



6393 Poplar Avenue · Memphis, Tennessee 38119 · 901.685.2100 · fax 901.761.4003 · [www.maar.org](http://www.maar.org)

**REALTOR® MEMBER**  
APPLICATION FOR MEMBERSHIP

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

**A. Membership Category Requested: (Check One)**

\_\_\_\_\_ Designated REALTOR®      \_\_\_\_\_ Branch Designated REALTOR®      \_\_\_\_\_ REALTOR®

**B. State Licensing Information: (attach copy of current Broker License.)**

1. State Broker License Number \_\_\_\_\_ 2. Date first licensed in real estate \_\_\_\_\_

**C. Identification: (print or type)**

1. Name \_\_\_\_\_ (as it appears on license)  
2. Real Estate Firm \_\_\_\_\_  
3. Firm Address \_\_\_\_\_ Office Phone \_\_\_\_\_  
City, State \_\_\_\_\_ Zip Code \_\_\_\_\_ Office Fax \_\_\_\_\_  
4. Residence Address \_\_\_\_\_ Cell Phone \_\_\_\_\_  
City, State \_\_\_\_\_ Zip Code \_\_\_\_\_ Personal Fax \_\_\_\_\_  
5. E-Mail \_\_\_\_\_ Web Site \_\_\_\_\_

**D. Firm Information:**

1. Check one: \_\_\_\_\_ Individual      \_\_\_\_\_ Partnership      \_\_\_\_\_ Corporation  
2. State position with firm: \_\_\_\_\_ Principal      \_\_\_\_\_ Partner      \_\_\_\_\_ Corporate Officer  
\_\_\_\_\_ Trustee      \_\_\_\_\_ Employee      \_\_\_\_\_ Independent Contractor  
\_\_\_\_\_ Other (Explain) \_\_\_\_\_  
3. Application for Designated REALTOR®, list names and license number of each other Principal, Corporate Officer, or Trustee of your firm: \_\_\_\_\_  
4. FOR DESIGNATED REALTOR® USE ONLY: List Tennessee Real Estate Licensees (or attach list) associated with firm: \_\_\_\_\_

**E. Credit Reference:**

Banks: (Checking & Savings) \_\_\_\_\_  
Credit Cards: (Types) \_\_\_\_\_

**F. General Information: (Questions 1-6 should be answered by Designated REALTORS® only. Questions 7-14 are optional for all REALTORS®.)**

1. Has your real estate license, in this or any other state, been suspended or revoked? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," specify the place(s) and date(s) of such action and detail the circumstances relating thereto.

\_\_\_\_\_  
\_\_\_\_\_

2. Are there now, or have there been within the past five (5) years, any complaints against you from any real estate regulatory agency or any other agency of government? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," specify the substance of each complaint in each state, the agency before which complaint was made, and the current status or resolution of such complaint. \_\_\_\_\_
3. Have you ever been convicted of a felony? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," explain \_\_\_\_\_
4. Give name(s) of Institution(s) in which you maintain your escrow account. \_\_\_\_\_
5. Are you now involved in any pending bankruptcy? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," explain \_\_\_\_\_
6. Have you been involved in any bankruptcy or insolvency proceedings in the past three (3) years?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," state circumstances \_\_\_\_\_
7. Do you hold, or have you ever held, a real estate license in any other state? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If so, specify \_\_\_\_\_
8. How many years have you been active in the business? \_\_\_\_\_
9. Are you currently a member of another Association? Yes \_\_\_\_\_ No \_\_\_\_\_  
Have you ever been a member of another Association? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," to either question, name of each Board, type of membership held, and dates establishing the time period for which membership has been held. \_\_\_\_\_  
b. If so, what is your NRDS (National Realtor Database System) number? \_\_\_\_\_
10. Have you participated in a Multiple Listing Service? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. Where? \_\_\_\_\_
11. Have you ever been refused membership in any other real estate association? Yes \_\_\_\_\_ No \_\_\_\_\_  
a. If "Yes," state basis for each such refusal and detail the circumstances related thereto. \_\_\_\_\_
12. Are you now employed or engaged in any other business or profession? Yes \_\_\_\_\_ No \_\_\_\_\_
13. Is membership in MAAR your: Primary Board? \_\_\_\_\_ Or Secondary Board? \_\_\_\_\_  
a. If secondary, please indicate name of Primary Board \_\_\_\_\_
14. What is your primary field of business? Residential: \_\_\_\_\_ Commercial: \_\_\_\_\_  
Property Management: \_\_\_\_\_ Appraisal: \_\_\_\_\_

**G. For Designated REALTOR Use Only:**

Statement of Responsibility. I assume full responsibility for accurate completion of this application form and do endorse this applicant as an individual who will be a credit to our trade association. Further, I will make every effort to see that this applicant fully complies with all regulations and requirements of the Tennessee Real Estate Commission and the Memphis Area Association of REALTORS®.

I hereby unreservedly recommend that this applicant be approved subject to approval by the Board of Directors.

\_\_\_\_\_  
Date Signed \_\_\_\_\_  
Designated Realtor

## H. Statement of Understanding

To: Board of Directors, Memphis Area Association of REALTORS®

I hereby apply for REALTOR® membership in the Memphis Area Association of REALTORS® (“the Association”). Attached is a check for the required fees and dues as set forth in the Bylaws of the Association.

I understand that my application for membership is subject to all applicable provisions of the Bylaws of the Association.

I understand that, upon request, I must exhibit the required city, county, and business tax license receipts, and my state real estate license. If elected to membership, I agree to keep all licenses current as long as I remain an Association member and actively engage in the real estate profession. If elected to membership, I understand that I will have a membership obligation for observance of all federal, state, county, and city laws, statutes, and ordinances, and the rules and regulations of the Tennessee Real Estate Commission, pertaining to the real estate profession and to keep myself informed of the current requirements thereof.

If elected to membership, I understand that I will be subject to and obligated to abide by the Bylaws and *Code of Ethics and Arbitration Manual* of the Association, as well as all rules and regulations, practices, and procedures duly established from time to time by the Association. I understand that the Bylaws and the *Code of Ethics and Arbitration Manual* of the Association provide procedures for disciplinary action for breaches of the Code of Ethics and other membership obligations, including the obligation to arbitrate any future disputes with another Member in accordance with the Association's arbitration procedures. If elected to membership, I understand and agree that no person shall be liable to me for any charges made, information furnished or evidence given against me pursuant to any provision of the *Code of Ethics and Arbitration Manual* of the Association, unless made, furnished or given in bad faith and with conscious awareness of the falsity thereof, and I further agree that neither the Association nor any director, officer, member, or representative thereof shall have any liability to me for any action taken in good faith in connection with any such proceedings for disciplinary action or arbitration. I agree to read and familiarize myself with the Bylaws and the *Code of Ethics and Arbitration Manual* of the Association.

\* NOTE: Applicant acknowledges that if accepted as a Member and subsequently resigns from membership in the Association with an ethics complaint or arbitration request pending, the Board of Directors may condition the right of the resigning Member to reapply for membership upon the applicant's verification that the member will submit to the pending ethics or arbitration proceeding and will abide by the decision of the Hearing Panel; or if a Member resigns without having complied with an award in arbitration, the Board of Directors may condition any reapplication of the former Member upon commitment to pay the award, plus any costs that have previously been established as due and payable by the former Member, provided that the award has not, in the meanwhile, been otherwise satisfied.

