

Atlas Terms of Service

These Atlas Terms of Service (“Terms”) are applicable to your access and use of the Arizona Regional Multiple Listing Service, Inc. (“ARMLS”) Atlas software platform and database (“Atlas”).

BY USING ATLAS, YOU ARE AGREEING TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS YOU MAY NOT ACCESS ATLAS.

ARMLS may update these Terms from time to time and will not notify you in advance of any such modifications. In the event you access Atlas following such updates, you are agreeing to such modifications.

1. Access and Use of Atlas

Subject to your compliance with these Terms, ARMLS grants you a limited, non-transferable, non-sublicensable, non-exclusive license to access and use Atlas solely for your internal business purposes.

ARMLS will use commercially reasonable efforts to make Atlas available twenty-four hours a day, seven days a week (24/7). However, ARMLS reserves the right to perform necessary maintenance on Atlas at any time. In addition, updates will be made to Atlas on a daily basis. ARMLS will use commercially reasonable efforts to perform such updates between the hours of 4:00 a.m. to 7:00 a.m. Arizona time (MST). While Atlas will be available during the application of updates, performance may be degraded during this time as the updates are processed.

You are solely responsible for any use of Atlas in connection with a user name or password issued to you. You will use commercially reasonable efforts to maintain the confidentiality of all user names and passwords. You will promptly notify ARMLS at Atlas@ARMLS.com if you believe a user name or password has been compromised or if you become aware of any unauthorized access to or use of Atlas.

Your access to Atlas may be suspended at any time without notification to you in the event of a suspected breach of these Terms or such access presents any security or other risk to ARMLS or any third party. Your access may also be terminated as set forth below.

2. Restrictions on Use

You may not:

(i) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, algorithms, file formats, or interface protocols of Atlas;

(ii) copy, modify, adapt, translate, resell, frame, mirror, distribute, tamper with or create derivative works of Atlas or publish any benchmarks regarding the same;

(iii) use the data obtained through use of Atlas outside the scope of these Terms and expressly may not develop a database, data compilation, data set or other grouping using or based on Atlas or copy or create any derivative works based on or using data obtained through Atlas for any purpose other than your internal business purposes;

(iv) use or make Atlas available on a “service bureau” basis, rent, lease, lend, resell, transfer, sublicense or allow any parties to use (or benefit from the use of) Atlas;

(v) remove or modify any proprietary marking or restrictive legends placed on Atlas or any of its files or documentation;

(vi) use or attempt to use any device, software or routine to interrupt or interfere with the proper operation of Atlas or use either in any manner that could damage, disable, overburden, or impair any service, data, account or network;

(vii) falsify any protocol or email header information (e.g., “spoofing”);

(viii) use manual or electric means to avoid any use limitations placed on Atlas such as access and storage restrictions;

(ix) use Atlas in violation of any applicable law, regulation, government order or decree or use either for any purpose that is unlawful or in order to violate the rights of others;

(x) use Atlas in excess of your permitted usage limitations or attempt to circumvent any technical limitations or otherwise attempt to gain unauthorized access to ARMLS or any service, data, account or network that is not intentionally made available to you by ARMLS or probe, perform a denial of service attack, scan, test vulnerabilities of or otherwise breach the security or authentication measures of Atlas;

(xi) use Atlas to transmit or store any information or data that is infringing, libelous, defamatory, obscene, abusive or otherwise unlawful or objectionable;

(xii) use Atlas to transmit or store any viruses, spam, cancelbots, mail bomb, time bombs, backdoors, trapdoors, worms, Trojan horses, or any other malware or malicious code;

(xiii) make Atlas or any data obtained from Atlas available to any third party, provided you may share a copy of data obtained through Atlas to your customers and clients for use in connection with their limited internal business purposes and provided all such data reports contain the proprietary legend “Data courtesy of Atlas, provided by The Arizona Regional Multiple Listing Service, Inc.”; or

(xiv) allow any third party to do any of the above.

3. **Ownership.** As between you and ARMLS, ARMLS is the sole owner of Atlas, including all related copyrights and other intellectual property rights. You have no rights with respect to Atlas other than those expressly granted under these Terms.

4. **Services.** Help desk support will be made available by ARMLS (or a third party on ARMLS’s behalf) between the hours of 9:00 a.m. to 5:00 p.m. Arizona time, Monday through Friday, excluding federally recognized holidays.

5. **Access Requirements.** You must have a high-speed internet connection, and hardware and software that are compatible with Atlas as identified by ARMLS in any help desk files, and are responsible for providing the same.

6. **Term and Termination.** Your access and use of Atlas is subject to you having an active subscription to the ARMLS MLS service. ARMLS may terminate your access and use of Atlas if it deems you have violated these Terms. ARMLS has no obligation to notify you of this termination.

