

LICENSE AGREEMENT FOR USE OF 2012 GAR-APPROVED REAL ESTATE FORMS



2012 Printing

NOTICE TO USER: THIS LICENSE AGREEMENT ("AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU ("USER") AND THE GEORGIA ASSOCIATION OF REALTORS®, INC. ("GAR") SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH THE 2012 GAR-APPROVED REAL ESTATE FORMS ("FORMS") MAY BE USED. BY PRINTING, DOWNLOADING OR USING ANY OF THE FORMS, IN WHOLE OR IN PART, YOU AGREE TO ACCEPT AND BE STRICTLY BOUND BY THE TERMS AND CONDITIONS SET FORTH HEREIN. THIS AGREEMENT CONSTITUTES THE COMPLETE AGREEMENT BETWEEN YOU AND GAR RELATIVE TO THE USE OF THE 2012 GAR FORMS. NEITHER PARTY SHALL BE BOUND BY ANY AMENDMENT TO THIS AGREEMENT UNLESS THE SAME IS AGREED TO IN WRITING AND SIGNED BY BOTH PARTIES. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT USE THE FORMS OR DOWNLOAD THE SAME. VIOLATIONS OF THIS LICENSE AGREEMENT CAN RESULT IN THE LICENSE RIGHTS GRANTED HEREIN BEING SUSPENDED OR REVOKED AND SUBJECT THE USER TO LEGAL SANCTIONS AND CLAIMS AS SET FORTH HEREIN.

1. **Grant and Terms of License.** GAR grants and User accepts a nontransferable and non-exclusive license to use the Forms provided that you comply with all of the terms and conditions of this Agreement. The Forms shall only be used in connection with the operation of User's business as a real estate licensee in specific real estate transactions and in accordance with the terms and conditions contained herein.

- A. User acknowledges and agrees that the License granted to User herein is limited to the 2012 release of the Forms by GAR as the same may be amended and revised from time to time. User agrees not to use the Forms, in whole or in part, later than the date that GAR issues a 2013 release of the Forms and the new Forms are required to be uploaded onto the Web Based Program of the GAR Forms Vendor (except that any Form already being used in a specific real estate transaction may continue to be used in that transaction only). The release date of Forms is identified in the upper right hand corner of the Form underneath the GAR logo.
- B. User further agrees to use any revised or amended GAR Form that is a part of the Forms not later than the date that the GAR Forms Vendors are required to upload the revised form onto its Vendor Web Based Program (except that any Form already being used in a specific real estate transaction may continue to be used in that transaction only). A revised or amended form shall be so identified in the lower right hand corner of the Form.
- C. Notwithstanding the above, thirty (30) days after the issuance of the 2013 GAR Forms, the license granted herein to use any earlier dated release printings of the Forms shall be permanently revoked. At that time, User shall destroy any unused Forms and delete any unused file copy of the Forms in his or her possession or control.
- D. User hereby agrees to indemnify and hold GAR harmless from any and all alleged damages or costs in excess of this amount which may result from a revocation of User's license rights herein.
- E. User may only use the GAR Forms if User is an Authorized User. An Authorized User shall be any of the following persons: a) an individual person who is a GAR REALTOR® member; b) an individual person who is a real estate licensee and has applied for and received a Temporary User Number from GAR; or c) an individual otherwise approved in writing by GAR to be an Authorized User.
- F. Authorized Users shall only be permitted to use the GAR Forms in real estate transactions in which the Authorized User is involved as a real estate licensee. Each page of each GAR Form shall include the following footer:

"THIS FORM IS COPYRIGHTED AND MAY ONLY BE USED IN REAL ESTATE TRANSACTIONS IN WHICH _____ IS INVOLVED AS A REAL ESTATE LICENSEE. UNAUTHORIZED USE OF THE FORM MAY RESULT IN LEGAL SANCTIONS BEING BROUGHT AGAINST THE USER AND SHOULD BE REPORTED TO THE GEORGIA ASSOCIATION OF REALTORS® AT (770) 451-1831."

The Vendor's Software and Vendor Web Based Program has been designed to automatically cause the name of the Authorized User to appear in the blank space of the above-referenced footer and the same cannot be altered, changed or removed.

- G. It shall be a violation of this Agreement for an Authorized User to provide any GAR Form to a third party except as part of a real estate transaction in which the Authorized User is involved as a licensee or as otherwise provided herein. In all cases where the GAR Forms or any GAR Form therein is provided to a third party, the Authorized User shall be responsible for ensuring that the third party strictly complies with the terms of this License Agreement.
- H. It shall be a violation of this Agreement for an Authorized User to alter, modify or change (or permit the alteration, modification or changing of) the name of the Authorized User appearing in the footer on each page of each GAR Form.
- I. It shall be a violation of this Agreement for an Authorized User to cover up or remove the footer appearing on the bottom of each page of each GAR Form.
- J. It shall be a violation of this Agreement for an Authorized User to provide his or her NRDS number or Temporary User Number to a third party or permit a third party to access and use the GAR Forms by entering the login of an Authorized User.

