

Agreement

THIS AGREEMENT (the "Agreement") between REALTORS Information Network, an Illinois corporation ("RIN"), and The Austin Board of REALTORS®/Austin Multiple Listing Service, a Texas (ABOR/AMLS), is entered into and made effective as of September ____, 1995. RIN and ABOR/AMLS hereby agree to the terms and conditions set forth below.

Article 1

Electronic Advertising Program

- 1.1 Internet Advertising Program: Subject to the terms and conditions of this Agreement, the ABOR/AMLS shall have the right during the term of this Agreement to participate in RIN's Internet advertising program (the Internet Advertising Program). The Internet Advertising Program will enable the ABOR/AMLS to advertise property information via the Internet and other on-line services, accessible to individual subscribers of those services using personal computers.
- 1.2 Property Information: The advertised property information shall initially be comprised of a subset of data from the property listings maintained by the ABOR/AMLS, along with a photograph and option for additional photos of the property. The ABOR/AMLS shall provide the advertised property information to RIN in a format to be specified by RIN.

Article 2

Listing Subsets and Photos

- 2.1 Subsets and Photos: The ABOR/AMLS will provide an agreement to extract the data, or a "subset", from listings of property, together with a photo, and option for additional photos.
- 2.2 Format of Data: The subset of data and photo will be provided in the format set forth in the technical specifications to be provided to the ABOR/AMLS by RIN's technology consultants, Booz Allen & Hamilton.

Article 3

RIN Responsibilities

3.1 Development: RIN will:

- a. Provide a client server computer to be used as a data repository;
- b. Provide the network interface to ABOR/AMLS, to include implementing and maintaining the DxM software required to reprogram the MLS system to pass the subset of property listing data and photos to the RIN system;
- c. Provide directions to the ABOR/AMLS for the software implementation required to pass the subset listing data and photos to the system;
- d. Assist the ABOR/AMLS with the implementation by providing advice;
- e. Assist in the initial training of ABOR/AMLS personnel;
- f. Design and provide advertising copy for local awareness campaign and insertion in broker ads;
- g. Absorb the cost of development, less amounts to be paid by all ABOR/AMLS's as set forth in Section 4.1 (c);
- h. Maintain state-of-the-art software by continuous upgrading software; and
- i. Provide diskettes free to our members and extras to give out to clients for advertising purposes with RIN logo on it; and
- j. Work with AMLS to develop an E-Mail Interface from the Internet to the AMLS On-Line System.

3.2 Operations: RIN will:

- a. Have managerial responsibility and control over the implementation and day-to-day operations of the Internet Advertising Program, and shall determine the network or on-line services through which the advertised property information shall be accessible by the public.
- b. Determine the operational, technical and security standards used in connection with the Internet Advertising Program.
- c. Develop training materials for use by the ABOR/AMLS.
- d. Provide and maintain a 1-800 Helpline.

Article 4

ABOR/AMLS Responsibilities

4.1 Development: ABOR/AMLS will:

- a. Provide any required modems and communications equipment.

4.2 Operations: ABOR/AMLS will:

- a. Establish and electronically upload the subset of data and photos according to RIN's standard file directives and schemes for a minimum of twenty five (25%) percent of all of ABOR/AMLS's listings for a period of twelve (12) months from the commencement date of the Internet Advertising Program (the date the system is available and fully operational to Texas, "Commencement Date");
- b. Refresh/update the data provided for the Internet Advertising Program no less frequently than daily according to a predetermined mutually developed schedule;
- c. Train staff and members to use the Internet Advertising Program, including the RIN Desktop Software capabilities and access to the Internet Advertising Program; and
- d. Promote RIN and its Internet Advertising Program to ABOR/AMLS and broker/agent.

Article 5

Pricing

5.1 Price of Advertisements: The ABOR/AMLS agrees to pay RIN the following amount per month for each listing for which subsets of data are uploaded into RIN's Internet Advertising Program:

Percentage of Total Listings of ABOR/AMLS for which subsets of data are uploaded*	Amount per month per Listing (Includes one photo)
1-25%	3.00
26 - 50%	2.65
51 - 69%	2.35
70 - 100%	2.00

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(*The ABOR/AMLS will indicate an initial level of commitment on or before October 1, 1995, and will then have a solicitation period until December 31, 1995 to work with local broker/agents to determine the final percentage of listings. The ABOR/AMLS must commit to that percentage on or before January 1, 1996, which percentage shall be applicable for the remaining nine (9) months of the contract.)