7. **Disclaimer of Warranty.** ATLAS IS PROVIDED "AS IS". ARMLS DOES NOT MAKE AND HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OF NONINFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE IN TRADE. ARMLS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN ATLAS WILL MEET YOUR PARTICULAR REQUIREMENTS, OR THAT THE OPERATION OF ATLAS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ATLAS WILL BE COMPATIBLE WITH ANY OTHER HARDWARE OR SOFTWARE. YOU ASSUME SOLE RESPONSIBILITY FOR THE SELECTION OF ATLAS TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE USE OF, AND THE RESULTS OBTAINED THROUGH THE USE OF ATLAS.

8. **Limitation of Liability.** ARMLS SHALL NOT BE LIABLE FOR ANY LOSS OF DATA, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUES, COST OF REPLACEMENT GOODS OR SERVICES, OR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR ANY OTHER DAMAGES OF ANY KIND PERTAINING IN ANY WAY TO ATLAS, EVEN IF ARMLS IS INFORMED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. IN NO EVENT SHALL ARMLS'S LIABILITY TO YOU OR THE ENTITY THAT YOU REPRESENT EXCEED IN THE AGGREGATE \$1,000 EVEN IF SUCH REMEDY SHOULD FAIL OF ITS ESSENTIAL PURPOSE.

9. **Confidentiality.** "Confidential Information" means all information disclosed or made available to you under these Terms that relates to Atlas, including without limitation its help files, manuals or other documentation, or the finances, operations, customers or business of ARMLS, all of which ARMLS considers and protects as confidential. You agree to protect the Confidential Information with the degree of care that you use to protect your own confidential information of like nature, but in no case less than reasonable care. You agree that, except as expressly directed by ARMLS and except as expressly permitted by these Terms, you will not at any time during or after the term of this Agreement: (1) disclose any Confidential Information to any third party; (2) permit any third party to examine and/or make copies of any help files, manuals, reports, documents or electronic data containing Confidential Information; or (3) use any of the Confidential Information for any reason other than for the limited license granted in these Terms. If you are required to disclose any Confidential Information pursuant to any statute, regulation, order, subpoena or document discovery request, you must provide ARMLS with written notice of such required disclosure as soon as practicable in order to afford ARMLS the opportunity to seek a protective order and you will reasonably cooperate in such efforts. For the purpose of clarity, data obtained through Atlas may be shared with your clients and customers in the course of your regular business, subject to the use restrictions set forth above in Section 2.

10. **Indemnification.** You agree to indemnify, defend and hold harmless ARMLS, its parent company and affiliates, and their respective officers, representatives, directors, employees, consultants and agents from any and all losses, expenses, third-party claims, liabilities, damages and costs (including without limitation attorneys' fees) arising from or related to your use of Atlas, your use of any material, information or data downloaded or otherwise obtained from Atlas, or your violation of these Terms.

11. **Governing Law and Forum.** These Terms will be governed by, and construed in accordance with, the laws of the State of Arizona without regard to conflict of law principles. You agree that any claim you file against ARMLS or its affiliates or any claim arising from Atlas or these Terms will be adjudicated in the applicable state or federal court of competent in Maricopa County, Arizona, and that such court will have exclusive jurisdiction in relation to any such claim.

12. **Entire Agreement.** These Terms are the entire agreement between you and ARMLS relating to your use of Atlas and supersedes any prior representations or agreements, oral or written and all other communications. These Terms will not be varied except in writing signed by the parties.
13. **Force Majeure.** ARMLS is not responsible for any delay in or failure of performance under these Terms, which will not be considered to be a breach hereof if and to the extent that such delay or failure of performance is caused by an occurrence or occurrences beyond the reasonable control of ARMLS.
14. **Headings and Captions.** The descriptive headings of the articles, sections and subsections of these Terms are for convenience only and do not constitute a part of these Terms.
15. **No Waiver.** The parties may not waive any provision of these Terms in whole or in part, except pursuant to a writing executed by both parties. The failure of either party to enforce at any time any of the provisions of these Terms will not be construed to be a continuing waiver of any provisions hereunder, nor will the failure by either party to strictly enforce any provision of these Terms prejudice the right of that party to take any action in the future to enforce any provisions hereunder.
16. **Severability.** If any provision of these Terms is determined to be illegal, invalid or unenforceable by a competent court or tribunal, the validity and enforceability of the remaining provisions will not be affected and, in lieu of such illegal, invalid or unenforceable provision, there will be added as part of these Terms one or more provisions as similar in terms and effect as may be legal, valid and enforceable under applicable law.
17. **Remedies.** To the extent you have breached or indicated your intention to breach these Terms in any manner that violates or may violate ARMLS's intellectual property rights, or may cause continuing or irreparable harm to ARMLS, ARMLS may immediately seek injunctive relief in a court of competent jurisdiction without the posting of a bond, proof of damages or other similar requirement in addition to any other rights and remedies that may be available at law or in equity.
18. **Survival.** The parties' rights and obligations, which by their nature would continue beyond the expiration or termination of these Terms, including but not limited to those regarding indemnification, compliance with laws, and confidentiality, will survive any termination or expiration of these Terms.