

1                                   **Capital Area Association of REALTORS® Multiple Information Service**

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3                                   **PARTICIPATION AGREEMENT**

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6                   This Participation Agreement (the "Agreement") is made and entered into by and between  
7 \_\_\_\_\_, an individual principal real estate broker or broker in charge, or a real estate  
8 Brokerage firm, as MIS may require (the "Participant"), and **CAPITAL AREA ASSOCIATION OF REALTORS ®**, ("CAAR"),  
9 **MULTIPLE INFORMATION SERVICE**, (the "MIS").

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11                   1.       Definitions. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in  
12 Section 24 of this Agreement.

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14                   2.       Grant of Participation Rights in Multiple Information Service.

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16                   a.       Subject to the terms and conditions of this Agreement and the Rules and Regulations, MIS agrees to  
17 make the MIS Database available for access by Participant, and Participant shall have all rights and obligations of a participant in  
18 MIS' multiple listing service as set forth under the Rules and Regulations. Access to the MIS Database shall be through a means  
19 described hereinbelow in subparagraph (ii). Participant may permit duly authorized employees or agents associated with his/her  
20 office to access the MIS Database on Participant's behalf and pursuant to the terms of this Agreement and applicable MIS policies;  
21 provided that, Participant (i) accepts full responsibility, and shall be liable to MIS for use of the MIS Database by such employee  
22 or agent; and  
23 (ii) promptly terminates access to the MIS by such employee and agent upon such employee or agent ceasing to be authorized as  
24 set forth in this provision. Participant agrees to take all reasonable steps to protect the MIS Database from unauthorized access,  
25 copying, or use.

26  
27                   b.       The MIS will issue to Participant one "agent ID" number and "token" (key fob) that, along with a  
28 Participant generated "PIN", will entitle Participant to use and access the System through a System compatible computer using  
29 Participant's own Internet connection. Simultaneous access to the System using the same Agent ID is prohibited. THE PIN AND  
30 KEY FOB ARE PROVIDED EXCLUSIVELY FOR THE SOLE USE OF PARTICIPANT AND MAY NOT BE SHARED WITH  
31 OR USED BY ANY OTHER PERSON. Failure to comply with this provision will result in a significant fine and possible loss of  
32 MIS System access as set forth in the MIS Policies.

33  
34                   (i)       The Participant agrees to prohibit access to the System by those not authorized to use the System, and  
35 agrees to keep confidential any security features, including but not limited to the PIN.

36  
37                   (ii)       The Participant agrees not to sell, publish, reformat, recompile nor resell MIS Data, derive products or  
38 analyses from the MIS Data, nor distribute in written, printed or electronic form proprietary or  
39 copyrighted information of the MIS or the CAAR other than that of Participant's own data, to any  
40 person, firm, corporation or entity, whether or not for compensation, without the express written consent  
41 of the CAAR and the property owner whose information is so disseminated, except for appraisal or  
42 comparative market analysis ("CMA") purposes or the marketing of properties or prospective  
43 purchasers or tenants.

44  
45                   3.       License to IDX Listings. Upon the receipt of a written request from Participant, in a form acceptable to MIS,  
46 and so long as Participant, the applicable Sales Licensee, and/or an applicable Vendor are not in default under this Agreement, the  
47 Rules and Regulations or any agreement with MIS, MIS will grant to Participant, the applicable Sales Licensee of Participant, or  
48 the applicable Vendor a license to the IDX Listings. The license will only be granted pursuant to a License Agreement. MIS has  
49 no obligation to grant a license to Participant, any Sales Licensee, or any Vendor which does not enter into a License Agreement.  
50 In addition to any applicable license fee payable by Participant, the Sales Licensee, and/or the Vendor, Participant shall pay to MIS  
51 all costs and expenses incurred by MIS in connection with any licenses and any services provided by MIS in connection with such  
52 licenses.

53  
54                   4.       Intellectual Property Ownership; Enforcement.

