



Hello,

Attached is all documentation regarding MLS participation with the Bloomington Board of REALTORS.

The Principal or Managing broker must be the one to make application. He/she is responsible to pay the monthly user fee for every licensee-user affiliated with that office.

Please review all attachments carefully before application. We will also need a copy of your drivers license and a Letter of Good Standing from your primary board with your application.

MLS PARTICIPATION 2019:

**\$225 One time (as long as you remain current) brokerage participation fee**

\$52 per month per MLS user (licensee) fee

\$75 Supra eKey issuance fee per licensee, **Optional** (Board approved device used to enter listings)

\$15 per month Supra eKey fee

**Amount in bold is required at time of application to obtain MLS access.**

*The Bloomington Board of REALTORS® (BBOR) is a professional trade association representing REALTORS® in Monroe, Owen and Greene counties, Indiana. Chartered in 1947, BBOR maintains affiliations with the National and Indiana Associations of REALTORS®, and the many institutes, societies and councils that offer professional accreditation to its members. BBOR and its members maintain at the core of their activities the REALTOR® Code of Ethics, the first of its kind among professional trade associations. BBOR includes more than 400 REALTORS®, including real estate brokers, agents, and appraisers and another 90 Affiliate members who provide services to the real estate community. BBOR is the sole shareholder of its subsidiary company, Bloomington MLS, Inc. Learn more about Bloomington Board of REALTORS at [www.homefinder.org](http://www.homefinder.org).*

You can submit your information to [help@homefinder.org](mailto:help@homefinder.org) or fax to (812)333-7497.



## **BLOOMINGTON MLS, INC. 2019 MLS PARTICIPATION INFORMATION**

To be eligible to participate in the Bloomington MLS, Inc., the applicant must be a REALTOR® member and application is to be made by the Principal Broker.

Participation in the Bloomington MLS consists of a one-time **\$225 application fee**. If participation is discontinued, for any reason, reinstating participation will require the application fee to be paid again.

The Bloomington MLS currently utilizes the Indiana Regional MLS (IRMLS) – Black Knight Paragon 5 system which encompasses 14 Indiana REALTOR® associations-MLSs. Bloomington MLS participation gives access to all 14 associations' listings but can be customized to see only the Bloomington MLS listings if desired.

The Bloomington Board of REALTORS®/ Bloomington MLS public-facing website ([www.homefinder.org](http://www.homefinder.org)) includes a roster of all MLS Participants with their contact information as well as active Bloomington MLS system listings for consumer display and property searching.

In the event that you need entry access to properties listed through the Bloomington MLS, you would need to register for a Supra Lockbox Key. See the Bloomington MLS detailed fee schedule and various options with pricing.

The participant is emailed the monthly invoice from Bloomington MLS in the amount of **\$52 per month** for the participant and each licensee within the firm who chooses to subscribe. If Supra Lockbox Key access is desired, the monthly charges are added on to the monthly MLS fee.

Another option available is to apply for secondary membership with the Bloomington Board of REALTORS® (BBOR). You would pay the Bloomington MLS fees noted above along with the BBOR membership application and annual dues. With secondary REALTOR® membership, you have access to the BBOR community through committees, networking, and educational opportunities, along with broadcast email service which provides integrated communication to BBOR's 450 REALTOR® and Affiliate members.

**If you have any questions, please give us a call at (812) 339-1301 or email [info@homefinder.org](mailto:info@homefinder.org).**

### **Bloomington MLS, Inc.**

*A Subsidiary Corporation of Bloomington Board of REALTORS®*

*P.O. Box 1478 / Bloomington, IN 47402 / 812-339-1301*

*[www.homefinder.org](http://www.homefinder.org)*



**Bloomington Multiple Listing Service, Inc.**

**MLS Subscriber Participation Agreement**

*To be completed by Managing Broker REALTOR® / Appraiser Designated Principal*

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Primary REALTOR® Board/Association: \_\_\_\_\_

