

LionDesk Terms of Service and EULA

These Terms of Service (the “Terms”) apply between the party specified on the applicable Service Order (referred to herein as "Lion Desk") and you (“Client”).

These Terms, coupled with any applicable Service Order and any applicable Statement(s) of Work, shall sometimes be referred to herein collectively as the “Agreement.”

YOU ACCEPT THE AGREEMENT, BY (1) CLICKING A BOX OR HYPERLINK INDICATING ACCEPTANCE, (2) EXECUTING A SERVICE ORDER DOCUMENT THAT REFERENCES THESE TERMS OR THE AGREEMENT, OR (3) USING THE SERVICES. UPON YOUR ACCEPTANCE VIA ANY OF THE FOREGOING MEANS, YOU AGREE TO THE TERMS OF THE AGREEMENT.

In consideration of the foregoing and the mutual promises and covenants contained herein and intending to be legally bound the parties agree as follows:

1. DEFINITIONS.

1.1 “Activation Date” means the date the Services have been established by LionDesk and Client, tested and approved by Client, and available for use by Client’s Authorized Users. The Activation Date shall commence no later than thirty (30) days after the Effective Date.

1.2 “Affiliate” means a third party vendor or service provider with whom LionDesk has contracted. LionDesk shall provide a list of Affiliates upon written request from Client.

1.3 "Authorized User" means an Employee User or a Participant User.

1.4 “Client Subscriber” means an active member in good standing of Client.

1.5 "Content" means all information provided to LionDesk by Client or transmitted through the Services by Client or Authorized Users, including without limitation all text, photographs, images, graphics, video, audio, remarks, descriptions, and contact information for Authorized Users and their contacts stored in the LionDesk Platform.

1.6 “Employee User” means an employee of Client who is authorized by Client to access and use the Services.

1.7 “EULA” means the End User License Agreement, in a form substantially like that set forth in Exhibit A, attached hereto and incorporated herein by reference and as may be amended from time to time, which Authorized Users must accept prior to accessing the Services.

1.8 “LionDesk Marketing System” means the marketing system developed and provided by LionDesk which allows Participant Users to advertise a particular property listing from the Content on Facebook directly through the MLS system.

1.9 “LionDesk Transactions” means the transaction pipeline system developed and provided by LionDesk which allows Participant Users to track transactional data.

1.10 "LionDesk Platform" means LionDesk's proprietary cloud-based software as a service (SaaS) product.

1.11 "MLS System" means the computerized software system that Client uses to provide access to Client's Content and services to its Participant Users.

1.12 "Participant User" means an active member in good standing of Client who subscribes with LionDesk through either a specific landing page or via SSO (Single-Sign-On) interface.

1.13 "Quarterly Report" means the written report provided by LionDesk to Client each quarter throughout the Term which sets forth the names of Participant Users that have contracted to use the Services.

1.14 "Service Order" means the written description of the Services to be provided by LionDesk to Client that is executed by Client and LionDesk signed by the Client.

1.15 "Services" means the Platform Services, Consulting Services and any other services identified in Section 2 of this Agreement.

1.16 "Term" means the period during which the provisions, terms and conditions of this Agreement are in full force and effect.

2. SERVICES.

2.1 Services. On or before the Activation Date and throughout the Term, LionDesk shall provide to Client for the benefit of Client and Authorized Users, the Services, as more fully described in the Service Order, in accordance with the terms and conditions of this Agreement. In the event of any conflict between the body of this Agreement and the Service Order, the terms and conditions set forth in the body of this Agreement shall govern.

2.2 Security. LionDesk has implemented commercially reasonable security measures to prevent unauthorized access to the Services and to any Content transmitted through the Services.

2.3 LionDesk Platform Changes. LionDesk may from time to time develop enhancements, upgrades, updates, improvements, modifications, extensions and other changes to the LionDesk Platform (the "LionDesk Platform Changes") without prior notice to Client. Client hereby authorizes LionDesk to implement such LionDesk Platform Changes for use with the Services.

2.4 Quarterly Report. Each quarter throughout the Term, commencing at the end of the first full quarter after the Effective Date, LionDesk shall deliver the Quarterly Report to Client.

2.5 EULA. LionDesk shall require all Authorized Users to accept the EULA prior to accessing the Services.

3. LICENSE AND RESTRICTIONS.

3.1 License to LionDesk. During the term and subject to the terms of this Agreement, Client hereby grants to LionDesk a non-exclusive, non-transferable, revocable license to use the Content provided by Client for the sole purpose of integrating the Content into the Services and providing the Services to Client and Authorized Users.

3.2 License to Client. During the term and subject to the terms of this Agreement, LionDesk hereby grants to Client a non-exclusive, non-transferable, revocable license to use and permit Authorized Users to use the Services in their ordinary real estate business activities and not for any other purpose.