55  
56                   a.       Participant acknowledges and agrees that the MIS Database, and all copies, modifications,  
57 enhancements, and derivative works of the MIS Database, are the property of MIS, and all right, title, and interest in and to the

1 MIS Database, together with all copies, modifications, enhancements, and derivative works, including all copyright and other  
2 intellectual property rights are and shall remain with MIS. Participant hereby irrevocably assigns to MIS any and all rights which  
3 it may have or acquire in and to the MIS Database.  
4

5 b. Participant hereby grants to MIS a non-exclusive, irrevocable, worldwide, royalty free license to use,  
6 sublicense through multiple tiers, copy, publish, display, and reproduce the Listing Content, to prepare derivative works of the  
7 Listing Content, and to distribute the Listing Content or any derivative works thereof. Such license shall be deemed granted as of  
8 the moment of creation without the necessity of any further action on the part of either party. Participant represents and warrants  
9 to MIS with respect to the Listing Content for each of Participant's Listings that the Listing Content, and the license of rights in  
10 and to the Listing Content to MIS, do not infringe or violate any copyrights, trade secrets, or other intellectual or proprietary rights  
11 of any third party.  
12

13 c. Participant agrees not to challenge MIS' rights in and to the MIS Database or to take any action  
14 inconsistent with the license granted to the Listing Content under this Agreement. Participant agrees to take all action and execute  
15 and deliver to MIS all documents requested by MIS in connection with the license granted to MIS in and to the Listing Content.  
16 Participant further agrees to take all action and execute and deliver to MIS all documents requested by MIS in connection with the  
17 copyright application and registration of the MIS Database.  
18

19 d. Participant shall indemnify MIS against all damages, costs, and liabilities, including reasonable attorney  
20 fees, arising from any claim that the Listing Content or any  
21 portion of the Listing Content infringes the rights of any third party. PARTICIPANT ACKNOWLEDGES THAT THE  
22 FOREGOING SENTENCE MEANS THAT PARTICIPANT MUST OBTAIN ASSIGNMENTS OR LICENSES FROM THE  
23 AUTHORS OF ANY PORTIONS OF THE LISTING CONTENT, INCLUDING AFFILIATES, SELLERS AND THIRD-PARTY  
24 CONTRIBUTORS, AS NECESSARY FOR PARTICIPANT TO LICENSE THE LISTING CONTENT TO MIS AND TO  
25 OTHERWISE MAKE FULL USE OF THE LISTING CONTENT UNDER THIS AGREEMENT. IF PARTICIPANT FAILS TO  
26 DO SO, PARTICIPANT WILL ASSUME AND REIMBURSE MIS FOR THE COST OF DEFENDING MIS AGAINST  
27 INFRINGEMENT CLAIMS AND PAYING DAMAGES ON ANY SUCH CLAIMS.  
28

29 e. Without limiting the generality of this Section 4, but subject to the rights of participants in the MIS'  
30 multiple listing service to opt out of inclusion with respect to Listings submitted by such participant as set forth in the Rules and  
31 Regulations, Participant acknowledges and agrees that MIS may use and license, or otherwise grant rights in or to the MIS  
32 Database or any or all of the Listings included in the MIS Database, including any and all Listing Content, to any third party for  
33 any lawful purpose reasonably deemed appropriate by MIS, unless otherwise limited by a separate agreement between MIS and the  
34 applicable Broker or by the Rules and Regulations.  
35

36 f. Participant hereby grants to MIS all rights necessary for MIS to protect and enforce all intellectual  
37 property rights associated with the Listing Content, including all copyrights. In accordance with the grant of such rights,  
38 Participant hereby irrevocably authorizes, empowers and vests in MIS the right, and appoints MIS as Participant's attorney in fact,  
39 to do the following:  
40

- 41 (i) Add watermarks or other means of identification to any and all Listings, regardless of whether such  
42 means of identification is visible, and take any and all other action deemed appropriate by MIS to  
43 identify the source of any misuse, infringement, or misappropriation of any Listing Content.  
44
- 45 (ii) Send demand letters, exercise rights under any applicable license agreements, and take any and all other  
46 action deemed appropriate by MIS to prevent the misuse, infringement, or misappropriation of any  
47 Listing Content.  
48
- 49 (iii) Enforce and compromise any and all intellectual property rights in the Listing Content, including all  
50 copyrights, whether such rights are held in the name of Participant or others, and take all action deemed  
51 necessary and appropriate by MIS in connection with the enforcement of all such rights, including,  
52 without limitation, the filing and prosecution of litigation or binding arbitration with respect to any  
53 potential claim of infringement, misappropriation, or other similar claim, the naming of any parties  
54 deemed appropriate by MIS, and the collection of any damages.  
55
- 56 (iv) Execute all documents, whether in the name of Participant and/or MIS, deemed appropriate by MIS to  
57 affect any of the foregoing.

