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GREATER LAKES MULTIPLE LISTING SERVICE SUBSCRIBER AGREEMENT

Effective Date: _____

This Greater Lakes Multiple Listing Service Subscriber Agreement ("Agreement") is made and effective as of the Effective Date set forth above between Greater Lakes Multiple Listing Service, Inc., a Minnesota Corporation ("GLMLS"), and the natural person designated "Subscriber" on the last page of this Agreement ("You" or "Subscriber"); Subscriber is affiliated with the GLMLS member firm designated as "Member Firm" on the last page of this Agreement ("Member Firm"). In consideration of the mutual covenants contained herein, and intending to be legally bound by this Agreement, the parties agree as follows.

1. GLMLS's obligations.

In consideration of Your payment of fees (or payment of them on Your behalf by Member Firm) and compliance with rules, regulations, and procedures of GLMLS (the "GLMLS Rules"), GLMLS makes the contents of its web site and any other delivery medium GLMLS employs to deliver content to You (collectively, the "GLMLS Service") available to You and licenses it to You, subject at all times to the terms and conditions of this Agreement.

2. Intellectual property.

(a) **Assignment.** You agree to assign and hereby do assign to GLMLS all right, title, and interest in the copyrights in all original text and photographs that You submit to the GLMLS Service ("Your Contribution"); to the extent possible, Your Contribution shall be deemed a contribution to GLMLS's collective work, a work made for hire, and GLMLS its author for purposes of copyright law. You acknowledge that You have no claim to copyrights in the factual or non-creative information ("Factual Content") that You submit to the GLMLS Service. You warrant that you have the authority to make this assignment and that Your Contribution does not infringe on the copyright or other intellectual property rights of any third party.

(b) **License.** GLMLS hereby grants You during the term of this Agreement a revocable, limited, nonexclusive license to duplicate, distribute and display compilation, original text and photographs ("Creative Content") from the GLMLS Service, subject to the limitations set forth in this Agreement and in the GLMLS Rules. GLMLS grants a nonexclusive license and not an exclusive license or assignment. All rights not expressly granted in this Agreement are reserved.

3. Your obligations and acknowledgements.

(a) **Use limited.** You may use the GLMLS Service and the Creative Content and the Factual Content on the GLMLS site solely for the purpose of selling, listing, leasing, and appraising real estate. Your license to use the Creative Content is immediately revoked, without notice from GLMLS, in the event that You (i) use the Creative Content or the Factual Content for any purpose other than the one set forth in the first sentence of this Section 3(a); (ii) violate the GLMLS Rules; (iii) disclose any of the Creative Content or Factual Content available on the GLMLS Service to any third party; or (iv) disclose Your user ID or password to any third party.

(b) **Permitted disclosures.** The foregoing section notwithstanding, You may, during the term of this Agreement (i) Disclose the Creative Content and Factual Content to consumers for their non-commercial use to the extent permitted

by the GLMLS Rules; and (ii) Disclose Your Contributions to any party for any purpose approved by Member Firm.

(c) **GLMLS Rules subject to change.** The current version of the GLMLS Rules is available from the GLMLS office and is incorporated into this Agreement by reference. GLMLS may in its sole discretion amend and revise the GLMLS Rules

(d) **Confidentiality.** You shall maintain the confidentiality of Your user ID and password. You may not provide Your user ID and password to any other person, including your own assistants and employees (each such person must obtain his/her own ID and password from GLMLS).

(e) **Editorial control.** GLMLS is not required to, and does not, review, edit, or exercise editorial control over the GLMLS Service or Your Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, GLMLS may take any steps necessary in its judgment, including deleting Your Contribution or portions of it, to avoid or remedy any violation of law or infringement of intellectual property right.

4. Fees.

This Agreement is at all times conditioned upon Your payment and payment by Member Firm of the fees set forth by GLMLS in its current schedule of fees. Failure to pay all fees will result in immediate termination of this Agreement and of all accesses and licenses hereunder, without notice to You from GLMLS.

5. Term and termination.

(a) **Term and termination.** This Agreement shall continue until (i) You cease to be affiliated with Member Firm; (ii) Member Firm ceases to have a valid and active membership agreement with GLMLS; (iii) Member Firm or You fail to pay fees attributable to You according to GLMLS's fee payment policies; or (iv) GLMLS terminates this Agreement by giving You notice.

(b) **Computer EULA.** You hereby agree that GLMLS may, in its sole discretion, condition future access to its online services on your execution of an End-User License Agreement ("EULA"). This Agreement shall be terminated and superseded by any EULA You enter into with GLMLS. You hereby agree that Your assent via electronic means to any EULA shall function as Your signature on it and shall be fully binding on You.

(c) **Events upon termination.** Promptly upon any termination or expiration of this Agreement, (i) GLMLS shall deactivate Your user ID and password, and You shall have no further access to the GLMLS Service; (ii) You shall purge all copies of the GLMLS software, the Factual Content, and the Creative Content from Your personal computers; and (iii) all licenses granted hereunder shall immediately terminate.