The ABOR/AMLS will pay a one-time upload fee of \$1.00 per listing.

Notwithstanding the foregoing, there will be no charges, other than the upload fees, for the first three (3) months of the advertising if the ABOR/AMLS uploads at least twenty five (25%) percent of their listings.

It is understood that additional feature function development for local implementation (i.e., broker biographies, discrete broker service descriptions, etc.) will be treated as an addendum to this Agreement when available.

5.2 Minimum Amount: Each month, the ABOR/AMLS will be charged at least the applicable amount for the percentage of listings committed to regardless of the actual listings provided whether or not that level is achieved. However, if the percentage in a month (on an average basis) exceeds the committed percentage, then the amount charged for each listing that month shall be the amount applicable to the higher average percentage, and the corresponding discount. Monthly charges are due by the 15 of each month following the month for which the billing was assessed for upload and maintenance fees.

5.3 ABOR/AMLS Handles Billing: ABOR/AMLS is responsible for monthly upload and maintenance fees only, and determining the billing to their members.

5.4 RIN Reimbursement to ABOR/AMLS: RIN agrees to incent the ABOR/AMLS for its operations management assistance, support of the information integrity, help desk, and its local awareness programs by reimbursing to the ABOR/AMLS the following amounts from the amounts paid under Section 5.1:

Percentage of Total Listings of ABOR/AMLS Online In Specific Month	Percentage to be Reimbursed of Total Amount Paid by ABOR/AMLS For Specific Month
0 - 35%	3%
36 - 50%	7%
51 - 75%	9%
76 - 100%	15%

- 5.5 RIN Desktop Software (as an optional offering): In order to facilitate electronic communications between the consumer viewing the electronic advertisements and the listing REALTOR®, and also between members state-wide, RIN will incorporate components of its full product site (e-mail, library, discuss groups) along with the Internet Advertising Program. These additional features as part of the RIN Desktop Software will require acquisition and installation of the RIN Desktop Software on any personal computer expected to communicate with RIN or without the RIN Desktop Software, the REALTOR® will need Internet access. The retail price for the RIN Desktop Software is \$29.95, and the cost for Netscape software to access the Internet is approximately \$30.00. (There is a 90 day free trial period on the Netscape software.) When the REALTOR® logs on to RIN, the REALTOR® will be subject to the following charges and fees:

Access Fee: \$19.95 per year

Connect Fees: \$15.95 per month for two (2) hours of connect time.

\$8.00 for each additional hour, billable on an actual usage basis.

- 5.6 No Other Obligations: Except as otherwise provided in this Agreement, each party shall bear its own costs and expenses in performing its obligations or exercising its rights under this Agreement.
- 5.7 Software Licenses: All software and other materials (including the RIN Desktop Software and training materials) provided by RIN is licensed (and not sold) to the ABOR/AMLS on a non-exclusive basis. The terms of this license and the on-line user agreement are set forth in the software.

Article 6

Promotion and Advertising

- 6.1 ABOR/AMLS to promote the RIN Internet Advertising Program: ABOR/AMLS agrees to intensively promote the RIN Internet Advertising Program in their respective local markets as the place on the Internet for consumers to search for information on available properties listed with REALTORS®.

Article 7

ABOR/AMLS Representations; Warranties, Consents

- 7.1 ABOR/AMLS Permitted to Advertise: ABOR/AMLS has received all necessary consents and permission from each Broker to advertise that Broker's listed property, including use of photos of the property, on RIN's Internet Advertising Program on the Internet, and each respective property owner has consented to such on-line advertising. ABOR/AMLS represents that the property information provided to RIN accurately sets forth that subset data in the property listing.
- 7.2 ABOR/AMLS Authorizes Electronic Ads: ABOR/AMLS hereby authorizes RIN to place ads for the properties for which listing subset data is uploaded to RIN from time to time, on any on-line electronic network, including, with limitation, America Online, CompuServe, Prodigy, Delphi, Genie, the Internet, etc.

