Stellar MLS
Subscriber Agreement

This agreement is a binding contract and includes terms limiting your legal rights and STELLAR MLS's liability to you. Consult your attorney before signing if you do not understand any of the terms here.

This "Agreement" is made between My Florida Regional Multiple Listing Service, Inc. dba Stellar MLS with offices at 247 Maitland Avenue, Suite 2000 Altamonte Springs, FL 32701 ("STELLAR MLS") and you ("You" or "Subscriber"). BY CLICKING "I AGREE", YOU AGREE TO THE FOLLOWING TERMS:

DEFINITIONS AND USAGE

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meanings set forth below.

Firm: The brokerage or appraisal company to which Participants are affiliated and has executed a Participant Agreement with STELLAR MLS.

Participant: With regard to each office of Firm, the principal broker or appraiser manager that supervises Subscriber's real estate activities and on whose behalf Subscriber conducts those real estate activities.

STELLAR MLS Affiliates: STELLAR MLS Affiliates means STELLAR MLS and its officers, directors, employees, agents, representatives, licensors, and shareholders.

STELLAR MLS Database: All data available to Subscriber on the STELLAR MLS System, including the Subscriber Contribution and all other text, binary, and photographic image data, in any form now known or hereafter discovered.

STELLAR MLS Policies: STELLAR MLS's bylaws, rules and regulations, terms of use, privacy policies and the terms, policies and procedures adopted by STELLAR MLS's board of directors or authorized delegates, as STELLAR MLS amends them from time to time.

STELLAR MLS Service: The services STELLAR MLS provides to Subscriber under this Agreement and similar services STELLAR MLS provides to third parties under similar agreements, including any access or license to the STELLAR MLS Software, the STELLAR MLS Database, and the STELLAR MLS System.

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STELLAR MLS Software: STELLAR MLS's proprietary web browser interface(s) to the STELLAR MLS System.

STELLAR MLS System: The aggregate of all hardware and data connection systems that STELLAR MLS maintains, or that STELLAR MLS contractors maintain on its behalf, in order to make access to the STELLAR MLS Database available to Subscriber.

Other Participants and Subscribers: All Participants and Subscribers of STELLAR MLS not party to this Agreement, including Firms' employees, contractors, salespeople, and assistants (whether licensed or unlicensed as real estate agents or appraisers).

Participant Agreement: The agreement entered into between STELLAR MLS and Participant and Firm in connection with provision of the STELLAR MLS Service.

Saved Information: Information that Subscriber stores in the STELLAR MLS System for his own later use that is not intended by him/her to be available to STELLAR MLS's Other Participants and Subscribers, including client prospect and contact information.

Schedule of Fees: STELLAR MLS's document that establishes the fees for STELLAR MLS Service.

Subscriber Compilation Contribution or "SCC." All selection, coordination, and arrangement by Subscriber of listing information submitted, contributed, or input in the STELLAR MLS System, including the choice, classification, categorization, ordering, and grouping of material or data that is included in the STELLAR MLS System. SCC does not include original text or photographs.

Subscriber Contribution: All data that the Subscriber submits, contributes, or inputs in the STELLAR MLS System, including text, photographs, images, and other materials, in any form now known or hereafter discovered, except the SCC.

2. **Usage**. The following usages apply to any interpretation or construction of this Agreement, unless the context clearly indicates otherwise.

(a) Wherever the term "including" is used, it means "including, but not limited to."

(b) The singular and plural numbers and masculine, feminine, and neuter genders of words are interchangeable.

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(c) Wherever the term "law" is used, it means all statutes, regulations, and common law, both state and federal, as they are amended. Without limiting the generality of the foregoing, "law" expressly includes all state and federal fair housing statutes and regulations.

STELLAR MLS'S OBLIGATIONS

3. STELLAR MLS shall provide one unique user ID and password to Subscriber. The user ID and password will provide Subscriber access to all data and functions in the STELLAR MLS Service to which Subscriber is entitled under the STELLAR MLS Policies. STELLAR MLS makes no warranties, however, that the STELLAR MLS Service will be available at all times.

SUBSCRIBER ACKNOWLEDGMENTS

4. **Modifications to service**. STELLAR MLS may, but is not required to, modify the STELLAR MLS Service, including removing information and making additional information available, and adding and removing system functions. Certain products and services made available in conjunction with the STELLAR MLS Service may be subject to agreements other than this Agreement and may require payment of additional fees.

