

Arizona Regional Multiple Listing Service, Inc.
MLS SUBSCRIBER AGREEMENT

THIS AGREEMENT dated as of the _____ day of _____, 20____ is between **ARIZONA REGIONAL MULTIPLE LISTING SERVICE, INC.** ("ARMLS") and the undersigned Subscriber.

WHEREAS, ARMLS and Interactive Data Development, Inc., dba MarketLinX Solutions, ("MarketLinX") have entered into a Contract for Products and Services dated as of June 22, 2000 (the "Master Agreement") in which MarketLinX has agreed to provide certain services and access to MarketLinX's MirrorServe™ and CityServe™ on-line computer systems (the "System"); and

WHEREAS, Subscriber is a member of, or is permitted access to the System through, one of the following Boards or Associations of REALTORS®: Glendale-West Maricopa Board of REALTORS®, Lake Pleasant Regional Association of REALTORS®, Phoenix Association of REALTORS®, Scottsdale Area Association of REALTORS®, SouthEast Valley Regional Association of REALTORS®, or the Western Pinal Regional Association of REALTORS® (collectively the "Associations" or individually an "Association") and the Associations receive MLS services through ARMLS; and

WHEREAS, Subscriber desires to receive services in accordance with this Agreement, and in consideration of such services, Subscriber agrees to abide by the terms and conditions set forth herein.

IN CONSIDERATION of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

1. **REPRESENTATIONS OF SUBSCRIBER.** Subscriber represents and warrants that, as of the date first set forth above, he/she is a real estate licensee or an appraiser licensed or certified by the State of Arizona, who is affiliated with an MLS Participant who is in good standing with an Association, and will continue in such capacity at all times while this Agreement is in effect. If Subscriber, at any time during the term of this Agreement, is no longer affiliated with an MLS Participant in good standing, Subscriber agrees to notify his/her Association and ARMLS promptly.
2. **SYSTEM ACCESS.** ARMLS will issue one "Agent ID" number to Subscriber. Issuance of the Agent ID number will entitle Subscriber to (i) access and use the System through Subscriber's own System-compatible computer using Subscriber's own Internet connection, (ii) access and use the System through a System-compatible computer device and Internet connection provided by another person, and (iii) obtain an electronic key (for a separate fee and under a separate agreement) that can be used to access electronic keyboxes located on listed properties. Simultaneous access to the System using the same Agent ID is prohibited. THE AGENT ID NUMBER IS PROVIDED EXCLUSIVELY FOR THE PERSONAL USE OF SUBSCRIBER AND MAY NOT BE USED BY ANY OTHER PERSON TO ACCESS THE SYSTEM THAT IS NOT AUTHORIZED BY ARMLS MLS RULES AND REGULATIONS OR ARMLS POLICIES OR PROCEDURES.
3. **TERM.** The term of this Agreement shall commence as soon as Subscriber has executed and returned this Agreement to ARMLS, Subscriber has paid all fees that are due and ARMLS has accepted this Agreement. The term of this Agreement shall continue in full force and effect until such time as (i) the Master Agreement terminates or expires, (ii) Subscriber is no longer eligible to receive the services provided under this Agreement, (iii) ARMLS terminates this Agreement due to Subscriber's default in accordance with Section 7 hereof; or (iv) this Agreement is terminated in accordance with the Master Agreement. Subscriber understands that, upon the termination of this Agreement, his/her Agent ID number will no longer be valid and he/she will not be able to access or use the System, will not be eligible to receive any other services or products under this Agreement or under the Master Agreement and will not be able to use the electronic key, if Subscriber has one, to open electronic keyboxes located on listed properties.
4. **FEES.** Subscriber agrees to pay MLS Subscriber Fees to ARMLS within such times and in such amounts as shall be determined by the Board of Directors of ARMLS from time to time. Subscriber understands that such Fees will be due up to 14 months in advance. THERE SHALL BE NO REFUND OR PRORATION OF ANY SUBSCRIBER FEES UPON THE TERMINATION OF THIS AGREEMENT.
5. **OWNERSHIP/MISUSES OF SYSTEM AND INFORMATION.** All rights to the System and the MarketLinX software programs therein, including any modifications or additions thereto, are and shall remain solely the property of MarketLinX. Subscriber acknowledges that all information stored in the System, except for the Subscriber's Contribution as defined below, including but not limited to real property listing data, photographs, Assessor and property tax information, new homes and builder information, HUD/VA data, agent and office information, and any other information that is available from the System (the "ARMLS Data"), is owned or leased by ARMLS and that ARMLS, and not Subscriber, shall retain all right, title and/or interest therein. Subscriber agrees to use such ARMLS Data only in connection with the pursuit of Subscriber's business of listing, selling, leasing and/or appraising real property and otherwise in a manner consistent with ARMLS MLS Rules, Regulations, policies and procedures. Subscriber agrees not to publish, reformat, recompile, resell, repackage, or use in any manner whatsoever the ARMLS Data, except as permitted in this paragraph, without the prior written consent of ARMLS.

