

Application & Agreement

Please note the following important information.

PROPTX's MLS® Information:

- PROPTX Subscriber Services include access only to PROPTX's MLS® Listing information and access to 3 years of residential and 4 years of commercial sold information.
- PROPTX's MLS® INTERBOARD:
If you wish to place a listing on PROPTX's MLS® you may do so by "interboarding" at a separate cost, by contacting the Interboarding Department at 416-443-8126.

Fee Information:

- For fee information please contacting PropTx at 416-443-8172
- Fees for applications dated after January 1 will be prorated on a per diem basis from the date of the application until December 31.
- PROPTX' s Subscriber fee is non-refundable.

Renewal Information:

- Renewal payments are due in advance of the January 1 commencement date. If payment is not received by December 31 of each year, the PROPTX Subscriber subscription shall not be renewed and shall be deemed to have ceased without further notice.

PROPTX's MLS® Authentication:

- Once your PROPTX Subscriber application has been processed at PROPTX, you will be contacted for further instructions.
- ✓ PROPTX will contact you regarding your credit card payment. Please provide the phone number to contact you:

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Please email the completed application to: subscriber@proptx.ca

Phone Number: **416-443-8172**

**PROPTX INNOVATIONS INC.
SUBSCRIBER APPLICATION & AGREEMENT**

Salesperson

Broker

Broker of Record

Introduction:

Notice: Each Applicant and Broker of Record/Manager assumes full responsibility for ensuring that the Applicant and Broker of Record/Manager respectively have carefully reviewed and understood all of the provisions, terms and conditions of this SUBSCRIBER APPLICATION & AGREEMENT ("Application") and all of its attachments.

This package is comprised of the following parts and attachments. Where applicable, the specified documents listed in No. 1 below, must be filled in and signed by the designated parties and provided to PROPTX together with those specific accompanying materials as identified in No. 2 below and as stated in the Application:

1. **Subscriber Application and Agreement** ("Application"). To be completed respectively by Applicant and Broker of Record/Manager as indicated in the above Notice.
 1. Cover Page for completion
 2. PART A - Personal Information Statement, Certificate and Agreement
 3. PART B - Guarantee and Indemnity
 4. PART C - Subscriber Agreement
2. **Copy of RECO Registration** must accompany completed Application.

<p>PROPTX USE ONLY</p> <p>Name: _____</p> <p>Account #: _____</p> <p>Date Processed: _____ Staff Signature: _____</p>
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PART A
PERSONAL INFORMATION STATEMENT
CERTIFICATE AND AGREEMENT OF BROKERAGE
&
BROKER/SALESPERSON APPLICANT

THE UNDERSIGNED does hereby acknowledge having read, understood and agrees to be bound by all of the following:

1. PERSONAL INFORMATION STATEMENT FOR SUBSCRIBERS

PropTx Innovations Inc. uses the personal information provided verbally or in writing by Subscribers upon application for subscription (and which may be provided during the course of subscription), for different purposes to fulfill its mandate. These purposes include:

- Acting as a professional association in support of Subscribers as REALTORS[®], including the administration of its By-Law and policies, and ensuring compliance with same;
- Providing products and services to Subscribers;
- Administering and operating the MLS[®] system, including ensuring compliance with the rules and regulations governing the MLS[®] system;
- Administering and facilitating membership in the Ontario Real Estate Association and the Canadian Real Estate Association, including ensuring compliance with the By-Law, rules, and regulations of those associations;
- Any legal or regulatory requirements; and
- Such other purposes consistent with the foregoing purposes.

The collection, use, and limited disclosure of any applicant's or Subscriber's personal information will only be for the purposes of fulfilling PROPTX's mandate, including the provision of services, products, and information to Subscribers by PROPTX, or any organization authorized by PROPTX, and only in a manner consistent with this statement and PROPTX's Privacy Policy, a copy of which has been provided or otherwise made available to Subscribers.

When an individual applies for subscription to PROPTX or chooses to participate in the activities of PROPTX or uses any service provided by PROPTX, that individual consents to the collection, use, and disclosure of personal information as set out in this Statement and applicable Privacy Policy.

Subject to applicable laws and with specific exceptions to protect the privacy of third parties, Subscribers may access their personal information held by PROPTX and may submit comments on or corrections to such information for inclusion with the personal information held by PROPTX.

2. CERTIFICATE AND AGREEMENT OF BROKERAGE & BROKER/SALESPERSON APPLICANT

I, the Applicant, confirm that the statements contained in this application are true and correct.