3.3 Restrictions. The Services are provided to Client for use only as expressly set forth in this Agreement and Client will not use the Services in whole or in part for any other use or purpose. Client shall not, and shall not encourage or allow any Authorized User or third party to:

3.3.1 Decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques or algorithms of the LionDesk Platform by any means, or disclose any of the foregoing;

3.3.2 Alter, copy, reproduce, or create derivatives of the Services, or attempt to do any of the foregoing;

3.3.3 Except as expressly set forth in this Agreement, provide, rent, lease, lend, or use the Services for timesharing, subscription, or service bureau purposes;

3.3.4 Except as expressly set forth in this Agreement, sublicense, transfer or assign any of the rights granted under this Agreement to any third party, including without limitation any parent company, subsidiary, shareholder, corporate partner, affiliate or other unauthorized party;

3.3.5 Store or transmit any information which violates any state, local or federal law, including without limitation, those laws regarding stolen materials, obscene materials or child pornography;

3.3.6 Transmit any information or data through the Services that infringes upon or misappropriates the intellectual property or privacy rights of LionDesk or any third party;

3.3.7 Use the Services in any manner that violates industry standards, any third party policies including all of the applicable guidelines published by NAR or any other accepted industry associations), or any requirements in the EULA.

3.3.8 Engage in any unsolicited advertising, marketing or other activities through the Services, including any activities that violate anti-spam laws and regulations including the CAN SPAM Act of 2003, the Telephone Consumer Protection Act, and the Do-Not-Call Implementation Act or other applicable anti-spam, data protection, or privacy legislation;

3.3.9 Use the Services in connection with any unsolicited or harassing messages (commercial or otherwise) including unsolicited or unwanted phone calls, SMS or text messages, voice mail, or faxes; or

3.3.10 Use the Services in any other manner that violates any law, rule, or policy, as determined by LionDesk in its sole discretion.

4. PAYMENTS.

4.1 Fees. Client shall pay the Fees to LionDesk for the Services provided by LionDesk hereunder in accordance with the payment terms set forth in the Order Form. Except as otherwise set forth in this Agreement, all fees are non-refundable. Client acknowledges that Authorized Users will be required to pay additional fees to LionDesk for their receipt of certain additional services which LionDesk makes available to Authorized Users as set forth on Order Form.

4.2 Payment Terms. Fees for the Services will be invoiced in accordance with the applicable Service Order. All pricing and payments are and shall be in U.S. Dollars. Unless otherwise set forth in this Agreement, Client shall pay each invoice within thirty (30) days of the date of receipt of such invoice. If there is a bona fide dispute regarding any invoice rendered or amount paid, Client shall pay any undisputed amount, notify LionDesk in writing of the dispute, and the Parties shall use their best efforts to resolve such dispute expeditiously.

4.3 Suspension of Service. Subject to Section 4.2, if Client's account is thirty (30) days or more overdue, in addition to any of its other rights or remedies, LionDesk reserves the right to suspend the Services provided to Client, without liability to Client, until Client's overdue invoices are paid in full.

4.4 Taxes. The Subscription Fee does not include any taxes, levies, duties or similar governmental assessments of any nature, including without limitation value-added, sales, use or withholding taxes assessable by any jurisdiction whatsoever (collectively, the "Taxes"). Each party shall be responsible for its own Taxes incurred in connection with this Agreement.

5. PROPRIETARY RIGHTS.

5.1 Ownership of the Services. This Agreement is a license agreement and not an agreement of sale. Nothing contained herein shall constitute a transfer of title to the Services, the LionDesk Platform, the LionDesk Platform Changes, or any components thereof. Client acknowledges and agrees that LionDesk owns all right, title and interest to the Services, the LionDesk Platform, and the LionDesk Platform Changes, including without limitation all of the codes, programs and related documentation and materials, all designs and specifications, all methods and devices, all modifications and enhancements to the foregoing, and any copies or derivatives of the foregoing, including any copyright, trademark, trade secret, patent, or other proprietary rights therein. Client shall not alter, remove or obliterate any proprietary notices on the Services or LionDesk Platform. Client acknowledges that the Services contain valuable trade secrets and confidential information owned by LionDesk.

6. TERM AND TERMINATION.

6.1 Term. The term of this Agreement shall begin on the Effective Date and continue as set forth in the Service Order (the "Initial Term"). Thereafter, this Agreement shall automatically renew on the applicable anniversary of the Effective Date for successive one (1) year terms, if not otherwise terminated at the end of the Initial Term or any renewal term, upon not less than ninety (90) days' written notice to the other party prior to the end of such term.

6.2 Suspension; Termination.

6.2.1 Suspension. If LionDesk believes, in its sole discretion, that Client has breached, violated or otherwise failed to comply with any term or condition in this Agreement, upon written notice to Client LionDesk may suspend Client's and/or Authorized Users' receipt of, access to and use of the Services, until such time as LionDesk believes, in its sole discretion, that Client has cured such violation or that a

violation did not occur. Neither Client nor any Authorized User shall be entitled to a refund or abatement of any fees paid.