5. **Editorial control**. STELLAR MLS is not required to, and assumes no responsibility to, review, edit, or exercise editorial control over the STELLAR MLS Database or the Subscriber Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, STELLAR MLS may take any steps necessary in its judgment, including deleting the Subscriber Contribution or portions thereof, to avoid or remedy any violation of law, breach of the STELLAR MLS Policies or infringement of intellectual property right. Additionally, STELLAR MLS shall have the right to alter and/or remove metadata and copyright management information contained in the Subscriber Contribution.

6. **Conditions of service**. Subscriber must be affiliated with Participant and Firm at all times during the term of this Agreement. Subscriber may enter and retrieve active listing information on the STELLAR MLS Service only if Firm continues to have a designated Participant supervising the conduct of Subscriber and otherwise complies with all Stellar MLS Policies. Subscriber will comply with the STELLAR MLS Policies at all times. Additionally, Subscriber will comply with all applicable laws, statutes, ordinances and regulations in performance of their respective obligations under this Agreement, including the Fair Housing Act (42 U.S.C. §3601 et. seq.) and the Americans with Disabilities Act (42 U.S.C. §12101 et. seq.).

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7. **Saved Information**. Saved Information may not always be available to Subscriber and may become available to unauthorized persons. STELLAR MLS is not liable for unauthorized access to or loss of Saved Information. Subscriber is responsible for retention of any information that may be necessary to reconstruct Saved Information if it is lost or destroyed.

8. **Disclosure to third parties**. STELLAR MLS reserves the right to distribute to third parties certain information about Subscriber, including Subscriber's name and business address, phone number and email address. STELLAR MLS reserves the right to distribute to third parties aggregated information about Subscriber's, Firm's and Other Participants' and Subscribers' use of the STELLAR MLS Service, but not about Firm's or Subscriber's use specifically.

9. **Disclosure to government**. Subscriber acknowledges that STELLAR MLS may provide government agencies access to the STELLAR MLS Service at any time in STELLAR MLS's sole discretion.

10. **Priority of agreements**. Subscriber's access to the STELLAR MLS Service is subject at all times to the limitations set out in the STELLAR MLS Policies and the Participant Agreement between STELLAR MLS and Firm. In the event of an apparent conflict between those documents and this Agreement, Subscriber's obligations and rights shall be determined, in order of precedence, by the STELLAR MLS Policies, the Participant Agreement between STELLAR MLS and Firm, and by this Agreement.

11. **IDX and VOW data access subject to separate agreement**. Subscriber acknowledges that access to STELLAR MLS's IDX or VOW database and data feeds can occur only subject to a separate written agreement between STELLAR MLS and Subscriber, as applicable.

SUBSCRIBER'S OBLIGATIONS

12. **Use limited**. Subscriber shall use the STELLAR MLS Service solely for the purpose of selling, listing, leasing, valuing, and appraising real estate strictly as permitted by the STELLAR MLS Policies. Except as expressly provided in this Agreement and the STELLAR MLS Policies, Subscriber shall not copy, create derivative works of, distribute, perform, or display the STELLAR MLS Service or any part of it. Notwithstanding anything herein or in the STELLAR MLS Policies to the contrary, Subscriber shall not use the STELLAR MLS Database, the STELLAR MLS System or the STELLAR MLS Services to create, facilitate, or support any mechanism (including, but not limited to, by providing listing information to an internet aggregators' website for such purpose) for listing brokers or sellers to make

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offers of compensation to buyer brokers or other buyer representatives; provided that nothing herein shall be construed to prohibit Subscriber, Participant or Firm from displaying outside the STELLAR MLS System both (i) data or data feeds from STELLAR MLS and (ii) offers of compensation to buyer brokers or other buyer representatives but only on Subscriber's, Participant's and Firm's own listings.

13. **Confidentiality**. Subscriber shall maintain the confidentiality of its user ID and password and the STELLAR MLS Database; Subscriber shall not provide its ID and password to any third party. To maintain the confidentiality of all user IDs, passwords, the STELLAR MLS Database, and the STELLAR MLS System, Subscriber shall take the greater of reasonable care or the care it takes to protect its own confidential information. Failure to comply with this provision will result in a significant fine, as set forth in the STELLAR MLS Policies. Subscriber may disclose information confidential under this Agreement if, and to the extent, the order of a court or other tribunal with jurisdiction requires disclosure; provided however, Subscriber first gives reasonable notice to STELLAR MLS to permit STELLAR MLS to seek a protective order.

14. **Equipment**. Subscriber shall acquire and maintain all personal computers, modems, data connections, and computer software, other than the STELLAR MLS Software, necessary for Subscriber's use of the STELLAR MLS Service.

