



INTERNET DATA EXCHANGE
Information Packet
Revision 03-06



DEFINING IDX FRAMING AND DOWNLOADING METHODS

If the member wishes for MIBOR to create **framing links** for them (Framing Method within the agreements), then MIBOR will be happy to provide those links for the member. For a cost of \$99 per year, MIBOR will provide three links, of which the member may choose to use all of them or may choose to use just one link. The links that are provided to the members are an Agent Link (when used on the website, the link will pull up only the agent's listings), an Office Link (when used on the website, the link will pull up the listings of all of the agents within the office), and an IDX Search Link (when used on the website, this link will allow a user to perform searches within our IDX solution with given parameters that they specify, just as if they were utilizing the MIBOR website). All of the *Contact Me* information will be forwarded to the member that "owns" the links.

Whether the member chooses the MIBOR framing method (we create the links) or the member chooses the Downloading method (utilizing a web developer with the capability to download), MIBOR is happy to service our member needs. The following agreements within this IDX packet are the agreements required by MIBOR; the outline provided within the Table of Contents can assist in the determination of which agreement(s) is / are needed and whose signatures should be obtained.

TABLE OF CONTENTS

MIBOR's Framed IDX Solution.....Page 3 only

- Circle either Broker or Agent and complete the form in its entirety
- **Broker signs at the bottom of the form**
- Submit this form to MIBOR – we will create the links and email them to the member to whom they were created

MIBOR's outside Vendor Downloading IDX Solution

Page 3	Complete the form in its entirety, choose the Interactively Downloading box within the form, and include the name of the Consultant (vendor / web developer / downloader), broker signs at the bottom
Page 4	Vendor / web developer / downloader information. Must be complete
Pages 5-9	Page 5 – First line is the date signed, second line is the name of the vendor / web developer / downloader, third line is the type of the company of the vendor / web developer / downloader, fourth line is the name of the brokerage firm working with Page 9 – Licensee is the vendor / web developer / downloader Page 10 – Licensee is the vendor / web developer / downloader, the Licensor is MIBOR (a MIBOR representative signature will be the last signature obtained to complete the agreement), the broker signs at the bottom
Page 11	Completed by the vendor / web developer / downloader – the Recipient is the vendor / web developer / downloader (<i>this form only needs to be completed one time by the vendor / web developer / downloader no matter how many MIBOR clients are represented</i>)
Pages 12-17	Completed by vendor / web developer / downloader – <i>only needs to be completed one time no matter how many MIBOR clients are represented</i> Page 12 – first line is date, second line is company name of vendor / web developer / downloader, third line is type of company of the vendor Page 16 – Licensee is the vendor Page 17 – Licensee is the vendor; a MIBOR representative signature will be the last signature obtained to complete this agreement <i>A Site license is allowed only when a vendor / web developer / downloader that services MIBOR members with five offices or more and approved by MIBOR.</i>

All completed forms should be faxed to:

Member Services
Attention IDX
317-956-5050

Or mail to:
MIBOR
Attn: Member Services
1912 N Meridian Street
Indianapolis, IN 46202

INFORMATION FOR IDX

Firm Name: _____ Firm MLS ID: _____

Broker/Agent Name: _____ Broker/ Agent MLS ID: _____
(Circle one) (Circle one)

E-mail address: _____

Web address: _____

Firm Street Address: _____

Firm City, ST, ZIP: _____

Firm Phone: _____ Fax: _____

Please select the IDX method you will use for your web site:

Framing of the MIBOR IDX web site. (Cost is \$99 per year.)

Interactively downloading.

Name of Consultant _____
(Please submit Consultant Information and Signature form, MIBOR License Agreement and a Third Party Data Access Agreement from the consultant's company for each consultant.)

I hereby grant permission to the individual agent named above to use an IDX link on his/her individual website. I understand that as the Principle Broker of the firm, I am ultimately responsible for the content of that individual's website.

By: _____
[Broker Signature]

Printed Name: _____

CONSULTANT CONTACT INFORMATION

NOTE TO FIRM: Reproduce this page for each individual/company to whom you intend to provide access to the IDX Data under this Agreement.

Consultant (company or individual) Name: _____

E-mail address: _____

Consultant Street Address: _____

Consultant City, ST, ZIP: _____

Phone: _____ Fax: _____

Real estate broker to whom you are providing services: _____

**LICENSE AGREEMENT FOR ACCESS TO
MIBOR SERVICE CORPORATION MLS SERVER**

This Non-Exclusive Limited License Agreement ("Agreement") is made this _____ day of _____, 20____ ("Effective Date"), by and between the **MIBOR Service Corporation, Inc.**, ("LICENSOR"), and _____
_____, [Name of Website Vendor], a(n) _____
_____, [Type of Business Entity, i.e. Indiana corporation or limited liability company] ("LICENSEE"), and is subject to the acknowledgment and covenants of _____ [Name of Participant and Participant's brokerage company] as indicated on the Signature Page below.

WHEREAS, LICENSOR owns and operates a computerized real estate multiple listing service ("MLS") database compilation ("MLS Database Compilation") for the benefit of its MLS Participants, and the subscribers and users affiliated with such Participants, that contains information ("Licensed Data" about real property listed for sale or rental with its MLS Participants, information about the prices at which such properties were sold or rented, certain real estate public records, and such other property and business related information as the LICENSOR and its MLS Participants deem appropriate ("MLS Database");

WHEREAS, LICENSOR provides an additional service to its MLS Participants whereby they may retrieve authorized multiple listing data (i) from LICENSOR'S Internet Data Exchange ("IDX") program for display on a Participant's publicly accessible website; (ii) for use in conjunction with a Participant's Virtual Office Website ("VOW"); or (iii) for any other purposes not prohibited by LICENSOR'S MLS Rules and Regulations.

WHEREAS, LICENSEE is engaged in the business of providing computer software and other technology products and services to real estate brokers and agents, including LICENSOR'S MLS Participants, to enable such brokers and agents, among other things, to operate IDX websites, VOWs, create internal brokerage productivity reports, or use the Licensed Data for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

WHEREAS, LICENSEE wishes to be granted a license to access and use the Licensed Data maintained on LICENSOR'S Server for the purpose of providing functionality to the IDX sites and VOWs of real estate brokers and agents who are MLS Participants entitled to access LICENSOR'S MLS Database Compilation, or to permit such MLS Participants to use the Licensed Data (as defined below) for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the parties agree as follows:

1. Definitions.

The following terms when used herein in capitalized form shall have the definitions set forth below:

(a) "Confidential Information" shall mean information supplied by one party (the "Disclosing Party") to the other party (the "Receiving Party") that the Disclosing Party identifies as confidential or proprietary. Confidential Information shall not include any information supplied by the Disclosing Party to the Receiving Party that (1) is already in the possession of the Receiving Party; (2) in the public domain; (3) is subsequently received by the Receiving Party from a third party source that does not owe any duty of confidentiality to the Disclosing Party; (4) is independently deduced or learned by the Receiving Party without reference to any Confidential Information supplied by the Disclosing Party; and (5) the Receiving Party is required by law to disclose; provided, however, that before any Confidential Information is disclosed by the Receiving Party by operation of law, the Receiving Party shall give prompt written notice to the Disclosing Party for the purpose of allowing the Disclosing Party to pursue any legal proceedings available to it to prevent such disclosure.