6. Disputes and remedies.

(a) **Injunctive relief.** You acknowledge and agree that the Factual Content and Creative Content are confidential and proprietary products of GLMLS and that in the event You make an unauthorized disclosure of them, no remedy at law will be adequate. You therefore agree in the event of such unauthorized disclosure that GLMLS may obtain injunctive relief or other equitable remedies against You in addition to all available remedies at law.

(b) **Legal fees.** In the event of any legal action, arbitration, or informal dispute resolution proceeding (an "Action") between You and GLMLS on account of or in respect to this Agreement, the prevailing party in the Action shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the Action.

(c) **Liquidated damages.** You acknowledge that damages suffered by GLMLS from access to the Factual Content or Creative Content by an unauthorized third party as a result of disclosure of Your password or Your unauthorized disclosure of the Factual Content or Creative Content to a third party would be speculative and difficult to quantify. Accordingly, and as a material inducement to GLMLS to enter into this Agreement, You agree that if any disclosure of Your password results in access to the Factual Content or Creative Content by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, You shall be liable to GLMLS for liquidated damages in the amount of the greater of \$5,000 or the amount established in the GLMLS Rules and termination of this Agreement; and if You make unauthorized disclosure of any portion of the Factual Content or the Creative Content to any third party, You shall be liable for liquidated damages in the amount of the greater of \$1,000 or the amount established in the GLMLS Rules for each real estate listing disclosed and termination of this Agreement.

7. Disclaimer, limitation of liability, and indemnification.

(a) **DISCLAIMER OF WARRANTIES.** GLMLS PROVIDES THE GLMLS SERVICE AND ALL COMPONENTS OF IT ON AN "AS IS," "AS AVAILABLE" BASIS. USE OF THE GLMLS SERVICE AND THE CREATIVE CONTENT AND FACTUAL CONTENT AVAILABLE THROUGH IT ARE AT YOUR SOLE RISK. GLMLS MAKES NO WARRANTY THAT THE GLMLS SERVICE WILL BE AVAILABLE ON AN UNINTERRUPTED BASIS. GLMLS AND ITS PARTICIPANTS AND SUBSCRIBERS MAKE NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY OR RELIABILITY OF ANY INFORMATION AVAILABLE THROUGH THE GLMLS SERVICE. GLMLS EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE GLMLS SERVICE AND THE CREATIVE CONTENT AND FACTUAL CONTENT AVAILABLE THROUGH IT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) **LIMITATIONS AND EXCLUSIONS OF LIABILITY.** GLMLS SHALL NOT BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR

CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE GLMLS SERVICE AND ANY FACTUAL CONTENT OR CREATIVE CONTENT AVAILABLE ON IT, INCLUDING RELIANCE BY YOU OR ANY CONSUMER ON ANY INFORMATION OBTAINED THROUGH USE OF THE GLMLS SITE; MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF SUCH INFORMATION; INTERRUPTIONS IN TELECOMMUNICATIONS CONNECTIONS TO THE GLMLS SERVICE; AND VIRUSES OR FAILURES OF PERFORMANCE; WHETHER CAUSED IN WHOLE OR PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OF, DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE GLMLS SERVICE AND RELATED INFORMATION, RECORDS AND PROGRAMS.

(c) **MAXIMUM AGGREGATE LIABILITY.** IN NO EVENT SHALL THE LIABILITY OF GLMLS ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT YOU HAVE PAID (OR MEMBER FIRM HAS PAID ON YOUR BEHALF) TO GLMLS IN THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

(d) **Indemnification.** You will defend, indemnify, and hold GLMLS harmless from and against any and all liability, damages, loss or expense (including reasonable fees of attorneys and other professionals) in any claim, demand, action or proceeding initiated by any third-party against GLMLS arising from any of Your acts, including without limitation (i) putting inaccurate information into the GLMLS Service; (ii) making or allowing another to make unauthorized use of Your password; (iii) making unauthorized use of the GLMLS Service, the Creative Content, or the Factual Content; (iv) infringing any proprietary or contract right of any third party; and (v) violating this Agreement or any other agreement or any law.

(e) **Acknowledgment.** You acknowledge that GLMLS has set its fees and other charges in reliance on the disclaimers of warranty and limitations and exclusions of liability set forth in this Agreement and that the same form an essential basis of the bargain between the parties.

8. Miscellaneous.

(a) **Assignment.** You may not assign or delegate this Agreement or any obligations or duties hereunder. Any purported assignment or delegation in contravention of this section is null and void *ab initio*.

(b) **Integration and severability.** This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect.

(c) **Governing law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Minnesota applicable to contacts made and performed in Minnesota, notwithstanding its choice of law provisions.

The parties witness their covenants in this Agreement by setting their signatures below. **Subscriber expressly acknowledges having read the disclaimers and limitations of liability set forth in Section 7.**

SUBSCRIBER

GLMLS MULTIPLE LISTING SERVICE, Inc.

Signature of Subscriber

Signature of GLMLS officer or agent

Print name

Print name

MEMBER FIRM AUTHORIZATION

I, a principal or officer of Member Firm, authorize this Subscriber to have access to GLMLS MLS under the terms of this Agreement and the Multiple Listing Service Agreement between GLMLS and my firm.

Signature of principal or officer

Member Firm name

Print name

Office address (incl. City, State, Zip)