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- K. It shall be a violation of this Agreement for an Authorized User to post the GAR Forms on a website which may be accessed by members of the public or by any person who is not an Authorized User. However, it shall not be a violation for the GAR Forms used in specific real estate transactions to be posted on a website which may be accessed by the parties in a real estate transaction and other persons involved in providing professional or administrative services in the transaction.
- L. It shall be a violation for an Authorized User to allow an affiliated licensee of the Authorized User or a licensed real estate assistant of the Authorized User to use the GAR Forms in real estate transactions in which the licensed assistant or affiliated licensee is either a listing or selling agent or a lease listing or leasing agent unless the real estate assistant or affiliated licensee or real estate assistant have first become an Authorized User as that term is defined hereunder.
- M. It shall not be a violation of this Agreement for sample copies of the GAR Forms to be used and distributed for educational purposes in a classroom or virtual classroom, provided that the body of the Forms are each watermarked with a clear, conspicuous disclosure that will plainly appear if the Forms are copied or sent by facsimile which provides "For Educational Purposes Only" or some other similar phrase with the same meaning.
- N. Notwithstanding any provision to the contrary contained herein, nothing herein shall prohibit an Authorized User from using administrative, support or information technology assistants (hereinafter "Support Personnel") from providing assistance to the Authorized User including accessing the GAR Forms in the name of the Authorized User provided that such use is limited to transactions in which the Authorized User is a real estate licensee and the Support Personnel are not otherwise involved in the transaction as a real estate licensee. Such limited use by Support Personnel shall not be a violation of this Agreement.

2. Ownership of the Forms and Copying Thereof.

- A. GAR shall retain sole title to, copyright in, full ownership, and other intellectual property rights of the Forms and all parts and subsequent copies thereof, regardless of the media or form in or on which the original and other copies may exist. GAR reserves all rights not expressly granted herein. GAR shall be deemed to be the exclusive owner of the Forms and of all rights thereon, whether or not any portion thereof is or may be validly copyrighted or similarly protected. The license granted herein does not constitute a sale of the copyright to the Forms, or give User any ownership interest in the Forms.
- B. The Forms are copyrighted and owned by GAR and are protected by United States copyright laws. Unauthorized copying other than as set forth below is expressly prohibited. You may be held legally responsible for any copyright infringement that is caused or encouraged by your failure to abide by the terms of this Agreement. Except as set forth below, neither the Forms nor any portion thereof (including any upgraded or updated version thereof) may be amended, reverse engineered, used to create derivative works, modified, copied, de-compiled, disassembled, reprinted, duplicated, adapted, altered or recreated, directly or indirectly, in whole or in part, without the express prior written consent of GAR.
- C. Except as otherwise provided herein, User is expressly prohibited from sharing, distributing, selling or disseminating the Forms or any reproduction thereof, in any medium whatsoever, with any other person or entity. User may customize the Forms with User's company logo and with information about User's company, including, but not limited to, User's company name, address, telephone number or MLS number. However, under no circumstances shall User be permitted or authorized to alter any preprinted matter contained in any Form (except by conspicuously drawing a line through or crossing out material in the Form to be deleted so that another Authorized User can easily identify such deletions), and User may not remove, alter or modify the GAR seal, logo, trademark, release date, form number or copyright information. If User received access to the GAR Forms within the Forms Software or access to the GAR Forms within the Vendor's Web Based Program by virtue of being a GAR REALTOR® member and does not maintain continued membership in the REALTOR® organization, User may only continue to use the GAR Forms if User purchases a Temporary User Number from GAR.

3. Warranty Disclaimers and Limited Warranty Agreement.

- A. The Forms are provided "AS IS," without any express or implied representations or warranties of any kind, especially disclaiming without limitation, any implied warranties of merchantability or fitness for a particular purpose. GAR does not warrant or guarantee that the Forms or any portions thereof will meet User's requirements, are error-free, lack viruses or will always comply with all applicable local, state and federal laws. User assumes full responsibility for the proper use of the Forms.
- B. Neither GAR nor any of its agents, employees, officers, directors, members, successors or assigns shall have any liability to the Authorized User or any other person for any claim, loss or damage of any kind or nature whatsoever arising out of or in connection with the deficiency or inadequacy of the Forms for any purpose, whether or not known or disclosed to GAR.
- C. The Forms are not a substitute for the independent professional judgment of User as to the appropriateness of a Form or Forms in different situations. The Forms do not constitute legal or real estate advice and should be reviewed in full and in advance by User's legal counsel or the legal counsel of the parties in a real estate transaction in which they are used and permission for such a review by counsel is hereby granted by GAR.

- 4. **Confidentiality.** User acknowledges that the Forms consist of commercially valuable proprietary rights and trade secrets of GAR, the development of which has involved the expenditure of substantial amounts of time and money and the use of skilled persons. User acknowledges that the Forms contain confidential and proprietary information of GAR, disclosed to User on a confidential basis. User hereby covenants and agrees that during the term of this Agreement and for all times thereafter, it shall not, except in accordance with the terms of this Agreement or after obtaining the express prior written consent of GAR, publish, disclose, divulge, sell, assign, give or otherwise transfer or release, any confidential and proprietary information of GAR or the Forms, in whole or in part, alone or in combination with any other information, to any person for its own benefit or the benefit of any person other than GAR.

5. **General Provisions.** The use of the Forms is licensed only to you as User, and except as specifically provided for herein, may not be transferred to anyone without the prior written consent of GAR. Neither this Agreement nor any part or portion hereof shall be assigned, sublicensed or otherwise transferred by User. This Agreement shall be governed by and construed under the laws of the State of Georgia. Notwithstanding any provision to the contrary contained herein, persons/firms who are not licensed by the Georgia Real Estate Commission ("GREC") to sell real estate shall be permitted to purchase or use these Forms except with the express prior written approval of GAR, except that: (a) GREC approved schools may purchase and use the Forms provided that such schools superimpose as a watermark in conspicuous letters on each page of the Forms the phrase "FOR STUDENT TRAINING USE ONLY".
6. **Violations.** In the event User violates License Agreement, User shall be subject to any or all of the following sanctions and penalties:
1. GAR may terminate or suspend the User's right to use the GAR Forms without refund of any amounts paid by User to purchase a Temporary User Number;
 2. GAR may pursue any claim or cause of action against the User, civil or criminal, in law or in equity, arising out of or relating to such violation.

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