(b) "Customer" shall mean a consumer, or a buyer or seller of real property, to whom the Participant electronically provides, or provides access to, real property information contained in LICENSOR'S MLS Database Compilation as permitted by LICENSOR'S MLS Rules and Regulations, whether or not such person has first formed a brokerage relationship with the Participant.

(c) "Intellectual Property Rights" shall mean trademark, copyright, patent, trade secret, privacy, and publicity rights defined or created under the laws of any state, federal government, or foreign country, and any common law contract rights restricting access and distribution of confidential or proprietary information.

(d) "Internet Data Exchange" or "IDX" shall mean a LICENSOR'S Program that permits Participants, subject to LICENSOR'S Rules and Regulations, to use designated portions of the Licensed Data for display to consumers on a section of a website operated by, or on behalf of, a Participant without any requirement that consumers first register with the Participant, or form any type of brokerage relationship with the Participant before viewing the Licensed Data.

(e) "LICENSEE'S Software" shall mean the computer programs, source and object codes, and documentation created by LICENSEE that creates the Link to the MLS Database Compilation, including any software the LICENSEE licenses from third parties and is embedded into LICENSEE'S Software, or that LICENSEE sublicenses to its customers, clients, or licensees as a prerequisite to using the functionality provided by LICENSEE'S Software.

(f) "Licensed Data" shall mean the data fields (and the data contained therein) within the MLS Database owned and operated by LICENSOR that are included within the Real Estate Transaction Standard (RETS) promulgated by the National Association of Realtors®, as currently in effect or as may be amended from time to time, or such other textual material, data, and digital images that LICENSOR has authorized to be collected, compiled and entered, or cause to be entered, into the LICENSOR's MLS Database and that LICENSOR deems appropriate to permit LICENSEE to access on behalf of LICENSEE'S customers or clients who are MLS Participants of LICENSOR.

(g) "Link" shall mean a set of software codes which enable the Licensed Data to be (1) viewed at the Participant's IDX site or VOW by framing the Licensed Data on LICENSOR'S server, or by downloading the Licensed Data to a computer server on which a website subject to the control of the Participant is hosted, or (2) used for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

(h). "Multiple Listing Service" or "MLS" shall mean a facility through which Participants share information about real property listed for sale or rent, or that has been sold or rented, for such purposes as are permitted in LICENSOR'S MLS Rules and Regulations.

(i). "MLS Database Compilation" shall mean the database compilation owned or controlled by LICENSOR, or any corporation in which LICENSOR owns an interest, and which contains information and images concerning real property listed for sale or rent, or properties that have been sold or rented, including but not limited to the Licensed Data.

(j). "MLS Rules and Regulations" shall mean the Rules and Regulations currently in effect, or as may be amended from time to time, of LICENSOR that govern the rights and privileges of the real estate professionals or firms that are granted the right to access and use some or all of LICENSOR'S MLS Database Compilation.

(k). "Participant(s)" or "MLS Participants" shall mean persons or entities, including but not limited to licensed real estate brokers and appraisers, engaged in the business of real estate brokerage or real estate appraising and that have sought and been granted the right by LICENSOR to access and use LICENSOR'S MLS Database Compilation for purposes permitted by LICENSOR'S MLS Rules and Regulations.

(l). "Server" shall mean the computer server owned or controlled by LICENSOR on which LICENSOR'S MLS Database Compilation is maintained.

(m). "Virtual Office Website" or "VOW" shall mean a website, or a section of a website, operated by, or on behalf of, a Participant at which the Participant makes Licensed Data available to customers or clients of the Participant who have first registered with the Participant by providing the Participant, at a minimum, with a verifiable email address, and creating a User ID and private password that the registrant must enter before accessing any Licensed Data at the Participant's website.

2. **Grant of License.**

(a) Subject to the terms and conditions of this Agreement, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, LICENSOR grants a non-exclusive and non-transferable License to LICENSEE to access the Licensed Data maintained on LICENSOR'S Server for the limited purpose of copying such Licensed Data (or derivatives thereof) using LICENSEE'S Software to enable LICENSOR'S MLS Participants to use the functionality offered by LICENSEE'S Software to operate IDX sites, VOWs, or for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations. LICENSEE agrees that it shall license LICENSEE'S Software for use with the Licensed Data only to persons or entities who, at the time of such license grant, are bona fide Participants in good standing as determined by LICENSOR. LICENSEE agrees, immediately upon notice from LICENSOR, to terminate access to the Licensed Data of any customer, client, or licensee of LICENSEE that LICENSOR advises LICENSEE is no longer a Participant, and therefore no longer eligible to access and use the Licensed Data.

(b) LICENSOR shall have the right to determine, in its sole discretion, the manner in which LICENSEE shall access and receive the Licensed Data pursuant to the License granted in Section 2(a), and the time periods and frequencies at which LICENSEE, or LICENSEE'S Software, may receive the Licensed Data from LICENSOR'S Server.

(c) At any time during this Agreement, LICENSOR may, upon written notice by mail, facsimile or e-mail to LICENSEE, amend, modify, limit, or terminate the License granted in Section 2(a) for the reasons stated in the written notice. LICENSEE shall conform, or cause LICENSEE'S Software to conform, to the terms of such notice, including any amendment or termination of the License granted in Section 2(a), as soon as possible, within commercially reasonable limitations, upon receipt of LICENSOR'S notice thereof. The basis upon which LICENSOR may amend, modify, limit, or terminate the License granted in Section 2(a) shall include, but not be limited to, the preservation and maintenance of the integrity and optimal performance standards of the computer database management software and hardware that provides the core functionality that LICENSOR'S MLS delivers to Participants. If LICENSOR amends, modifies, or limits the License granted in Section 2(a), or at any other time that LICENSEE chooses in its sole discretion, LICENSEE may terminate this Agreement in its entirety by written notice to LICENSOR (in which event all provisions governing termination of this Agreement shall apply), and the License granted in Section 2(a) shall immediately terminate.

(d) If LICENSEE ceases to provide computer software or website design and maintenance services to LICENSOR'S Participants, LICENSEE shall notify LICENSOR at the earliest practical time of such termination of services, and upon receipt of such notification, this Agreement and the License granted in Section 2(a) will automatically terminate, and all provisions herein governing termination will apply.

3. **Term of Agreement.** The Initial Term of this Agreement shall be one (1) year from its Effective Date. The Initial Term shall automatically renew for an additional one (1) year Renewal Term, unless either party notifies the other in writing not less than sixty (60) days prior to the end of the Initial Term or any Renewal Term of its intention to allow the Agreement to terminate at the end of the existing Term.

4. **No Other Rights Granted.**

(a) Apart from the License Rights enumerated in Section 2(a) of this Agreement, LICENSOR does not confer on LICENSEE any ownership right, title, security interest, or other proprietary interest, or any Intellectual Property Right in the Licensed Data, the MLS Database Compilation, or any compilations or derivative works thereof. Apart from the License granted to LICENSEE in Section 2(a), this Agreement also does not confer on LICENSEE any ownership, right, title, security interest or other proprietary interest, or any Intellectual Property Right, in any editorial, images, or advertising content contributed by LICENSOR or Participants to the Licensed Data.

(b) Nothing in this Agreement shall be construed to convey to LICENSEE any right in or to any trademark, service mark or trade name of LICENSOR, nor shall anything in this Agreement be construed to convey to LICENSOR any right in or to any trademark, service mark, or trade name of LICENSEE.