I certify that I am not nor is any real estate firm in which I am affiliated as a sole proprietor, general partner, or corporate officer involved in any pending bankruptcy or insolvency proceedings or have not been adjudged bankrupt in the past three (3) years. If application for membership is approved by the Association with a pending bankruptcy or insolvency proceedings, the Association may then establish policy that its interests and those of its members and the public could adequately be protected by requiring that the applicant pay cash in advance for Association and MLS fees for up to one (1) year from the date that membership is approved or from the date that the applicant is discharged from bankruptcy (whichever is later).

If membership in the Association is approved and bankruptcy proceedings occur, the Member may be placed on a “cash basis” from the date that bankruptcy is initiated until one (1) year from the date that bankruptcy is discharged.

I certify that, if elected to membership, I will be actively engaged in the real estate profession as an employee of or as an independent contractor with a Designated REALTOR® of the Association, who shall act as my Sponsoring Broker.

I certify that, if elected to membership, I will be actively engaged in the real estate profession as an employee of or as an independent contractor with a Designated REALTOR® of the Association, who shall act as my Sponsoring Broker.

I hereby certify that the foregoing information is true and correct, and I agree that the failure to provide complete and accurate information as requested, or any misstatement of fact, shall be grounds for revocation of my membership.

I understand that by providing my e-mail address, telephone number(s), and fax number(s), I consent to receive communications from the Memphis Area Association of REALTORS® and the National Association of REALTORS® via e-mail, telephone, text or facsimile at those numbers/locations.

**Communications Preferences**

Primary Phone Number:

Office \_\_\_\_\_

Cell \_\_\_\_\_

By signing below, I agree to accept all invoices and communications electronically, and to keep a current valid e-mail address on file as a condition of Membership.

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

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

ALL APPLICANTS READ CAREFULLY: I, also understand that the Association will investigate my application and qualifications for membership through its appropriate committees, directors, and other representatives, and that members of the Association may submit objections to my application. I fully consent to such investigation, evaluation, and consideration of my membership application and qualifications, and I hereby waive any claim against, and fully release from liability, the Association and each and every officer, director, committee member, and member of the Association, with respect to any claim or liability which might otherwise arise by reason of any action taken, objection made, or information furnished in good faith, in connection with my application for membership.

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Applicant Signature



## NEW MEMBER AND MLS ORIENTATION

Welcome to the Memphis Area Association of REALTORS®. We look forward to your becoming a part of our Association.

### REALTOR® Membership Requirements:

1. A completed membership application, including a signature from the applying agent and the Principal Broker, must be submitted.
2. The one-time application fee of \$145, MLS Orientation fee of \$150 (in-house) or \$200 (online) and other appropriate dues and usage fees must be paid at the time of application. Dues, application and MLS Orientation fees are non-refundable.
3. New applicants must attend the New Member Orientation class given by the Memphis Area Association of REALTORS® and attend a Code of Ethics class. The applicant has 90 days from the time of submitting application to complete this requirement. **Failure to complete the courses within the 90-day time period nullifies the licensee's application for membership, as well as forfeits all dues and fees paid.** The applicant has 90 days to attend a mandatory MLS Orientation; **failure to attend will result in suspension of MLS privileges until Orientation is attended.**
4. Upon receipt of the completed application and payment of dues and fees, the applicant is given provisional REALTOR-Associate® status. Full REALTOR-Associate® membership will be given once the New Member Orientation course is complete and the Board of Directors have approved membership.

**\*Note to Managing Brokers:** *Dues must be paid per licensed agent within the company. This is known as the non-member assessment. Paying dues for agents within an office does not automatically qualify them for REALTOR® membership; each agent must complete an application and complete all requirements to obtain REALTOR® membership. Until that point, the managing broker is responsible for the non-member agent.*

**\*Note (2):** *You may attend orientation prior to issuance of your license, but you will not be approved for membership nor receive MLS services until a copy of your license has been submitted.*

**\*Note (3):** *MLS services, including SentiLock™ Access activation, will be provided to MLS subscribers for up to 90 days prior to attending MLS Orientation and Paragon Training, provided application, copy of license and all fees are submitted. SentiLock™ Access will be **issued only after** SentiLock™ Access quiz is completed. .*

### Membership Orientation

TIME: 1-2:30pm

### MLS Orientation

TIME: 9:00 a.m. - 12 p.m.

**PLACE:** Memphis Area Association of REALTORS® Education Center  
6393 Poplar, Memphis, TN



### New Member and MLS Orientation Schedule

#### CHECK DATE YOU WILL ATTEND ORIENTATION:

_____	Wed., January 15	_____	Wed., August 13
_____	Wed., February 5	_____	Wed., September 10
_____	Wed., March 19	_____	Wed., October 8
_____	Wed., April 9	_____	Wed., November 5
_____	Wed., May 7	_____	Wed., December 17
_____	Wed., June 11		

- I. **Designated REALTOR® Orientation:** All applicants for Designated REALTOR® or Branch Designated REALTOR® must complete Designated REALTOR® Orientation within 180 days after election to membership as a Designated REALTOR® or Branch Designated REALTOR®. *(Please check the class date below you plan to attend.)*

#### 2025 DR Orientation Schedule 1-2:30pm

_____	Thursday., February 20, 2025
_____	Thursday, April 10, 2025
_____	Thursday, July 10, 2025
_____	Thursday, October 16.025

- II. **Password:** Please provide a password. The password is used to access the MLS system and your member records. Your personal password must consist of **8-12** characters including **1 upper case alpha, 1 lower case alpha and 1 number**. **Cannot include spaces or your name.**

YOUR PERSONAL PASSWORD: \_\_\_\_\_



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

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

### III. PAYMENT:

(See corresponding line on bottom half of this page for pro-ration of dues and fees.)

- |   |           |
|---|-----------|
| 1. Membership Application ( <b>NON-REFUNDABLE</b> )       | \$ 145.00 |
| 2. Membership Dues ( <b>NON-REFUNDABLE</b> )              | \$ _____  |
| 3. Credit Report ( <b>For Designated REALTORS® only</b> ) | \$ 5.00   |
| 4. Transfer Fee ( <b>if applicable</b> )                  | \$ 100.00 |

If you will not be an MLS subscriber, add lines 1 through 4 and enter total on total line.

**MLS is mandatory for licensees of MLS firms.**

- |  |           |
|--|-----------|
| 5. MLS Orientation Fee <b>*\$150 (NON-REFUNDABLE)</b>                                | \$ _____  |
| 6. MLS Firm Initiation Fee (For Designated REALTORS® only) ( <b>NON-REFUNDABLE</b> ) | \$ 200.00 |
| 7. MLS Usage Fee   | \$ _____  |
| 8. SentiLock™ Access Training  | \$ _____  |
| 9. Total (Add lines 1 through 8 and enter total here)                                | \$ _____  |

Method of Payment:

\_\_\_\_\_ Check      Number \_\_\_\_\_ (**Make check payable to MAAR or Memphis Area Association of Realtors®**)

\_\_\_\_\_ Credit Card      Credit Card Number \_\_\_\_\_ Exp. Date \_\_\_\_\_

**American Express, VISA, MasterCard or Discover**

\_\_\_\_\_ Cash

**Line 2: Membership Dues:** Membership Dues for MAAR, TR, and NAR are \$481 for the calendar year. They are prorated according to the month your sponsoring broker received your license (**unless you were a member of NAR the previous year**). Find the month below in which your broker received your license and enter the amount on Line 3.