NRDS Number: \_\_\_\_\_

Indiana Real Estate/Appraisal License #: \_\_\_\_\_

Number of Licensees held by Applicant that wish to subscribe to the Bloomington MLS: \_\_\_\_\_

***Provide Names / NRDS #s of each new subscriber: Complete on attachment to be included with this application.***

I agree as a condition of participation in the Bloomington MLS to abide by all relevant Bylaws, Rules and other obligations of participation including payment of fees. I further agree to be bound by the Code of Ethics on the same terms and conditions as Bloomington Board of REALTORS members including the obligation to submit to ethics hearings and the duty to arbitrate contractual disputes with other REALTORS in accordance with the established procedures of the National Association of REALTORS. I understand that a violation of the Code of Ethics may result in termination of my MLS privileges and that I may be assessed an administrative processing fee which may be in addition to any discipline, including fines, that may be imposed.

I further affirm, by my signature below, that I have received and read the Bylaws and Rules and Regulations of both Bloomington Multiple Listing Service, Inc. and Indiana Regional MLS LLC.

Signature: \_\_\_\_\_

Rev. 1/25/2019



## Bloomington Board of REALTORS® 2019 MLS Subscriber Information

Please note: a copy of your driver's license must accompany application

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Company Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Personal Cell #: \_\_\_\_\_ Email: \_\_\_\_\_

Date of Hire with Company: \_\_\_\_\_

RE License #: \_\_\_\_\_

NRDS #: \_\_\_\_\_

Optional: Lockbox access allowed \_\_\_\_\_ (DR must initial)

Note: \$75 issuance fee payable to Bloomington Multiple Listing Service

### **Required**

Subscriber Signature: \_\_\_\_\_

Designated REALTOR's Signature: \_\_\_\_\_

Bloomington Board of REALTORS®

P.O. Box 1478, Bloomington, IN 47402 / 320 W 8<sup>th</sup> Street, Suite 121, Showers Business Plaza, Bloomington, IN 47402

Phone: 812-339-1301 / Fax: 812-333-7497 / Email: [info@homefinder.org](mailto:info@homefinder.org)

# Indiana Regional MLS LLC Subscriber Agreement

This agreement is a binding contract and includes terms limiting your legal rights and IRMLS's liability to you. Consult your attorney before signing if you do not understand any of the terms here.

This "Agreement" is made between Indiana Regional MLS LLC ("IRMLS") and you ("You" or "Subscriber"). By clicking "I Agree", You agree to the following terms:

## DEFINITIONS AND USAGE

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meanings set forth below.

**Association:** The REALTOR® association or multiple listing organization through which Subscriber receives the IRMLS Service.

**Association Policies:** The rules and regulations, and policies and procedures adopted by Association's board of directors or authorized delegates, as Association amends them from time to time.

**Firm Participant:** The brokerage or appraisal company to which Individual Participants are affiliated and has executed a Participant Agreement with IRMLS.

**Individual Participant:** With regard to each office of Firm Participant, the principal broker or appraiser manager that supervises Subscriber's real estate activities and on whose behalf Subscriber conducts those real estate activities.

**IRMLS Affiliates:** IRMLS Affiliates means IRMLS and its officers, directors, employees, agents, representatives, licensors, and shareholders.

**IRMLS Database:** All data available to Subscriber on the IRMLS System, including the Subscriber Contribution and all other text, binary, and photographic image data, in any form now known or hereafter discovered.

**IRMLS Policies:** IRMLS's bylaws, rules and regulations, and policies and procedures adopted by IRMLS's board of directors or authorized delegates, as IRMLS amends them from time to time.

**IRMLS Service:** The services IRMLS provides to Subscriber under this Agreement and similar services IRMLS provides to third parties under similar agreements, including any access or license to the IRMLS Software, the IRMLS Database, and the IRMLS System.