If accepted as a Subscriber,

I agree to be bound by the MLS[®] Rules and Policies of PROPTX, applicable Bylaws, a copy of which has been received, read and understood by me, and any and all applicable laws.

I waive all claims against PROPTX, its employees, officers, Directors, and any and all users arising out of any act in connection with the consideration and acceptance or rejection of this application.

I agree that all decisions of PROPTX shall be final and conclusive. I acknowledge that subscription to PROPTX is personal and cannot be transferred.

I understand and agree that PropTx Innovations Inc. provides full services within jurisdictional boundaries as defined from time to time and that some services are not available beyond those jurisdictional boundaries or to Subscribers.

Date

Signature of Applicant

The Broker of Record, by the signing of this Agreement, verifies that it is satisfied that the Applicant is fully aware of the responsibilities and obligations incurred in making this application.

Name of Brokerage

Name of Broker of Record/Manager

Signature of Broker of Record/Manager

Date

PART B GUARANTEE AND INDEMNITY

TO: PROPTX INNOVATIONS INC.

For valuable consideration, the receipt of which is hereby acknowledged, PROPTX acknowledges that the undersigned (hereinafter referred to as the "Guarantor") has agreed with Subscriber that the Guarantor shall pay directly to PropTx Innovations Inc. ("PROPTX") all of the payment obligations of Subscriber in Section 4 of the Subscriber Agreement ("Agreement").

1. The Guarantor hereby irrevocably and unconditionally guarantees to PROPTX the due performance of the obligations of Section 4 of the Agreement. This shall be a continuing guarantee, and shall secure all amounts now due, or that may hereafter become due, or be remaining due from time to time and at any time from the Subscriber to PROPTX pursuant to Section 4 of the Agreement, whether absolute or contingent. Upon receipt by PROPTX from the Guarantor of an executed notice of termination in the then current form as prescribed from time to time by the Board of Directors of PROPTX, which notice states that the Subscriber has had its license suspended or terminated with the Guarantor, then this Guarantee and Indemnity shall continue to apply to amounts that have already become due ("Already Due Amounts") under Section 4 of the Agreement, but shall not apply to amounts that become due after receipt by PROPTX of such notice of termination to the extent such amounts do not relate in any manner to the Already Due Amounts.
2. No alteration or waiver of this Guarantee and Indemnity or of any of its terms, provisions or conditions shall be binding on PROPTX unless made in writing over the signatures of two of PROPTX's duly authorized officers.
3. PROPTX shall not be bound to exhaust its recourse against the Guarantor or other parties or other security it may hold, or to value such other security, before being entitled to payment from the Guarantor and the benefit of any statute of limitations affecting the liability of the Guarantor hereunder or the enforcement thereof is hereby waived to the extent permitted by law.
4. PROPTX may, without prejudice to or in any way diminishing the liability of the Guarantor, grant extensions of time or other indulgences to the Guarantor and give up or modify, vary, exchange, renew or abstain from perfecting or taking advantage of any security, and may discharge any party or parties, and accept or make any compositions or arrangements, and realize any security, when and in such manner as it may think expedient and in no case shall PROPTX be responsible for any neglect or omission with reference to any such security.

5. PROPTX may, without prejudice to, or in any way diminishing the liability of the Guarantor, revise, amend, vary, modify or renew the Agreement by posting such amendment, variation, modification or renewal on PROPTX's website and the posting hereof as aforesaid shall constitute sufficient notice thereof to the Guarantor and consent of the Guarantor for all purposes of this Guarantee and Indemnity. The Guarantor waives any right it might have in common law or at equity to receive any notice of or to consent or agree to, such amendment, variation, modification or renewal, and the Guarantor agrees that the posting thereof on PROPTX's website as aforesaid shall be sufficient for such purposes.
6. In the event PROPTX makes a demand upon the Guarantor upon the Guarantee and Indemnity herein contained, as between PROPTX and the Guarantor, the Guarantor shall be held and bound to PROPTX directly as principal debtor in respect of the payment of the amounts hereby guaranteed. In the event Guarantor does not pay PROPTX any amount when due pursuant to Section 4 of the Agreement, the Guarantor shall indemnify and save PROPTX harmless against all charges, costs, expenses or any amounts incurred by or on behalf of PROPTX relating in any manner to the collection of such amounts by PROPTX.