15. **Subscriber Contribution**. When making a Subscriber Contribution to the STELLAR MLS Service, Subscriber warrants that the information submitted complies with all applicable laws, statutes, ordinances and regulations and the STELLAR MLS Policies in all respects, including with regard to (a) required data fields; (b) format of submission; (c) permitted and required listing types; and (d) procedures for submission. Subscriber further warrants that (e) the Subscriber Contribution does not infringe or violate any patents, copyrights, trademarks, trade secrets or other proprietary rights of any third party; (f) that there is no claim, litigation or proceeding pending or threatened with respect to the Subscriber Contribution; and (g) Subscriber has the written consent of any party necessary to provide the Subscriber Contribution to STELLAR MLS.

INTELLECTUAL PROPERTY

16. **Assignment from Subscriber**. Depending on the election Firm has made in Section 21 of the Participant Agreement between Firm and STELLAR MLS, the following shall apply:

(a) If Firm has selected Option I, Subscriber hereby unconditionally assigns to STELLAR MLS all right, title and interest in the Subscriber Contribution, including,

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without any limitation, any copyrights therein under U.S. and international copyright law. To the extent that Subscriber has also purported to assign its interests in the Subscriber Contribution to Firm, the assignment in this paragraph is null and void. To the extent that Subscriber does not possess the rights to permit the foregoing assignment, Subscriber hereby grants to STELLAR MLS a non-exclusive, perpetual, world-wide, transferable, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Subscriber Contribution.

(b) If Firm has selected Option II, Subscriber hereby grants to STELLAR MLS a non-exclusive, perpetual, world-wide, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Subscriber Contribution and those portions of the STELLAR MLS Database relating to Subscriber's listings.

17. **Warranty**. Subscriber warrants that it has the authority to make the assignment in Paragraph 16. Subscriber warrants that (a) the Subscriber Contribution does not infringe on the copyright or other intellectual property rights of any third party; and (b) Subscriber has the written consent of any party necessary to provide the Subscriber Contribution to Firm or STELLAR MLS.

18. **Other terms**. Pursuant to the STELLAR MLS Policies, the SCC shall be a work made for hire by Subscriber for the benefit of STELLAR MLS, which shall be deemed the SCC's author for purposes of copyright law. If for any reason the SCC cannot be provided as a work made for hire, you agree to assign and hereby do assign to STELLAR MLS all right, title and interest in the SCC, including, without any limitation, any copyrights therein under United States and international copyright law. STELLAR MLS hereby grants Subscriber a license to use the STELLAR MLS Software and the STELLAR MLS Database during the term of this Agreement, subject to the permission of Firm and according to the terms of the STELLAR MLS Policies. All other uses are prohibited.

FEES AND PAYMENT TERMS

19. **Applicable fees**. Subscriber shall pay the fees set forth in STELLAR MLS's official Schedule of Fees which STELLAR MLS may amend at any time subject to the terms of Paragraph 23.

20. **Payment terms**. Subscriber shall pay the fees according to the terms set out in the STELLAR MLS Policies.

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21. **No refunds**. STELLAR MLS need not refund or pro-rate fees in the event of termination or suspension of this Agreement unless the STELLAR MLS Policies provide otherwise. Initiation fees, if any, are not refundable.

22. **Taxes**. All fees for the STELLAR MLS Service are exclusive of federal, state, municipal or other governmental excise, sales, value-added, use, personal property and occupational taxes, excises, withholding obligations and other levies now in force or enacted in the future and, accordingly, Subscriber shall pay all such taxes and levies other than any tax or levy on the net income of STELLAR MLS.

23. **Fee increases**. STELLAR MLS may amend the Schedule of Fees at any time at its sole discretion. STELLAR MLS shall provide written notice to Subscriber at least thirty days in advance of the effective date of any fee increase. If Subscriber objects to the increase, Subscriber may terminate this Agreement by written notice to STELLAR MLS at any time before the effective date of the increase.

24. **Fines**. STELLAR MLS may collect fines from Subscriber and from Participant or Firm on Subscriber's behalf for violation of the STELLAR MLS Policies. Payment terms for fines are set out in the STELLAR MLS Policies. STELLAR MLS may amend its schedule of fines and terms for collecting them at its sole discretion at any time.

TERM AND TERMINATION

25. **Term**. This Agreement shall commence upon Subscriber clicking "I Accept" and shall continue thereafter on a month-to-month basis until terminated.

26. **Termination for breach**. STELLAR MLS may terminate this Agreement with notice if Subscriber fails to comply with the terms of this Agreement or of the STELLAR MLS Policies.