**IRMLS Software:** IRMLS's proprietary web browser interface(s) to the IRMLS System.

**IRMLS System:** The aggregate of all hardware and data connection systems that IRMLS maintains, or that IRMLS contractors maintain on its behalf, in order to make access to the IRMLS Database available to Subscriber.

**Other Participants and Subscribers:** All Participants and Subscribers of IRMLS not party to this Agreement, including Firm Participants' employees, contractors, salespeople, and assistants (whether licensed or unlicensed as real estate agents or appraisers).

**Saved Information:** Information that Subscriber stores in the IRMLS System for his own later use that is not intended by him/her to be available to IRMLS's Other Participants and Subscribers, including client prospect and contact information.

**Subscriber Compilation Contribution or "SCC."** All selection, coordination, and arrangement by Subscriber of listing information submitted, contributed, or input in the IRMLS System, including the choice, classification, categorization, ordering, and grouping of material or data that is included in the IRMLS System. SCC does not include original text or photographs.

**Subscriber Contribution:** All data that the Subscriber submits, contributes, or inputs in the IRMLS System, including text, photographs, images, and other materials, in any form now known or hereafter discovered, except the SCC.

2. **Usage.** The following usages apply to any interpretation or construction of this Agreement, unless the context clearly indicates otherwise.

(a) Wherever the term "including" is used, it means "including, but not limited to."

(b) The singular and plural numbers and masculine, feminine, and neuter genders of words are interchangeable.

(c) Wherever the term "law" is used, it means all statutes, regulations, and common law, both state and federal, as they are amended. Without limiting the generality of the foregoing, "law" expressly includes all state and federal fair housing statutes and regulations.

## IRMLS'S OBLIGATIONS

3. Association shall provide one unique user ID and password to Subscriber. The user ID and password will provide Subscriber access to all data and functions in the IRMLS Service to which Subscriber is entitled under the IRMLS Policies and/or Association Policies. IRMLS makes no warranties, however, that the IRMLS Service will be available at all times.

## SUBSCRIBER ACKNOWLEDGMENTS

4. **Modifications to service.** IRMLS may, but is not required to, modify the IRMLS Service, including removing information and making additional information available, and adding and removing system functions. Certain products and services made available in conjunction with the IRMLS Service may be subject to agreements other than this Agreement and may require payment of additional fees.

5. **Editorial control.** IRMLS is not required to, and assumes no responsibility to, review, edit, or exercise editorial control over the IRMLS Database or the Subscriber Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, IRMLS may take any steps necessary in its judgment, including deleting the Subscriber Contribution or portions thereof, to avoid or



remedy any violation of law, breach of the IRMLS Policies, Association Policies, or infringement of intellectual property right. Additionally, IRMLS shall have the right to alter and/or remove metadata and copyright management information contained in the Subscriber Contribution.

6. **Conditions of service.** Subscriber must be affiliated with Individual Participant and Firm Participant at all times during the term of this Agreement. Subscriber may enter and retrieve active listing information on the IRMLS Service only if Firm Participant offers compensation to and accepts compensation from other principal brokers.

7. **Saved information.** Saved Information may not always be available to Subscriber and may become available to unauthorized persons. IRMLS is not liable for unauthorized access to or loss of Saved Information. Subscriber is responsible for retention of any information that may be necessary to reconstruct Saved Information if it is lost or destroyed.

8. **Disclosure to third parties.** IRMLS reserves the right to distribute to third parties certain information about Subscriber, including Subscriber's name and business address, phone number and email address. IRMLS reserves the right to distribute to third parties aggregated information about Subscriber's, Firm Participant's and Other Participants' and Subscribers' use of the IRMLS Service, but not about Firm Participant's or Subscriber's use specifically.

9. **Disclosure to government.** Subscriber acknowledges that IRMLS may provide government agencies access to the IRMLS Service at any time in IRMLS's sole discretion.