In the event, the Guarantor does not perform any of the following:

- (a) The Guarantor shall take all reasonable steps at all times to protect the integrity of the MLS® Database and Software, as those terms are defined in the Agreement, and to ensure appropriate use at all times of such MLS® Database and Software by Subscriber, and
- (b) The Guarantor shall immediately report to PROPTX any breach by Subscriber of the Agreement, which either comes to the attention, or should have come to the attention, of the Guarantor;

Then Guarantor shall indemnify and hold PROPTX harmless from all costs, damages, expenses or any amount arising from, and/or incurred by PROPTX relating to, any breach of Subscriber of the Agreement.

7. The Guarantor hereby waives notice of the acceptance of this Guarantee and Indemnity and of presentment, demand, protest, notice of dishonor, and any other demand and notice required by law.
8. This Guarantee and Indemnity shall be construed in accordance with the laws of the Province of Ontario and in any action thereon the Guarantor shall be estopped from denying the same. The Guarantor hereby irrevocably attorns to the jurisdiction of the courts of Ontario and agrees to be bound by any judgment thereof, provided that nothing herein shall limit PROPTX's right to bring proceedings against the Guarantor elsewhere.
9. This Guarantee and Indemnity shall extend and endure to the benefit of the successors, legal representatives and assigns of PROPTX and shall be binding upon the Guarantor and its successors and permitted assigns. The Guarantor shall not assign this Guarantee and Indemnity without the prior written consent of PROPTX.

By its signature, the Guarantor acknowledges and warrants that it has read, understood and agreed to be bound to the terms and conditions provided in this Guarantee and Indemnity, and that the person signing this Guarantee and Indemnity has the capacity and authority to sign on behalf of the Guarantor and to bind the Guarantor to this Guarantee and Indemnity.

The Subscriber referred to in this Guarantee and Indemnity is _____ (Applicant's Name)

Brokerage Name

Guarantor Signature – Broker of Record/Manager

Name and Title

Date

Subscriber acknowledges, confirms and agrees that this Guarantee and Indemnity is being delivered by the Guarantor to secure Subscriber's performance under this Application and under Section 4 of the Subscriber Agreement.

Date

Signature of Applicant

PART C
SUBSCRIBER AGREEMENT

Note: The Subscriber Agreement shall be signed by the Applicant and delivered to PROPTX together with this Application. Applicant acknowledges, confirms and agrees that online access to the Services and MLS® Database may require Subscriber from time to time to confirm or reconfirm Subscriber's acceptance of the terms of the Subscriber Agreement by pressing the "I Accept" button. The terms "Applicant" and "Subscriber" are used interchangeably in this Part.

TO: PROPTX INNOVATIONS INC.

For Valuable Consideration

By its signature, the Guarantor acknowledges and warrants that it has read, understood and agreed that the Subscriber shall be bound to the terms and conditions provided in the Subscriber Agreement and that the Guarantor may be called upon from time to time by PROPTX to ensure Subscriber's performance under the Subscriber Agreement.

Brokerage Name

Broker of Record/Manager (please include name and title)

Authorized Signature – Broker of Record/Manager

Date

Subscriber acknowledges, confirms and agrees to Guarantor's obligations as stated above with respect to Subscriber's performance under the Subscriber Agreement.

Date

Signature of Applicant

SUBSCRIBER AGREEMENT IMPORTANT PLEASE READ CAREFULLY

YOU MUST READ THIS AGREEMENT CAREFULLY BEFORE INDICATING ACCEPTANCE AT THE END BY CLICKING THE "I ACCEPT" BUTTON FOR ELECTRONIC ACCEPTANCE OR SIGNING THE PAPER VERSION IN THE SIGNING BLOCK INDICATED AT THE END OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY OF THE TERMS OF THIS AGREEMENT, CLICK ON THE "I DO NOT ACCEPT" BUTTON AT THE END OF THIS AGREEMENT OR, IN THE CASE OF THE PAPER VERSION, RETURN THE UNSIGNED AGREEMENT TO US AND YOU WILL NOT BE PERMITTED TO ACCESS AND USE THE SERVICES.

TERMS AND CONDITIONS

1. INTRODUCTION AND BACKGROUND

- a. **Legal Agreement.** This Agreement along with all materials referenced herein is a legal agreement between the **Subscriber** and **PROPTX**.
- b. **References.** In this Agreement references to "we", "us" and "our" are to PROPTX and references to "you", "your" and "yours" are to the Subscriber.
- c. **You Become a Subscriber.** By entering into this Agreement, you become a "**Subscriber**" of Services as that term is defined herein. Subject to the terms and conditions of this Agreement, you may, as a Subscriber, access and use the Services, as herein after defined.
- d. **Eligibility Requirements.** By entering into this Agreement you are certifying to us that the information in Part 1 that you have provided is true, correct and complete and that you meet the following requirements, namely: you are a registrant under TRESA and that you are a member in good standing of an Association that is a party to a PROPTX Service Agreement (the "**Eligibility Requirements**")
- e. **The MLS® Database.** The MLS® Database to which this Agreement relates is owned and operated by PROPTX or on PROPTX's behalf and is made available to you only under the terms and conditions of this Agreement.
- f. **Software and Documentation.** The Software and Documentation developed by us or on our behalf and owned by us provide access to the MLS® Database.