1  
2 Notwithstanding the foregoing, nothing in this Section 4.f requires MIS to take any action against any person, firm, partnership or  
3 other entity that Participant claims may be infringing any Listing Content.  
4

5       5.       Fees and Payment Terms. The Participant shall be obligated to pay any and all fees applicable to services  
6 provided under this Agreement as established through MIS Policy. The MIS may bill Subscribers affiliated with Participant  
7 directly for services, however, this does not relieve Participant of the ultimate responsibility for payment in accordance with the  
8 policies of the MIS. If the MIS decides to bill Subscribers directly, then Participant must provide a credit card authorization, a  
9 bank debit authorization or other acceptable form of electronic payment, at the option of MIS, to enable the MIS to process  
10 Participant payments automatically.  
11

12       6.       Agreement With Sales Licensees. Participant agrees to cause all of Participant's Sales Licensees who will  
13 receive access to the MIS through Participant to enter into a subscriber agreement, in a form and substance acceptable to MIS (a  
14 "Subscriber Agreement"), in its sole discretion.  
15

16       7.       Responsibility for Affiliates. Participant shall be responsible and liable to MIS for the acts and omissions of its  
17 Affiliates, and shall be responsible for each Affiliate's compliance with the Rules and Regulations. Any failure to comply with the  
18 Rules and Regulations by an Affiliate shall be deemed a failure to comply by Participant, and Participant shall be responsible and  
19 liable to MIS for any damages incurred by MIS arising from or as a result of an Affiliate's noncompliance with the Rules and  
20 Regulations.  
21

22       8.       No Assignment by Participant. Participant agrees that this Agreement is personal to Participant, and Participant  
23 may not assign or transfer this Agreement, including any license granted under this Agreement, or transfer any rights or delegate  
24 any duties under this Agreement, to any third party. Any attempt to assign, transfer, or delegate any of Participant's rights, duties,  
25 or obligations under this Agreement shall be null and void.  
26

27       9.       Interruptions in Service. Participant acknowledges that access to the MIS Database may from time-to-time be  
28 unavailable to Participant, whether because of technical failures or interruptions, intentional downtime for service or changes to  
29 MIS' website, or otherwise. Participant agrees that any modification of MIS' website, and any interruption or unavailability of  
30 access to the MIS Database shall not constitute a default of any obligations of MIS under this Agreement, and MIS shall have no  
31 liability of any nature to Participant for any such modifications, interruptions, unavailability, or failure of access.  
32

33       10.      Copies and Derivative Works. Except as otherwise expressly provided in this Agreement, a separate license  
34 agreement, or the Rules and Regulations, Participant may not do any of the following, either directly or indirectly, including  
35 assisting any other person to do, or otherwise contribute in any way to any of the following:  
36

37               a.       Make any copies of the MIS Database, or any portion of the MIS Database, including any specific  
38 Listing Content included in the MIS Database;  
39

40               b.       Download, distribute, export, or transmit the MIS Database, or any portion of the MIS Database,  
41 including any Listing Content included in the MIS Database, to any computer or other electronic device, or otherwise transmit  
42 electronically, or otherwise, the MIS Database, or any portion of the MIS Database, including any Listing Content included in the  
43 MIS Database; or  
44

45               c.       Publicly display the MIS Database, or any portion of the MIS Database, including any Listing Content  
46 included in the MIS Database.  
47

48       11.      Representations and Warranties Regarding Listings. Participant represents and warrants with respect to each  
49 Participant's Listing or change to a Participant's Listing submitted to MIS under this Agreement and the Rules and Regulations,  
50 the following:  
51

52               a.       The respective Seller has assigned or licensed in writing all of Seller's rights, title and interest,  
53 including all copyright rights and other intellectual property rights, in and to the Listing Content to Participant.  
54

