

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

### **iBox Sub-Lease Agreement**

This iBox Sub-Lease Agreement ("Lease") is entered as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Keyholder"), and Covington Association of REALTORS® ("Organization").

Keyholder and Organization agree as follows:

#### **1. LEASE AGREEMENT**

a. Organization leases to Keyholder, and Keyholder leases from Organization, iBoxes ("Keybox(s)") (the "Equipment"). In addition, Organization grants to Keyholder (i) a limited non-exclusive, non-transferable sub-license to use the network, the use of which Organization licenses from UTC Fire & Security Americas Corporation, Inc. ("UTCFS"), which is necessary for the use and operation of the Equipment (the "Network") for the Term (as defined in Section 1(b) below) and (ii) a limited, non-exclusive, nontransferable sub-license to use the software Organization licenses from UTCFS (the "Software") for the Term. The Equipment, Software and Network are collectively referred to herein as the "Service." The Service is more fully described in the user guide ("User Guide") published by UTCFS, which is available at [www.supraekey.com](http://www.supraekey.com) and is incorporated herein by reference.

b. This Lease shall commence on the date set forth above and have a term ("Term") until **February 10, 2020**, unless terminated earlier or extended pursuant to the provisions of this Lease.

c. Keyholder agrees to comply with the Rules and Regulations relating to the use of the Service which are set forth in the User Guide and the Rules and Regulations of Organization and/or its MLS system. By executing this Lease, Keyholder agrees that it is necessary to maintain the security of the Equipment to prevent the use of the Equipment by unauthorized persons. Keyholder further agrees that neither the Service, nor any other UTCFS 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. Keyholder acknowledges that, in order to make the Service available to Keyholder, Organization and UTCFS entered into a Master Agreement (the "Agreement") that provides the terms under which UTCFS will provide the Service to Organization. **Keyholder understands that, if the Agreement is terminated for any reason during the Term of this Lease, the Service will no longer be available to Keyholder and this Lease will terminate in accordance with Section 10 below. Keyholder further agrees that, under the terms of the Agreement, Organization may elect a different Service or choose to upgrade the Service at any time during the Term of this Lease, which may result in an increase of the Fee (as defined in Section 3(a) below) and/or the termination of this Lease.** Except as the rights and obligations of Keyholder and Organization under this Lease may be affected as described in the two preceding sentences, the rights and obligations between Keyholder and Organization with respect to the Service are governed solely by the terms and conditions of this Lease. Keyholder acknowledges that failure of Organization to perform its obligations under the Agreement may detrimentally affect Keyholder's use of the Service.

e. In the Agreement, UTCFS 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 Organization. If UTCFS discontinues any item of Equipment, the Equipment leased shall continue to be completely compatible with and shall function with the Service. If the Equipment leased hereunder is lost, destroyed or damaged, Organization 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** The Service (except the Equipment), including all applicable rights in patents, copyrights, trade secrets, and trademarks are and shall at all times remain the property of UTCFS.

#### **3. PAYMENTS**

a. **DURING THE TERM OF THIS AGREEMENT, KEYHOLDER SHALL PAY TO ORGANIZATION A FEE FOR THE RIGHT TO USE THE SERVICE PLUS APPLICABLE TAX AS DETERMINED BY ORGANIZATION (THE**

**“FEE”). KEYHOLDER SHALL BE ENTITLED TO TERMINATE THIS AGREEMENT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN SECTION 10.**

b. Keyholder shall pay the Fee determined by the Organization upon entering this Agreement and shall pay the Fee for all subsequent years as directed by the Organization.

c. The Organization reserves the right to: (i) increase the Fee annually, (ii) charge an activation fee, (iii) charge a late fee for any Fee that is not paid as directed by the Organization, and (iv) charge an additional fee for any payment that is returned unpaid or for insufficient funds or credit.

d. EXCEPT AS OTHERWISE PROVIDED HEREIN, KEYHOLDER'S OBLIGATION TO MAKE PAYMENTS TO OR AT THE DIRECTION OF ORGANIZATION 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 EQUIPMENT OR ANY REPLACEMENTS.

**4. RISK OF LOSS; RETURN OF EQUIPMENT**

a. No loss, damage or destruction to the Equipment shall relieve Keyholder of any obligation under this Lease, except to the extent any such loss, damage or destruction is directly caused by the negligence of Organization.

b. At the expiration of the Term, Keyholder, at Keyholder's expense and risk, shall immediately return or cause the return all of the Equipment to Organization to such location as Organization shall specify. The Equipment shall be returned in good condition, repair and working order, ordinary wear and tear excepted.