2. DEFINITIONS

In this Agreement:

- a. "**Acceptable Use Policy**" means our established rules and prohibitions, as modified from time to time, that define acceptable use of the Services and any associated features. Unacceptable use is prohibited, and is grounds for loss of privileges, termination of the Agreement, as well as discipline or legal sanctions for violating any applicable laws.
- b. "**Agreement**" means this Subscriber Agreement and any amendments thereto. Unless otherwise stated, all references to a Section shall refer to a Section of this Subscriber Agreement.
- c. "**Business**" means the business of trading in real estate as set out or otherwise utilized under the Trust in Real Estate Services Act (TRESA).
- d. "**Content**" means all information, comments, opinions, statements, advice, descriptions, services, offers, data, files, links, ideas, software, images, graphics, audio clips, video clips, icons, or any other form of content or information.
- e. "**Copies**" means hard copy printouts and electronic versions of the reports, results, and other information or materials generated from your access and use of the Services.
- f. "**Documentation**" means the applicable online or hardcopy user documentation providing guidance and instruction for accessing and using the Services.

- g. **“Eligibility Requirements”** has the meaning given to that term in Section 1(e).
- h. **“Intellectual Property”** means all applicable copyrights, patents, trademarks, trade secrets, and associated international laws, treaties, and conventions.
- i. **“License”** means the restricted license rights granted by us to you under Section 3 and elsewhere in this Agreement.
- j. **“Member”** means a fully paid-up member in good standing of the applicable real estate Board or Association.
- k. **“MLS® Database”** means the aggregation of all Content as well as its or their selection, assembly, and arrangement, that from time to time comprises the Internet-based service currently known as the Multiple Listing Service® (**“MLS®”**), and any successor or replacement service thereto owned and operated by or on our behalf.
- l. **“Party”** or **“Parties”** means if used in the singular, either you or us, and if used in the plural, both you and us.
- m. **“Personal Information”** has the meaning attributed to such term within the provisions of PART 1 of PIPEDA.
- n. **“PIPEDA”** means the Personal Information and Electronic Documents Act of Canada and any successor legislation and any legislation of similar effect in the Province of Ontario all as amended from time to time.
- o. **“PropTx Requirements”** means any single or combination, as the case may be, of:
 - i. **“MLS® Policies”**, or its successor document if any, which are in force from time to time;
 - ii. **“MLS® Rules”**, or its successor document if any, which are in force from time to time;
 - iii. **“By-Laws”** means the applicable By-Laws, as amended from time to time; and
 - iv. **“Standards”** means the document created or adopted from time to time by PropTx, relating to the technology needed to access the MLS® Database and Software.
- p. **“PropTx Website”** means the following web address through which you may obtain login access to the Services through PropTx issued **“User ID”** and **“Password”** and Subscriber controlled **“Password”** and any other associated or linked sites operated by or on our behalf.
- q. **“Services”** means access to and use of the MLS® Data that resides in PropTx’s MLS® Database using our proprietary Internet-based system and associated technology that provides web-enabled display, search, retrieval, and uploading capabilities through PropTx’s Website as needed to provide access to the MLS® Data in accordance with the terms and conditions of this Agreement. **“Services”**, for the purposes of this Agreement, shall not include any other services, whether or not web-based, that we may otherwise make available unless contemplated by another written agreement.
- r. **“Software”** means our proprietary backbone software applications that enable us to provide PropTx’s Website for access to and use of the Services.
- s. **“Subscriber”** means the person accepting or signing this Agreement as Subscriber.
- t. **“Support”** means any diagnosis of errors and corrections or workarounds, guidance to remedy a user problem, and any implementation by us of updates, adjustments, additions or modifications to the Services as we may prescribe from time to time.
- u. **“Third Party Website”** means any site other than a PropTx Website.