5. **No Modification of MLS Database.** LICENSEE shall neither modify, nor create derivative works based upon the Licensed Data (except to the extent necessary to enable a Participant to use LICENSEE'S Software or other products or services for purposes permitted herein), nor use the Licensed Data for any purpose other than that specified by this Agreement, without the prior consent of LICENSOR.

6. **No Third Party Direct Use or Access.** LICENSEE shall use the Licensed Data solely for permitted purposes in conjunction with LICENSEE'S Software. LICENSEE shall not resell, loan, swap or exchange the Licensed Data or any portion thereof. LICENSOR shall have

the right to terminate this Agreement immediately upon notice to LICENSEE if LICENSEE violates any of the provisions of this Section 6. LICENSOR'S right to terminate this Agreement as permitted in this Section 6 shall be in addition to any other rights or remedies available to LICENSOR at law or in equity by reason of LICENSEE'S breach of this Section 6.

7. **LICENSEE'S Duty to Maintain and Support Its Products and Services.** LICENSOR shall not have any duty whatsoever to LICENSEE, or to LICENSEE'S customers, clients or licensees with respect to the performance, support, or functionality of LICENSEE'S Software,

8. **Non-Competition of LICENSEE.** LICENSEE shall not use any of the Licensed Data originating from LICENSOR'S MLS Database, or any Intellectual Property Rights related thereto, to create, maintain or assemble data or information for use by any Multiple Listing Service owned, operated by, or affiliated (either as a customer, joint venture partner, shareholder or otherwise) with LICENSEE or any licensee or affiliate of LICENSEE, other than LICENSOR'S MLS, or an MLS in which LICENSOR has an ownership interest. LICENSEE acknowledges that a breach of this non-compete agreement would cause irreparable harm to LICENSOR. Remedies at law being inadequate, the limitations and restrictions in this Section 8 may, in addition to any other remedies available at law, be enforced by temporary, preliminary, or permanent injunctive relief, or other appropriate equitable relief. In the event LICENSOR succeeds in securing temporary or preliminary injunctive relief against LICENSEE, LICENSEE waives any obligation of LICENSOR to post a security bond. The provisions of this paragraph shall survive the termination of this Agreement.

9. **Confidentiality and Nondisclosure.**

(a) Each party (the "Receiving Party") hereby acknowledges that it may be exposed to Confidential Information (as defined herein) of the other party (the "Disclosing Party"). Except as provided herein, the parties further acknowledge that such Confidential Information shall not include the existence of this Agreement, but shall include the terms and conditions of this Agreement. Subject to the License granted to LICENSEE in Section 2(a) to use the Licensed Data (which for all other purposes shall be treated as LICENSOR'S Confidential Information), the Receiving Party agrees to protect the Disclosing Party's Confidential Information to the same extent as the Receiving Party protects its own Confidential Information, but in any event using not less than reasonable care.

(b) Each party when acting in the capacity of a Receiving Party hereby agrees, during the term of this Agreement and at all times thereafter, not to use, commercialize or disclose the Disclosing Party's Confidential Information to any person or entity, including customers or potential customers or subscribers of any party, without the express written consent of the Disclosing Party. Upon termination of this Agreement, the Receiving Party shall return to the Disclosing Party all of the Disclosing Party's Confidential Information in whatever form in the Receiving Party's possession or control. This Section 9(b) shall survive the termination of this Agreement.

(c) The Receiving Party acknowledges that unauthorized use, misappropriation or disclosure of the Disclosing Party's Confidential Information or other proprietary information, as described in this Section 9, would cause irreparable harm to the Disclosing Party. Remedies at law being inadequate, the provisions of this Section 9 may be enforced by temporary or permanent injunctive relief. In the event the Disclosing Party secures a temporary or preliminary injunction against the Receiving Party by reason of the Receiving Party's breach of this Section 9, the Receiving Party waives any obligation of the Disclosing Party to post a security bond. The provision of this Section 9 shall survive the termination of this agreement.

10. **Indemnity and Defense Administration Provisions.** The provisions of this Section 10 shall govern all defenses against claims, indemnities against losses or expenses and claims to entitlement to defense or indemnity.

(a) **Covenant to Defend.** LICENSEE will defend, indemnify and hold harmless LICENSOR, its directors, managers, members, officers, agents, or employees (for the purpose of this Section 10 collectively referred to as "LICENSOR") subject to the terms and conditions of this Section 10, against any and all losses, judgments, or expenses, including attorneys' fees and other defense costs and expenses at trial or on appeal, arising from claims brought by third parties against LICENSOR that arise as a result of activities of LICENSEE in exercising its rights under this Agreement, or as a result of any material breach of any warranty or covenant of LICENSEE contained in this Agreement, except to the extent such claims are based upon any third party's allegations that (a) the Licensed Data, as provided by LICENSOR, contains errors, infringes upon a third party's Intellectual Property Rights, or is otherwise unlawful, or inaccurate, (b) the MLS Database Compilation containing the Licensed Data infringes upon the Intellectual Property Rights of any third party, or (c) LICENSOR has engaged in conduct that constitutes a breach of this Agreement by LICENSOR. LICENSEE further agrees that in the event LICENSEE, its directors, managers, members, agents, employees or independent contractors misappropriates, uses, discloses or disseminates information from the LICENSOR'S MLS Database Compilation for which authorization has not been granted by LICENSOR or Participants, or MLS subscribers or users affiliated with such Participants, LICENSEE will defend, hold harmless and indemnify LICENSOR, its directors, managers, members, employees, agents and assigns from and against any and all costs, losses, liabilities or damages, including but not limited to, reasonable attorneys' fees and litigation costs or expenses at trial or on appeal.

(b) **Conditions for LICENSEE Defense.** To be entitled to defense by LICENSEE against a third-party claim, LICENSOR shall provide LICENSEE with reasonable notice of the existence of a claim by the most expeditious means possible upon learning of the assertion of a claim against LICENSOR (whether or not litigation or other proceeding has been filed or notice thereof served).

(c) **Separate Counsel** In any matter giving rise to LICENSEE's duty to defend LICENSOR pursuant to this Section 10, LICENSEE shall provide counsel to represent LICENSOR, which counsel shall be subject to LICENSOR'S approval, which approval shall not be unreasonably withheld or delayed. In addition to the counsel provided by LICENSEE, LICENSOR shall have the right to engage special counsel, at LICENSOR'S expense, provided that such counsel's role is limited to monitoring and advising LICENSOR about the status and progress of the defense.

11. **Sales and Use Taxes.** LICENSEE agrees to hold LICENSOR harmless from all federal, state and local sales, excise, use or similar taxes which may be assessed on any revenues generated by LICENSEE in connection with the operation or distribution of LICENSEE'S Software or any other products and services of LICENSEE.

12. **LICENSOR'S WARRANTY DISCLAIMERS.**

LICENSOR DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES TO LICENSEE WHATSOEVER, INCLUDING ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING

THE LICENSED DATA INCLUDING, WITHOUT LIMITING THE GENERALITY OF THIS EXCLUSION, THE FOLLOWING SPECIFIC WARRANTY DISCLAIMERS:

(a) LICENSOR does not warrant that the Licensed Data will be accessible or usable on any hardware configuration or in any operating environment.

(b) LICENSOR does not warrant that the Licensed Data will be accessible or usable in conjunction with computer programs selected, developed, created, or operated by LICENSEE.

(c) LICENSOR does not warrant:

(1) That the Licensed Data will meet LICENSEE'S requirements or will be available in the combinations desired by or required by LICENSEE or LICENSEE'S customers, clients or licensees;

(2) That any of the Participants will license or utilize the LICENSEE'S Software or any other products or services of LICENSEE; or

(3) That the Licensed Data will be error free.