10. **Priority of agreements.** Subscriber's access to the IRMLS Service is subject at all times to the limitations set out in the IRMLS Policies and/or Association Policies and the Participant Agreement between IRMLS and Firm Participant. In the event of an apparent conflict between those documents and this Agreement, Subscriber's obligations and rights shall be determined, in order of precedence, by the IRMLS Policies, the Association Policies, the Firm Participant Agreement between IRMLS and Firm Participant, and by this Agreement.

11. **IDX and VOW data access subject to separate agreement.** Subscriber acknowledges that access to IRMLS's IDX or VOW database and data feeds can occur only subject to a separate written agreement between IRMLS and Subscriber, as applicable.

## **SUBSCRIBER'S OBLIGATIONS**

12. **Use limited.** Subscriber shall use the IRMLS Service solely for the purpose of selling, listing, leasing, valuing, and appraising real estate strictly as permitted by the IRMLS Policies and/or Association Policies. Except as expressly provided in this Agreement and the IRMLS Policies and/or Association Policies, Subscriber shall not copy, create derivative works of, distribute, perform, or display the IRMLS Service or any part of it.

13. **Confidentiality.** Subscriber shall maintain the confidentiality of its user ID and password and the IRMLS Database; Subscriber shall not provide its ID and password to any third party. To maintain the confidentiality of all user IDs, passwords, the IRMLS Database, and the IRMLS System, Subscriber shall take the greater of reasonable care or the care it takes to protect its own confidential information. Failure to comply with this provision will result in a significant fine, as set forth in the IRMLS Policies and/or Association Policies. Subscriber may disclose information confidential under this Agreement if, and to the extent, the order of a court or other tribunal with jurisdiction requires disclosure; provided however, Subscriber first gives reasonable notice to IRMLS to permit IRMLS to seek a protective order.

14. **Equipment.** Subscriber shall acquire and maintain all personal computers, modems, data connections, and computer software, other than the IRMLS Software, necessary for Subscriber's use of the IRMLS Service.

15. **Subscriber Contribution.** When making a Subscriber Contribution to the IRMLS Service, Subscriber warrants that the information submitted complies with the IRMLS Policies and/or Association Policies in all respects, including with regard to (a) required data fields; (b) format of submission; (c) permitted and required listing types; and (d) procedures for submission. Subscriber warrants that the Subscriber Contribution does not infringe or violate any patents, copyrights, trademarks, trade secrets or other proprietary rights of any third party; and that there is no claim, litigation, or proceeding pending or threatened with respect to the Subscriber Contribution.

## **INTELLECTUAL PROPERTY**

16. **Assignment from Subscriber.** Depending on the election Firm Participant has made in Section 21 of the Participant Agreement between Firm Participant and IRMLS, the following shall apply:

(a) If Firm Participant has selected Option I, Subscriber hereby unconditionally assigns to IRMLS all right, title and interest in the Subscriber Contribution, including, without any limitation, any copyrights therein under U.S. and international copyright law. To the extent that Subscriber has also purported to assign its interests in the Subscriber Contribution to Firm Participant, the assignment in this paragraph is null and void. To the extent that Subscriber does not possess the rights to permit the foregoing assignment, Subscriber hereby grants to IRMLS a non-exclusive, perpetual, world-wide, transferable, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Subscriber Contribution.

(b) If Firm Participant has selected Option II, Subscriber hereby grants to IRMLS a non-exclusive, perpetual, world-wide, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Subscriber Contribution and those portions of the IRMLS Database relating to Subscriber's listings.

17. **Warranty.** Subscriber warrants that it has the authority to make the assignment in Paragraph 16. Subscriber warrants that (a) the Subscriber Contribution does not infringe on the copyright or other intellectual property rights of any third party; and (b) Subscriber has the written consent of any party necessary to provide the Subscriber Contribution to Firm Participant or IRMLS.

