

**IF YOU NEED A COPY OF THIS SUB-LICENSE FOR YOUR RECORDS, PLEASE MAKE A COPY.
ALL ATTACHMENTS ARE PART OF THIS SUB-LICENSE. READ THEM BEFORE SIGNING BELOW.**

**Virginia Peninsula Association of REALTORS®
eKEY Sub-License Agreement**



This Sub-License Agreement ("License") is entered as of _____, 20____, by and between _____ ("Keyholder"), a member of the Virginia Peninsula Association of REALTORS®, KEYHOLDER'S Designated REALTOR® and the Virginia Peninsula Association of REALTORS® (VPAR) covering the following equipment: DisplayKEY Cradle, phone cord and eKEY Basic Software (Serial # _____). Keyholder and VPAR agree as follows:

1. LICENSE AGREEMENT

a. **eKEY Basic Software.** If Keyholder has selected the eKEY Basic Software (the "eKEY"), VPAR grants to Keyholder, a limited non-exclusive, non-exclusive, non-transferable, revocable sub-license for the Term to use such software. In addition, VPAR grants to Keyholder a limited non-exclusive, non-transferable revocable sub-license to use the Network, the use of which VPAR licenses from Supra, which is necessary for the use and operation of the eKEY for the TERM. The eKEY enables Keyholder to obtain a current update code for the eKEY; to open and perform other iBox functions with the eKEY; and to upload property showing data with the eKEY. The eKEY Basic Software is used with certain electronic devices including certain personal digital assistants and certain cellular telephones ("PDA/Phone") approved by Supra. During the Term, Supra may in its sole discretion approve additional PDA/Phones. Supra does not provide any warranty of the performance of such PDA/Phones.

b. This License shall commence on the date set forth above and have a term ("Term") until November 16, 2011, unless terminated earlier or extended pursuant to the provisions of this License.

c. Keyholder agrees to comply with the Rules and Regulations relating to the use of the Service which are set forth in the User's Guide and the Keybox System Rules and Regulations of VPAR. By executing this License, Keyholder agrees to prevent the use of the Equipment by unauthorized persons by keeping the DisplayKEY in KEYHOLDERS'S possession or in a safe place at all times, not allowing his/her PIN to be attached to the DisplayKEY, not loaning the DisplayKEY to any person, for any purpose whatsoever, not assigning, transferring, or pledging the DisplayKEY or any rights thereof and following all additional security procedures as specified by VPAR Policies and Procedures for Keyboxes and Entry Cards. Keyholder further agrees that neither the Service, nor any other Supra product used in connection with the Service (including the Equipment), is a security system. The Service is a marketing convenience key-control system, and as such, any loss of Equipment or disclosure of personal identification numbers compromises the integrity of the Service, and Keyholder agrees to use her or his best efforts to ensure the confidentiality and integrity of all components of the Service.

d. Designated REALTOR® and KEYHOLDER hereby warrant that now and for the term of this license, Designated REALTOR® shall maintain supervisory authority over KEYHOLDER. KEYHOLDER shall be actively engaged in the real estate profession as defined by the National Association of REALTORS® and both Designated REALTOR® and KEYHOLDER shall maintain current Virginia real estate licenses or appraiser licenses. Designated REALTOR® and KEYHOLDER shall promptly notify VPAR should any of the statements in this paragraph become no longer true. Designated REALTOR® agrees that he/she is jointly and severally liable with KEYHOLDER for all duties, responsibilities, and obligations of KEYHOLDER under this license. Designated REALTOR® and KEYHOLDER agree to 1) Comply with all VPAR policies for use of the Keybox System, 2) Return DisplayKEY and related equipment to VPAR immediately upon the termination of KEYHOLDER'S affiliation with Designated REALTOR® (Unless an appropriate transfer has been executed) and 3) Keep VPAR advised in writing at all times as to the address and current e-mail address of KEYHOLDER.