(d) LICENSOR EXPRESSLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO, the selection, procurement, installation, operation, and maintenance of the computer hardware or software necessary to access the Server on which the Licensed Data is maintained. LICENSOR shall not be under any obligation to maintain its current hardware or software on which the MLS Data is maintained or retrieved, nor is LICENSOR obligated to continue to utilize any computer vendor or any other service provider. LICENSOR shall, however, respond to reasonable inquiries from LICENSEE about any changes to the MLS Database computer hardware or software, or the Server that may require changes to LICENSEE'S Software or LICENSEE'S products and services.

13. **LICENSEE'S WARRANTY DISCLAIMERS.** AS TO LICENSEE'S SOFTWARE EXCEPT AS PROVIDED IN SECTION 14 HEREOF, LICENSEE MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

14. **LICENSEE'S Representations and Warranties.** LICENSEE makes the following representations and warranties to LICENSOR:

(a) Capacity. That LICENSEE has all requisite legal power and authority to enter into, execute and deliver this License Agreement, and to carry out and perform its obligations under the terms of this License Agreement.

(b) Rights. That LICENSEE owns, or has secured valid licenses to the Intellectual Property Rights and proprietary rights to the LICENSEE Software, and any other products and services of LICENSEE that LICENSEE makes available to Participants. To the extent the LICENSEE Software or other products and services of LICENSEE contain any components owned or created by a third party, LICENSEE warrants that it has the right to allow their use as a component of LICENSEE'S Software or LICENSEE'S other products and services, and that such use does not infringe on the Intellectual Property Rights of any third party.

15. **LIMITATIONS OF LIABILITY.** INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER PROVISION OF THIS AGREEMENT, OTHER THAN FOR INFRINGEMENT OF INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS, AND THE TERMS OF SECTIONS 8, 9, AND 10 OF THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON THAT CLAIMS RIGHTS DERIVED FROM THE OTHER PARTY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR OTHER ECONOMIC DAMAGE, AND FURTHER DAMAGE INCLUDING INJURY TO PROPERTY, AS A RESULT OF THE BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY THEREOF. THIS PARAGRAPH HOWEVER SHALL NOT LIMIT EITHER PARTY'S RIGHT TO ENFORCE CLAIMS FOR VIOLATION OF ITS INTELLECTUAL PROPERTY RIGHTS, OR PROPRIETARY RIGHTS, CLAIMS RELATING TO ANY PROHIBITED DISCLOSURE OF ITS CONFIDENTIAL INFORMATION, OR CLAIMS RELATING TO ANY PROHIBITED USE OF THE OTHER PARTY'S CONFIDENTIAL INFORMATION, LICENSED DATA, PROPRIETARY RIGHTS, OR INTELLECTUAL PROPERTY RIGHTS.

16. **Notices.** All notices or other communications to be given pursuant to this Agreement shall be in writing, facsimile, or e-mail, and shall be given either personally, by courier or certified U. S. Mail, return receipt requested, postage prepaid or by facsimile or e-mail. Notices shall be deemed given upon receipt by the recipient if delivered personally or by courier, or on the date appearing on the receipt if sent by U. S. Mail or delivered to the facsimile or e-mail address set forth herein. Notices shall be forwarded to the addresses set forth in this Agreement, or to such other addresses as each party shall advise the other in writing.

If to LICENSOR

MIBOR Service Corporation
1912 N. Meridian Street
Indianapolis, Indiana 46202
Attn: Mr. Tom Renkert
Fax: 317-956-5050
E-Mail: tomrenkert@mibor.com

If to LICENSEE

Name of Licensee: _____

Street Address: _____

City, State Zip: _____

Attn: _____
Facsimile: _____
E-Mail: _____

17. **Choice of Law.** This Agreement will be interpreted and enforced in accordance with the law of the State of Indiana applicable to agreements made and performed entirely in that state by persons domiciled therein. Suit to enforce this Agreement or any provision thereof will be brought exclusively in the state or federal courts whose territorial jurisdiction includes Marion County, Indiana.

18. **Miscellaneous.** As to the subject matter of this Agreement, this document constitutes the entire and exclusive Agreement between the parties and supersedes all other communications, agreements or undertakings, whether written or oral. This Agreement may be amended or modified only in writing executed by both parties. Any provision of this Agreement found by a court of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of the law, and all other provisions shall remain in full force and effect. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

19. **Binding of Successors.** This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns permitted by this Agreement.

20. **Headings.** Headings are for reference purposes only and have no substantive effect.

21. **Assignment.**

(a) No party may assign any right under this Agreement and any purported assignment will be null and void and a breach of this Agreement, except for the following or as otherwise provided herein.

(b) Either party may assign some or all of its rights and/or delegate some or all of its obligations under this Agreement with the express prior written consent of the other party, which may be granted or withheld in the other party's sole discretion.

(c) Any party may assign all of its rights and obligations under this Agreement indivisibly to a parent company, subsidiary or affiliate of this party with notice to, but without the consent of, the other party. The assigning party's parent company, subsidiary or affiliate must agree in writing to comply with the assigning party's obligations under this Agreement and to be bound by this Agreement.

(d) Either party may assign all of its rights and obligations under this Agreement indivisibly in connection with a sale or other disposition of all, or substantially all, of the assets of that party's business relating to the subject matter of this Agreement to a single acquiring party. The acquiring party must agree in writing to comply with the assigning party's obligations under, and to be bound by this Agreement. The assigning party must provide notice to the other party, but need not secure the consent of the other party to an assignment pursuant to this Section 21(d).

22. **Injunctive Relief.** LICENSEE acknowledges that any material violation by LICENSEE of its covenants in this Agreement, including those relating to LICENSOR'S Intellectual Property Rights, would result in damage to LICENSOR that is largely intangible but nonetheless real, and that is incapable of complete remedy by an award of damages. Accordingly, any such material violation shall give LICENSOR the right to seek a court-ordered injunction or other appropriate order to specifically enforce those covenants. LICENSEE expressly waives the posting of any bond or guarantee with respect to the entry of an injunction, either permanent or temporary. The entry of an injunction shall not waive LICENSOR'S right to seek appropriate damages at law, including money damages.

23. **Representation of Counsel; Mutual Negotiation.** Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advise and participation of counsel and will be interpreted in accordance with its terms without favor to any party,

24. **Survival.** The provisions of this Agreement that are intended to survive the termination of this Agreement shall survive for a period of five (5) years after the expiration or termination of the license granted to LICENSEE in Section 2.

25. **Counterparts.** This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photo-static copy of any executed original will be admissible in evidence for all purposes in any proceeding as between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date written below;

LICENSEE:

[Name of Licensee]

Date: _____

By: _____
[Signature]

Printed Name: _____

Title: _____

LICENSOR:

MIBOR Service Corporation

By: _____
[Signature]

Date: _____

Printed Name: _____

Title: _____

As a licensed broker and a Participant in LICENSOR'S MLS, I hereby (1) give my consent to the execution of this Agreement, (2) represent and warrant to LICENSOR that I or the brokerage company with which I am affiliated has entered into an agreement with LICENSEE pursuant to which LICENSEE will provide products and services to me or the company with which I am affiliated and that LICENSEE requires access to the Licensed Data to perform its obligations under such agreement, and (3) both me and the company with which I am affiliated shall be liable to LICENSOR under the LICENSOR'S MLS Rules and Regulations, and at law or equity, for the LICENSEE'S use of the Licensed Data pursuant to this Agreement .