3. LICENSE

- a. **Grant of License.** Subject to the terms of this Agreement, we grant you a non-exclusive, non-transferable license, without right to sublicense, to access and use the Services in accordance with this Agreement and in compliance with all applicable PROPTX Requirements (**“License”**) solely for the purpose of and directly related to: (i) your internal use and; (ii) the carrying

on of your Business in its usual course. Under the License, you may use the Documentation in support of your use of the Services and make a reasonable number of Copies but solely for the purpose of and directly related to the carrying on of your Business in its usual course. We retain the right to determine at any time and from time to time whether your use of the Services is in conformance with the terms of the Licence and other provisions of this Agreement. No part of this Agreement may be assigned or transferred in any manner without the prior written consent of PROPTX. You shall maintain in confidence all provisions of this Agreement and shall not disclose any of same (including any of PropTx's pricing) to any third party or parties.

- b. **You Agree to Terms.** You unconditionally agree to access and use the Services only in accordance with the terms of the Licence and this Agreement.
- c. **PROPTX Requirements:** You acknowledge that you have read and are familiar with the PROPTX Requirements and acknowledge that where so stated in this Agreement certain provisions of the PROPTX Requirements form part of this Agreement and may otherwise apply to the administration of this Agreement.
- d. **Updates, modifications, etc.** Any updates, modifications, enhancements to the Services, the underlying Software, Documentation or MLS® Database made available to you by us, shall be subject to all of the terms and conditions contained in this Agreement.
- e. **We May Change.** We may at any time and for any reason elect to modify, discontinue, delete or restrict any aspect or feature of the Services without notice to you or any liability to us or any third party; however, we will use commercially reasonable efforts to provide you with prior posted notice by means of notice posted to subscribers but we shall have no liability to you if such posting is not made for any reason.
- f. **Agreement Personal to You.** This Agreement and the rights granted to you under this Agreement, including, without limitation, the Licence, are personal to you which means that you may not sell, assign, rent, distribute, sub-license, or otherwise transfer or agree to sell, assign, rent, distribute, sub-license, or otherwise transfer all or any portion of those rights or allow any other person access to or use of the Services without our prior written consent, which consent may be withheld in our sole, absolute and non-reviewable discretion.
- g. **You Acknowledge.** That the MLS® Database as formatted by us:
 - i. has substantial monetary value;
 - ii. has a special value due to access only by Members and other users authorized by us; and
 - iii. is considered our confidential property.

4. CHARGES

As a condition of the rights granted in this Agreement, you will pay us the charges established by us from time to time and posted on the PROPTX Website. Payment of charges is due as set forth in the MLS® Rules and Policies. If we do not receive any payment when due, interest shall be charged in accordance with any applicable Bylaws and MLS® Rules and MLS® Policies until such charges, together with all applicable interest, is received by us.

5. RESTRICTIONS ON USE

Except as expressly authorized in this Agreement, you shall not:

- a. Circulate or copy either the MLS® Database or the Services in any manner except to:
 - i. Members of a real estate association who have entered into a valid Subscriber Agreement with us provided that such Subscriber Agreement has not been terminated or suspended (and you assume the responsibility of determining if this is the case);
 - ii. other persons who have entered into a valid Subscriber Agreement with us provided that such agreement has not been terminated or suspended (and you assume the responsibility of determining if this is the case); and
 - iii. potential or actual clients or customers of yours in connection with your Business;
- b. use, copy, reproduce or exploit in any manner or using any medium whatsoever either the MLS® Database or the Services for creating, maintaining or marketing, or aiding in the creation, maintenance or marketing, of any MLS® Database or similar database which is competitive with the MLS® Database or any other databases maintained by or on behalf of PROPTX or

which is contrary to the applicable By-Laws, the MLS® Rules and MLS® Policies, TRESA, or any applicable laws.

The provisions of this Section shall not apply to that part of the MLS® Database, as formatted by us, which is publicly available without breach of any obligation by you hereunder; or is lawfully obtained by you from a third party who has a legal right to disclose it.