e. Keyholder understands that, in order to make the Service available to Keyholder, VPAR and Supra entered into a Master Agreement that provides the terms under which Supra will provide the Service to VPAR. **Keyholder understands that, if the Master Agreement is terminated for any reason during the Term of this License, the Service will no longer be available to Keyholder and this License will terminate in accordance with Section 10 below. Keyholder agrees that, under the terms of the Master Agreement, VPAR may elect a different Service or choose to upgrade the Service at any time during the Term of this License, which may result in an increase of the System Fee (as defined in Section 3(a) below) and/or the termination of this License.** Except as the rights and obligations of Keyholder and VPAR under this License may be affected as described in the two preceding sentences, the rights and obligations between Keyholder and VPAR with respect to the Service are governed solely by the terms and conditions of this License. Keyholder understands that failure of VPAR to perform its obligations under the Master Agreement may detrimentally affect Keyholder's use of the Service.

f. In the Master Agreement, Supra has reserved the right to discontinue any item of Equipment used in connection with the Service upon the provision of one (1) year prior written notice to VPAR. If Supra discontinues any item of Equipment, the Equipment leased hereunder shall continue to be completely compatible with and shall function with the Service. If the Equipment leased is lost, destroyed or damaged, VPAR may replace that Equipment with refurbished Equipment ("Replacement"), which shall be completely compatible with and shall function with the Service, and shall offer the same level of functionality as the Equipment currently offered.

2. TITLE AND USE Keyholder hereby acknowledges and agrees that the Service, including all its components, and the Software, are and shall at all times remain the property of Supra. If Keyholder has purchased an eSYNC Cradle or eSYNC Modem from Supra the eSYNC Cradle or eSYNC Modem shall be held by Keyholder, but the Software incorporated into the eSYNC Cradel or eSYNC Modem shall at all times remain the property of Supra. All additions and upgrades to the Software shall become part of the Software and shall, without further act, become the property of Supra. The Software and all applicable right in patents, copyrights, trade secrets, and trademarks (including those associated with any purchased eSYNC Cradle or eSYNC Modem), are and shall at all times remain the property of Supra.

3. PAYMENTS

a. **DURING THE TERM OF THIS LICENSE, KEYHOLDER SHALL PAY TO VPAR A FEE FOR THE LICENSE AND USE OF THE SOFTWARE, PLUS APPLICABLE TAX (THE "USAGE FEE"). THE USAGE FEE SHALL BE DETERMINED BY VPAR'S BOARD OF DIRECTORS AND SHALL BE INCLUDED IN THE QUARTERLY BILLING TO EACH DESIGNATED REALTOR®. KEYHOLDER SHALL BE ENTITLED TO TERMINATE THIS LICENSE IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN SECTION 10.**

b. EXCEPT AS OTHERWISE PROVIDED HEREIN, KEYHOLDER'S OBLIGATION TO MAKE PAYMENTS TO OR AT THE DIRECTION OF VPAR SHALL BE ABSOLUTE, UNCONDITIONAL, NONCANCELABLE AND INDEPENDENT AND SHALL NOT BE SUBJECT TO ANY SETOFF, CLAIM OR DEFENSE FOR ANY REASON, INCLUDING ANY CLAIMS KEYHOLDER MAY HAVE RELATING TO PERFORMANCE OR FOR LOSS OR DAMAGE OF OR TO THE SERVICE OR THE SOFTWARE OR ANY REPLACEMENTS.

4. RETURN OF eKEY SOFTWARE

a. At the expiration of the Term, Keyholder, at Keyholder's expense and risk, shall immediately return or cause the return to VPAR to such location as VPAR shall specify, all eKEY Software and any components included within the Service that have been licensed to Keyholder pursuant to this License. Failure to return the Software will result in replacement cost as determined by the VPAR Board of Directors from time to time.

5. REPRESENTATIONS AND COVENANTS Keyholder covenants and agrees:

a. If Keyholder misuses the Service or any component thereof, including without limitation, use of the Service in violation of the User's Guide, and a third party brings an action against VPAR and/or Supra relating to such misuse, Keyholder agrees to indemnify, defend and hold harmless VPAR and/or Supra, and their respective directors, officers, agents, representatives, employees, successors and assigns, from and against any and all claims, demands, actions, losses, damages, injuries, obligations, liabilities and costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, in bankruptcy, including without limitation, any adversary proceeding, contested matter or motion or otherwise) incurred by VPAR and/or Supra in such proceeding.