18. **Other terms.** Pursuant to the IRMLS Policies, the SCC shall be a work made for hire by Subscriber for the benefit of IRMLS, which shall be deemed the SCC's author for purposes of copyright law. IRMLS hereby grants Subscriber a license to use the IRMLS Software and the IRMLS Database during the term of this Agreement, subject to the permission of Firm Participant and according to the terms of the IRMLS Policies. All other uses are prohibited.

## **FEES AND PAYMENT TERMS**

19. **Applicable fees.** No fees are due directly to IRMLS hereunder. Association is solely responsible for establishing the fees it charges for access to the IRMLS Service and for determining the means of collecting those fees. IRMLS does not control or fix the fees that brokers and salespersons pay to Association (or other REALTOR® associations) for access to RMLS Service.

20. **Payment terms.** Subscriber agrees to pay all applicable fees to Association when they come due according to Association's policies. Association may revise its schedule of fees at its sole discretion at any time, subject to its own policies. Association may suspend services to Firm Participant, Subscribers, and their employees, contractors, salespeople, and assistants (whether licensed or unlicensed as real estate agents or appraisers) for failure to pay according to Association's policies.

21. **No refunds.** Association or IRMLS need not refund or pro-rate fees in the event of termination or suspension of this Agreement unless the IRMLS Policies and/or Association Policies provide otherwise. Initiation fees, if any, are not refundable.

22. **Taxes.** All fees for the IRMLS Service are exclusive of federal, state, municipal or other governmental excise, sales, value-added, use, personal property and occupational taxes, excises, withholding obligations and other levies now in force or enacted in the future and, accordingly, Association and Subscriber shall pay all such taxes and levies other than any tax or levy on the net income of IRMLS.

23. **Fines.** IRMLS and/or Association may collect fines from Subscriber and from Firm Participant on Subscriber's behalf for violation of the IRMLS Policies. Payment terms for fines are set out in the IRMLS Policies and/or Association Policies. IRMLS and/or Association may amend its schedule of fines and terms for collecting them at its sole discretion at any time.

## **TERM AND TERMINATION**

24. **Term.** This Agreement shall commence when you click "I Accept" and shall continue thereafter on a month-to-month basis until terminated.

25. **Termination for breach.** IRMLS may terminate this Agreement with notice if Subscriber fails to comply with the terms of this Agreement or of the IRMLS Policies and/or Association Policies.

26. **Termination of Participant.** In the event of any termination or suspension of Participant Agreement, upon IRMLS notice to Subscriber and Association, IRMLS may in its sole discretion suspend Subscriber access to IRMLS System or terminate Subscriber license and access agreements, including this Agreement. If IRMLS does not exercise its right to suspend Subscriber access to the IRMLS System or terminate this Agreement, this Agreement shall continue in full force, and the subparagraph of Section 16 of this Agreement in effect at the time of the termination or suspension of the Participant Agreement shall be binding on the parties to this Agreement for its duration.

27. **Termination for failure to pay.** In the event Subscriber fails to pay Association any fees required under this Agreement, IRMLS may terminate service without being subject to arbitration. In its sole discretion, IRMLS may suspend its performance under this Agreement rather than terminating it, in the event that Subscriber fails to pay any fees required under this Agreement.

28. **Termination for convenience.** Either party may terminate this Agreement upon 30 days' written notice to the other party. Subscriber may not terminate this Agreement so long as Subscriber remains affiliated with Individual Participant for which Firm Participant is responsible subject to a Participant Agreement with IRMLS.

29. **Events upon termination.** Promptly upon any termination of this Agreement, (a) IRMLS or Association shall deactivate Subscriber's user ID and password, and Subscriber shall have no further access to the IRMLS Service; (b) Subscriber shall purge all copies of the IRMLS Software and the IRMLS Database from Subscriber's personal computers; (c) all licenses granted hereunder shall immediately terminate, except the license to the Subscriber Contribution in Paragraph 16(b) and (d) Subscriber will not be permitted to be affiliated with Firm Participant or any other participant of IRMLS unless a new subscriber agreement between Subscriber and IRMLS is executed.

