

GREATER FAIRFIELD COUNTY CMLS
PARTICIPANT AGREEMENT

THIS AGREEMENT is made and entered into by and between Greater Fairfield County CMLS, Inc.

("GFC CMLS") and _____ ("PARTICIPANT")
(Name of Broker of Office)

For: _____
(Name of Real Estate Firm)

RECITALS

GFC CMLS has been organized to provide on-line multiple listing services for REALTORS in Connecticut, (the "MLS Services"). GFC CMLS has contracted with third party vendors to provide such MLS Services to PARTICIPANT and to duly licensed or certified real estate sales agents, appraisers ("SUBSCRIBERS") and administrative assistants ("USERS") affiliated with PARTICIPANT.

PARTICIPANT wishes to subscribe to the MLS Services GFC CMLS provides.

1. Definitions. Except as otherwise provided herein, the capitalized terms used in this Agreement shall have the meanings set forth in the GFC CMLS Rules and Regulations, a copy of which is available at www.ct-mls.com.

2. Election to Participate.

A.REALTOR Membership: PARTICIPANT understands and agrees that GFC CMLS, as a condition of receiving the MLS Services, requires PARTICIPANTS to be REALTORS® and to maintain REALTOR® membership in good standing. PARTICIPANT must provide GFC CMLS with a valid "National REALTORS® Database System" ("NRDS") number for him/herself and each affiliated SUBSCRIBER.

B.Subscription, Basic Fees: PARTICIPANT hereby elects to subscribe to the MLS Services and agrees to pay the following fees during the term of this Agreement: One (1) Subscription Fee for the PARTICIPANT plus one (1) Subscription Fee for each affiliated SUBSCRIBER and USER in the amount set forth in Schedule A, a copy of which is available at www.ct-mls.com, as the same may be amended from time to time by GFC CMLS, provided, however, that notwithstanding the foregoing, (1) with the prior consent of GFC CMLS, at the option of PARTICIPANT, GFC CMLS shall accept individual checks from Affiliated Sales Agents as payment of such SUBSCRIBER's Subscription Fees and (2) the failure of any SUBSCRIBER(s) to make payment of such Subscription Fee(s) shall constitute a breach by PARTICIPANT of this Agreement and the GFC CMLS Rules and Regulations. **NOTE:** Each individual, licensed or certified to provide real estate services in Connecticut (including, without limitation, appraisers, sale persons, brokers and managers), affiliated with a PARTICIPANT in any office located within the GFC CMLS' primary service area must become and continue to be a SUBSCRIBER for the MLS Services, by entering into a SUBSCRIBER Agreement with GFC CMLS, unless such individual has obtained a "Medical" or "Military" waiver as provided in Section 2.11 of the GFC CMLS Rules and Regulations.

The GFC CMLS' primary service area currently includes each of the towns in Fairfield County, Connecticut, except the towns of Darien; Greenwich; and New Canaan and including the following towns located within Litchfield or New Haven Counties, Connecticut: Ansonia; Beacon Falls; Derby; Oxford; Seymour; New Milford; Bridgewater; Kent; Roxbury; Sherman; Warren; and Washington.

C. Service Changes: PARTICIPANT shall:

- (1) Notify GFC CMLS within ten (10) days of the opening or acquisition of any office within the geographic area served by GFC CMLS or the closing or relocation of any such existing office.
- (2) Notify GFC CMLS within ten (10) days upon the beginning or termination of any licensed or certified real estate sales agent's, broker's or appraiser's affiliation with PARTICIPANT.
- (3) Upon GFC CMLS's written request, complete and forward to GFC CMLS the "Certification to the Greater Fairfield County CMLS, Inc.", a copy of which is available at www.ct-mls.com,

D. Membership in GFC CMLS: PARTICIPANT acknowledges and agrees that by entering into this Agreement, he/she becomes a member of GFC CMLS, a Connecticut nonstock, nonprofit corporation, and that PARTICIPANT's membership in GFC CMLS shall continue during the term of this Agreement unless such membership is otherwise terminated in accordance with the Certificate of Incorporation, Bylaws or Rules and Regulations of GFC CMLS.

3. Services and Compensation.

A. MLS Services: In accordance with the policies detailed in GFC CMLS Rules and Regulations, GFC CMLS will provide MLS Services to PARTICIPANT for the benefit of the PARTICIPANT and PARTICIPANT's affiliated SUBSCRIBERS.

B. PARTICIPANT Fees (Company Startup Fee): PARTICIPANT shall pay a one-time PARTICIPANT Fee in the amount set forth in Schedule A, a copy of which is available at www.ct-mls.com, to GFC CMLS upon execution of this Agreement.