6.2.2 Termination. LionDesk may terminate this Agreement: (a) immediately and without notice upon the conclusion of LionDesk, in its good faith judgment, that Client has breached any of the restrictions set forth in section 3.3 of this Agreement, (b) fifteen (15) days after notice of suspension pursuant to section 6.2.1 of this Agreement, if the problem has not been satisfactorily cured or otherwise satisfactorily addressed during that period, (c) upon a filing by or against Client of a proceeding under any bankruptcy, debtor relief laws, or similar laws unless such proceeding is dismissed within thirty (30) days after filing; (d) upon the termination of the business of LionDesk; or (e) upon the insolvency of Client. LionDesk also reserves the right to terminate, suspend or otherwise limit Client's receipt of, access to or use of the Services, upon written notice, if in LionDesk's sole discretion it determines doing so is or could be necessary, useful, prudent or helpful in connection to responding to, investigating, redressing, dealing with or otherwise addressing any actual, alleged, suspected or reasonably possible violation of law, harassment or incitement of others, mischief, breach of this Agreement, infringement of rights of LionDesk or others, breach of obligations to others or like circumstances.

7. WARRANTIES; DISCLAIMER.

7.1 LionDesk Warranties.

7.1.1 LionDesk represents and warrants that it has full power and authority to enter into this Agreement and that the execution, delivery and performance by LionDesk of this Agreement will not conflict with or result in any breach of any terms, conditions or provisions of or constitute a default under the articles of incorporation or articles of organization of LionDesk, or any other instrument or agreement to which LionDesk is a party.

7.1.2 LionDesk represents and warrants that it will comply with all applicable laws and regulations in the performance of its duties under this Agreement.

7.1.3 LionDesk represents that it owns all right, title and interest in and to the Services, including without limitation the LionDesk Platform and the LionDesk Platform Changes, and warrants that the license provided to Client in this Agreement will not infringe on the copyright, patent, trademark, trade secret or other proprietary or contract right of any third party.

7.1.4 LionDesk warrants that during the term of this Agreement, the Services will perform, in all material respects, in accordance with its current functional specifications, as may be amended from time to time.

7.1.5 LionDesk agrees and warrants that it will regularly review the Services and will attempt to make the Services comply with all applicable rules and regulations of the United States Department of Justice, Department of Labor, Federal Communications Commission, and any other government agency with respect to rules and regulations relating to The Telephone Consumer Protection Act (TCPA). LionDesk agrees to indemnify and hold harmless Client and its officers, directors, employees, and agents from and against any and all claims, demands, costs and liabilities (including all reasonable attorneys' fees): (1) arising directly or indirectly out of any alleged violation of the TCPA by LionDesk; or (2) any

lawsuit or claim made by a government agency or third party that the Service and any related websites controlled by LionDesk are not compliant with the TCPA.

7.2 Client Warranties.

7.2.1 Client represents and warrants that it has full power and authority to enter into this Agreement and that the execution, delivery and performance by Client of this Agreement will not conflict with or result in any breach of any terms, conditions or provisions of or constitute a default under the articles of incorporation or articles of organization of Client, or any other instrument or agreement to which Client is a party.

7.2.2 Client represents and warrants that it will comply with all applicable laws and regulations in the performance of its duties under this Agreement.

7.2.3 Client represents and warrants that it owns or is authorized to provide all Content entered into the LionDesk Platform.

7.3 Disclaimer of Warranties. EXCEPT FOR THE SPECIFIC WARRANTIES SET FORTH IN THIS SECTION 8, LIONDESK DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LIONDESK SPECIFICALLY DISCLAIMS ANY WARRANTIES REGARDING THE ACCURACY OF THE CONTENT ENTERED INTO THE SERVICES BY CLIENT OR AUTHORIZED USERS AND SHALL HAVE NO LIABILITY FOR CLIENT'S OR AUTHORIZED USERS' RELIABILITY ON THE CONTENT. LIONDESK DOES NOT MAKE ANY WARRANTIES CONCERNING THE AVAILABILITY OF THE SERVICES OR THE SPEED OF ACCESS TO THE SERVICES VIA THE INTERNET OR OTHER COMMUNICATION LINES OVER WHICH LIONDESK HAS NO DIRECT OR IMMEDIATE CONTROL. LIONDESK DISCLAIMS ANY WARRANTIES OR GUARANTEES THAT ACCESS TO THE SERVICES WILL BE UNINTERRUPTED OR THAT THE SERVICES WILL BE ERROR-FREE. LIONDESK DOES NOT WARRANT THAT THE SERVICES WILL MEET CLIENT'S OR AUTHORIZED USERS' REQUIREMENTS OR EXPECTATIONS.

8. INDEMNITY.

8.1 Indemnification by Client. Client shall indemnify, defend and hold harmless LionDesk from and against any claims, losses, damages, liabilities or expenses (including, without limitation, reasonable attorneys' fees and expenses) resulting from or arising out of: (a) any claim that any trademark, logo or trade name provided by Client for use or display on or in connection with the Services infringes upon or misappropriates any trademark, logo or trade name of any third party; (b) any claim that any Content infringe upon or misappropriate any patent, copyright, trademark, trade secret, privacy, publicity or other intellectual property or proprietary right of any third party; (c) any Authorized Users' negligent or intentional misuse of the Services or violation of any applicable law or regulation; (d) Client's failure to comply with laws, rules, regulations or professional standards, or (e) a breach of Client's warranties contained in section 7.2 of this Agreement.