6. INTELLECTUAL PROPERTY

- a. **Our Intellectual Property.** The Services, MLS® Database, Software and Documentation are proprietary and confidential to us, are protected by the Intellectual Property laws of Canada and international treaties and conventions and shall remain our sole property. Notwithstanding anything in this Agreement to the contrary, we have sole and exclusive ownership of all right, title and interest in and to the Services and MLS® Database, Software and Documentation including all derivative works and all modifications and enhancements thereof and derivative works regardless of the form or media in or on which the original and other copies may exist. No provision or clause in this Agreement shall be interpreted as an assignment or grant to Subscriber of any right, title, or interest in or to Intellectual Property, all privileges pertaining thereto remain our exclusive property (or in some cases, of our subcontractors).
- b. **No Rights Being Obtained.** You are not obtaining any rights in connection with any of our trademarks or service marks. You shall not remove or alter any trade-mark, logo, copyright or other proprietary notices, legends, symbols or labels in the MLS® Database Content, or in the Documentation and shall ensure that the MLS® Database Content, Copies and Documentation and each copy contain all of the original proprietary notices.
- c. **No Modifications.** You shall not decompile, reverse engineer, disassemble, modify, analyze or otherwise examine or otherwise reduce the Software to human readable form or create derivative works of the Software or MLS® Database.
- d. **“Notices”.** You shall not delete or in any manner alter any notices, disclaimers or other legends contained in the Software, Services or MLS® Database appearing on any screens, documents, reports, numeric results or other materials obtained by Subscriber through the use of the Software and Services (“Notices”) but you shall reproduce and display all Notices on all Copies that you make, in accordance with this Agreement.
- e. **No Service Bureau Facilities, Etc.** You shall not provide service bureau facilities or commercial time-sharing services to any third party or supporting operations for any third party through the access and/or use of the Software and/or Services.
- f. **No Disputing Our Rights.** You shall not, at any time or times, during or after the term of this Agreement question or dispute any of our right, title, ownership, license, Intellectual Property, and/or other interests in the Software, the Documentation, the Services or MLS® Database nor commit any act or omission which negates, reduces, or impairs any of our rights or interests in any of same; nor file any patent, copyright, and/or other intellectual property application and/or registration relating to any portion of the Software copyright, and/or other Intellectual Property application and/or registration relating to any portion of the Documentation.
- g. **Prompt Notification of Certain Matters.** You shall promptly notify us if you become aware of any (i) error, bug, or security breach in the Services or Software; (ii) unauthorized use, reproduction, or distribution of Content, the MLS® Database, the Software or Documentation; and (iii) breach of the terms of this Agreement. You shall maintain all such information in confidence shall only disclose the same to us or as we may direct in writing, and shall not publicize, publicly distribute, or publicly display any such information.
- h. **Validity of Copyrights, Etc.** You recognize the validity of our copyrights and trade secrets. You will cooperate in good faith to secure and preserve our right and title to the copyrights and trade secrets for the Software and of all derivative works, as if said products were your own products. You acknowledge and agree that the Software is, in all respects confidential information subject to the terms of this Subsection.
- i. **Continue to Protect Our Rights.** You agree upon termination of this Agreement to continue to protect our copyrights and trade secrets.

7. PRIVACY AND CONFIDENTIALITY

- a. **Compliance with PIPEDA.** You will ensure any Personal Information that may be collected by or on your behalf in connection with your access to and use of the Services will be collected, used, disclosed and maintained strictly in accordance with the requirements of all applicable privacy legislation including, without limitation, PIPEDA.
- b. **Currency of Information and Listings.** Subject to Section 7(a) above, you shall promptly, and in any event within 60 calendar days, destroy, erase or make anonymous your records and file copies of all of your customer and client Personal Information that is no longer required to fulfill the identified purpose. You will, upon our request, provide a written certification attesting to such destruction or erasure.
- c. **Consent.** You consent to and authorize us to collect, retain, use and disclose all information provided to us regardless of format or medium relating to your access to and use of the Services (including, in each case, your personally identifiable information) for all purposes relating to the sale of real estate in Ontario and this Agreement, including, without limitation for our own administrative purposes in connection with this Agreement. We may share all such information with other real estate Associations that are parties at any time to an agreement with PROPTX, their members, and our users. Such information may be included in a roster or list of persons who obtain access to and use of the Services. Such information may include particulars of any transactions you are involved with as well as all calendar, contact or other information collected, used, disclosed or maintained as part of your use of the Services. For purposes of this Section 7(c) “personally identifiable information” shall include, but not be limited to, your and your clients or customer’s names, phone numbers, business and home addresses and employers. You also consent to and direct your Association to confirm and provide all information relating to your membership in your Association in order that we may at any time and from time to time confirm that you are entitled to be a Subscriber and accordingly be entitled to the Services.
- d. **Cessation of Use.** Subject to the provisions of this Agreement, you shall cease all use of all Personal Information received pursuant to this Agreement upon any termination or expiry of this Agreement.
- e. **“Confidential Information”** means all confidential and/or trade secret information, knowledge, and/or data of every kind disclosed by one party to this Agreement (“Disclosing Party”) to the other party (“Recipient Party”) pursuant hereto.
- f. Confidential Information shall not include any information, knowledge, and/or data disclosed pursuant to this Agreement to the extent same: (i) is or hereinafter becomes part of the public domain through no wrongful act of the Recipient Party, or (ii) is known to the Recipient Party free of any obligation of confidentiality at the time of first disclosure hereunder; or (ii) is lawfully obtained by the Recipient Party from a third party without obligation of confidentiality, without breach of any obligation of confidentiality to the Disclosing Party, and without breach of this Agreement; or (iv) is disclosed pursuant to a court order provided that the Recipient Party provides a copy of such court order to the Disclosing Party prior to such disclosure and Recipient Party takes all reasonable steps, consistent with such order, to maintain the confidentiality of same.
- g. Each Recipient Party shall: (i) receive and maintain all Confidential Information received hereunder in confidence; (ii) use Confidential Information received hereunder solely for the purposes of such Recipient Party lawfully exercising its rights and/or performing its obligations hereunder and for no other purpose whatsoever; (iii) use the same degree of care to protect Confidential Information received hereunder as such Recipient Party itself uses to protect its own confidential information from unauthorized use, copying, and/or disclosure which standard shall be no less than reasonable care; and (iv) disclose Confidential Information received hereunder only to those of its directors, officers, employees, who have a direct need to know same for the purpose stated above and who are bound by written confidentiality obligations at least as restrictive as those contained herein.
- h. All ownership, license, Intellectual Property, moral, and other rights to Confidential Information disclosed hereunder shall remain with the Disclosing Party and/or with such Disclosing Party’s licensors.
- i. Each Recipient Party shall promptly cease all use of all Confidential Information received hereunder upon any termination or expiry of this Agreement and shall promptly return all such Confidential Information to the Disclosing Party by a secure means without delay.