b. **That neither VPAR nor Supra shall be liable for any compensatory, indirect, incidental, consequential, punitive, reliance or special damages, including, without limitation, damages for lost profits, advantage, savings or revenues of any kind or increased cost of operations, arising out of the use or inability to use the Service for any purpose whatsoever whether or not Keyholder has been advised of the possibility of such damages.**

c. That Keyholder will not (i) use or gain access to the source code for the Software; (ii) alter, reproduce, modify, adapt, translate, reverse engineer, de-compile, disassemble or prepare derivative works based upon the Software; or (iii) provide or otherwise make available the Software or any part or copies thereof to any third party.

d. To provide VPAR and Supra with written notice of any legal proceeding or arbitration in which Keyholder is named as a defendant and that alleges defects in the Equipment within five (5) days after Keyholder receives written notice of such action.

The obligations set forth in this Section shall survive termination of this License.

6. DEFAULT

a. Each of the following events shall be an Event of Default by Keyholder under this License:

(i) Keyholder's failure to pay, for any reason, any amount required under this License within five (5) days after the date that such payment is due; or (ii) The commencement of either an involuntary or voluntary action under any bankruptcy, insolvency or other similar law of the United States of America or any state thereof or of any other country or jurisdiction with respect to Keyholder; provided, however, that the commencement of any involuntary case or proceeding will not be an Event of Default under this License if such case or proceeding is dismissed within sixty (60) days after it was commenced.

b. An Event of Default by VPAR under this License will occur upon the termination for any reason of the Master Agreement.

7. RIGHTS AND REMEDIES

a. Upon the occurrence of an Event of Default by Keyholder, VPAR may, at its sole option and without limitation or election as to other remedies available under this License or at law or in equity, exercise one or more of the following remedies:

- (i) Terminate this License and demand the return of any eKEY Software to VPAR;
- (ii) Terminate one or both of Keyholder's sub-licenses to use the Network and to use the Software; which will make an eSYNC Cradle or eSYNC Modem purchased by Keyholder inoperable;
- (iii) Direct Supra to deactivate Keyholder's access to the Service or any component of the Service;
- (iv) Bill the Keyholder for any outstanding amounts owed under this License, and/or
- (v) Take any and all actions necessary to collect all amounts currently due and owing under this License, including any and all costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, or in bankruptcy, including any adversary proceeding, contested matter or motion, or otherwise) incurred by VPAR in connection with the exercise of its rights and remedies under this License.

b. Upon the occurrence of an Event of Default by VPAR or termination of this License, all of Keyholder's obligations under this License shall terminate, except that Keyholder shall be required to return the eKEY Software to VPAR and to pay VPAR any outstanding amounts owed under this License, including any damages for the failure to return the Software.

c. If VPAR deactivates the Service because of a default by Keyholder under this License, but does not otherwise terminate this License, Keyholder will be entitled to seek to have the Service reactivated. In order to so, Keyholder shall be required to cure any and all existing defaults, and to pay any and all outstanding amounts owed under this License and the reasonable costs and attorneys' fees incurred by VPAR in connection with collecting under this License. After confirmation of the curing of such defaults and the receipt of payment of such amounts, VPAR shall direct Supra to reactivate the Software within twenty-four (24) hours.

d. In the event that VPAR institutes any action for the collection of amounts due and payable hereunder, Keyholder shall pay, in addition to the amounts due and payable under this License, all reasonable costs and attorneys fees incurred by VPAR in connection with collecting under this License. Keyholder expressly waives all rights to possession or use of the Service or the Software or any component thereof after the occurrence of an Event of Default, and waives all claims or losses caused by or related to any repossession or termination of use.

e. VPAR's failure or delay in exercising any right or remedy under this License shall not operate as a waiver thereof or of any subsequent breach or of such right or remedy. VPAR's rights and remedies are cumulative, not exclusive, and no exercise of any remedy shall preclude the exercise of another remedy.