55               b.       The Participant's Listing complies in all respects with the Rules and Regulations.  
56

c. To the best of Participant's and any applicable Sales Licensee's knowledge and after reasonable due diligence to verify the accuracy of all information in the Participant's Listing, all information included in the Participant's Listing is accurate and not misleading.

d. The Listing Content for each Participant's Listing is an original work of authorship of Participant, or Participant is the assignee or licensee of such Listing Content pursuant to an enforceable assignment or license. Except for Participant and any person or entity, which has assigned his, her or its rights in accordance with Section 4 of this Agreement, no other person or entity has any rights of any nature in or to any of the Listing Content for any Participant's Listing.

e. There is no claim, litigation or proceeding pending or threatened with respect to the Listing Content for any Participant's Listing.

f. The Listing Content, and the assignment of rights in and to Listing Content to MIS, do not infringe or violate any patents, copyrights, mask work rights, trademarks, trade secrets or other proprietary rights of any third party.

12. Submission of Listings. As a material condition to accessing the MIS Database, Participant agrees to submit to MIS all Listings in accordance with, and except as otherwise provided in, the Rules and Regulations. MIS may refuse to accept or include in, and may remove from, the MIS Database any Listing or Listing Content, or may require Participant to direct MIS to modify any Listing Content, as provided under the Rules and Regulations or if MIS determines, in its sole discretion, that such Listing or Listing Content may violate or infringe upon the rights of a third party. Notwithstanding the foregoing sentence, except as provided in the Rules and Regulations, Participant acknowledges that MIS has no obligation to remove, modify or refuse to accept any Listing or Listing Content. MIS grants to Participant a limited, non-exclusive, personal license to input Listing Content in the MIS Database and to modify such Listing Content strictly in accordance with the terms and conditions of this Agreement and the Rules and Regulations. Participant acknowledges and agrees that any Listing or Listing Content, or any prospective Listing or Listing Content, submitted by Participant or its Affiliates may be accessible by other participants in or users of MIS' multiple listing service, and MIS shall have no liability to Participant for providing such other participants or users access to any Listing or Listing Content, or any prospective Listing or Listing Content.

13. Confidential Information. Any information provided by MIS to any Participant, including without limitation, any password to the MIS Database, any printouts of the MIS Database as provided under this Agreement, and all Listing Content, including personal information of a Seller (collectively "Confidential Information") shall be maintained by Participant as confidential and available exclusively for use by Participant as provided in this Agreement. Participant shall not disclose any Confidential Information to anyone, except as ordered by a court of competent jurisdiction or as otherwise required by law. Participant shall not disclose any Confidential Information pursuant to a court order or as required by law until Participant has given MIS ten (10) days prior written notice and an opportunity to oppose such disclosure. Notwithstanding the foregoing, Participant may disclose Listing Content for individual Listings strictly in accordance with this Agreement and the Rules and Regulations.

14. Additional Representations and Warranties of Participant. If Participant is a Broker, Participant represents and warrants the following to MIS: (a) Participant is a Realtor® in good standing; (b) Participant holds a current, valid real estate broker's license; (c) Participant is a member of a Board in good standing; and (d) Participant is capable of offering and accepting cooperation and compensation to and from other participants in MIS' multiple listing service in accordance with the Rules and Regulations. If Participant is a Brokerage Firm, Participant represents and warrants to MIS that Brokerage Firm is managed by and under the control of a Broker, and such Broker (a) is a Realtor® in good standing; (b) holds a current, valid real estate broker's license; (c) is a member of a Board in good standing; and (d) is capable of offering and accepting cooperation and compensation to and from other participants in MIS' multiple listing service in accordance with the Rules and Regulations. Participant further represents and warrants to MIS that this Agreement, when executed by Participant, will be valid, binding and enforceable with respect to Participant in accordance with its terms; (a) the provisions of the services provided under this Agreement and the fulfillment of Participant's obligations as contemplated under this Agreement are proper and lawful; (b) Participant is not and shall not be under any disability, restriction or prohibition related to the execution of this Agreement and the performance of its obligations under this Agreement; and (c) all of Participant's Sales Licensees have entered into Subscriber Agreements.