8.2 Indemnification by LionDesk. LionDesk shall indemnify, defend and hold harmless Client from and against any claims, losses, damages, liabilities or expenses including, without limitation, reasonable attorneys' fees and expenses resulting from or arising out of a breach of LionDesk's warranties contained in section 8.1 of this Agreement.

9. CONFIDENTIAL INFORMATION.

9.1 Except as expressly permitted in this Section 9, no Party will, without the prior written consent of the other Party, disclose any Confidential Information of the other Party to any third party. For the purposes of this Agreement, "Confidential Information" shall mean information of a Party that: (i) is disclosed by the Party to the other Party in tangible form and is conspicuously marked "Confidential", "Proprietary" or the like; or (ii) (a) is disclosed by a Party to the other Party in non-tangible form and is identified as confidential at the time of disclosure; and (b) contains the disclosing Party's methods, customer lists, customer information, technical information, source codes, pricing information, pricing methodologies, trade secrets, proprietary information, or information regarding the disclosing Party's business planning or business operations. In addition, notwithstanding anything in this Agreement to the contrary, the terms of this Agreement, but not its existence, will be deemed Confidential Information. LionDesk may, in any manner, publicly announce the relationship with Client. LionDesk may also develop, with Client's review and approval, a business use case that may be used for LionDesk marketing purposes.

9.2 Other than the terms and conditions of this Agreement, information will not be deemed Confidential Information hereunder if such information: (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (ii) becomes known independently of disclosure by the disclosing Party to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party; or (iv) is independently developed by the receiving Party.

9.3 Each Party will secure and protect the Confidential Information of the other Party including, without limitation, the terms of this Agreement, in a manner consistent with the steps taken to protect its own trade secrets and confidential information, but not less than a reasonable degree of care. Each Party may disclose the other Party's Confidential Information where (i) the disclosure is required by applicable law or regulation or by an order of a court or other governmental body having jurisdiction, after giving reasonable notice to the other Party with adequate time for such other Party to seek a protective order; (ii) if in the opinion of counsel for such Party, disclosure is advisable under any applicable securities laws regarding public disclosure of business information; or (iii) the disclosure is reasonably necessary for a Party to exercise its rights and perform its obligations under this Agreement, so long as in all cases the disclosure is no broader than necessary and the person or entity who receives the Confidential Information agrees prior to the disclosure to keep the information confidential using at least the same degree of care as required under this Agreement. Except for disclosure pursuant to clauses (i) and (ii) in this section 9.3, each Party is responsible for ensuring that any Confidential Information of the other Party it discloses to a third party is kept confidential by such third party and shall be liable for any unauthorized disclosure.

10. LIMITATION OF LIABILITY.

10.1 General Limitation. NOTWITHSTANDING ANYTHING TO THE CONTRARY, LIONDESK AND ITS SUPPLIERS, INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS, OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS, EMPLOYEES, AND AGENTS SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR

CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) ANY MATTER BEYOND LIONDESK'S REASONABLE CONTROL, EVEN IF LIONDESK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, CLIENT'S SOLE AND EXCLUSIVE REMEDY IF THE SERVICES FAIL TO MEET THE SERVICE LEVEL AGREEMENT OR SPECIFICATIONS SET FORTH IN EXHIBITS A OR B RESPECTIVELY, OR IF LIONDESK FAILS TO PERFORM HEREUNDER SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE SERVICES WITH CONFORMING SERVICES.

10.2 Limitation for Third Party Content. LIONDESK AND ITS SUPPLIERS, OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS, EMPLOYEES, AND AGENTS SHALL NOT BE RESPONSIBLE FOR ANY CONTENT ENTERED INTO THE SERVICES BY THIRD PARTIES, NOR SHALL LIONDESK HAVE ANY OBLIGATION TO REVIEW ANY THIRD PARTY CONTENT. THE SERVICES MAY INCORPORATE PRODUCTS OR SERVICES OFFERED BY THIRD PARTIES. CLIENT ACKNOWLEDGES LIONDESK HAS NO LIABILITY FOR THE FUNCTIONALITY OF THOSE THIRD PARTY PRODUCTS OR SERVICES, NOR SHALL LIONDESK BE RESPONSIBLE FOR TESTING, MONITORING, UPDATING, OR REVIEWING THE THIRD PARTY PRODUCTS OR SERVICES.

10.3 Client acknowledges that: (a) the limitations of liability contained in this Section 10 are an integral incentive for LionDesk to enter into this Agreement, (b) LionDesk would not enter into this Agreement absent such limitations, and (c) the fees provided in this Agreement reflect this allocation of risk and the limitation of liability specified herein.

11. BRANDING; MARKETING; PRICING; LICENSE TO USE FEEDBACK.

11.1 Trademarks.

11.1.1 Each Party grants to the other a non-exclusive, non-transferable revocable license to use its name, logo, tagline, trade name, or other trademarks or servicemarks (collectively, the "Trademarks") for the sole purpose of performing the other Party's obligations under this Agreement or announcing the existence of this Agreement.

11.1.2 Any LionDesk Trademark used by Client must always appear in smaller and less prominent type than Client's own brand name and shall use a different typeface, colors or other graphic characteristics. Client shall only use the LionDesk Trademarks upon written consent by LionDesk.