[Name of Broker Office] (Required)

Date: _____

[Broker I.D. Number] (Required)

By: _____
[Signature]

Printed Name: _____

Title: _____

Third Party Data Access Agreement

This Agreement is made and entered into as of _____, by and between First American MLS Solutions, Inc. (the Company") and _____ (the "Recipient").

The Company provides MLS software to a Real Estate Board or Association (the "Client") and the Client controls the access and data use policies of their MLS data ("Client Data"). The Recipient desires to make use of Client Data that is maintained by the Company's MLS system software (TEMPO™). Actual connection by the Recipient to a specific Client installation must be approved by that Client.

To support this effort, the Recipient may gain information concerning the Company's proprietary MLS system software and/or any other proprietary information deemed confidential by the Company ("Company Information"). The Company considers such information to be confidential and requires that the Company Information be used by the Recipient solely for the purpose described in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the Company and Recipient agree as follows:

- 1) **Confidentiality.** The Company Information will be made available and disclosed to Recipient pursuant to this Agreement only to the extent such may be necessary to utilize Client Data. Recipient shall keep and maintain the Company Information secret and confidential. Recipient shall not, directly or indirectly, without the prior written authorization of the Company, use the Company Information for its own benefit or business purpose or for purposes other than as specifically allowed by this Agreement, or disclose or make available to any third party the Company Information. The Company Information shall be and remain the sole, absolute and exclusive property of the Company. Upon the conclusion of its use or examination of the Company information, Recipient will return to the Company all of the Company Information.

- 2) **Exhibit 1.** *As Exhibit 1 to this Agreement, Recipient has provided a written statement of Recipient's intended use of Client Data. Recipient acknowledges that signing this Agreement will allow the Company to disclose Exhibit 1 to any of the Company's Clients and they will use this information to make a decision whether to grant access to their data.*

- 3) **Use of Client Data.** Regardless of how the Client Data is received (RETS, IDX or other means), the Recipient acknowledges that they do not own the Client Data and are permitted to use the Client Data only as described in Exhibit 1 and for no other purpose. They further agree to follow all Client rules and policies regarding use of Client Data as provided to Recipient by Client. The Client may execute an additional Exhibit 1 with the Recipient that would take precedence over the Exhibit 1 attached to this document

- 4) **Company Support.** Under the terms of this Agreement, the Company will provide to the Recipient any standard documentation required in the conduct of business and ensure that servers are functional and operating correctly. This agreement does not include the training of Recipient employees on how to get and/or use data or promoting product or service of Recipient.

- 5) **Live feed Responsibility.** The Recipient agrees to use their best efforts to reduce server loads for live data feeds such as RETS. If in the Company's judgment the Recipient's queries are causing unreasonable loads on the servers, the Recipient agrees to make modifications to their queries or pay for the increased server capacity needed to support their existing queries.

- 6) **Breach and Remedies.** **In the event of a breach or threatened breach of any of the provisions of this Agreement, the Recipient acknowledges and agrees that neither the Company nor the Client will have an adequate remedy at law and shall therefore be entitled to enforce any such provision by temporary or permanent injunctive or mandatory relief without the necessity of providing damages, posting any bond or other security, and without prejudice to or diminution of any other rights or remedies which may be available at law or in equity. In addition, both the Company and the Client may exercise any and all other remedies available to them as a result of the breach of this Agreement by the Recipient.**

- 7) **Miscellaneous.** This Agreement and attached Exhibit 1 contain the entire agreement between the parties hereto and supersede any prior agreements, representations, understandings or promises relating to the subject matter hereof. Modification, amendment, supplement or waiver of any of the provisions of this Agreement or Exhibit 1 shall be effective unless in writing and executed by each of the parties hereto. The waiver of any provision of this Agreement or Exhibit 1 shall not prohibit any subsequent enforcement of that provision. This Agreement and Exhibit 1 shall be binding upon and shall inure the benefit of the legal representative and successors-in-interest of the parties hereto, except that neither party hereto shall assign any of its rights or obligations hereunder without the prior written consent of the other party hereto.

- 8) **Controlling Law.** This Agreement and the rights and obligations contained herein shall be construed and interpreted for all purposes in accordance with the laws of the State of Tennessee. The sole and exclusive venue for any litigation relating to or arising out of this Agreement shall be a state or federal court in Knox County, Tennessee, and the parties hereby consent to the jurisdiction of such courts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

COMPANY:

By: _____
(Signature)

(Print Name)

Title: _____
(Print Title)

Company Address: _____

Phone: _____

E-mail: _____

RECIPIENT:

By: _____
(Signature)

(Print Name)

Title: _____
(Print Title)

Company Address: _____

Phone: _____

E-mail: _____

SITE LICENSE AGREEMENT FOR ACCESS TO MIBOR SERVICE CORPORATION MLS SERVER

This Non-Exclusive Limited License Agreement ("Agreement") is made this _____ day of _____, 20____
("Effective Date"), by and between the **MIBOR Service Corporation, Inc.**, ("LICENSOR"), and _____

[Name of Vendor], a(n) _____

[Type of Business Entity, i.e. Indiana corporation or limited liability company] ("LICENSEE").

WHEREAS, LICENSOR owns and operates a computerized real estate multiple listing service ("MLS") database compilation ("MLS Database Compilation") for the benefit of its MLS Participants, and the subscribers and users affiliated with such Participants, that contains information ("Licensed Data" about real property listed for sale or rental with its MLS Participants, information about the prices at which such properties were sold or rented, certain real estate public records, and such other property and business related information as the LICENSOR and its MLS Participants deem appropriate ("MLS Database");

WHEREAS, LICENSOR provides an additional service to its MLS Participants whereby they may retrieve authorized multiple listing data (i) from LICENSOR'S Internet Data Exchange ("IDX") program for display on a Participant's publicly accessible website; (ii) for use in conjunction with a Participant's Virtual Office Website ("VOW"); or (iii) for any other purposes not prohibited by LICENSOR'S MLS Rules and Regulations.

WHEREAS, LICENSEE is engaged in the business of providing computer software and other technology products and services to real estate brokers and agents, including LICENSOR'S MLS Participants, to enable such brokers and agents, among other things, to operate IDX websites, VOWs, create internal brokerage productivity reports, or use the Licensed Data for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

WHEREAS, LICENSEE wishes to be granted a license to access and use the Licensed Data maintained on LICENSOR'S Server for the purpose of providing functionality to the IDX sites and VOWs of real estate brokers and agents who are MLS Participants entitled to access LICENSOR'S MLS Database Compilation, or to permit such MLS Participants to use the Licensed Data (as defined below) for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the parties agree as follows:

1. **Definitions.**

The following terms when used herein in capitalized form shall have the definitions set forth below:

(a). "Confidential Information" shall mean information supplied by one party (the "Disclosing Party") to the other party (the "Receiving Party") that the Disclosing Party identifies as confidential or proprietary. Confidential Information shall not include any information supplied by the Disclosing Party to the Receiving Party that (1) is already in the possession of the Receiving Party; (2) in the public domain; (3) is subsequently received by the Receiving Party from a third party source that does not owe any duty of confidentiality to the Disclosing Party; (4) is independently deduced or learned by the Receiving Party without reference to any Confidential Information supplied by the Disclosing Party; and (5) the Receiving Party is required by law to disclose; provided, however, that before any Confidential Information is disclosed by the Receiving Party by operation of law, the Receiving Party shall give prompt written notice to the Disclosing Party for the purpose of allowing the Disclosing Party to pursue any legal proceedings available to it to prevent such disclosure.