Article 8

RIN Warranties

- 8.1 Exclusions: RIN does not warrant that its Internet Advertising Program or portion thereof (including services, software or equipment licensed, sold, leased or otherwise provided by RIN to ABOR/AMLS) will: (a) operate or be provided in an uninterrupted or error-free manner; (b) operate or be compatible with any equipment, software or system, except as expressly provided in the Statement of Work; (c) achieve a particular result; or (d) be completely free of errors or omissions.
- 8.2 Disclaimer of All Warranties: EXCEPT AS SET FORTH IN THIS AGREEMENT OR, IF APPLICABLE, A STATEMENT OF WORK, RIN MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SYSTEM, SOFTWARE, EQUIPMENT OR SERVICES, INCLUDING THEIR QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FREEDOM FROM INFRINGEMENT OF A THIRD PARTY'S PATENT OR COPYRIGHT.
- 8.3 General Disclaimer: Except as may otherwise be set forth in a signed, written agreement between parties, RIN makes no representation or warranty as to accuracy, completeness, condition, suitability, or performance of the RIN Desktop Software or other materials, and RIN shall have no liability whatsoever to the ABOR/AMLS resulting from its use of the RIN Desktop Software and other materials. RIN makes no representation or warranty as to the number of persons who will have access to the Internet Advertising Program, or that such Program will be available in all locations or at all times. RIN shall have no liability for any error or omission in advertised property information, regardless of the cause of such error or omission.

Article 9

Limitation of Remedy and Liability

- 9.1 Limitation of Remedy: In no event shall either party be liable for any incidental, consequential, indirect, or special damages, including, with limitation, damages for loss of revenue, cost of capital, or claims of any third parties for service interruptions or failure of supply, and costs and expenses incurred in connection with labor, overhead, transportation, installation, or removal of equipment or such software, equipment or service under this Agreement.
- 9.2 Limitation of Liability: RIN's entire liability hereunder shall be the replacement of any RIN Desktop Software diskettes deemed by RIN to be defective.
- 9.3 Indemnification: ABOR/AMLS agrees to defend, indemnify and hold harmless RIN from (a) any cost, expense, liability or other loss incurred as a result of any breach by ABOR/AMLS of its warranties or other obligations hereunder, including the ABOR/AMLS's warranty that it has authorization to upload the advertised property information; (b) any claim by a third party resulting from or alleging an error or omission in advertised property information relating to a ABOR/AMLS listing, regardless of whether such error or omission is the fault of RIN.

Article 10

Term

- 10.1 **Term:** This Agreement shall be effective as of the date first written above, and thereafter shall remain in effect for one (1) year following the Commencement Date of the Electronic Advertising Program.
- 10.2 **Renewal:** This Agreement will be extended for an additional twelve (12) month period, in writing, not to extend beyond thirty (30) days after to the expiration of the then current term.
- 10.3 Notwithstanding any other provision of this agreement, the ABOR/AMLS reserves the right to opt out of this contract at any time prior to December 31, 1995 with no further expense to the ABOR/AMLS.

Article 11

Miscellaneous

- 11.1 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas as though all acts or omissions related hereto occurred in such state. This Agreement shall not be construed against the party preparing it, but shall be construed as of both parties jointly prepared it.
- 11.2 **Integration and Amendment:** This Agreement and any executed documents or software licenses referred to herein contain the complete agreement between the parties with respect to the subject matter hereto. Any understanding, promise, representation, warranty, or condition not incorporated in this Agreement shall not be binding on either party. This Agreement may only be amended by a document signed by both parties.
- 11.3 **Severability:** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions be consummated as originally contemplated to the fullest extent possible.

11.4 Notices: All notices, consents and approvals given under this Contract shall be in writing and shall be delivered in person, by first class or express mail or facsimile addressed as follows:

If to ABOR/AMLS:

Austin Board of REALTORS®/
Austin Multiple Listing Services
4106 Medical Parkway
Austin, Texas 78756
Telephone: 512/454-7636
Facsimile: 512/454-5369

If to RIN:

REALTORS Information Network
430 North Michigan Avenue
Chicago, IL 60611-4087
Attn: John W. Schladweiler
Senior Vice President
Telephone: 312/329-8530
Facsimile: 312/329-8539

Either party may change its address or addressee for the purposes of this Paragraph by notice. Notice given in accordance with this Section shall be deemed given when received.

IN WITNESS WHEREOF, the parties have set their hands as of the day and year first above written.

Austin Board of REALTORS®

By: Bill Stanberry
Bill Stanberry, President
ABOR Board of Directors

Date: 9-5-95

Austin Multiple Listing Service

By: Sandy Bednar
Sandy Bednar, President
AMLS Board of Directors

Date: 9/5/95

REALTORS Information Network ("RIN")

By: _____
John W. Schladweiler
Senior Vice President

Date: _____