15. Compliance with Governing Rules and Agreements.

a. By entering into this Agreement, Participant represents and warrants to MIS that Participant, or its Broker if Participant is a Brokerage Firm, has read and understands, and Participant shall be bound by and at all times fully comply with and perform all of Participant's obligations under this Agreement, the Rules and Regulations, the applicable Board Rules and

1 Regulations, and the Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®. A copy of  
2 the then-current version of the Rules and Regulations is available upon request. In addition to all other rights and remedies  
3 available to MIS under this Agreement and the Rules and Regulations, Participant acknowledges that MIS may levy fines against  
4 Participant for noncompliance with the Rules and Regulations as provided in the Rules and Regulations.  
5

6 b. To the extent there is any conflict between this Agreement, the Rules and Regulations, and any  
7 applicable Subscriber Agreement, the Rules and Regulations shall govern. As between this Agreement and any Subscriber  
8 Agreement, this Agreement shall govern.  
9

10 16. No Warranty. THE SERVICES PROVIDED AND LICENSE GRANTED TO PARTICIPANT UNDER THIS  
11 AGREEMENT ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTY OF ANY NATURE. MIS  
12 EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT  
13 LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.  
14 SPECIFICALLY, BUT WITHOUT LIMITATION, MIS DISCLAIMS ANY WARRANTY WITH RESPECT TO ANY  
15 LISTINGS, ANY LISTING CONTENT, AND THEIR ACCURACY.  
16

17 17. Limitation of Liability. MIS' ENTIRE AND CUMULATIVE LIABILITY TO PARTICIPANT, OR ANY  
18 OTHER PARTY, FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS  
19 ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE MIS DATABASE OR LISTING CONTENT SHALL NOT  
20 EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY PARTICIPANT TO MIS DURING THE TWELVE (12) MONTHS  
21 PRIOR TO THE DATE ON WHICH THE CLAIM ARISES. WITHOUT WAIVER OF THE FOREGOING LIMITATION, IN  
22 NO EVENT SHALL MIS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR  
23 EXEMPLARY DAMAGES OR LOST PROFITS, EVEN IF MIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH  
24 DAMAGES. MIS SHALL HAVE NO LIABILITY OF ANY NATURE TO SALES LICENSEES.  
25

26 18. Injunction. MIS and Participant agree that a breach or violation of Sections 10, 13, and 19.e of this Agreement  
27 will result in immediate and irreparable injury and harm to MIS. In such event, MIS shall have, in addition to any and all remedies  
28 of law and other consequences under this Agreement, the right to an injunction, specific performance or other equitable relief to  
29 prevent the violation of the obligation under this Agreement; provided, however, that, this shall in no way limit any other remedies  
30 which MIS may have, including, without limitation, the right to seek monetary damages.  
31

32 19. Term and Termination.  
33

34 a. The term of this Agreement shall commence as soon as Participant has executed and returned this  
35 Agreement to the MIS and Participant has paid all fees that are due and the MIS has accepted this Agreement. This Agreement  
36 shall continue in full force and effect until such time as Participant is no longer eligible to receive the Services provided under this  
37 Agreement, or until such time as membership or access has been terminated in accordance with the MIS Policies. Participant  
38 understands that, upon the termination of this Agreement, his/her agent ID, PIN and token will no longer be valid and he/she will  
39 not be able to access or use the System and will not be eligible to receive any other Services or products under this Agreement.  
40 Upon the termination of this Agreement Participant shall purge all copies of the MIS Software and the MIS Database from  
41 Participants personal computers, handheld computers, websites and any other such media; and all licenses granted hereunder shall  
42 immediately terminate.  
43

44 b. This Agreement may also terminate as provided under Section 23.d of this Agreement.  
45

46 c. In addition to all other rights and remedies available to MIS under this Agreement, if Participant fails to  
47 pay any Fees when due, or otherwise defaults under this Agreement, MIS may, in its sole discretion, temporarily suspend the  
48 license granted to Participant to access the MIS Database until all outstanding Fees have been paid in full or the default has been  
49 cured  
50

51 d. Notwithstanding anything to the contrary in this Agreement, if Participant violates or is alleged to have  
52 violated the Rules and Regulations, Participant shall not be terminated in accordance with Section 19.c of this Agreement until any  
53 hearing or appeal rights of Participant have expired as provided in the Rules and Regulations.  
54