(b). "Customer" shall mean a consumer, or a buyer or seller of real property, to whom the Participant electronically provides, or provides access to, real property information contained in LICENSOR'S MLS Database Compilation as permitted by LICENSOR'S MLS Rules and Regulations, whether or not such person has first formed a brokerage relationship with the Participant.

(c). "Intellectual Property Rights" shall mean trademark, copyright, patent, trade secret, privacy, and publicity rights defined or created under the laws of any state, federal government, or foreign country, and any common law contract rights restricting access and distribution of confidential or proprietary information.

(d). "Internet Data Exchange" or "IDX" shall mean a LICENSOR'S Program that permits Participants, subject to LICENSOR'S Rules and Regulations, to use designated portions of the Licensed Data for display to consumers on a section of a website operated by, or on behalf of, a Participant without any requirement that consumers first register with the Participant, or form any type of brokerage relationship with the Participant before viewing the Licensed Data.

(e). "LICENSEE'S Software" shall mean the computer programs, source and object codes, and documentation created by LICENSEE that creates the Link to the MLS Database Compilation, including any software the LICENSEE licenses from third parties and is embedded into LICENSEE'S Software, or that LICENSEE sublicenses to its customers, clients, or licensees as a prerequisite to using the functionality provided by LICENSEE'S Software.

(f). "Licensed Data" shall mean the data fields (and the data contained therein) within the MLS Database owned and operated by LICENSOR that are included within the Real Estate Transaction Standard (RETS) promulgated by the National Association of Realtors®, as currently in effect or as may be amended from time to time, or such other textual material, data, and digital images that LICENSOR has authorized to be collected, compiled and entered, or cause to be entered, into the LICENSOR's MLS Database and that LICENSOR deems appropriate to permit LICENSEE to access on behalf of LICENSEE'S customers or clients who are MLS Participants of LICENSOR.

(g). "Link" shall mean a set of software codes which enable the Licensed Data to be (1) viewed at the Participant's IDX site or VOW by framing the Licensed Data on LICENSOR'S server, or by downloading the Licensed Data to a computer server on which a

website subject to the control of the Participant is hosted, or (2) used for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations.

(h). "Multiple Listing Service" or "MLS" shall mean a facility through which Participants share information about real property listed for sale or rent, or that has been sold or rented, for such purposes as are permitted in LICENSOR'S MLS Rules and Regulations.

(i). "MLS Database Compilation" shall mean the database compilation owned or controlled by LICENSOR, or any corporation in which LICENSOR owns an interest, and which contains information and images concerning real property listed for sale or rent, or properties that have been sold or rented, including but not limited to the Licensed Data.

(j). "MLS Rules and Regulations" shall mean the Rules and Regulations currently in effect, or as may be amended from time to time, of LICENSOR that govern the rights and privileges of the real estate professionals or firms that are granted the right to access and use some or all of LICENSOR'S MLS Database Compilation.

(k). "Participant(s)" or "MLS Participants" shall mean persons or entities, including but not limited to licensed real estate brokers and appraisers, engaged in the business of real estate brokerage or real estate appraising and that have sought and been granted the right by LICENSOR to access and use LICENSOR'S MLS Database Compilation for purposes permitted by LICENSOR'S MLS Rules and Regulations.

(l). "Server" shall mean the computer server owned or controlled by LICENSOR on which LICENSOR'S MLS Database Compilation is maintained.

(m). "Virtual Office Website" or "VOW" shall mean a website, or a section of a website, operated by, or on behalf of, a Participant at which the Participant makes Licensed Data available to customers or clients of the Participant who have first registered with the Participant by providing the Participant, at a minimum, with a verifiable email address, and creating a User ID and private password that the registrant must enter before accessing any Licensed Data at the Participant's website.

2. Grant of License.

(a) Subject to the terms and conditions of this Agreement, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, LICENSOR grants a non-exclusive and non-transferable License to LICENSEE to access the Licensed Data maintained on LICENSOR'S Server for the limited purpose of copying such Licensed Data (or derivatives thereof) using LICENSEE'S Software to enable LICENSOR'S MLS Participants to use the functionality offered by LICENSEE'S Software to operate IDX sites, VOWs, or for any other purpose not prohibited by LICENSOR'S MLS Rules and Regulations. LICENSEE agrees that it shall license LICENSEE'S Software for use with the Licensed Data only to persons or entities who, at the time of such license grant, are bona fide Participants in good standing as determined by LICENSOR. LICENSEE agrees, immediately upon notice from LICENSOR, to terminate access to the Licensed Data of any customer, client, or licensee of LICENSEE that LICENSOR advises LICENSEE is no longer a Participant, and therefore no longer eligible to access and use the Licensed Data.

(b) LICENSOR shall have the right to determine, in its sole discretion, the manner in which LICENSEE shall access and receive the Licensed Data pursuant to the License granted in Section 2(a), and the time periods and frequencies at which LICENSEE, or LICENSEE'S Software, may receive the Licensed Data from LICENSOR'S Server.

(c) At any time during this Agreement, LICENSOR may, upon written notice by mail, facsimile or e-mail to LICENSEE, amend, modify, limit, or terminate the License granted in Section 2(a) for the reasons stated in the written notice. LICENSEE shall conform, or cause LICENSEE'S Software to conform, to the terms of such notice, including any amendment or termination of the License granted in Section 2(a), as soon as possible, within commercially reasonable limitations, upon receipt of LICENSOR'S notice thereof. The basis upon which LICENSOR may amend, modify, limit, or terminate the License granted in Section 2(a) shall include, but not be limited to, the preservation and maintenance of the integrity and optimal performance standards of the computer database management software and hardware that provides the core functionality that LICENSOR'S MLS delivers to Participants. If LICENSOR amends, modifies, or limits the License granted in Section 2(a), or at any other time that LICENSEE chooses in its sole discretion, LICENSEE may terminate this Agreement in its entirety by written notice to LICENSOR (in which event all provisions governing termination of this Agreement shall apply), and the License granted in Section 2(a) shall immediately terminate.

(d) If LICENSEE ceases to provide computer software or website design and maintenance services to LICENSOR'S Participants, LICENSEE shall notify LICENSOR at the earliest practical time of such termination of services, and upon receipt of such notification, this Agreement and the License granted in Section 2(a) will automatically terminate, and all provisions herein governing termination will apply.

3. Term of Agreement. The Initial Term of this Agreement shall be one (1) year from its Effective Date. The Initial Term shall automatically renew for an additional one (1) year Renewal Term, unless either party notifies the other in writing not less than sixty (60) days prior to the end of the Initial Term or any Renewal Term of its intention to allow the Agreement to terminate at the end of the existing Term.

4. No Other Rights Granted.

(a) Apart from the License Rights enumerated in Section 2(a) of this Agreement, LICENSOR does not confer on LICENSEE any ownership right, title, security interest, or other proprietary interest, or any Intellectual Property Right in the Licensed Data, the MLS Database Compilation, or any compilations or derivative works thereof. Apart from the License granted to LICENSEE in Section 2(a), this Agreement also does not confer on LICENSEE any ownership, right, title, security interest or other proprietary interest, or any Intellectual Property Right, in any editorial, images, or advertising content contributed by LICENSOR or Participants to the Licensed Data.