8. CONDITIONS AND RESTRICTIONS ON USE

- a. **Access.** We shall assign a User ID and Password or Authenticator to you to enable you to access the Services. Without exception, you are responsible for all activities that occur under your User ID or account. If you discover unauthorized access to or use of your account or Password, you must notify PROPTX immediately. We reserve the right from time to time to

change the Passwords by notice to you, or to require you to change your Password. You must change your Password within twenty-four (24) hours after notification of the requirement to change the Password in order to continue to be entitled to the Services.

- b. **Technical Standards.** You are solely responsible for acquiring, servicing and maintaining computer and software configuration together with associated technology to enable you to access, communicate with and use the Services. You are solely responsible for acquiring, servicing, maintaining, and updating all equipment, computers, software and communications services (such as phone or data plans) not owned or operated by or on our behalf, that allow you to access and use the Software and Services, and for all expenses relating thereto (plus any applicable taxes). You agree to access and use the Software and Services in accordance with any and all operating instructions or procedures that may be issued by us, and amended by us from time to time.
- c. **Performance.** You acknowledge that the operation and availability of the systems used for accessing and interacting with Services, including, the public telephone, computer networks and the Internet or to transmit information, whether or not supplied by you or us, can be unpredictable and may, from time to time, interfere with or prevent the access to and/or the use or operation of the software and/or systems necessary for access to and use of the Services. We shall not in any way be responsible for any such interference with or prevention of your access and/or use of the Services.
- d. **Compliance with the PropTx Requirements.** You agree to comply with all provisions in the PropTx Requirements. We reserve the right to change or modify the PropTx Requirements from time to time. Such changes shall become effective.
 - i. In the case of Standards, six months; and
 - ii. In the case of PROPTX's MLS® Policies and MLS® Rules, five days after we have either notified you in writing of such change, by mail or email, or otherwise, or included notice of such change in the MLS® Database.

If you do not comply with the applicable PROPTX Requirements or do not comply with a change to any such applicable PROPTX Requirements after a change becomes effective, you may not be able to access the Services and will furthermore be in breach of this Agreement. Changes to any of the Standards, the MLS® Policies, or the MLS® Rules shall be available for review at any time on reasonable notice during our normal business hours at our offices. Also, any changes to the Standards shall be available electronically upon Subscriber accessing the MLS® Database. You are responsible for ensuring that you have at all times the most current version of the Standards, MLS® Policies, and MLS® Rules, including but not limited to any related VOW Rules and Policies.

- e. **Non-Interference.** You shall not attempt to access any of our systems, programs or data that is not licensed under this Agreement, or otherwise made available by us for public use.