## **DISCLAIMER, LIMITATION OF LIABILITY, AND INDEMNIFICATION**

30. **DISCLAIMER OF WARRANTIES.** IRMLS PROVIDES THE IRMLS SERVICE AND ALL COMPONENTS OF IT ON AN "AS IS," "AS AVAILABLE" BASIS. USE OF THE IRMLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE IRMLS SERVICE ARE AT THE SOLE RISK OF SUBSCRIBER. THE IRMLS AFFILIATES DO NOT WARRANT THAT THE IRMLS SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND THE IRMLS AFFILIATES MAKE NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY, OR RELIABILITY OF ANY INFORMATION AVAILABLE THROUGH THE IRMLS SERVICE. THE IRMLS AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO THE IRMLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE IRMLS SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The IRMLS Service may contain hyperlinks to web sites operated by parties other than IRMLS; IRMLS does not control such web sites, is not responsible for their contents, does not endorse the sites or contents, and may have no relationship with the sites' operators.

31. **LIMITATIONS AND EXCLUSIONS OF LIABILITY.** NONE OF THE IRMLS AFFILIATES SHALL BE LIABLE TO SUBSCRIBER OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE IRMLS SERVICE, INCLUDING RELIANCE BY SUBSCRIBER ON ANY INFORMATION OBTAINED THROUGH USE OF THE IRMLS SERVICE; MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF SUCH INFORMATION; INTERRUPTIONS IN DATA CONNECTIONS TO THE IRMLS SERVICE; AND VIRUSES OR FAILURES OF PERFORMANCE; WHETHER CAUSED IN WHOLE OR PART BY NEGLIGENCE, ACTS OF GOD, DATA CONNECTION FAILURE, OR THEFT OF, DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE IRMLS SERVICE AND RELATED INFORMATION, RECORDS AND PROGRAMS.

32. **MAXIMUM AGGREGATE LIABILITY.** IN NO EVENT SHALL IRMLS BE LIABLE TO SUBSCRIBER FOR ANY AMOUNT IN EXCESS OF THE GREATER OF (A) THE FEES FIRM PARTICIPANT, INDIVIDUAL PARTICIPANT, OR SUBSCRIBER HAS PAID IRMLS, IF ANY, IN THE YEAR IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES; OR (B) \$100.

33. **Indemnification.** Subscriber shall defend, indemnify and hold the IRMLS Affiliates and Other Participants and Subscribers harmless from and against any and all liability, damages, loss or expense (including reasonable fees of attorneys and other professionals) in any claim, demand, action or proceeding initiated by any third-party against the IRMLS Affiliates or Other Participants and Subscribers arising from any acts of Subscriber, including (a) putting inaccurate information into the IRMLS Service; (b) making unauthorized use of Subscriber's password; (c) making unauthorized use of the IRMLS Database; (d) infringing any proprietary or contract right of any third party; (e) breaching any warranty under this Agreement; and (f) violating this or any other Agreement or any law.

34. **Acknowledgment.** Subscriber acknowledges that IRMLS and/or Association have set their fees and other charges in reliance on the disclaimers of warranty and limitations and exclusions of liability set forth in this Agreement and that the same form an essential basis of the bargain between the parties.

## DISPUTES AND REMEDIES

35. **Injunctive relief.** Subscriber acknowledges and agrees that the IRMLS Software and IRMLS Database are confidential and proprietary products of IRMLS and that in the event there is an unauthorized disclosure of them by Subscriber, no remedy at law will be adequate. Subscriber therefore agrees that in the event of such unauthorized disclosure of IRMLS Software or IRMLS Database, IRMLS may obtain injunctive relief or other equitable remedies against Subscriber in addition to all available remedies at law, without any showing of actual damages or posting any bond or security of any kind.