Jan.	\$ 481.00	May	\$ 341.00	Sep	\$ 201.00
Feb.	\$ 446.00	Jun.	\$ 306.00	Oct.	\$ 647.00*
Mar.	\$ 411.00	Jul	\$ 271.00	Nov	\$ 612.00*
Apr.	\$ 376.00	Aug.	\$ 235.00	Dec.	\$ 577.00*

\*Through end of next calendar year

**Line 8: MLS Usage Fee:** Mandatory for licensees of MLS firms. The fee is a semi-annual fee. The fee is prorated for new subscribers according to the month your sponsoring broker received your license. Enter the amount for the current month below on Line 8.

	All Counties			All Counties
Jan - Feb.	\$105.00		July -Feb.	\$420.00
Feb - Aug.	\$367.50		Aug -Feb.	\$367.50
Mar - Aug.	\$315.00		Sept -Feb.	\$315.00
Apr -Aug.	\$262.50		Oct -Feb.	\$262.50
May - Aug.	\$210.00		Nov - Feb.	\$210.00
Jun -Aug.	\$157.50		Dec -Feb.	\$157.50

**Line 9: SentiLock Training/Access:** The price of the training is \$25.00. Access will not be given until your license becomes active, a REALTOR™ Lockbox Agreement has been received and processed and you have completed the Access training quiz.



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**MULTIPLE LISTING SERVICE**  
**GUARANTY AGREEMENT FOR REALTOR™ LOCKBOX SYSTEM**

THIS GUARANTY AGREEMENT FOR REALTOR™ LOCKBOX SYSTEM ("THIS GUARANTY") IS HEREBY ENTERED INTO ON THIS \_\_\_\_\_ DAY

OF \_\_\_\_\_, 20\_\_\_\_, BY \_\_\_\_\_ ("PARTICIPANT"), WHO IS THE PRINCIPAL BROKER

Name of Principal Broker

OF \_\_\_\_\_ ("COMPANY"), THE PRINCIPAL OFFICE OF WHICH IS LOCATED AT

Company Name

Street Address

City

State

Zip

IN FAVOR OF AND FOR THE BENEFIT OF MEMPHIS AREA ASSOCIATION OF REALTORS®, INC. ("MAAR").

WHEREAS, pursuant to that certain SentiLock System Agreement dated November 7, 2004 (the "Master Agreement") by and between MAAR and SentiLock, LLC ("SentiLock"), SentiLock has sold and licensed to MAAR, and has permitted MAAR to re-sell and re-license to certain authorized users, the REALTOR™ Lockbox System (the "System") for use in connection with the multiple listing service ("MLS") owned and operated by MAAR; and

WHEREAS, the System includes SentiLock electronic smart cards ("SentiCards™"), REALTOR™ Lockboxes ("Lockboxes"), Smart Card Readers, which are SentiLock-supplied devices that may be attached to an Internet-connected personal computer (meeting certain minimum standards) to allow renewal and maintenance of SentiCards™, and SentiLock-supplied software ("SentiLock Software") to be installed on authorized users' personal computers for use with Smart Card Readers; and

WHEREAS, MAAR requires that a real estate licensee, in order to qualify as an authorized user of the System, execute a REALTOR™ Lockbox System Agreement (the "System Agreement"), a copy of which is attached hereto as Exhibit A, and obtain the personal guaranty of his/her principal broker for obligations there under; and

WHEREAS, to induce MAAR to enter into a System Agreement with real estate licensees who are associated with Participant in Company and meet certain other qualifications, Participant desires to enter into this Guaranty.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Participant agrees as follows:

1. **DEFINITION OF HOLDER:** All real estate licensees who are eligible under the MLS Rules and Regulations, who have executed a System Agreement, and who are associated with Participant in Company either now or at any time while Master Agreement is in effect, other than those real estate licensees identified by Participant in accordance with Paragraph 15 below, shall be deemed to be "Holders, or, individually, a "Holder," as those terms are used herein.
2. **AUTHORIZATION FOR SYSTEM AGREEMENT WITH HOLDER:** Participant hereby authorizes and requests MAAR to enter into a System Agreement with each and every Holder.
3. **OBLIGATIONS UNDER SYSTEM AGREEMENT:** Participant hereby unconditionally guarantees to MAAR full payment and faithful performance of all obligations of Holder which may arise pursuant to each System Agreement entered into by and between MAAR and a Holder. Participant also hereby agrees to be bound by all obligations assigned to either Holder or Participant in each System Agreement with a Holder. The term "obligations" is used herein in its most comprehensive sense and includes all debts, obligations, and liabilities, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Participant or Holder may be liable individually or jointly with others, or whether recovery against Holder may be or hereafter become unenforceable. Separate actions may be brought and prosecuted against Participant, whether or not an action is brought against Holder, and whether or not Holder is joined in any such action.
4. **MAINTENANCE AND SECURITY OF SYSTEM:** Participant acknowledges that it is necessary to maintain security of the System to prevent its use by unauthorized persons. Consequently, Participant shall ensure that each Holder complies with all obligations under System Agreement, including:
  - (a) Keeping the SentiCard™ in Holder's possession or in a safe place at all times.
  - (b) Not allowing Holder's PIN to be attached to the SentiCard™.
  - (c) Not disclosing Holder's PIN to any third party.
  - (d) Not loaning the SentiCard™ to any person, or allowing it to be used by any other person, for any purpose whatsoever.
  - (e) Not duplicating, tampering with, or modifying the SentiCard™, the Smart Card Reader, the Lockbox, or any other component of the System or allowing any other person to do so.
  - (f) Not assigning, transferring, or pledging any component of the System or any rights thereto.
  - (g) Following all additional security procedures as specified by the MLS and/or SentiLock from time to time.
  - (h) Complying with any license agreement for SentiLock Software and SentiLock's operating and maintenance procedures as established from time to time and published on SentiLock's website.
5. **LOST OR STOLEN SENTRICARD™:** In the event a SentiCard™ or other System component is lost, stolen, or otherwise unaccounted for, Participant shall notify the MLS immediately by telephone and promptly thereafter execute and deliver to MAAR, or ensure that the appropriate Holder executes and delivers to MAAR, an affidavit as to all the facts surrounding the loss, theft, or inability to account therefore.
6. **AUDIT/INSPECTION:** Participant shall be responsible, along with Holder, for submitting each Holder's SentiCard™ for inspection at the MLS office after receipt of notice to do so by the MLS. The SentiCard™ shall be deemed unaccounted for if Participant or Holder does not demonstrate that the SentiCard™ is within Participant's or Holder's physical control during the time period specified by the MLS.
7. **VIOLATION:** In the event of breach of this Guaranty or the System Agreement by Participant or Holder, either or both of them: (a) shall be subject to loss of access to the System or fines or other sanctions as determined by the MLS Rules and Regulations then in effect; (b) may be required to return all components of the System within their possession, custody, or control; and (c) may be liable for damages.
8. **INDEMNIFICATION:** Participant covenants and agrees to indemnify and hold MAAR, the MLS, and their respective officers, directors, employees, and representatives harmless from any and all losses, expenses, liabilities, obligation, claims, or demands, including attorneys' fees and expenses, in connection



with Lockboxes, SentiCards™, Smart Card Readers, and other System components purchased by or licensed to Participant or Holder, including but not limited to Participant's or Holder's use of the Lockbox or the SentiCard™, use of the SentiCard™ by any other person, loss of the Lockbox or the SentiCard™, or any breach by either Participant or Holder of this Guaranty, the System Agreement, the MLS Rules and Regulations, or any license for SentiLock Software.