(b) Nothing in this Agreement shall be construed to convey to LICENSEE any right in or to any trademark, service mark or trade name of LICENSOR, nor shall anything in this Agreement be construed to convey to LICENSOR any right in or to any trademark, service mark, or trade name of LICENSEE.

5. **No Modification of MLS Database.** LICENSEE shall neither modify, nor create derivative works based upon the Licensed Data (except to the extent necessary to enable a Participant to use LICENSEE's Software or other products or services for purposes permitted herein), nor use the Licensed Data for any purpose other than that specified by this Agreement, without the prior consent of LICENSOR.

6. **No Third Party Direct Use or Access.** LICENSEE shall use the Licensed Data solely for permitted purposes in conjunction with LICENSEE's Software. LICENSEE shall not resell, loan, swap or exchange the Licensed Data or any portion thereof. LICENSOR shall have the right to terminate this Agreement immediately upon notice to LICENSEE if LICENSEE violates any of the provisions of this Section 6. LICENSOR'S right to terminate this Agreement as permitted in this Section 6 shall be in addition to any other rights or remedies available to LICENSOR at law or in equity by reason of LICENSEE'S breach of this Section 6.

7. **LICENSEE'S Duty to Maintain and Support Its Products and Services.** LICENSOR shall not have any duty whatsoever to LICENSEE or to LICENSEE'S customers, clients or licensees with respect to the performance, support, or functionality of LICENSEE'S Software,

8. **Non-Competition of LICENSEE.** LICENSEE shall not use any of the Licensed Data originating from LICENSOR'S MLS Database, or any Intellectual Property Rights related thereto, to create, maintain or assemble data or information for use by any Multiple Listing Service owned, operated by, or affiliated (either as a customer, joint venture partner, shareholder or otherwise) with LICENSEE or any licensee or affiliate of LICENSEE, other than LICENSOR'S MLS, or an MLS in which LICENSOR has an ownership interest. LICENSEE acknowledges that a breach of this non-compete agreement would cause irreparable harm to LICENSOR. Remedies at law being inadequate, the limitations and restrictions in this Section 8 may, in addition to any other remedies available at law, be enforced by temporary, preliminary, or permanent injunctive relief, or other appropriate equitable relief. In the event LICENSOR succeeds in securing temporary or preliminary injunctive relief against LICENSEE, LICENSEE waives any obligation of LICENSOR to post a security bond. The provisions of this paragraph shall survive the termination of this Agreement.

9. **Confidentiality and Nondisclosure.**

(a) Each party (the "Receiving Party") hereby acknowledges that it may be exposed to Confidential Information (as defined herein) of the other party (the "Disclosing Party"). Except as provided herein, the parties further acknowledge that such Confidential Information shall not include the existence of this Agreement, but shall include the terms and conditions of this Agreement. Subject to the License granted to LICENSEE in Section 2(a) to use the Licensed Data (which for all other purposes shall be treated as LICENSOR'S Confidential Information), the Receiving Party agrees to protect the Disclosing Party's Confidential Information to the same extent as the Receiving Party protects its own Confidential Information, but in any event using not less than reasonable care.

(b) Each party when acting in the capacity of a Receiving Party hereby agrees, during the term of this Agreement and at all times thereafter, not to use, commercialize or disclose the Disclosing Party's Confidential Information to any person or entity, including customers or potential customers or subscribers of any party, without the express written consent of the Disclosing Party. Upon termination of this Agreement, the Receiving Party shall return to the Disclosing Party all of the Disclosing Party's Confidential Information in whatever form in the Receiving Party's possession or control. This Section 9(b) shall survive the termination of this Agreement.

(c) The Receiving Party acknowledges that unauthorized use, misappropriation or disclosure of the Disclosing Party's Confidential Information or other proprietary information, as described in this Section 9, would cause irreparable harm to the Disclosing Party. Remedies at law being inadequate, the provisions of this Section 9 may be enforced by temporary or permanent injunctive relief. In the event the Disclosing Party secures a temporary or preliminary injunction against the Receiving Party by reason of the Receiving Party's breach of this Section 9, the Receiving Party waives any obligation of the Disclosing Party to post a security bond. The provision of this Section 9 shall survive the termination of this agreement.

10. **Indemnity and Defense Administration Provisions.** The provisions of this Section 10 shall govern all defenses against claims, indemnities against losses or expenses and claims to entitlement to defense or indemnity.

(a) **Covenant to Defend.** LICENSEE will defend, indemnify and hold harmless LICENSOR, its directors, managers, members, officers, agents, or employees (for the purpose of this Section 10 collectively referred to as "LICENSOR") subject to the terms and conditions of this Section 10, against any and all losses, judgments, or expenses, including attorneys' fees and other defense costs and expenses at trial or on appeal, arising from claims brought by third parties against LICENSOR that arise as a result of activities of LICENSEE in exercising its rights under this Agreement, or as a result of any material breach of any warranty or covenant of LICENSEE contained in this Agreement, except to the extent such claims are based upon any third party's allegations that (a) the Licensed Data, as provided by LICENSOR, contains errors, infringes upon a third party's Intellectual Property Rights, or is otherwise unlawful, or inaccurate, (b) the MLS Database Compilation containing the Licensed Data infringes upon the Intellectual Property Rights of any third party, or (c) LICENSOR has engaged in conduct that constitutes a breach of this Agreement by LICENSOR. LICENSEE further agrees that in the event LICENSEE, its directors, managers, members, agents, employees or independent contractors misappropriates, uses, discloses or disseminates information from the LICENSOR'S MLS Database Compilation for which authorization has not been granted by LICENSOR or Participants, or MLS subscribers or users affiliated with such Participants, LICENSEE will defend, hold harmless and indemnify LICENSOR, its directors, managers, members, employees, agents and assigns from and against any and all costs, losses, liabilities or damages, including but not limited to, reasonable attorneys' fees and litigation costs or expenses at trial or on appeal.

(b) **Conditions for LICENSEE Defense.** To be entitled to defense by LICENSEE against a third-party claim, LICENSOR shall provide LICENSEE with reasonable notice of the existence of a claim by the most expeditious means possible upon learning of the assertion of a claim against LICENSOR (whether or not litigation or other proceeding has been filed or notice thereof served).

(c). **Separate Counsel** In any matter giving rise to LICENSEE's duty to defend LICENSOR pursuant to this Section 10, LICENSEE shall provide counsel to represent LICENSOR, which counsel shall be subject to LICENSOR'S approval, which approval shall not be unreasonably withheld or delayed. In addition to the counsel provided by LICENSEE, LICENSOR shall have the right to engage special counsel, at LICENSOR'S expense, provided that such counsel's role is limited to monitoring and advising LICENSOR about the status and progress of the defense.

11. **Sales and Use Taxes.** LICENSEE agrees to hold LICENSOR harmless from all federal, state and local sales, excise, use or similar taxes which may be assessed on any revenues generated by LICENSEE in connection with the operation or distribution of LICENSEE'S Software or any other products and services of LICENSEE.

12. **LICENSOR'S WARRANTY DISCLAIMERS.**

LICENSOR DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES TO LICENSEE WHATSOEVER, INCLUDING ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING THE LICENSED DATA INCLUDING, WITHOUT LIMITING THE GENERALITY OF THIS EXCLUSION, THE FOLLOWING SPECIFIC WARRANTY DISCLAIMERS:

(a) LICENSOR does not warrant that the Licensed Data will be accessible or usable on any hardware configuration or in any operating environment.

