for each complaint of spam or unauthorized communication that Realeflow LLC receives involving Customer's account. This non-refundable administration fee goes toward disputing the complaint with the complainant, the reporting service or "black list" service, and resolving the complaint.

**10.4.2 Notice of Complaints.** Upon receiving a complaint, Realeflow LLC will notify Customer of said complaint and investigate the validity of the complaint. If Customer does not take immediate remedial action to rectify the situation, Realeflow LLC may temporarily suspend Customer's service until Customer has resolved the situation to Realeflow LLC's satisfaction.

**10.4.3 Disputing Complaints.** After Realeflow LLC notifies Customer of a complaint involving his or her account, Customer will have the burden of proof to demonstrate to Realeflow LLC that the complaining individual did, in fact, agree to receive communications from Customer. If Customer cannot demonstrate to Realeflow LLC that the complaining individual agreed to receive communications from Customer, the complaint will be deemed a "Confirmed Violation" of this Acceptable Use Policy.

**10.4.4 Confirmed Violations.** A \$250 administration fee will apply, and termination of service may apply, in the event Realeflow LLC conclusively determines that Customer sent an unsolicited communication to a recipient who did not agree to receive communications from Customer.

**10.4.5 Blatant, Widespread and/or Repeated Violations.** In accordance with its Zero Tolerance Spam Policy, Realeflow LLC will immediately terminate the account of any Customer found to be involved in a spam campaign or other widespread or repeated violation of this Acceptable Use Policy. Furthermore, such Customer will incur a \$500 penalty and all information contained in Customer's account will be forfeit, with no consideration of retrieval. Customer will be held accountable for any monetary damages suffered by Realeflow LLC, sustained through contravention of this Policy. Such monetary damages may include, but are not limited to, loss of Realeflow access, any costs incurred securing further Realeflow access and punitive damages related to lost clients and revenues due to said violation. The determination of what constitutes a "blatant, widespread and/or repeated violation" of this policy will be determined by Realeflow LLC in a reasonable manner.

## **ARTICLE XI. RESERVATION OF RIGHTS**

**11.1 Reservation of Rights.** Realeflow reserves the right to terminate the Customer's account for any violation of the Acceptable Use Policy (Section 10).

**11.2 Questionable Practices.** Realeflow LLC may terminate Customer's account if Customer engages in any practice that is, in Realeflow LLC's sole discretion, unlawful, obscene, threatening, abusive, libelous or hateful, or that encourages conduct which would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or international law.

**11.3 Change of Terms and Conditions.** Realeflow LLC reserves the right to change the terms and conditions of this Policy, as needed. Use of Realeflow LLC's services by Customer after said changes constitutes Customer's acceptance of the new Policy.