THE TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF ARE INCORPORATED HEREIN BY THIS REFERENCE.

AUTHORIZED SUBSCRIBER (Please print or type the information below)

Print Name: _____

Signature: _____

Billing Address: _____

City/State/Zip: _____

Telephone: _____ Fax Number: _____ E-mail Address: _____

Office Name: _____ Office ID: _____ Agent ID: _____

MLS PARTICIPANT AUTHORIZATION: MLS Participant affirms that he/she is in good standing with an Association and that Subscriber is affiliated with him/her and is eligible to receive the services contemplated under this Agreement.

Print Name: _____ Signature: _____

For ARMLS Use Only

By: _____ Date: _____

6. **ASSIGNMENT.** ARMLS may assign this Agreement and its assignee may also assign same. In the event of assignment, all rights of ARMLS shall be succeeded to by assignee. Subscriber may not assign this Agreement without the prior written approval of ARMLS.
7. **DEFAULT.** Failure of Subscriber to make any payments as described herein, or perform under any term or condition of this Agreement, or pay for any other services or products received by Subscriber under or in connection with the Master Agreement, any lock-box agreement, or any other agreement with ARMLS or an Association, or pay any penalties, fines or fees due to ARMLS or any Association, shall constitute a breach of this Agreement. Any breach by Subscriber of Section 5 of this Agreement shall constitute an immediate default. Any other breach shall become a default if such breach is not cured within 10 days after notice of the same is given to Subscriber. Upon the occurrence of a default, ARMLS may, without further notice to Subscriber, and in ARMLS' sole discretion, assess fines against Subscriber, terminate this Agreement and/or cease providing or making available to Subscriber access to the System and/or any and all other products or services under the Master Agreement or any other agreement with Subscriber. Subscriber shall also be liable to ARMLS for all costs reasonably incurred by ARMLS in the enforcement of this Agreement, including court costs, collection agency fees and reasonable attorney's fees. After any default under this Agreement, Subscriber may reinstate eligibility for access to the System or ARMLS products or services at the end of any suspension period, by bringing current his/her accounts with ARMLS and all Associations, paying all penalties, fines and costs as provided above, curing any default under this Agreement and other agreements with ARMLS or an Association and paying to ARMLS a "Reinstatement Fee" in an amount determined by the Board of Directors of ARMLS from time to time. Subscriber understands that current ARMLS policy provides that any Subscriber in default under Section 5 shall be subject to a fine of up to \$2,500 and a suspension of up to 90 days for each occurrence of default. Other fines and suspension periods shall be as determined from time to time by the ARMLS Board of Directors.
8. **NOTICE.** All notices required or permitted under this Agreement shall be in writing and shall be deemed to have been given (i) upon personal delivery, (ii) five days after posting when sent by U.S. mail, with postage paid, or (iii) on the date of transmission when sent by facsimile with evidence of transmission. Notices to Subscriber shall be sent to the address or facsimile number set forth under Subscriber's signature on the first page of this Agreement or to such other address or facsimile number as Subscriber may substitute by written notice or by e-mail to ARMLS. Notices to ARMLS shall be sent to 110 S Priest Drive, Tempe, Arizona 85281-2493, sent by facsimile to 602-381-1973 or sent or faxed to such other address or facsimile number as ARMLS may substitute by notice to Subscriber or by posting a message on the System welcome screen.
9. **TAXES.** In addition to all other payments hereunder, Subscriber shall pay or reimburse ARMLS and MarketLinx for all state and local sales or other taxes of any kind assessed on the services provided hereunder, except income taxes and corporation license fees.
10. **LIMITATION OF ARMLS' LIABILITY.** NEITHER ARMLS, NOR ANY OF THE ASSOCIATIONS SHALL HAVE ANY LIABILITY FOR INACCURACIES IN DATA INPUT INTO THE SYSTEM BY SUBSCRIBER OR MARKETLINX. SUBSCRIBER UNDERSTANDS AND AFFIRMS THAT NEITHER ARMLS NOR ANY OF THE ASSOCIATIONS HAS ANY CONTROL OVER THE OPERATION OF THE SYSTEM OR SUBSCRIBER'S ABILITY TO GAIN ACCESS TO THE INTERNET. ACCORDINGLY, SUBSCRIBER HEREBY WAIVES ANY AND ALL CLAIMS WHICH HE/SHE HAS OR MAY ACQUIRE AGAINST ARMLS, OR ANY OF THE ASSOCIATIONS, WITH RESPECT TO ANY FAILURE IN THE SYSTEM OR MARKETLINX SOFTWARE, THE OPERATION OF THE SYSTEM ITSELF, SUBSCRIBER'S INABILITY TO GAIN ACCESS TO THE INTERNET FOR ANY REASON, OR ACTIVITIES RELATING TO OR THE PROVIDING OF PRODUCTS OR SERVICES BY MARKETLINX PURSUANT TO THIS AGREEMENT OR THE MASTER AGREEMENT.