11.2 Prohibited Use of LionDesk Trademarks.

11.2.1 Client shall not incorporate a LionDesk Trademark into Client's name, publication title, conference title, website name, product or service name or offering, logo, or domain name without LionDesk's prior written consent which may require a license agreement, in LionDesk's sole discretion.

11.2.2 Client shall not use misspellings, abbreviations, phonetic equivalents, or trademarks that rhyme with or sound like, or any marks that are confusingly similar to the LionDesk Trademarks. Client shall not use abbreviations or foreign language translations of the LionDesk Trademarks.

11.2.3 Client shall not use company names, product names, URLs or domain names that combine a LionDesk Trademark with other words, terms or trademarks so as to create the appearance of a unitary mark.

11.2.4 Client shall not display any LionDesk Trademark on Client's website, social media or other promotional materials without LionDesk's prior written consent.

11.2.5 Client shall not use LionDesk Trademarks in a disparaging, false or misleading way, or in any manner that suggests Client is endorsed or sponsored by LionDesk.

11.2.6 Client shall not use LionDesk Trademarks on or in connection with any defamatory, scandalous, pornographic, or other objectionable or illegal materials of any sort.

11.2.7 Client shall not manufacture, sell or give-away merchandise items, including without limitation T-shirts, key chains, and mugs, bearing any LionDesk Trademark, except as authorized under a license agreement with LionDesk.

11.3 Pricing. Client is prohibited from advertising, mentioning, or displaying any subscription rate or price when referencing LionDesk pricing in public or private.

11.5 License to Use Feedback. Client grants LionDesk and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, publicly display, and incorporate into the Services and/or the services of any LionDesk Affiliate any suggestion, enhancement request, recommendation, correction or other feedback provided by Client or Authorized Users relating to the operation of the Services or the services of any LionDesk Affiliate.

12. GENERAL PROVISIONS.

12.1 Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California and, where applicable, federal law, without giving effect to the conflict of laws principles thereof. The Parties agree that jurisdiction over and venue in any legal proceeding arising out of or relating to this Agreement will exclusively be in the state or federal courts located in San Diego, CA.

12.2 Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, it shall be deemed omitted and the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

12.3 Waiver. The waiver by either Party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

12.4 Assignment. This Agreement shall be binding upon the Parties' respective successors and permitted assigns. Client shall not assign this Agreement, and/or any of its rights and obligations hereunder, without the prior written consent of LionDesk, which consent shall not be unreasonably withheld. This Agreement, and the rights and obligations herein, may be assigned by LionDesk to any person or entity without the written consent of the Client.

12.5 Independent Contractors. LionDesk is acting in performance of this Agreement as an independent contractor. Nothing in this Agreement shall be construed as creating a partnership, joint venture or principal/agent relationship between the Parties.

12.6 Notices. All notices required to be given under the terms of this Agreement, or which any of the Parties hereto may desire to give hereunder, shall be in writing, shall be delivered via one of the following methods, and shall be deemed to have been received: (i) on the day given if delivered by hand (securing a receipt evidencing such delivery); or (ii) on the second day after such notice is sent by a nationally recognized overnight or two (2) day air courier service, full delivery cost paid; or (iii) on the fifth day after such notice was mailed, registered mail, prepaid, return receipt requested, and addressed to the Party to be notified at the addresses set forth in the applicable Service Order. Either Party may, from time to time, change its address as set forth herein by notifying the other Party of its new address in writing.

12.7 Survival. All provisions of this Agreement which by their nature should survive termination will survive termination of end of this Agreement including without limitation, relating to proprietary rights, payment of fees accrued, confidentiality and non-disclosure obligations, indemnification and limitation of liability.

12.8 Legal Fees. In the event of any proceeding or lawsuit brought by LionDesk or Client in connection with this Agreement, the prevailing Party shall be entitled to recover its costs and legal fees including, but not limited to, allocated costs of in-house staff counsel, and court costs.

12.9 Force Majeure. Neither Party will be liable to the other for failure to meet its obligations under this Agreement where such failure is caused by events beyond its reasonable control such as fire, failure of communications networks, riots, civil disturbances, embargos, storms, acts of terrorism, pestilence, war, floods, tsunamis, earthquakes or other acts of God.

12.10 Subsequent Modifications. No amendment, alteration or modification of this Agreement shall be effective or binding unless it is set forth in a writing signed by duly authorized representatives of both Parties.

12.11 Entire Agreement. This Agreement and any exhibits and schedules attached hereto constitutes the entire agreement between the Parties in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no warranties, representations and/or agreements among the Parties in conjunction with the subject matter hereof except as set forth in this Agreement.

12.12 Captions. The captions in this Agreement are included for convenience of reference only and will not be construed to define or limit any of the provisions contained herein.

[Remainder of page left intentionally blank.]

Exhibit A

End User License Agreement (EULA)

Before you begin using LionDesk, you must read and agree to this End User License Agreement (EULA), including any future amendments (collectively, the "Agreement"), and our Privacy Policy.