27. **Termination of Participant**. In the event of any termination or suspension of Participant Agreement, upon STELLAR MLS notice to Subscriber, STELLAR MLS may in its sole discretion suspend Subscriber access to STELLAR MLS System or terminate Subscriber license and access agreements, including this Agreement. If STELLAR MLS does not exercise its right to suspend Subscriber access to the STELLAR MLS System or terminate this Agreement, this Agreement shall continue in full force, and the subparagraph of Section 16 of this Agreement in effect at the time of the termination or suspension of the Participant Agreement shall be binding on the parties to this Agreement for its duration.

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28. **Termination for failure to pay**. In the event Subscriber fails to pay any fees required under this Agreement, STELLAR MLS may terminate service without being subject to arbitration. In its sole discretion, STELLAR MLS may suspend its performance under this Agreement rather than terminating it, in the event that Subscriber fails to pay any fees required under this Agreement.

29. **Termination for convenience**. Either party may terminate this Agreement upon 30 days' written notice to the other party. Subscriber may not terminate this Agreement so long as Subscriber remains affiliated with Firm that is subject to a Participant Agreement with STELLAR MLS.

30. **Events upon termination**. Promptly upon any termination of this Agreement, (a) STELLAR MLS shall deactivate Subscriber's user ID and password, and Subscriber shall have no further access to the STELLAR MLS Service; (b) Subscriber shall purge all copies of the STELLAR MLS Software and the STELLAR MLS Database from Subscriber's personal computers; (c) all licenses granted hereunder shall immediately terminate, except the license to the Subscriber Contribution in Paragraph 16(b) and (d) Subscriber will not be permitted to be affiliated with Firm or any other participant of STELLAR MLS unless a new subscriber agreement between Subscriber and STELLAR MLS is executed.

DISCLAIMER, LIMITATION OF LIABILITY, AND INDEMNIFICATION

31. **DISCLAIMER OF WARRANTIES**. STELLAR MLS PROVIDES THE STELLAR MLS SERVICE AND ALL COMPONENTS OF IT ON AN "AS IS," "AS AVAILABLE" BASIS. USE OF THE STELLAR MLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE STELLAR MLS SERVICE ARE AT THE SOLE RISK OF SUBSCRIBER. THE STELLAR MLS AFFILIATES DO NOT WARRANT THAT THE STELLAR MLS SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND THE STELLAR MLS AFFILIATES MAKE NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY, OR RELIABILITY OF ANY INFORMATION AVAILABLE THROUGH THE STELLAR MLS SERVICE. THE STELLAR MLS AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO THE STELLAR MLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE STELLAR MLS SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The STELLAR MLS Service may contain hyperlinks to web sites operated by parties other than STELLAR MLS; STELLAR MLS does not control such web sites, is not responsible for their contents, does not endorse the sites or contents, and may have no relationship with the sites' operators.

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32. **LIMITATIONS AND EXCLUSIONS OF LIABILITY**. NONE OF THE STELLAR MLS AFFILIATES SHALL BE LIABLE TO SUBSCRIBER OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE STELLAR MLS SERVICE, INCLUDING RELIANCE BY SUBSCRIBER ON ANY INFORMATION OBTAINED THROUGH USE OF THE STELLAR MLS SERVICE; MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF SUCH INFORMATION; INTERRUPTIONS IN DATA CONNECTIONS TO THE STELLAR MLS SERVICE; AND VIRUSES OR FAILURES OF PERFORMANCE; WHETHER CAUSED IN WHOLE OR PART BY NEGLIGENCE, ACTS OF GOD, DATA CONNECTION FAILURE, OR THEFT OF, DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE STELLAR MLS SERVICE AND RELATED INFORMATION, RECORDS AND PROGRAMS.

33. **MAXIMUM AGGREGATE LIABILITY**. IN NO EVENT SHALL STELLAR MLS BE LIABLE TO SUBSCRIBER FOR ANY AMOUNT IN EXCESS OF THE GREATER OF (A) THE FEES FIRM, PARTICIPANT, OR SUBSCRIBER HAS PAID STELLAR MLS, IF ANY, IN THE YEAR IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES; OR (B) $100.

34. **Indemnification**. Subscriber shall defend, indemnify and hold the STELLAR MLS Affiliates and Other Participants and Subscribers 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 the STELLAR MLS Affiliates or Other Participants and Subscribers arising from any acts of Subscriber, including (a) putting inaccurate information into the STELLAR MLS Service; (b) making unauthorized use of Subscriber's password; (c) making unauthorized use of the STELLAR MLS Database; (d) infringing any proprietary or contract right of any third party; (e) breaching any term of this Agreement; and (f) violating this or any other Agreement or any law.

35. **Acknowledgment**. Subscriber acknowledges that STELLAR MLS 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.