9. **REIMBURSEMENT:** In the event MAAR or the MLS commences legal proceedings against Participant or Holder to enforce or interpret any of the provisions of this Guaranty or System Agreement, Participant shall be liable for reasonable attorney's fees and expenses incurred by MAAR or the MLS.
10. **PARTICIPANT'S AND HOLDER'S WARRANTIES AND COVENANTS:** Participant hereby warrants and covenants that now and for so long as Holder shall be assigned a SentiCard™ or otherwise have access to the System: (a) Participant shall be both a principal broker and an authorized participant in the MLS; (b) Holder shall be in fact associated with Participant in an active effort to sell real estate through a business office under the control and supervision of Participant; (c) Participant and Holder shall maintain current Tennessee real estate licenses; and (d) Participant and Holder shall promptly notify the MLS should any of the statements in this numbered paragraph no longer be true. Participant agrees that he/she and Holder will: (a) attend an instructional meeting on the operation and use of the System as required by the MLS; and (b) comply with MLS Rules and Regulations for use of the System, including obtaining a confirmed appointment from each listing office or listing agent before entering the property through the use of the Lockbox unless "Open Lockbox" is denoted in the MLS listing.
11. **ACTION TO ENFORCE:** Any action for the enforcement of this Guaranty or System Agreement may be taken or brought in the name of MAAR or the MLS.
12. **WARRANTY:** Participant's and Holder's sole and exclusive warranty with respect to the Lockbox, the SentiCard™, the Smart Card Reader, SentiLock Software, and any other component of the System shall be only that warranty which MAAR obtains from SentiLock and is permitted to pass through to Participant and Holder. **SUCH WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTY WHETHER EXPRESSED OR IMPLIED.** MAAR and the MLS do **NOT** represent or warrant that the System may not be compromised or circumvented or that the Lockbox, the SentiCard™ or other System components will prevent any loss by burglary or other criminal action. Participant agrees that neither MAAR nor the MLS has made any representations or warranties, express or implied, regarding such compromise or circumvention. It is expressly understood and agreed that the System is not designed or marketed as a security system. The System will be unavailable at certain times due to maintenance and may be unavailable at other times due to Internet or telecommunication service outages or malfunctions or other reasons. Neither Holder nor Participant nor any other person shall have any claim against MAAR or the MLS as a result of any failure or malfunction of the System.
13. **AUTHORIZATION:** Prior to installing or using the Lockbox on any property, Participant or Holder shall secure written authorization from the owner(s) of such property. Extreme care shall be taken to ensure that all doors to the property and the Lockbox are locked. Participant or Holder shall include in the listing agreement, or some other agreement signed by the owner(s) of such property prior to installation or use of the System, a provision whereby the owner(s) acknowledge(s) the risk of using the System and release(s) MAAR, the MLS, and their officers, directors, employees, representatives, and independent contractors from any and all liability in connection with the System.
14. **AGREEMENT BETWEEN MAAR AND SENTRILOCK:** Holder's and Participant's rights under the System Agreement and this Guaranty, and Holder's and Participant's rights to use the System, are dependent upon MAAR's rights under the Master Agreement. Holder's and Participant's rights to use the System or any component thereof are subject to termination upon expiration or termination of the Master Agreement.
15. **EXCLUSION OF HOLDERS:** If Participant desires to exclude a Holder from access to the System, Participant shall so notify the MLS in writing. Upon receipt of such written notice, the MLS will not accept any System Agreement that such Holder submits and shall cancel any System Agreement with Holder that is then in effect.
16. **DELAY IN DEACTIVATION:** Participant acknowledges that when a Holder becomes ineligible for access to the System, whether because of conduct of Holder or Participant, or notice to the MLS from Participant to exclude Holder from the System, or otherwise, there may be a delay in the MLS's deactivating Holder's SentiCard. Participant shall remain responsible for Holder's acts and omissions until such deactivation, and thereafter for failure to return System components and any continuing violations of Holder's obligations.
17. **TERMINATION OF GUARANTY:** Upon thirty (30) days advance written notice to MAAR, Participant may terminate this Guaranty, but such termination shall be effective only as to liability for acts or omissions that occur after such termination. Moreover, all rights of Holders under their respective System Agreements shall cease upon termination of this Guaranty, and Holders may be required to return all devices and software covered by System Agreements unless, prior to termination of this Guaranty, another principal broker associated with Company executes a new Guaranty Agreement for REALTOR™ Lockbox System and thereby agrees to guarantee all future obligations of Holders.
18. **COMPLETE AGREEMENT:** This Guaranty and the System Agreement are the complete and exclusive statement of the agreement between the parties and may be amended only by a written instrument executed by the respective parties thereto.
19. **MISCELLANEOUS:** If any provision of this Guaranty shall be held to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality, or enforceability of the remaining provisions. The MLS Rules and Regulations, as referred to herein, shall include any and all amendments thereto which may be adopted from time to time. The captions used in this Guaranty are for convenience of reference only and shall not affect the meaning of any provision of this Guaranty. This Guaranty is not assignable.

IN WITNESS WHEREOF, Participant has entered into this Guaranty at Memphis, Tennessee, on the date first above written.

PARTICIPANT:

\_\_\_\_\_  
Participant's Signature

\_\_\_\_\_  
Print Participant's Name

\_\_\_\_\_  
Participant's Address



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**MULTIPLE LISTING SERVICE  
REALTOR™ LOCKBOX SYSTEM AGREEMENT**

THIS REALTOR™ LOCKBOX SYSTEM AGREEMENT ("THIS AGREEMENT") IS HEREBY ENTERED INTO

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY AND BETWEEN MEMPHIS AREA ASSOCIATION OF REALTORS®, INC. ("MAAR"), WHICH OPERATES A