THE MASTER AGREEMENT PROVIDES FOR THE ISSUANCE OF CERTAIN CREDITS AGAINST THE CHARGES REFERENCED IN SECTION 4 ABOVE IN THE EVENT OF CERTAIN DEFICIENCIES IN PERFORMANCE OF THE SYSTEM. SUBSCRIBER AGREES TO BE BOUND BY THE TERMS OF THE MASTER AGREEMENT AND THAT THE ISSUANCE OF SAID CREDITS BY MARKETLINX PURSUANT TO THE TERMS OF THE MASTER AGREEMENT SHALL RELIEVE MARKETLINX, ARMLS AND ALL ASSOCIATIONS OF ANY LIABILITY TO SUBSCRIBER FOR THE DEFICIENCIES IN PERFORMANCE FOR WHICH THE CREDITS HAVE BEEN ISSUED.

AS TO THE SYSTEM, MARKETLINX SOFTWARE, TAX DATABASES, HUD/VA DATABASE, AND ALL DATA THEREIN, AND ANY OTHER PRODUCTS OR SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT, THE MASTER AGREEMENT OR ANY OTHER AGREEMENT WITH ARMLS, EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT, THE MASTER AGREEMENT OR ANY OTHER AGREEMENT, ARMLS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE TAX DATABASES AND HUD/VA DATABASE ON THE SYSTEM AND ALL DATA THEREIN ARE MADE AVAILABLE ON AN "AS IS, AS AVAILABLE," BASIS AND ARMLS DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF ANY SUCH DATA.

ARMLS SHALL NOT BE LIABLE FOR INCIDENTAL DAMAGES OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES, EVEN IF ARMLS HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES. ARMLS' LIABILITY TO SUBSCRIBER FOR ANY REASON SHALL NOT EXCEED THE TOTAL CHARGES PAID BY SUBSCRIBER HEREUNDER AND SUBSCRIBER AGREES THAT ARMLS WILL NOT BE LIABLE FOR ANY LOST PROFITS OR FOR ANY CLAIMS ASSERTED AGAINST SUBSCRIBER BY ANY OTHER PARTY.

11. **COMPLIANCE WITH ARMLS MLS RULES AND POLICIES.** Subscriber acknowledges that access to and use of the System is contingent on Subscriber's compliance with the terms of this Agreement and the EULA described below, including future amendments, and compliance with ARMLS MLS Rules and Regulations and with ARMLS' policies and procedures, as they may be amended from time to time. Subscriber understands that failure to comply may result in a fine and/or suspension of MLS service, which includes loss of use of the System and deactivation of the key that is used to gain access to current lockboxes. Copies of Rules, Regulations, policies and procedures may be obtained from the ARMLS website (www.armls.com) or by contacting ARMLS.
12. **COPYRIGHT ASSIGNMENT.** Subscriber agrees to grant ARMLS a license in and to all text and photographs ("Subscriber's Contribution") that Subscriber submits to the System, including any copyrights relating to such text and photographs. The license will permit ARMLS to use and compile Subscriber's Contribution and to sublicense the use of Subscriber's Contribution to others as permitted or contemplated by the ARMLS Rules. Subscriber warrants that Subscriber has the authority to grant such license and that Subscriber's Contributions do not infringe on any copyright or other intellectual property rights of any third party.
13. **INDEMNITY.** Subscriber agrees to indemnify, defend and hold harmless ARMLS and each Association and their respective officers, directors, agents and employees from any and all claims, demands, liabilities and costs, including attorney fees, arising from the failure of Subscriber to comply with any of Subscriber's obligations or responsibilities set forth in this Agreement. Subscriber expressly waives, releases and agrees to hold harmless ARMLS and each Association from and against any actual damages, consequential damages and lost business and any other claim arising from Subscriber's use of or inability to use the System. These indemnity and release agreements of Subscriber shall survive the termination of this Agreement.
14. **END USER LICENSE AGREEMENT.** The first time Subscriber uses the System, the System will display an End User License Agreement ("EULA"). Subscriber's use of the System will be conditioned on Subscriber's indication of agreement with the terms of the EULA. Each time the EULA is revised, Subscriber must signify agreement with the revised version of the EULA in order to continue using the System. The provisions of the current form of the EULA shall control and supersede any inconsistent provisions contained in this Agreement.
15. **MASTER AGREEMENT.** The Master Agreement referred to above, as it may be amended from time to time, is incorporated herein by this reference. The provisions of the Master Agreement and any Exhibits attached thereto shall control and supersede any inconsistent provisions contained in this Agreement. A copy of the Master Agreement may be reviewed during regular business hours at the ARMLS office.
16. **GOVERNING LAW.** The performance and interpretation of this Agreement shall be governed and enforced in accordance with the laws of the State of Arizona.