DISPUTES AND REMEDIES

36. **Injunctive relief**. Subscriber acknowledges and agrees that the STELLAR MLS Software and STELLAR MLS Database are confidential and proprietary products of

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STELLAR MLS and that in the event there is an unauthorized disclosure of them by Subscriber, no remedy at law will be adequate. Subscriber therefore agrees that in the event of such unauthorized disclosure of STELLAR MLS Software or STELLAR MLS Database, STELLAR MLS may obtain injunctive relief or other equitable remedies against Subscriber in addition to all available remedies at law, without any showing of actual damages or posting any bond or security of any kind.

37. **Dispute resolution**. In the event STELLAR MLS claims that Subscriber has violated the STELLAR MLS Policies, STELLAR MLS may, at its option, resolve such a claim according to the disciplinary procedures set out in the STELLAR MLS Policies, provided MLS does not also base a claim that Subscriber has breached this Agreement on the same facts. Except as provided in this paragraph and in Paragraph 28, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules (collectively, the "Arbitration Rules"). Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties. Unless all parties to the dispute agree otherwise, any arbitration hearing or proceeding hereunder shall be held in Orange County, Florida. Without limiting or waiving the foregoing requirement to arbitrate, any party may apply to any court of competent jurisdiction for the issuance of a temporary injunction pending and subject to a final award rendered in the arbitration proceeding. In the event that any party applies for such an injunction, it shall not be deemed to be a waiver of the party's obligation and right to arbitrate as contemplated in this Agreement.

38. **Liquidated damages**. Subscriber acknowledges that damages suffered by STELLAR MLS from access to the STELLAR MLS Service by an unauthorized third party as a result of disclosure of Subscriber's password or an unauthorized disclosure by Subscriber of the STELLAR MLS Database to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to STELLAR MLS to enter into this Agreement with Subscriber, Subscriber agrees that (a) in the event that any disclosure of Subscriber's password results in access to the STELLAR MLS Service by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Subscriber shall be liable to STELLAR MLS for liquidated damages in the amount of $5,000 (or the amount established in the STELLAR MLS Policies, whichever is greater) and termination of this Agreement; and (b) in the event that Subscriber makes unauthorized disclosure of any portion of the STELLAR MLS Database to any third party, Subscriber shall be liable for liquidated damages in the amount of $5,000 (or the amount established in the STELLAR MLS Policies, whichever is greater) for each real estate listing disclosed and termination of this Agreement.

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39. **Legal fees**. In the event of legal action or arbitration between STELLAR MLS and Subscriber, on account of or in respect to this Agreement, the prevailing party in such action or arbitration shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in such action or arbitration.

MISCELLANEOUS

40. **No third-party beneficiaries**. This Agreement is entered into solely between, and may be enforced only by, STELLAR MLS and Subscriber, and this Agreement shall not create or be construed to create any rights in any home owner, home seller, home purchaser, board or association, or other third party.

41. **Interpretation and amendment**. Subscriber expressly consents to the execution of amendments by electronic means (such as web site "click through" agreements). STELLAR MLS may amend this agreement by providing 30 days' advance notice of the amendment to Subscriber. If Subscriber continues to use the STELLAR MLS Service or STELLAR MLS Database after the expiration of the 30-day notice period, Subscriber will be deemed to have agreed to the terms as amended. Except as provided in this paragraph, this Agreement may not be amended except by written instrument executed by both parties.

42. **Assignment**. Neither this Agreement nor any obligations or duties hereunder may be assigned or delegated by Subscriber. Any purported assignment or delegation in contravention of this section is null and void.

43. **Integration and severability**. This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. In the event of any dispute regarding the interpretation of the terms of this Agreement, it shall not be construed for or against any party on the grounds that the Agreement was prepared by any one of the parties. 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. The foregoing notwithstanding, if any provision of Paragraph 31 through 35 is declared invalid or unenforceable by any court of competent jurisdiction, this Agreement and Subscriber's access to the STELLAR MLS Service shall immediately terminate.

44. **Governing law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida applicable to contracts made and performed in Florida, without regard to its conflicts of law and choice of law provisions.

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45. **Notice**. Any notice required or permitted to be given under this Agreement shall be in writing and delivered via (a) U.S. Mail, postage paid and return receipt requested; (b) express mailing service with confirmation of receipt; (c) facsimile transmission, provided sender obtains confirmation of transmission; or (d) electronic mail, provided sender requests a return receipt. All notices are effective on the date of receipt or three days after transmission, whichever is earlier.

Having read this Agreement, You assent to its terms by clicking "I Agree".

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