8. ARBITRATION; LITIGATION Any controversy or claim arising out of or relating to this License shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association or such other rules as may be agreed to by the parties. The arbitration shall be conducted in a location mutually agreed to by the parties. If the parties, following good-faith diligent efforts, fail to agree on the location of the arbitration within thirty (30) days after either party requests arbitration, the arbitration shall be conducted in Newport News, Virginia, provided that either party shall be entitled to participate in such arbitration by video conference or teleconference. The substantially prevailing party in any arbitration under this License shall be entitled to recover from the other as part of the arbitration award reasonable costs and attorney's fees. Any arbitration award may be enforced by a court of competent jurisdiction in accordance with applicable law. In the event that legal action to enforce the arbitration award is necessary, the substantially prevailing party shall be entitled to recover its reasonable costs and attorney's fees in such action or any appeals.

9. NOTICES All notices hereunder shall be sent by (i) hand-delivery, (ii) facsimile, (iii) certified mail, return receipt requested, postage prepaid, or (iv) overnight delivery service, to the party being noticed at its address set forth in the signature block of this License, or to such other address as a party shall subsequently specify to the other party in writing. Notices shall be deemed to have been delivered when received, if hand-delivered or sent by facsimile or certified mail, three (3) days after the day deposited in the mail; or one (1) day after the day deposited with an overnight delivery service.

10. TERMINATION

a. Keyholder may terminate this License at any time by returning the eKEY Software to VPAR and paying VPAR any amounts owing prior to such termination, including any System Fees owing prior to such termination which remain unpaid. Upon termination, System Fees that would have become owing after the date of termination of this License are released and discharged by VPAR.

b. VPAR may terminate this License upon termination of the Master Agreement for any reason, including without limitation, a default by VPAR under the Master Agreement or an upgrade of the Service by VPAR. Upon termination, Keyholder shall be obligated to satisfy the obligations in Section 10(a).

c. In the event that Keyholder fails to return all eKEY Software licensed to Keyholder upon termination of this License or at the expiration of the Term, Keyholder acknowledges that it is impractical and difficult to assess actual damages to VPAR, and therefore agrees to pay to VPAR, as liquidated damages for such failure to return the Equipment, the amount set forth in Section 4 (a).

d. In addition, Keyholder shall not be entitled to any refund of any unused portion of the Usage Fee for use of the Service previously paid.

11. WARRANTY The eKEY Software is warranted by Supra against defects in workmanship and/or materials, to be fit for its intended purpose and to conform in all material respects to its written specifications for the term of the License. Supra shall, without charge, repair or replace such defective or nonconforming Software for the term of the License. Keyholder must return any defective Software under warranty to VPAR at Keyholder's sole cost and expense and VPAR shall provide all replacement Software to Keyholder. This warranty does not extend to any damage caused by accident, abuse, neglect or misuse of Software. Keyholder agrees to cooperate with VPAR and Supra by performing diagnostic tests provided to Keyholder when Keyholder initially seeks warranty service.

12. GENERAL PROVISIONS

a. This License constitutes the entire agreement between VPAR and Keyholder relating to the License of Software and use of the Service.

b. Provided that Keyholder has returned to VPAR all equipment previously leased by VPAR to Keyholder, all prior licenses and leases between VPAR and Keyholder for such keys are hereby terminated effective as of the parties' execution of this License.

c. This License shall be effective and binding when fully executed by both parties. This License may be executed in a number of counterparts, each of which will be deemed an original and when taken together shall constitute one agreement.

d. This License shall be amended only by a written agreement signed by the parties.

e. Any waiver or consent by any party to any breach by the other, whether express or implied, shall not constitute a consent to or waiver of any other or subsequent breach.

f. All agreements, representations and warranties contained in this License shall survive the expiration or other termination of this License.

g. If any provision of this License is unenforceable, such unenforceability shall not affect the enforceability of the remaining provisions of this License.

h. This License shall be governed by the laws of the State of Virginia.

i. This License shall be binding upon and inure to the benefit of VPAR, and its successors and assigns, and Keyholder and its permitted successors and assigns.

IN WITNESS WHEREOF, the parties have caused this to be duly executed as of the date set forth in the preamble.

KEYHOLDER:

Virginia Peninsula Association of REALTORS®

By: _____

By: _____

Print Name: _____

Title: _____

Company Name: _____

Street: _____

City, State, Zip: _____

e-mail Address: _____

DESIGNATED REALTOR®

Signature: _____