MULTIPLE LISTING SERVICE ("MLS"), AND \_\_\_\_\_ ("HOLDER"), WHO IS A

Name of Licensee

REAL ESTATE LICENSEE ASSOCIATED WITH \_\_\_\_\_ ("PARTICIPANT"), WHO IS

Name of Principal Broker

A PARTICIPANT IN THE MLS AND THE PRINCIPAL BROKER OF \_\_\_\_\_ THE PRINCIPAL OFFICE

Company Name

WHICH IS LOCATED AT \_\_\_\_\_

Street Address

City

State

Zip

*For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:*

1. **LOCKBOX:** MAAR has sold to Holder, or to Participant for Holder's use, one or more REALTOR™ Lockboxes ("Lockbox"), as reflected on a separate ledger maintained by MAAR, for use in connection with the REALTOR™ Lockbox System ("System") that has been sold and licensed by SentiLock, LLC ("SentiLock") to MAAR.
  2. **SMART CARD READER AND SOFTWARE:** MAAR has also sold to Holder, or to Participant for Holder's use, one or more Smart Card Readers, which are SentiLock-supplied devices that may be attached to an Internet-connected personal computer (meeting certain minimum standards established by SentiLock) to allow renewal and maintenance of SentiCards™. MAAR is making available to Holder and/or Participant certain SentiLock-supplied software ("SentiLock Software") to be used with Smart Card Readers, subject to a SentiLock license agreement to be executed by the owner of the personal computer on which SentiLock Software is installed.
  3. **RECEIPT OF SentiCard™ AND PIN:** By separate agreement Participant has granted permission to MAAR to sell to Holder a SentiLock electronic smart card ("SentiCard™") permitting entry into the System. MAAR hereby acknowledges receipt of the sum of \$\_\_\_\_\_ from Holder for the purchase of SentiCard™ Number \_\_\_\_\_. Holder hereby acknowledges receipt of the SentiCard™ and his/her personal identification number ("PIN") from MAAR.
  4. **LICENSE TO USE:** Holder is hereby granted a revocable license to use the SentiCard™ in connection with his/her normal and customary activities while acting as a real estate agent or non-principal broker, all upon the terms and conditions set forth herein. Holder shall be permitted to use the other components of the System upon the terms and conditions set forth herein. Upon termination or revocation of Holder's right to use the System or any component thereof, and upon request of the MLS, Holder shall immediately return to the MLS all Lockboxes, SentiCards™, Smart Card Readers, and any other SentiLock-supplied devices, and shall cease using any SentiLock-supplied software.
  5. **PURPOSE:** Holder shall use the SentiCard™ only for the purposes of gaining authorized entry into real property on which a Lockbox has been installed pursuant to an agreement with the owner(s) of such real property. Holder shall use the other components of the System only as necessary for proper use of the SentiCard™ and/or Lockbox.
  6. **OTHER EQUIPMENT AND SOFTWARE:** Holder and/or Participant are responsible for providing the necessary Internet connection, computer hardware, and non-SentiLock-supplied software for communication with the System. These elements are not provided by MAAR or SentiLock. In order to be sufficient and compatible with the System, these elements must meet SentiLock's specifications, a copy of which is available from MAAR and/or SentiLock.
  7. **REVOCATION OF LICENSE AND PERMISSION:** Holder's license and permission to use the System shall be revoked forthwith upon the occurrence of any one or more of the following events:
    - a) Suspension or termination of either Participant or Holder from the MLS.
    - b) Termination of Holder's association with Participant for any reason. (When Holder again becomes affiliated with an eligible MLS participant, license may be reinstated upon such other participant's assuming responsibility for Holder's SentiCard™ and Holder's use of other components of the System.)
    - c) Failure of Participant or Holder to comply with any of the terms and conditions set forth herein, including but not limited to the provisions for maintenance and security in Paragraph 9 below, or any provision of the MLS Rules and Regulations.
    - d) Failure of Participant or Holder to comply with: (i) SentiLock's operating and maintenance procedures as established from time to time and published on SentiLock's website; or (ii) any license agreement that SentiLock may require Participant or Holder to execute.
    - e) Expiration or termination of the Master Agreement between MAAR and SentiLock, LLC, as described in Paragraph 21 below.
    - f) Termination of Participant's Guaranty Agreement for REALTOR® Lockbox System (the "Guaranty") or receipt of notice by MAAR from Participant, pursuant to Guaranty, to exclude Holder from access to the System.
- One of the effects of revocation of Holder's license and permission to use the System will be the MLS's deactivation of Holder's SentiCard™.
8. **CURRENT UPDATE CODE:** Holder acknowledges that each SentiCard™ has an update code and that this code expires periodically as determined by the MLS. Holder cannot use the SentiCard™ unless he/she updates the SentiCard™ during each designated period by using a Smart Card Reader or following other procedures required by SentiLock and the MLS. Holder will not be permitted to update his/her SentiCard™ if Holder's SentiCard™ license is revoked pursuant to paragraph 7 above.
  9. **MAINTENANCE AND SECURITY OF SYSTEM:** Holder acknowledges that it is necessary to maintain security of the System to prevent its use by unauthorized persons. Consequently, Holder agrees:
    - (i) To keep the SentiCard™ in Holder's possession or in a safe place at all times.
    - (j) Not to allow his/her PIN to be attached to the SentiCard™.
    - (k) Not to disclose his/her PIN to any third party.
    - (l) Not to loan the SentiCard™ or permit the SentiCard™ to be used by any other person, for any purpose whatsoever.
    - (m) Not to duplicate, tamper with, or modify the SentiCard™, the Smart Card Reader, the Lockbox, or any other component of the System or allow any other person to do so.

- (n) Not to assign, transfer, or pledge any component of the System or any rights thereto.
- (o) To follow all additional security procedures as specified by the MLS and/or SentiLock from time to time.
- (p) To comply with any license agreement for SentiLock Software and SentiLock's operating and maintenance procedures as established from time to time and published on SentiLock's website, and any license agreement for SentiLock Software.
10. **LOST OR STOLEN SENTICARD™:** In the event a SentiCard™ or other System component is lost, stolen, or otherwise unaccounted for, Holder shall notify the MLS immediately by telephone and promptly thereafter execute and deliver to MAAR an affidavit as to all the facts surrounding the loss, theft, or inability to account therefor.
11. **AUDIT/INSPECTION:** Holder shall submit the SentiCard™ for inspection at the MLS office after receipt of notice to do so by the MLS. The SentiCard™ shall be deemed unaccounted for if Holder does not demonstrate that the SentiCard™ is within his/her physical control during the time period specified by the MLS.
12. **FAILURE TO COMPLY:** Any failure to comply with any of the terms of this Agreement, the MLS Rules and Regulations, or any license for SentiLock Software shall constitute an event of default hereunder and may result in immediate termination of Holder's right to use the System.
13. **VIOLATION:** If Holder violates this Agreement, the MLS Rules and Regulations, or any license for SentiLock Software, Holder and/or Participant: (a) shall be subject to loss of access to the System, fines and/or other sanctions as determined by the MLS Rules and Regulations then in effect; (b) may be required to return all components of the System assigned to or within the possession, custody or control of Holder; and (c) may be liable for damages.
14. **INDEMNIFICATION:** Holder covenants and agrees to indemnify and hold MAAR, the MLS, and their respective officers, directors, employees, and representatives harmless from any and all losses, expenses, liabilities, obligation, claims, or demands, including attorneys' fees and expenses, in connection with Lockboxes, SentiCards™, Smart Card Readers, and other System components used by or assigned to Holder, including but not limited to or Holder's use of the Lockbox or the SentiCard™, use of the SentiCard™ by any other person, loss of the Lockbox or the SentiCard™, or any breach of this Agreement, the MLS Rules and Regulations, or any license for SentiLock Software by Holder.
15. **REIMBURSEMENT:** In the event MAAR or the MLS commences legal proceedings against Holder to enforce or interpret any of the provisions of this Agreement, Participant and Holder shall be jointly and severally liable for all reasonable attorney's fees and expenses incurred by MAAR or the MLS.
16. **PARTICIPANTS AND HOLDER'S RESPONSIBILITIES:** Holder hereby warrants and covenants that now and for so long as Holder shall be assigned a SentiCard™ or otherwise have access to the System: (a) Participant shall be both a principal broker and an authorized participant in the MLS; (b) Holder shall be in fact associated with Participant in an active effort to sell real estate through a business office under the control and supervision of Participant; (c) Participant and Holder shall maintain current Tennessee real estate licenses; and (d) Participant and Holder shall promptly notify the MLS should any of the statements in this numbered paragraph no longer be true. Holder agrees to: (a) attend an instructional meeting on the operation and use of the System as required by the MLS; and (b) comply with MLS Rules and Regulations for use of the System, including obtaining a confirmed appointment from each listing office or listing agent before entering the property through the use of the Lockbox unless "Open Lockbox" is denoted in the MLS listing.
17. **ACTION TO ENFORCE:** Any action for the enforcement of this Agreement may be taken or brought in the name of MAAR or the MLS.
18. **WARRANTY:** Participant's and Holder's sole and exclusive warranty with respect to the Lockbox, the SentiCard™, the Smart Card Reader, SentiLock Software, and any other component of the System shall be only that warranty which MAAR obtains from SentiLock and is permitted to pass through to Participant and Holder. **SUCH WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTY WHETHER EXPRESSED OR IMPLIED.** MAAR and the MLS do **NOT** represent or warrant that the System may not be compromised or circumvented or that the Lockbox, the SentiCard™, or other System components will prevent any loss by burglary or other criminal action. Holder agrees that neither MAAR nor the MLS has made any representations or warranties, express or implied, regarding such compromise or circumvention. It is expressly understood and agreed that the System is not designed or marketed as a security system. The System will be unavailable at certain times due to maintenance and may be unavailable at other times due to Internet or telecommunication service outages or malfunctions or other reasons. Neither Holder nor Participant nor any other person shall have any claim against MAAR as a result of any failure or malfunction of the System.
19. **AUTHORIZATION:** Prior to installing or using the Lockbox on any property, Participant or Holder shall secure written authorization from the owner(s) of such property. Extreme care shall be taken to ensure that all doors to the property and the Lockbox are locked. Participant and Holder shall include in the listing agreement, or some other agreement signed by the owner(s) of such property prior to installation or use of the System, a provision whereby the owner(s) acknowledge(s) the risk of using the System and release(s) MAAR, the MLS, and their officers, directors, employees, representatives, and independent contractors from any and all liability in connection with the System.
20. **PARTICIPANT AS HOLDER:** If this Agreement is being used in connection with issuance of a SentiCard™ and/or other System components to Participant and no name is filled in on the blank line above for "Holder," Participant shall be deemed to be "Holder" and shall have all the obligations assigned herein to "Holder."
21. **AGREEMENT BETWEEN MAAR AND SENTRILock:** Holder's and Participant's rights under this Agreement and Holder's and Participant's rights to use the System are dependent upon MAAR's rights under that certain SentiLock System Agreement dated November 7, 2004 by and between SentiLock and MAAR (the "Master Agreement"). Holder's and Participant's rights to use the System or any component thereof are subject to termination upon expiration or termination of Master Agreement.
22. **COMPLETE AGREEMENT:** This Agreement is the complete and exclusive statement of the agreement between the parties and may be amended only by a written instrument executed by both parties hereto. However, Participant has entered into the Guaranty, pursuant to which Participant has guaranteed the obligations of Holder hereunder, as well as the obligations of other real estate licensees with whom Participant is associated.
23. **MISCELLANEOUS:** If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality, or enforceability of the remaining provisions. The MLS Rules and Regulations, as referred to herein, shall include any and all amendments thereto which may be adopted from time to time. The captions used in this Agreement are for convenience of reference only and shall not affect the meaning of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Memphis, Tennessee, on the date first above written.