C. Subscription Fees: Subject to Section 2.A of this Agreement, PARTICIPANT shall pay or cause to be paid to GFC CMLS, Subscription Fees on behalf of the PARTICIPANT and all affiliated SUBSCRIBERS and USERS in equal quarterly installments in advance on or before the fifteenth (15th) day of December, March, June and September of each year (each a "Due Date"), at the rate set forth in Schedule A, as the same may be adjusted from time to time by GFC CMLS. All such adjustments shall be announced by GFC CMLS at least fifteen (15) days before such adjustments become effective. Invoices for installments of Subscription Fees shall be issued at least thirty (30) days prior to the Due Date for such installment. If a PARTICIPANT or affiliated SUBSCRIBER begins to receive the MLS Services during a quarterly period, a prorated Subscription Fee shall be due and payable for the remainder of the then-current quarter. Any such prorated Subscription Fee shall be due in full at the commencement of the MLS Services.

D. Taxes. In addition to all other payments stated in this Agreement, PARTICIPANT shall pay, cause to be paid, to GFC CMLS all sales and use taxes assessed on services or products provided to PARTICIPANT under this Agreement.

E.Remedies: In addition to all other rights, remedies and sanctions provided in this Agreement, the GFC CMLS Rules and Regulations, and otherwise under Connecticut Law, GFC CMLS may terminate all or any portion of MLS Services to PARTICIPANT and all or any of its affiliated SUBSCRIBERS and USERS, if all PARTICIPANT and SUBSCRIBER Fees due hereunder are not paid when due.

4. SUBSCRIBER "User Types." The various levels of On-Line System Services available to PARTICIPANT and its affiliated SUBSCRIBERS and USERS are set forth as Schedule B, copies of which are available at www.ct-mls.com, with each level identified by "User Type". Upon the affiliated SUBSCRIBER's or USER's proper completion of a "Greater Fairfield County CMLS SUBSCRIBER Agreement" or "User Agreement", a copy of which is available at www.ct-mls.com, GFC CMLS will assign to each of the PARTICIPANT's affiliated SUBSCRIBERS and USERS an access code permitting access to the level of service applicable to such SUBSCRIBER or USER's "User Type", as designated by PARTICIPANT.

5. Term & Termination. This Agreement shall become effective upon its execution and shall continue through December 31 of the current calendar year, whereupon it shall automatically renew for successive periods of one (1) year each until terminated as herein provided. Charges for MLS Services shall commence at the time(s) set forth in Section 3 of this Agreement. Either party may terminate this Agreement as of the end of any calendar month upon written notice, with or without cause, except that no such termination shall relieve either party of any obligations accrued before such termination, and shall not entitle PARTICIPANT to any refund or proration of fees.

6. Data Loading. GFC CMLS encourages the PARTICIPANT to load its own listings. For PARTICIPANTS and their affiliated SUBSCRIBERS who so desire, GFC CMLS staff shall enter PARTICIPANT's new and changed listing data within two (2) working days of receipt by GFC CMLS of a properly completed Listing Data Input Form together with the fee set forth in Schedule A.

7. Intellectual Property. All data, information, text and photographs submitted to GFC CMLS by PARTICIPANT in connection with the listing and sale of a property on GFC CMLS (collectively the "Listing Data") is, to the extent recognized by law, the intellectual property of the PARTICIPANT. By submitting Listing Data to GFC CMLS, PARTICIPANT grants a limited, perpetual license to GFC CMLS to use, maintain and publish the Listing Data to other GFC CMLS Users for the purpose of marketing the listed property and communicating the offer of cooperation and compensation made by PARTICIPANT to the other PARTICIPANTS of GFC CMLS. Dissemination of a PARTICIPANT's Listing Data, or the use of such Listing Data in any form of advertising, is subject to compliance with all applicable GFC CMLS Rules and Regulations and with the Regulations of the Connecticut Real Estate Commission. Statistical analyses and historical compilations of multiple listing data and real estate market activity based upon Listing Data (including sold and withdrawn information) (collectively "Historical Market Data") are, to the extent recognized by law, the intellectual property of GFC CMLS and GFC CMLS grants to PARTICIPANT a limited, perpetual license to use such Historical Market Data in the conduct of its real estate brokerage and appraisal business so long as PARTICIPANT is a SUBSCRIBER to GFC CMLS. PARTICIPANT shall not, however, have the right to publish or otherwise disseminate or make available to third parties any Historical Market Data except with respect to comparative market analyses or appraisals of individual properties made in the conduct of PARTICIPANT's real estate brokerage business.