36. **Dispute resolution.** In the event IRMLS claims that Subscriber has violated the IRMLS Policies and/or Association Policies, IRMLS may, at its option, resolve such a claim according to the disciplinary procedures set out in the IRMLS Policies and/or Association Policies, provided MLS does not also base a claim that Subscriber has breached this Agreement on the same facts. Except as provided in this paragraph and in Paragraph 27, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, including the Expedited Procedures where applicable, the Optional Procedures for Large Complex Commercial Disputes where applicable, and the Optional Rules for Emergency Measures of Protection (collectively, the "Arbitration Rules"). Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties. Unless all parties to the dispute agree otherwise, any arbitration hearing or proceeding hereunder shall be held in Tippecanoe County, Indiana, except that it may be held by telephone where the Arbitration Rules expressly so permit. Subscriber agrees to submit any disputes or claims under this Agreement not subject to arbitration to the jurisdiction and venue of the state and federal courts sitting in Tippecanoe County, Indiana.

37. **Liquidated damages.** Subscriber acknowledges that damages suffered by IRMLS from access to the IRMLS Service by an unauthorized third party as a result of disclosure of Subscriber's password or an unauthorized disclosure by Subscriber of the IRMLS Database to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to IRMLS to enter into this Agreement with Subscriber, Subscriber agrees that (a) in the event that any disclosure of Subscriber's password results in access to the IRMLS Service by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Subscriber shall be liable to IRMLS for liquidated damages in the amount of \$5,000 (or the amount established in the IRMLS Policies and/or Association Policies, whichever is greater) and termination of this Agreement; and (b) in the event that Subscriber makes unauthorized disclosure of any portion of the IRMLS Database to any third party, Subscriber shall be liable for liquidated damages in the amount of \$5,000 (or the amount established in the IRMLS Policies and/or Association Policies, whichever is greater) for each real estate listing disclosed and termination of this Agreement.

38. **Legal fees.** In the event of legal action or arbitration between IRMLS and Subscriber, on account of or in respect to this Agreement, the prevailing party in such action or arbitration shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in such action or arbitration.

## MISCELLANEOUS

39. **No third-party beneficiaries.** This Agreement is entered into solely between, and may be enforced only by, IRMLS and Subscriber, and this Agreement shall not create or be construed to create any rights in any home owner, home seller, home purchaser, board or association, or other third party. The foregoing notwithstanding, Association is a third-party beneficiary of this Agreement and the parties agree that Association may enforce those covenants herein of which Association is beneficiary.

40. **Interpretation and amendment.** Subscriber expressly consents to the execution of amendments by electronic means (such as web site "click through" agreements). IRMLS may amend this agreement by providing 30 days' advance notice of the amendment to Subscriber. If Subscriber continues to use the IRMLS Service or IRMLS Database after the expiration of the 30-day notice period, Subscriber will be deemed to have agreed to the terms as amended. Except as provided in this paragraph, this Agreement may not be amended except by written instrument executed by both parties.

41. **Assignment.** Neither this Agreement nor any obligations or duties hereunder may be assigned or delegated by Subscriber. Any purported assignment or delegation in contravention of this section is null and void.

42. **Integration and severability.** This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. The foregoing notwithstanding, if any provision of Paragraph 30 through 34 is declared invalid or unenforceable by any court of competent jurisdiction, this Agreement and Subscriber's access to the IRMLS Service shall immediately terminate.

43. **Governing law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana applicable to contacts made and performed in Indiana, without regard to its conflicts of law and choice of law provisions.

44. **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and delivered via (a) U.S. Mail, postage paid and return receipt requested; (b) express mailing service with confirmation of receipt; (c) facsimile transmission, provided sender obtains confirmation of transmission; or (d) electronic mail, provided sender requests a return receipt. All notices are effective on the date of receipt or three days after transmission, whichever is earlier.

Having read this Agreement, You assent to its terms by clicking "I Agree".