MAAR:

HOLDER:

MEMPHIS AREA ASSOCIATION OF REALTORS®, INC.

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

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

\_\_\_\_\_  
Holder's Signature

\_\_\_\_\_  
Print Holder's Name

\_\_\_\_\_  
Holder's Address

# Memphis Area Association of REALTORS®

## Participant Agreement

This **AGREEMENT** is made and entered into by Memphis Area Association of REALTORS® ("MAAR"), with offices at 6393 Poplar Avenue, Memphis, TN 38119; and \_\_\_\_\_ ("Firm"), with offices at \_\_\_\_\_.

### DEFINITIONS AND USAGE.

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

**Individual Participants:** With regard to each office of Firm, the individual responsible for Firm's conduct under MAAR Policies that is a "participant" as that term is defined in the MAAR Policies.

**MAAR Associates:** MAAR Associates means MAAR and its officers, directors, employees, agents, representatives, licensors and shareholders.

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

**MAAR Policies:** MAAR's then current bylaws, rules and regulations, and policies and procedures promulgated by MAAR, as MAAR amends them from time to time.

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

**MAAR Software:** MAAR's proprietary software interface(s) to the MAAR System.

**MAAR System:** The aggregate of all hardware, software, and telecommunications systems that MAAR maintains, or that MAAR contractors maintain on its behalf, in order to make access to the MAAR Database available to Firm.

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

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

**Participant Contribution:** All data that Subscribers submit, contribute, or input in the MAAR System, including text, photographs, images, and other materials, in any form now known or hereafter discovered, except the PCC.

**Saved Information:** Information that Subscribers store in the MAAR System for their own later use that is not intended by them to be available to Other Participants and Subscribers, including client prospect and contact information.

**Schedule of Fees:** MAAR's document that establishes the fees for MAAR Service.

**Subscribers:** Firm's Individual Participants, employees, contractors, salespeople, and assistants (whether licensed or unlicensed as real estate agents or appraisers).

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 fully interchangeable.
- (c) Wherever the term "law" is used, it means all statutes, regulations, and case 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.

### MAAR'S OBLIGATIONS.

3. Subject to the terms and conditions of this Agreement and the MAAR Policies, MAAR shall provide one unique user ID and password to each of the Subscribers that is authorized to obtain access to the MAAR service by virtue of this Agreement or another license agreement; and Individual Participants for which Firm is responsible shall have all rights and obligations of a participant in MAAR as set forth in the MAAR Policies. The user ID and password will provide Individual Participants access to all data and functions in the MAAR Service to which Individual Participants are entitled under the MAAR Policies. MAAR makes no warranties, however, that the MAAR Service will be available at all times. MAAR may use a third party contractor, determined in MAAR's sole discretion, to facilitate its responsibilities under this Agreement.

### FIRM'S ACKNOWLEDGMENTS.

4. **Modifications to service.** MAAR may, but is not required to, modify the MAAR 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 MAAR Service may be subject to agreements other than this Agreement and may require payment of additional fees.

5. **Editorial control.** MAAR is not required to, and assumes no responsibility to, review, edit, or exercise editorial control over the MAAR Database or the Participant Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, MAAR may take any steps necessary in its judgment, including deleting the Participant Contribution or portions thereof, to avoid or remedy any violation of law, breach of the MAAR Policies or infringement of intellectual property right. Additionally, MAAR shall have the right to alter and/or remove metadata and copyright management information contained in the Participant Contribution.

6. **Conditions of service.** Firm must at all times have an Individual Participant designated for each office. Firm shall ensure that at all times Individual Participants for which Firm is responsible under this Agreement satisfy the prerequisites for participation in the MAAR Service. The prerequisites are set out in the MAAR Policies; at present, they include a requirement that Individual Participants either (a) hold a real estate broker's license, be actively engaged in real estate brokerage, and offer and receive offers of compensation from other brokerage firms in MAAR's multiple listing service in accordance with MAAR Policies and NAR policy; or (b) be licensed or certified by an appropriate regulatory agency to engage in the appraisal of real property. Individual Participants must maintain active membership in a REALTOR® association at all times during the term of this Agreement. Subscribers may enter and retrieve active listing information on the MAAR Service only if Firm offers compensation to or accepts compensation from other principal brokers in MAAR's multiple listing service in accordance with MAAR Policies and NAR policy. Firm Participant and Individual Participant will comply with the MAAR Policies at all times. Additionally, Firm Participant and Individual Participant will comply with all applicable laws, statutes, ordinances and regulations in performance of their respective obligations under this Agreement, including the Fair Housing Act (42 U.S.C. §3601 et. seq.) and the Americans with Disabilities Act (42 U.S.C. §12101 et. seq.).

7. **Saved Information.** MAAR will use commercially reasonable efforts to store Saved Information. However, Firm acknowledges that Saved Information may not always be available to Firm and despite MAAR's security protocols may become available to unauthorized persons. MAAR is not liable for unauthorized access to or loss of Saved Information. Firm 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.** MAAR reserves the right to distribute to third parties certain information about Firm, including Firm's and Individual Participants' names and business addresses, phone numbers and email addresses for any MAAR business purposes. MAAR reserves

the right to distribute to third parties aggregated information about Firm's, Individual Participants, and Other Participants' and Subscribers' use of the MAAR Service, but not about Firm's or Individual Participants' use specifically.