Although we may attempt to notify you when major changes are made, you should visit this page periodically to review these terms. THIS AGREEMENT AFFECTS YOUR RIGHTS AND YOU SHOULD READ IT CAREFULLY. LionDesk may, in its sole discretion, modify or revise these terms and conditions at any time, and you agree to be bound by such modifications or revisions. If you do not accept and abide by this Agreement, you may not use LionDesk. In the event of an inconsistency between this Agreement and any other agreement we have with your company and/or confidentiality agreement between you and LionDesk, this agreement shall control. Nothing in this Agreement shall be deemed to confer any third party rights or benefits..

DEFINITIONS: Used in this agreement

"Confidential Information": means any and all information that is not generally known and that is proprietary to LionDesk, all its present and future subsidiaries and affiliates, and any of its clients, consultants, suppliers. Confidential Information includes, without limitation, client, employee, supplier and independent contractor lists or other related information; commission and override amounts and levels; client information, database information, profiles or real estate preferences; LionDesk Customers (as further defined in the LionDesk Services Agreement between the parties); trade secrets of or about LionDesk and its products and information or other proprietary information relating to designs, formulas, developmental or experimental work, know-how, products, processes, computer programs, the Service, source codes, databases, designs, schematics, other original Works of Authorship and any other information which would be valuable to third parties and detrimental to the interests of LionDesk; any subject matter related to LionDesk's research and development, engineering, purchasing, finance, marketing, promotion, operations, distribution and selling activities, whether now existing, acquired, developed by LionDesk or made available anytime in the future to LionDesk. All information that you have a reasonable basis to consider confidential or is treated by LionDesk as confidential shall be presumed to be Confidential Information. You agree that any Confidential Information acquired by you or your assistant, agent, employee, partner or representative is the property of LionDesk. You and LionDesk agree that the Confidential Information for purposes of this relationship is to be broadly defined.

"Service": means the entire LionDesk suite of applications, methods and systems, developed, designed or provided by LionDesk and includes, but is not limited to (i) RealtyLion.com, (ii) LionDesk.com, (iii) LionDesk Software, (iv) email, (v) websites, (vi) marketing and (v) telephone systems and toll-free numbers.

"Works of Authorship": means those works fixed in any tangible medium of expression from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device, whether or not they are copyrightable.

1. License. LionDesk grants you a non-exclusive, non-transferable, revocable limited license to use the Service. The license granted under this Agreement is specific to you and cannot be transferred, sublicensed, or assigned without the prior written consent of LionDesk. LionDesk reserves the right to pursue any available legal remedies for your unauthorized use of the Service.

2. Service Availability. You understand and agree that the Service is provided on an AS IS and AS AVAILABLE basis. LionDesk disclaims all responsibility and liability for the availability, timeliness, accuracy, security or reliability of the Service. LionDesk also reserves the right to modify, suspend or discontinue the Service with or without notice at any time and without any liability to you.

3. Confidentiality. You agree at all times during your relationship with LionDesk and from then on to hold in strictest confidence, and not to use, except for the benefit of LionDesk, or to disclose, transfer or reveal, directly or indirectly to any person or entity any Confidential Information without the prior written authorization of LionDesk.

4. User Content. By entering any text, photographs, images, graphics, audio, videos, maps, diagrams, or other information (the "User Content") into the Service, you grant LionDesk a sublicensable, royalty-free irrevocable license to use and display your User Content in the Service and for any other reason not inconsistent with the terms of this EULA.

5. Business Use. The Service is made available to agents, brokers and support staff for business use and only as allowed under the LionDesk Services Agreement and as further authorized by LionDesk. You are responsible for maintaining the confidentiality of your Service password and account and are responsible for all activities that occur thereunder. LionDesk reserves the right to refuse service to anyone at any time without notice for any reason.

6. Proper Use. Your use of the Service is subject to your acceptance of and compliance with the Agreement, and all other agreements and policies as LionDesk may provide from time to time. You agree that you will use the Service in compliance with all applicable local, state, national, and international laws, rules and regulations, including any laws regarding the transmission of technical data exported from your country of residence. You shall not, shall not agree to, and shall not authorize or encourage any third party to: (i) allow any third-party to use the Service, including without limitation any parent company, subsidiary, affiliate, or agent; (ii) use the Service to upload, transmit or otherwise distribute any User Content or other information that is unlawful, defamatory, harassing, abusive, fraudulent, obscene, contains viruses, or is otherwise objectionable as reasonably determined by LionDesk; (iii) upload, transmit or otherwise distribute content that infringes upon another party's intellectual property rights or other proprietary, contractual or fiduciary rights or obligations; (iv) prevent others authorized from using the Service; (v) use the Service for any fraudulent or inappropriate purpose; or (vi) act in any way that violates LionDesk guidelines, as may be revised from time to time. Violation of any of the foregoing may result in immediate termination of this Agreement and may subject you to state and federal penalties and other legal consequences. LionDesk reserves the right, but shall have no obligation, to investigate your use of the Service in order to determine whether a violation of the Agreement has occurred or to comply with any applicable law, regulation, legal process or governmental request.