(b) LICENSOR does not warrant that the Licensed Data will be accessible or usable in conjunction with computer programs selected, developed, created, or operated by LICENSEE.

(c) LICENSOR does not warrant:

(1) That the Licensed Data will meet LICENSEE'S requirements or will be available in the combinations desired by or required by LICENSEE or LICENSEE'S customers, clients or licensees;

(2) That any of the Participants will license or utilize the LICENSEE'S Software or any other products or services of LICENSEE; or

(3) That the Licensed Data will be error free.

(d) LICENSOR EXPRESSLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO, the selection, procurement, installation, operation, and maintenance of the computer hardware or software necessary to access the Server on which the Licensed Data is maintained. LICENSOR shall not be under any obligation to maintain its current hardware or software on which the MLS Data is maintained or retrieved, nor is LICENSOR obligated to continue to utilize any computer vendor or any other service provider. LICENSOR shall, however, respond to reasonable inquiries from LICENSEE about any changes to the MLS Database computer hardware or software, or the Server that may require changes to LICENSEE'S Software or LICENSEE'S products and services.

13. **LICENSEE'S WARRANTY DISCLAIMERS.** AS TO LICENSEE'S SOFTWARE EXCEPT AS PROVIDED IN SECTION 14 HEREOF, LICENSEE MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

14. **LICENSEE'S Representations and Warranties.** LICENSEE makes the following representations and warranties to LICENSOR:

(a) **Capacity.** That LICENSEE has all requisite legal power and authority to enter into, execute and deliver this License Agreement, and to carry out and perform its obligations under the terms of this License Agreement.

(b) **Rights.** That LICENSEE owns, or has secured valid licenses to the intellectual Property Rights and proprietary rights to the LICENSEE Software, and any other products and services of LICENSEE that LICENSEE makes available to Participants. To the extent the LICENSEE Software or other products and services of LICENSEE contain any components owned or created by a third party, LICENSEE warrants that it has the right to allow their use as a component of LICENSEE'S Software or LICENSEE'S other products and services, and that such use does not infringe on the Intellectual Property Rights of any third party.

15. **LIMITATIONS OF LIABILITY.** INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER PROVISION OF THIS AGREEMENT, OTHER THAN FOR INFRINGEMENT OF INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS, AND THE TERMS OF SECTIONS 8, 9, AND 10 OF THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON THAT CLAIMS RIGHTS DERIVED FROM THE OTHER PARTY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR OTHER ECONOMIC DAMAGE, AND FURTHER DAMAGE INCLUDING INJURY TO PROPERTY, AS A RESULT OF THE BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY THEREOF. THIS PARAGRAPH HOWEVER SHALL NOT LIMIT EITHER PARTY'S RIGHT TO ENFORCE CLAIMS FOR VIOLATION OF ITS INTELLECTUAL PROPERTY RIGHTS, OR PROPRIETARY RIGHTS, CLAIMS RELATING TO ANY PROHIBITED DISCLOSURE OF ITS CONFIDENTIAL INFORMATION, OR CLAIMS RELATING TO ANY PROHIBITED USE OF THE OTHER PARTY'S CONFIDENTIAL INFORMATION, LICENSED DATA, PROPRIETARY RIGHTS, OR INTELLECTUAL PROPERTY RIGHTS.

16. **Notices.** All notices or other communications to be given pursuant to this Agreement shall be in writing, facsimile, or e-mail, and shall be given either personally, by courier or certified U. S. Mail, return receipt requested, postage prepaid or by facsimile or e-mail. Notices shall be deemed given upon receipt by the recipient if delivered personally or by courier, or on the date appearing on the receipt if sent by U. S. Mail or delivered to the facsimile or e-mail

address set forth herein. Notices shall be forwarded to the addresses set forth in this Agreement, or to such other addresses as each party shall advise the other in writing.

If to LICENSOR

MIBOR Service Corporation
1912 N. Meridian Street
Indianapolis, Indiana 46202
Attn: Mr. Tom Renkert
Fax: 317-956-5050
E-Mail: tomrenkert@mibor.com

If to LICENSEE

Name of Licensee: _____

Street Address: _____

City, State Zip: _____

Attn: _____

Facsimile: _____

E-Mail: _____

17. **Choice of Law.** This Agreement will be interpreted and enforced in accordance with the law of the State of Indiana applicable to agreements made and performed entirely in that state by persons domiciled therein. Suit to enforce this Agreement or any provision thereof will be brought exclusively in the state or federal courts whose territorial jurisdiction includes Marion County, Indiana.

18. **Miscellaneous.** As to the subject matter of this Agreement, this document constitutes the entire and exclusive Agreement between the parties and supersedes all other communications, agreements or undertakings, whether written or oral. This Agreement may be amended or modified only in writing executed by both parties. Any provision of this Agreement found by a court of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of the law, and all other provisions shall remain in full force and effect. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

19. **Binding of Successors.** This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns permitted by this Agreement.

20. **Headings.** Headings are for reference purposes only and have no substantive effect.

21. **Assignment.**

(a) No party may assign any right under this Agreement and any purported assignment will be null and void and a breach of this Agreement, except for the following or as otherwise provided herein.

(b) Either party may assign some or all of its rights and/or delegate some or all of its obligations under this Agreement with the express prior written consent of the other party, which may be granted or withheld in the other party's sole discretion.

(c) Any party may assign all of its rights and obligations under this Agreement indivisibly to a parent company, subsidiary or affiliate of this party with notice to, but without the consent of, the other party. The assigning party's parent company, subsidiary or affiliate must agree in writing to comply with the assigning party's obligations under this Agreement and to be bound by this Agreement.

(d) Either party may assign all of its rights and obligations under this Agreement indivisibly in connection with a sale or other disposition of all, or substantially all, of the assets of that party's business relating to the subject matter of this Agreement to a single acquiring party. The acquiring party must agree in writing to comply with the assigning party's obligations under, and to be bound by this Agreement. The assigning party must provide notice to the other party, but need not secure the consent of the other party to an assignment pursuant to this Section 21(d).

22. **Injunctive Relief.** LICENSEE acknowledges that any material violation by LICENSEE of its covenants in this Agreement, including those relating to LICENSOR'S Intellectual Property Rights, would result in damage to LICENSOR that is largely intangible but nonetheless real, and that is incapable of complete remedy by an award of damages. Accordingly, any such material violation shall give LICENSOR the right to seek a court-ordered injunction or other appropriate order to specifically enforce those covenants. LICENSEE expressly waives the posting of any bond or guarantee with respect to the entry of an injunction, either permanent or temporary. The entry of an injunction shall not waive LICENSOR'S right to seek appropriate damages at law, including money damages.

23. **Representation of Counsel; Mutual Negotiation.** Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advise and participation of counsel and will be interpreted in accordance with its terms without favor to any party,

24. **Survival.** The provisions of this Agreement that are intended to survive the termination of this Agreement shall survive for a period of five (5) years after the expiration or termination of the license granted to LICENSEE in Section 2.

25. **Counterparts.** This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photo-static copy of any executed original will be admissible in evidence for all purposes in any proceeding as between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date written below;

LICENSEE:

_____ Date: _____
[Name of Licensee]

By: _____
[Signature]

Printed Name: _____

Title: _____

**LICENSOR:
MIBOR Service Corporation**

By: _____ Date: _____
[Signature]

Printed Name: Thomas A. Renkert, Jr.

Title: Information Services Director