55 e. Upon termination of this Agreement, Participant agrees to immediately destroy any printouts of the MIS  
56 Database or Listing Content, and any copies of the MIS Database and Listing Content in Participant's possession or under

Participant's control, including in possession of any Affiliates. No pre-paid Fees will be refunded to Participant for any termination of this Agreement.

f. Upon termination of this Agreement, all licenses granted and all services provided to Participant under this Agreement shall terminate. In addition, any and all rights granted to Affiliates to access or use the MIS Database pursuant to the Rules and Regulations or separate agreement with MIS shall automatically terminate, unless otherwise expressly provided with respect to Sales Licensees under an applicable Subscriber Agreement.

g. If, for any reason, any Subscriber Agreement is terminated, Participant agrees to either assign all Participant's Listings originated by the terminated Sales Licensee to another of Participant's Sales Licensees, or request that MIS terminate or change the status of Participant's Listings originated by the terminated Sales Licensee.

20. Indemnification. Participant agrees to indemnify and hold harmless MIS, and its officers, directors, employees, shareholders and agents, from and against any and all claims, demands, liabilities, and actions, including the payment of all legal expenses, including reasonable attorney's fees and costs, arising out of or connected with any Listing Agreement, this Agreement, submission to MIS of any Listing or Listing Content and the inclusion of any Listing or Listing Content by Participant in the MIS Database, including, without limitation, any claim that the access to, display of, and/or use of any Listing Content infringes on or constitutes a misappropriation of any patent, copyright, or trade secret, or any other intellectual property right of any person or entity anywhere in the world, including any claims by Sellers. MIS shall have the right to control its own defense and engage legal counsel acceptable to MIS.

21. Proprietary and Other Notices. Participant agrees that it will not alter or remove any trademarks or copyright notices or other notices and disclaimers located or used on, or in connection with, the MIS Database or any printouts of the MIS Database allowed under this Agreement.

22. IDX Advertising Consent. Unless Participant has made an express, written non-participation election for MIS' Internet Data Exchange (IDX) program as described in the Rules and Regulations, Participant expressly consents to other participants in MIS' IDX program advertising all of Participant's Listings in accordance with the IDX policy set forth in the Rules and Regulations.

23. General.

a. Notices. All notices, demands, or consents required or permitted under this Agreement shall be in writing and shall be delivered personally or sent by registered mail, certified mail, return receipt requested, by a reputable overnight courier service, or by e-mail, if the sender receives and maintains a copy of a certified mail receipt and a copy is mailed within one (1) business day after notice is delivered by e-mail, to the appropriate party at the following addresses:

If to Participant:	At the street address or e-mail maintained by MIS for Participant. PARTICIPANT AGREES TO MAINTAIN ON FILE WITH MIS, AT ALL TIMES, A VALID, WORKING E-MAIL ADDRESS. FAILURE TO DO SO WILL NEGATE PARTICIPANT'S ABILITY TO GENERATE A TEMPORARY EMERGENCY PASSWORD TO ACCESS THE MIS DATABASE.
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If to MIS:	Capital Area Association of Realtors® Multiple Information Service Attn: MIS Administrator 3149 Robbins Road Springfield, IL 62704
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The foregoing addresses may be changed from time-to-time by delivering notice of such change, referencing this Agreement, to the parties to this Agreement.

b. Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Participant acknowledges that by providing Listings to MIS and using the services provided under this Agreement, Participant has transacted business in the State of Illinois. By transacting business in the State of Illinois by agreement, Participant voluntarily submits and consents to, and waives any defense to the jurisdiction of courts located in Sangamon County, Illinois, as to all matters relating to or arising from this Agreement.

c. Costs of Litigation. If any action is brought by either party to this Agreement against the other party regarding the subject matter of this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney's fees, costs, and expenses of litigation.

d. Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable shall not invalidate or make unenforceable any other provision of this Agreement; except that if any provision of Sections 9, 16, or 17 of this Agreement, or any other limitation of liability or exclusion of warranty set forth in this Agreement, is determined to be invalid or unenforceable, then this Agreement shall immediately terminate without notice.

e. No Waiver. The waiver by either party of, or the failure of either party to take action with respect to, any breach of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of the same, or any other term, covenant or condition contained in this Agreement. The subsequent acceptance of any payment due under this Agreement by any party shall not be deemed to be a waiver of any preceding breach of the party making payment with respect to any term, covenant or condition contained in this Agreement.