7. LionDesk Content and Access. LionDesk takes no responsibility for third party content (including, without limitation, any viruses or other disabling features), nor does LionDesk have any obligation to

monitor such third-party content. LionDesk reserves the right at all times to remove or refuse to distribute any content on the Service. LionDesk also reserves the right to access, monitor, read, preserve, share and disclose any information created or stored in the Service (or any other LionDesk systems or technology) including but not limited to MLS Data, consumer messages and comments, customer and broker or agent records and information, websites, emails, forum and instant messages, voicemails and telephone conversations as it reasonably believes is necessary to (a) satisfy any applicable law, regulation, legal process or governmental request; (b) enforce this Agreement, including investigation of potential violations hereof; (c) detect, prevent, or otherwise address fraud, security or technical issues (including, without limitation, the filtering of spam); (d) respond to user support requests or customer service matters; (e) improve agent productivity or customer service; (f) provide universal servicing; or (g) protect the rights, property or safety of LionDesk, its users and the public or for any other reason that LionDesk determines in its sole discretion is necessary. You must have no expectation of privacy in anything that you create, store, send or receive using the Service. LionDesk is not responsible or liable for any direct or indirect loss of business or inconveniences resulting from malfunctions, failures, delays, software or hardware failures, programming bugs, downtime or maintenance of the Service or any LionDesk (or LionDesk provided) system or technology including but not limited to LionDesk, RealtyLion.com, email, web page hosting, telephone lines, cable lines, intranet or Internet access. LionDesk is not responsible for nonperformance caused by acts of God or governmental authority, strike or labor disputes, breach of contract by suppliers, or any other cause beyond the reasonable control of LionDesk. LionDesk will not be responsible or liable for the exercise or non-exercise of its rights under this Agreement.

8. Cancellations & Refunds. You may cancel your LionDesk paid subscription at any time, but you will not be issued a refund unless it is legally required.

9. Intellectual Property Rights. You acknowledge that LionDesk owns all right, title and interest in and to the Service, including without limitation all copyright, trademark, service mark, trade secret, patent, and other intellectual property rights (the "LionDesk Rights"), and such LionDesk Rights are protected by U.S. and international intellectual property laws. Accordingly, you agree that you will not copy, reproduce, alter, modify, remove any intellectual property notice, or create derivative works from the Service. You also agree that you will not use any robot, spider, other automated device, or manual process to monitor or copy any content from the Service. The LionDesk Rights include rights to: (i) the Service developed and provided by LionDesk, its affiliates, subsidiaries, partners and representatives; and (ii) all software associated with the Service. The LionDesk Rights do not include third party content used as part of Service, including the content of communications appearing on the Service. Furthermore, you acknowledge you may not reverse engineer, decompile, or disassemble the Service. Any ideas, suggestions or feedback related to the Service or improvements, corrections, or modifications of LionDesk provided by you to LionDesk shall be deemed the Confidential Information of LionDesk. LionDesk shall be free to use any such information without remuneration to you.

You shall retain all rights in your User Content.

10. Representations and Warranties. You represent and warrant that: (a) all of the information provided by you to LionDesk to participate in the Services is correct and current and you are authorized to provide such information to LionDesk; (b) the User Content does not violate any contract or proprietary right of any third party; (c) you will use the Service only as authorized, (d) you will comply

with all applicable laws, rules, and regulations in your use of the Service, and (e) you have all necessary right, power and authority to enter into this Agreement and to perform the acts required of you hereunder.

11. Account Inactivity. After a period of inactivity, LionDesk reserves the right to disable or terminate a user's account.

12. Publicity. Any use of LionDesk's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features (the "Trademarks") must be in compliance with this Agreement and any other agreement between you and LionDesk and furthermore, in compliance with LionDesk's then current use guidelines. You are prohibited from altering or deleting any Trademarks or using any Trademarks in a manner that suggests or implies LionDesk endorses you or your business.

13. Billing. You agree to pay all applicable fees for use of the Service. By providing LionDesk with any financial account information, including without limitation a credit card, account number, check, payment card expiration date, or billing address, you warrant to LionDesk that you are the accountholder of record and are authorized to enter into such transaction. You authorize LionDesk to use your payment information in accordance with our Privacy Policy, including providing your payment information to third-party payment processors for the purpose of conducting a transaction. It is your responsibility to update your payment information as necessary. Late or cancelled payments may result in additional fees or termination of the Service. You are responsible for any applicable taxes incurred by you in relation to this Agreement.

14. Data. Information about our customers and the data they enter into the Service is an important part of our business, and we are not in the business of selling it to others. LionDesk will only share your data with our authorized service providers that perform services or functions on our behalf, as required by law, or as described below.

From time to time, we may disclose data as follows:

- To organizations that provide services for or on behalf of LionDesk. Examples include fulfilling orders, delivering packages and brochures, sending postal mail and e-mail, removing repetitive information from customer lists, analyzing data, providing marketing assistance, providing search results and links (including paid listings and links), processing credit card payments, and providing customer service. These parties have access to the data needed to perform their functions.
- LionDesk may collaborate with other companies via software and systems to offer additional products and services and may share data to marketers of products and services which you have authorized. This Agreement does not cover the use of your data by these other companies. We encourage you to read a company's privacy policy and website terms before requesting any of its products or services.
- To protect our website and our rights under our Terms and Conditions and this Agreement;
- To protect ourselves against liability or prevent fraudulent activity;
- Where it is necessary to permit us to pursue available remedies or limit any damages that we may sustain;

- To effect a corporate transaction, in connection with the sale, merger, spin-off or other corporate reorganization of our corporation, where the information is provided to the new controlling entity in regular course of business;
- Where the information is public; or
- To our insurers and to regulatory agencies.