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

10. **Priority of agreements.** Firm must enter into this Agreement before any Subscriber may obtain access to the MAAR Service.

11. **If Firm is an appraisal firm.** Firm acknowledges that certain information in the MAAR Database, including information about listings currently for sale, may be withheld from Firm and Individual Participants pursuant to the MAAR Policies.

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

## FIRM'S OBLIGATIONS.

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

14. **Confidentiality.** Firm shall maintain the confidentiality of its user ID and password and Firm shall ensure that each Subscriber maintains the confidentiality of their user IDs and passwords. MAAR issues each Subscriber a separate ID and password, and Participant must not facilitate sharing of passwords among Subscribers. Firm shall ensure that no one but authorized Subscribers obtains access to the MAAR Service or any part of it. To maintain the confidentiality of all user IDs, passwords, the MAAR Database, and the MAAR System, Firm shall take the greater of reasonable care or the care it takes to protect its own confidential information. Firm and Individual Participant shall not make any user IDs, passwords, the MAAR Database, or the MAAR System available to any third party, including without limitation affiliates, franchisors, and subsidiaries, unless expressly authorized to do so under this Agreement or the MAAR Policies. Failure to comply with this provision will result in a significant fine, as set forth in the MAAR Policies. Firm 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, the disclosing Firm first gives reasonable notice to MAAR to permit MAAR to seek a protective order.

15. **Equipment.** Firm shall acquire and maintain all personal computers, modems, data connections, and computer software, other than the MAAR Software, necessary for Firm's use of the MAAR Service. MAAR does not provide support for personal computers, modems, data connections, and computer software, or other hardware or software, other than the MAAR System.

16. **Participant Contribution.** With regard to any Subscriber making a Participant Contribution to the MAAR Service, Firm warrants that the information submitted complies with all applicable laws, statutes, ordinances and regulations and the MAAR 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. Firm warrants that the Participant 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 Participant Contribution.

17. **Subscriber agreements.** Firm shall ensure that each Subscriber who will have access to the MAAR System or MAAR Database enters into

a Subscriber agreement with MAAR. Firm is liable for all fees due under each Subscriber agreement.

18. **Subscriber supervision.** Firm shall ensure that all Subscribers comply at all times with the MAAR Policies and with applicable laws. Firm is liable for any Subscriber's breach of any agreement between the Subscriber and MAAR relating to the MAAR Service or violation of any of the MAAR Policies as if Firm had committed it.

19. **List of Subscribers.** Firm shall ensure MAAR has a current list of all of Subscribers; Firm shall inform MAAR in writing of any change in the Subscribers in accordance with the MAAR Policies.

20. **Accurate information.** Firm warrants that the Subscribers have used and will use reasonable care to ascertain the accuracy of the Participant Contribution and its compliance with all laws. Firm shall ensure that any changes to the Participant Contribution are made on the MAAR System within such time, as MAAR shall provide in the MAAR Policies. Pursuant to the MAAR Policies, Firm shall provide to MAAR all documentation MAAR requests of Firm to ascertain Firm's compliance with this Agreement.

## INTELLECTUAL PROPERTY.

21. **Election regarding copyrights in Participant Contributions.** Firm must elect from the following options. If no election is indicated, or if both options are checked, then Participant is deemed to have selected Option II.

### ☐ OPTION I

(a) **Assignment from Participant.** Firm hereby unconditionally assigns to MAAR all right, title and interest in the Participant Contribution, including, without limitation, any copyrights therein under U.S. and international copyright law; Firm warrants that it has the authority to make this assignment. Firm acknowledges that once it has made the election agreeing to this section, all copyrights in all portions of the Participant Contribution, whether submitted prior to or after executing this Agreement, shall irrevocably vest in MAAR.

(b) **MAAR Obligations.** MAAR hereby grants to Firm 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 Participant Contribution and those portions of the MAAR Database relating to Firm's listings. MAAR shall use reasonable efforts to make quarterly registrations of the MAAR's copyrights in the MAAR Database; MAAR shall employ reasonable efforts to detect and hinder third parties using the Participant Contribution without Firm's permission.

### ☐ OPTION II

(a) **License from Participant.** Firm hereby grants to MAAR 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 Participant Contribution. Firm warrants that it has the authority to grant this license.

(b) **MAAR has no obligations to protect.** Firm acknowledges that: (i) MAAR makes no grant of license or assignment to Firm of any rights in the MAAR Database except as set forth in paragraph 22; (ii) MAAR will make no effort to register the copyrights in the Participant Contribution, and Firm will be responsible for all costs and efforts associated with registration; (iii) timely copyright registration is a prerequisite to suing a copyright infringer, and is necessary in order to obtain certain remedies available under the U.S. Copyright Act; (iv) **MAAR will employ no efforts whatsoever to detect or hinder third**

**parties using the Participant Contribution without Firm's permission;** (v) MAAR will make no effort to secure for Firm the right to use copyright works created by Subscribers or third parties.

**22. Other provisions.** Pursuant to the MAAR Policies, the PCC shall be a work made for hire by Participant and Subscribers for the benefit of MAAR, which shall be deemed the PCC's author for purposes of copyright law. If for any reason the PCC cannot be provided as a work made for hire, you agree to assign and hereby do assign to MAAR all right, title and interest in the PCC, including, without any limitation, any copyrights therein under United States and international copyright law. MAAR hereby grants Firm Participant a personal, non-exclusive, non-transferable, and royalty-free license during the term of this Agreement to use the MAAR Software and the MAAR Database (excluding the Participant Contribution) (collectively, the "Licensed Materials"), only to the extent expressly permitted by this Agreement and the MAAR Policies and only to deliver real estate brokerage or appraisal services to Firm's bona fide customers. All uses of the Licensed Materials not expressly authorized in this Agreement and the MAAR Policies are prohibited. Title to the Licensed Materials remains at all times in MAAR and shall not pass to Firm.

**23. Further Participant warranty.** Firm warrants that (a) the Participant Contribution does not infringe on the copyright or other intellectual property rights of any third party; and (b) Firm has the written consent of any party necessary to provide the Participant Contribution to MAAR.

**24. Limitations on use by MAAR.** During the term of this Agreement, MAAR shall use the Participant Contribution as permitted under the MAAR Policies and NAR policy, and for other such purposes and uses with the consent of Firm. In accordance with MAAR Policies and NAR policy, MAAR agrees to provide Firm notice of its intention to provide the Participant Contribution to a third party, who is not a real estate brokerage or appraisal subscriber to the MAAR Service, if such notice is required under the MAAR Policies or NAR policy, and agrees not to license or distribute the Participant Contribution if Firm has indicated in writing its desire to withhold the Participant Contribution from such third party. For purposes of the previous sentence, brokers participating in any MLS in a data sharing relationship with MAAR that includes an offer of interbroker compensation are subscribers to the MAAR Service.

## **FEES AND PAYMENT TERMS.**

**25. Applicable fees.** Firm shall pay the fees set forth in MAAR's official Schedule of Fees, which MAAR may amend at any time subject to the terms of Paragraph 29.

**26. Payment terms.** Firm shall pay the fees according to the terms set out in the MAAR Policies.

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

**28. Taxes.** All fees for the MAAR 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, Firm shall pay all such taxes and levies other than any tax or levy on the net income of MAAR.