**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 Guide, and a third party brings an action against Organization and/or UTCFS relating to such misuse, Keyholder agrees to indemnify, defend and hold harmless Organization and/or UTCFS, 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 Organization and/or UTCFS in such proceeding.

b. **That neither Organization nor UTCFS 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 Organization and UTCFS with written notice of any legal proceeding or arbitration in which Keyholder is named as a defendant and that alleges defects in the Equipment or the Keyboxes within five (5) days after Keyholder receives written notice of such action.

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

**6. DEFAULT**

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

i. Keyholder's failure to pay, for any reason, any amount required under this Lease within fifteen (15) 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 Lease if such case or proceeding is dismissed within sixty (60) days after it was commenced.

b. An Event of Default by Organization under this Lease will occur upon the termination for any reason of the Agreement.

**7. RIGHTS AND REMEDIES**

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

i. Terminate this Lease and demand the return of any Equipment to Organization;

ii. Terminate one or both of Keyholder's sub-licenses to use the Network and to use the Software;

iii. Direct UTCFS 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 Lease, including any applicable liquidated damages for the failure to return the Equipment; and/or

v. Take any and all actions necessary to collect all amounts currently due and owing under this Lease, 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 Organization in connection with the exercise of its rights and remedies under this Lease.

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

c. If Organization deactivates the Service because of a default by Keyholder under this Lease, but does not otherwise terminate this Lease, 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 Lease and the reasonable costs and attorneys' fees incurred by Organization in connection with collecting under this Lease. After confirmation of the curing of such defaults and the receipt of payment of such amounts, Organization shall direct UTCFS to reactivate the Equipment within twenty-four (24) hours.

d. In the event that Organization 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 Lease, all reasonable costs and attorneys fees incurred by Organization in connection with collecting under this Lease. Keyholder expressly waives all rights to possession or use of the Service or the Equipment 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. Organization's failure or delay in exercising any right or remedy under this Lease shall not operate as a waiver thereof or of any subsequent breach or of such right or remedy. Organization'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 Lease 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 \_\_\_\_\_, \_\_\_\_\_; 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 Lease 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 and in 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 Lease, 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 Lease at any time by returning the Equipment to Organization and paying Organization any amounts owing prior to such termination, including (i) any applicable damages for the failure to return the Equipment as set forth in Section 4 (a) hereof and (ii) 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 Lease are released and discharged by Organization.

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

c. In the event that Keyholder fails to return all Equipment leased to Keyholder upon termination of this Lease or at the expiration of the Term, Keyholder acknowledges that it is impractical and difficult to assess actual damages to Organization, and therefore agrees to pay to Organization, as liquidated damages for such failure to return the Equipment.

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

**11. WARRANTY** The Equipment is warranted by UTCFS 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 Lease. UTCFS shall, without charge, repair or replace such defective or nonconforming component for the term of the Lease. Keyholder must return any defective system component under warranty to Organization at Keyholder's sole cost and expense and Organization shall provide all repaired or replacement Equipment to Keyholder. This warranty does not extend to any damage caused by accident, abuse, neglect or misuse of system components. Keyholder agrees to cooperate with Organization and UTCFS by performing diagnostic tests provided to Keyholder when Keyholder initially seeks warranty service.

**12. GENERAL PROVISIONS**

- a. This Lease constitutes the entire agreement between Organization and Keyholder relating to the lease of Equipment and use of the Service.
- b. This Lease shall be effective and binding upon the parties hereto when fully executed by both parties. This Lease may be executed in a number of counterparts, each of which will be deemed an original and when taken together shall constitute one agreement.
- c. This Lease shall be amended only by a written agreement signed by the parties.
- d. 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.
- e. All agreements, representations and warranties contained in this Lease shall survive the expiration or other termination of this Lease.
- f. If any provision of this Lease is unenforceable, such unenforceability shall not affect the enforceability of the remaining provisions of this Lease.
- g. This Lease shall be governed by the laws of the State of \_\_\_\_\_.
- h. This Lease shall be binding upon and inure to the benefit of Organization, and its successors and assigns, and Keyholder and its permitted successors and assigns.

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

**KEYHOLDER:**

**ORGANIZATION:**

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

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

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Street:** \_\_\_\_\_

**City, State Zip:** \_\_\_\_\_

**e-mail Address:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_