For more information regarding our use of your data, read our Privacy Policy.

15. Indemnification. You agree to hold harmless and indemnify LionDesk and all of its directors, officers, affiliates, parent and subsidiary companies, shareholders, members, agents, affiliates, licensors, other independent contractors and employees from and against any third party claim arising from or in any way related to your breach of this Agreement, your use of the Service, or any claims that the User Content violates the contract or proprietary right of a third-party, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature. In such a case, LionDesk will provide you with written notice of such claim, suit or action.

16. Disclaimer. EXCEPT FOR ANY WARRANTIES PROVIDED BY LIONDESK TO YOU IN WRITING, LIONDESK AND ITS LICENSORS EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THE SERVICE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF PERFORMANCE, QUIET ENJOYMENT, TITLE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LIONDESK DISCLAIMS ANY WARRANTIES OF UNINTERRUPTED, SECURE OR ERROR-FREE SERVICE. YOU ACKNOWLEDGE THAT, DUE TO THE NATURE OF THE INTERNET, TRANSMISSIONS TO AND FROM THE SERVICE MAY BE INTERCEPTED BY THIRD PARTIES AND AGREE THAT ACCESS TO AND USE OF THE SERVICE IS AT YOUR OWN RISK.

17. Limitation of Liability. UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, WILL WE OR ANY OF OUR DIRECTORS, SHAREHOLDERS, OFFICERS, AFFILIATES, PARENT AND SUBSIDIARY COMPANIES, MEMBERS, AGENTS, EMPLOYEES, OR LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, LOSS OF BUSINESS, BUSINESS INTERRUPTION, LOSS OF DATA OR COST OF SUBSTITUTE DATA, OR OTHER SIMILAR DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE SERVICE INCLUDING, BUT NOT LIMITED TO, RELIANCE BY YOU ON ANY INFORMATION OR CONTENT OBTAINED THROUGH USE OF THE SERVICE OR THAT RESULT FROM MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF THE SERVICE, INTERRUPTIONS IN TELECOMMUNICATION OR INTERNET CONNECTION TO THE SERVICE, VIRUSES OR FAILURES OF PERFORMANCE, WHETHER CAUSED IN WHOLE OR PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATION OR INTERNET FAILURE, THEFT OR DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE SERVICE.

YOU ACKNOWLEDGE THAT IF FOR ANY REASON ANY OF THE FOREGOING LIMITATIONS OF LIABILITY IS HELD TO BE UNENFORCEABLE, LIONDESK'S MAXIMUM AGGREGATE LIABILITY TO YOU SHALL BE THE TOTAL AMOUNT PAID BY YOU TO LIONDESK IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

18. Choice of Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of laws, provisions or your actual state or country of residence. Any claims, legal proceeding or litigation arising in connection with the

Service will be brought solely in San Diego County, California, and you consent to the jurisdiction of such courts.

19. Jurisdictional Issues. We operate and provide the Service from our offices in the United States of America. If you reside outside the U.S., any information you enter into the Service may be transmitted outside your country of residence to the U.S., the data protection laws of which may be less strict than laws in your country of residence. By entering any information into the Service, you acknowledge and agree to the transmission of such information.

20. Privacy Policy. We are committed to protecting your privacy and security and have explained in detail how we use your information in our Privacy Policy, incorporated herein by reference. You should read our Privacy Policy before you use the Service.

21. Terms of Use. Your use of the LionDesk website and the Service is also governed by the LionDesk Terms of Use. You should read that Terms of Use prior to using the LionDesk website or the Service. In the event of any inconsistency between this EULA and the TOU, this EULA will control.

22. Notices. Any notices you send to us pursuant to the terms of this Agreement shall be in writing and sent by nationally-recognized courier service or certified mail, return receipt requested, to LionDesk at:

LionDesk, Inc.
1530 Faraday Ave., Suite 200
Carlsbad, CA 92008
1-760-501-8582
legal@liondesk.com

or to you at the email address you provide to LionDesk during your use of the Service, or such other addresses as either party may specify in writing. Notice shall be effective upon receipt.

23. Assignment. LionDesk may assign its rights under this Agreement in connection with a merger, consolidation, acquisition or reorganization at any time without prior notice to you. You are prohibited from assigning your rights under this Agreement without the prior written consent of LionDesk, which may be withheld in LionDesk's sole discretion.

24. Miscellaneous. If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, the remainder of this Agreement will continue in full force and effect. You acknowledge that nothing in this Agreement or in the relationship created herein shall be construed as a joint venture, partnership, agency or third-party beneficiary relationship. Any failure by LionDesk to assert any rights it may have under this Agreement does not constitute a waiver of our right to assert the same or any other right at any other time or against any other person or entity.

25. Claims of Copyright Infringement. If you believe in good faith that any content or material made available in connection with the Service infringes your copyright, please read our DMCA Statement.