f. Entire Agreement; Modifications Only in Writing. This Agreement, together with the Rules and Regulations and any applicable License Agreement, (i) constitutes the entire agreement between MIS and Participant concerning the MIS Database, Listing Content, and all other subject matter of this Agreement, (ii) supersedes any contemporaneous or prior proposal, representation, agreement, or understanding between the parties, and (iii) may not be amended except in writing signed by MIS and Participant.

g. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of MIS and Participant and is not intended to benefit any third party, including any Seller or Sales Licensee. No third party may claim any right or benefit under or seek to enforce any of the terms and conditions of this Agreement.

h. Survival. The provisions of Sections 3, 5, 7, 9, 13, 16, 17, 18, 19.e, 20, and 23 of this Agreement shall survive any termination of this Agreement, including termination pursuant to Section 23.d of this Agreement.

24. Definitions. The following terms shall have the following meanings in this Agreement:

a. Affiliates mean sales licensees, non-principal brokers, appraisers, and any other agents or employees of Participant who may have access to the MIS Database subject to the Rules and Regulations and any applicable agreements with MIS. A current list of all Affiliates is attached as Schedule A to this Agreement, and is incorporated into this Agreement by this reference. Upon the addition or removal of any Affiliate, Participant shall inform the MIS in writing of such change by submission to MIS a properly executed change form within three business days following any such change.

b. Broker means a principal real estate broker or broker in charge.

c. Brokerage Firm means a real estate brokerage firm affiliated with a principal real estate broker or broker in charge.

d. Board means a Board of REALTORS® or association of REALTORS® established and operated in accordance with the applicable rules and regulations of the NATIONAL ASSOCIATION OF REALTORS®.

e. Board Rules and Regulations means the rules and regulations, as amended, of the Board of which a Participant is a member.

f. Exempted Listing means a Listing which the respective Seller has refused permission to be disseminated by MIS, or a Listing which is not required to be submitted to the MIS, in accordance with the Rules and Regulations.

g. IDX Listings means all of the Listings identified or defined as IDX listings in the Rules and Regulations.

h. License Agreement means a license agreement entered into between MIS and Participant, MIS and a Sales Licensee of Participant, or MIS and a third party at the request of Subscriber.

- i. Listing means a real estate listing of a participant in MIS' multiple listing service.
- j. Listing Agreement means an enforceable, written, and fully executed agreement between Participant and a Seller whereby, among other things, Participant agrees to provide real estate sales services to Seller, and Seller agrees to pay compensation for services provided.
- k. Listing Content means all data and content, including without limitation, all photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, and pricing information submitted by Participant to MIS with respect to a Listing, excepting Exempted Listings.
- l. MIS Database means the compilation of Listings, including information for sold properties, known as the MIS Database, as modified from time-to-time by MIS, and which, as of the date of this Agreement, is available to Subscribers at [www.caaronline-mis.com](http://www.caaronline-mis.com).
- m. Participant Listings means only the Listings of Participant.
- n. Rules and Regulations means the MIS Rules and Regulations established by MIS, as amended by MIS from time to time.
- o. Sales Licensee means a real estate sales licensee, agent, or non-principal broker who is engaged by Participant as a sales licensee of Participant, either as an employee or independent contractor of Participant.
- p. Seller means the seller(s) or lessor(s) of a property which is the subject of a Listing at issue under this Agreement.
- q. Subscriber Agreement has the meaning set forth in Section 6 of this Agreement.
- r. Vendor means any person or entity which has entered into a License Agreement for display of real estate listings for Participant or a Sales Licensee of Participant.

Dated effective \_\_\_\_\_, 200\_\_.

Subscriber E-mail address: \_\_\_\_\_ Token Serial #: \_\_\_\_\_

**CAPITAL AREA ASSOCIATION OF REALTORS®,  
MULTIPLE INFORMATION SERVICE, "MIS"**

By: \_\_\_\_\_

Authorized Representative

\_\_\_\_\_  
Brokerage Firm

\_\_\_\_\_  
"Participant" Signature

\_\_\_\_\_  
Printed Name