**29. Fee increases.** MAAR may amend the Schedule of Fees at any time at its sole discretion. MAAR shall provide written notice to Participant at least thirty days in advance of the effective date of any fee increase. If Participant objects to the increase, Participant may terminate this Agreement by written notice to MAAR at any time before the effective date of the increase.

**30. Fines.** MAAR may collect fines from Firm and from Individual Participants and Subscribers for violation of the MAAR Policies by Firm, Individual Participant and Subscribers. Payment terms for fines are set out

in the MAAR Policies. MAAR may amend its schedule of fines and terms for collecting them at its sole discretion at any time.

## **TERM AND TERMINATION.**

**31. Term.** This Agreement shall commence upon the Effective Date set forth below and shall continue thereafter on a month-to-month basis until terminated.

**32. Termination for breach.** Either party may terminate this Agreement in the event that the other party has not performed any material obligation or has otherwise breached any material term of this Agreement. Any such termination shall become effective upon the expiration of three days after written notice to the breaching party if the breach or nonperformance has not then been remedied.

**33. Termination for breach of MAAR Policies.** Paragraph 32 notwithstanding, MAAR may terminate this Agreement if Firm fails to comply with the MAAR Policies; if Firm violates or is alleged to have violated the MAAR Policies, this Agreement shall not be terminated in accordance with the terms of this section until any hearing or appeal rights of Firm have expired as provided in the MAAR Policies. If in MAAR's judgment, however, a violation or alleged violation of the MAAR Policies is resulting in a continuing harm to MAAR or Other Participants or Subscribers, MAAR may suspend Firm's access to the MAAR Database during the pendency of any hearing or appeal.

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

**35. Termination for convenience.** Either party may terminate this Agreement with or without cause, upon thirty days' written notice to the other party.

**36. Events upon termination.** Promptly upon any termination or expiration of this Agreement, (a) MAAR shall deactivate Firm's and Individual Participants' user IDs and passwords, and Firm and Individual Participants shall have no further access to the MAAR Service; (b) Firm shall purge all copies of the MAAR Software and the MAAR Database (except the Participant Contribution) from Firm's personal computers, and shall cause Individual Participants and Subscribers to do the same; and (c) all licenses granted hereunder, except the license to the Participant Contribution in Paragraph 21 Option I(b) and Paragraph 21 Option II(a), if any, shall immediately terminate.

**37. Effect on Subscribers.** In the event of any termination or suspension of this Agreement, upon MAAR notice to Subscriber, MAAR may in its sole discretion suspend Subscriber access to MAAR System or terminate Subscriber license and access agreements. If MAAR does not exercise its right to suspend Subscriber access to the MAAR System or terminate Subscriber license and access agreements, the Subscriber license and access agreement shall continue in force with the intellectual property option selected by Firm in the terminated agreement.

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

**38. DISCLAIMER OF WARRANTIES.** MAAR PROVIDES THE MAAR SERVICE AND ALL COMPONENTS OF IT ON AN "AS IS," "AS AVAILABLE" BASIS. USE OF THE MAAR SERVICE AND THE INFORMATION AVAILABLE THROUGH THE MAAR SERVICE ARE AT THE SOLE RISK OF FIRM. THE MAAR ASSOCIATES DO NOT WARRANT THAT THE MAAR SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND THE MAAR ASSOCIATES MAKE NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY, OR RELIABILITY OF ANY INFORMATION AVAILABLE THROUGH THE MAAR SERVICE. THE MAAR ASSOCIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO THE MAAR SERVICE

AND THE INFORMATION AVAILABLE THROUGH THE MAAR SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The MAAR Service may contain hyperlinks to web sites operated by parties other than MAAR; MAAR 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.

**39. LIMITATIONS AND EXCLUSIONS OF LIABILITY.** NONE OF THE MAAR ASSOCIATES SHALL BE LIABLE TO FIRM OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE MAAR SERVICE, INCLUDING RELIANCE BY ANY SUBSCRIBER ON ANY INFORMATION OBTAINED THROUGH USE OF THE MAAR SERVICE; MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF SUCH INFORMATION; INTERRUPTIONS IN DATA CONNECTIONS TO THE MAAR 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 MAAR SERVICE AND RELATED INFORMATION, RECORDS AND PROGRAMS.

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

**41. Indemnification.** Firm shall defend, indemnify and hold the MAAR Associates 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 MAAR Associates or Other Participants and Subscribers arising from any acts of Subscribers, including (a) putting inaccurate information into the MAAR Service; (b) making unauthorized use of Subscriber's password; (c) making unauthorized use of the MAAR Database; (d) infringing any proprietary or contract right of any third party; (e) breaching any term of this Agreement; and (f) violating this or any other Agreement or any law.

**42. Acknowledgment.** Firm acknowledges that MAAR has set its 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.**

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

**44. Dispute resolution.** In the event MAAR claims that Firm has violated the MAAR Policies, MAAR may, at its option, resolve such a claim according to the disciplinary procedures set out in the MAAR Policies, provided MLS does not also base a claim that Firm has breached this Agreement on the same facts. Except as provided in this paragraph and in Paragraph 34, 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 Shelby County, Tennessee, except that it may be held by telephone where the Arbitration Rules expressly so permit. Firm 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 Shelby County, Tennessee.

**45. Liquidated damages.** Firm acknowledges that damages suffered by MAAR from access to the MAAR Service by an unauthorized third party as a result of disclosure of Firm's password or an unauthorized disclosure by Firm of the MAAR Database to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to MAAR to enter into this Agreement with Firm, Firm agrees that (a) in the event that any disclosure of Firm's or Individual Participants' password results in access to the MAAR Service by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Firm shall be liable to MAAR for liquidated damages in the amount of \$15,000 (or the amount established in the MAAR Policies, whichever is greater) and termination of this Agreement; and (b) in the event that Firm makes unauthorized disclosure of any portion of the MAAR Database to any third party, Firm shall be liable for liquidated damages in the amount of \$15,000 (or the amount established in the MAAR Policies, whichever is greater) for each real estate listing disclosed and termination of this Agreement.

**46. Legal fees.** In the event of legal action or arbitration between MAAR and Firm, or MAAR and any 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. If MAAR is the prevailing party in an action against a Subscriber, Firm shall be obligated to pay these costs on the Subscriber's behalf.

## **MISCELLANEOUS.**

**47. No third-party beneficiaries.** This Agreement is entered into solely between, and may be enforced only by MAAR and Firm, 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.

**48. Interpretation and amendment.** Firm expressly consents to the execution of amendments by electronic means (such as web site "click through" agreements). MAAR may amend this agreement by providing 30 days' advance notice of the amendment to Firm. If Firm or any Subscriber continues to use the MAAR Service or MAAR Database after the expiration of the 30-day notice period, Firm 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.

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

**50. Integration and severability.** This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. In the event of any dispute regarding the interpretation of the terms of this Agreement, it shall not be construed for or against any party on the grounds that the Agreement was prepared by any one of the parties. 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 court of competent jurisdiction declares any provision of Paragraphs 38 through 42 is declared invalid or unenforceable by any court of competent jurisdiction, this Agreement and Firm's access to the MAAR Service shall immediately terminate.

**51. Governing law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee

applicable to contracts made and performed in Tennessee, without regard to its conflicts of law and choice of law provisions.

52. **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, the parties express their will to be bound by its terms by setting their signatures below.

**Memphis Area Association of REALTORS®**

**Firm**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Firm name

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature of principal

\_\_\_\_\_  
Effective Date

\_\_\_\_\_  
Print name of principal