- 8. Data Security.** PARTICIPANT acknowledges and agrees that the Listing Data and Historical Market Data maintained by GFC CMLS (collectively the "GFC CMLS Proprietary Data") is proprietary and highly valuable to GFC CMLS and its PARTICIPANTS, SUBSCRIBERS and USERS and that any unauthorized access to the GFC CMLS Proprietary Data, or its unauthorized use or dissemination by any PARTICIPANT, SUBSCRIBER, USER or third party, will result in irreparable injury to GFC CMLS, which injury cannot be adequately remedied by the award of money damages. PARTICIPANT agrees that he/she will take all steps reasonably necessary and appropriate to maintain the security of the GFC CMLS Proprietary Data and to prevent its unauthorized use or dissemination. In the event that PARTICIPANT or any SUBSCRIBER or USER associated with a PARTICIPANT, breaches his/her obligations under this Agreement, or under the GFC CMLS Rules and Regulations to maintain the integrity and security of the GFC CMLS Proprietary Data, and such breach is not cured within twenty-four (24) hours of PARTICIPANT's receipt of electronic mail notice of the breach, GFC CMLS shall be authorized to immediately terminate this Agreement and terminate the access of PARTICIPANT and all SUBSCRIBERS and USERS associated with PARTICIPANT to GFC CMLS MLS Services. In addition to all other remedies available to GFC CMLS, at law and under this Agreement, GFC CMLS shall be entitled to seek and receive an injunction against PARTICIPANT's unauthorized use or dissemination of GFC CMLS Proprietary Data and/or against PARTICIPANT's actions in aiding and abetting any unauthorized use or dissemination by third parties, without the requirement of a bond.
- 9. PARTICIPANT's Indemnity.** PARTICIPANT shall indemnify, defend, and hold harmless GFC CMLS and its officers, directors, employees and agents against any and all claims, actions, damages and expenses, including reasonable attorney's fees and court costs: (A) arising from the violation of any of the terms and conditions of this Agreement by PARTICIPANT; (B) arising out of errors or omissions with respect to listing information, regardless of whether GFC CMLS, PARTICIPANT or any of its affiliated SUBSCRIBERS or USERS loaded such information; and (C) arising out of any claims brought or alleged by PARTICIPANT, any of its affiliated SUBSCRIBERS, USERS or third parties involving proprietary rights to the data and other information provided to PARTICIPANT or its affiliated SUBSCRIBERS, USERS and third parties by GFC CMLS under this Agreement.
- 10. Limitation of Liability.** In no event shall GFC CMLS or its vendor(s) be liable to PARTICIPANT, its affiliated SUBSCRIBERS, USERS or any other party for indirect, incidental or consequential damages with respect to any MLS Services.
- 11. Warranty.** GFC CMLS hereby assigns to PARTICIPANT all vendor warranties received by GFC CMLS with respect to MLS Services provided hereunder. Such warranties are provided in lieu of all other warranties, including, without limitation, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY SPECIFICALLY DISCLAIMED.

12. **Attorney's Fees.** In the event of any legal action with respect to this Agreement, including an action for breach of this Agreement, the prevailing party shall be entitled to recover from the other reasonable costs, attorney's fees, and other related expenses resulting from such litigation.
13. **Rules and Regulations.** PARTICIPANT hereby agrees to abide by the GFC CMLS Rules and Regulations, a copy of which is available at www.ct-mls.com. The GFC CMLS Rules and Regulations, as they may be amended from time to time, are hereby incorporated into this Agreement.
14. **Arbitration.** All claims and disputes between PARTICIPANT and GFC CMLS arising under this Agreement or otherwise related to operation of the GFC CMLS MLS System, other than an action to collect fees due from PARTICIPANT, shall be submitted to arbitration in accordance with the commercial arbitration rules of the American Arbitration Association and applicable provisions of the Connecticut General Statutes, in Norwalk, Connecticut.

PARTICIPANT's Billing Address is: _____

Office telephone: _____ Office fax number: _____

Email Address: _____ NRDS# _____

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the date last set forth below, and the PARTICIPANT hereby certifies that it is a member in good standing of the Board or Association of REALTORS®.

GREATER FAIRFIELD COUNTY CMLS, Inc.

By: *Kathleen Elson* Date: _____
Kathleen Elson, Its: President

PARTICIPANT (please sign below and print your name and title underneath)

BY: _____ Date: _____

Printed Name: _____ Its: _____