9. LIMITATION OF LIABILITY

- a. **No Warranties. Etc.** THE SERVICES AND ANY SOFTWARE OR DATABASES USED OR REQUIRED IN CONNECTION THEREWITH ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY GUARANTEE, REPRESENTATION, CONDITION OR WARRANTY OF ANY KIND, EITHER EXPRESSED, IMPLIED OR STATUTORY, USAGE OF TRADE OR COURSE OF DEALING INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WEMAKENO WARRANTIES AND ASSUMENO LIABILITY WHATSOEVER REGARDING THE TRUTH OR ACCURACY, CURRENCY, OR COMPLETENESS OF THE SERVICES, ANY SOFTWARE OR DATABASES USED OR REQUIRED IN CONNECTION THEREWITH. YOU AGREE THAT ANY ACCESS TO OR USE OF THE SERVICES BY YOU OR ON YOUR BEHALF IS DONE AT YOUR OWN RISK.
- b. **Third Party Websites.** The Services may provide links to third-party websites. We do not endorse the content contained in any third-party website. We do not make any representation, warranty or condition, express, implied or statutory of any kind regarding any third-party website, including without limitation any representation or warranty regarding the legality, accuracy, reliability, quality, completeness, timeliness, non-infringement, security, or suitability of any content on a third party website or whether or not any necessary consents required under applicable privacy laws for any aspect of any third party website have been properly obtained. We do not make any representation or warranty regarding the merchantability and fitness for a particular purpose of any content, goods or services on or made available through any third-party websites. We do not make any representation, warranty or condition, express, implied or statutory that the operation of any third-party website will be uninterrupted, free of error, viruses or any other harmful components. The content, goods and/or

services available on or through any third-party website is not under our control and if you choose to access any third-party website, you do so entirely at your own risk.

10. RELEASE AND INDEMNITY

- a. **Release.** You hereby release us and our directors, officers, employees and contractors and all of their respective successors and assigns (the “**PropTx Released Persons**”) from any and all actions, costs, claims, damages, demands, losses, expenses or liabilities whatsoever or howsoever that you may suffer as a result of, in connection with or arising out of your access to or use of the Services (including, without limitation, the use of any Third Party Website), whether or not due to or contributed to by the negligence any of the PropTx Released Persons including, without limitation, any direct, indirect, special, consequential, incidental, contingent, punitive or exemplary damages, or damages of any nature including without limitation lost profits, howsoever caused, arising in contract, tort (including negligence), fundamental breach, breach of a fundamental term, or otherwise.
- b. **Indemnity.** You agree to indemnify, defend and save harmless the PropTx Released Persons, from and against all damages, costs and expenses relating in any manner, actual or threatened, to any claim, action, cause of action or any proceeding made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to any injury, infringement or damage arising from: (i) any and all negligent or reckless acts or omissions on your part including, without limitation, unauthorized use of the Services, Software, MLS® Database, or if applicable, any Third Party Website in each case by a third person or a result of the sharing of or failure to take reasonable steps to protect your Password in the performance or purported performance of this Agreement; (ii) breach of this Agreement except directly by us; or (iii) breach of any Intellectual Property, moral or property rights related to PropTx’s Website, the Services, Software, MLS® Database, or any Third Party Website, if applicable, by you or any one for whom you are in law responsible or any person or entity who gained access to the MLS® Database by or through you, directly or indirectly with or without your consent or assistance.
- c. **Indemnity re User ID and Password.** You shall defend, indemnify and hold the PropTx Released Persons harmless from any losses, liabilities, damages, actions, claims or expenses (including reasonable lawyers’ fees and court costs) arising or resulting from your breach of any term of this Agreement or caused by acts or omissions performed by you or under your User ID and Password.
- d. **Indemnity re Privacy Matters.** You shall indemnify, hold harmless and, at the request of PropTx, defend the PropTx Released Persons from and against any and all costs, expenses, awards of damages or settlements made in relation to any proceedings, complaints, actions or claims, or in relation to compliance by the any of the PropTx Released Persons with any orders or directions given against or to them by any privacy commissioner, tribunal, person or court, arising from any breach by Subscriber of any of its obligations as set out in Section 7.
- e. **PropTx Released Persons.** We act as agent or trustee for the benefit of the other PropTx Released Persons for the purpose of ensuring that each of them may enforce the benefit of any release or indemnity granted in their favour in this Agreement.

11. TERMINATION/SUSPENSION

- a. Default. You will be considered in default of this Agreement if:
 - i. You are in breach of any of your payment obligations as set forth in Section 4;
 - ii. You are in breach of any of obligations under this Agreement other than your obligations under 11(a)(i);
 - iii. You are in breach of any provision contained in the applicable By-Laws, the PropTx Requirements that are stated in this Agreement to be incorporated in this Agreement by reference or are a necessary part of the administration of this Agreement; or
 - iv. You cease to meet the Eligibility Requirements

And, with respect to Section 11(a)(i), if such breach is not cured within five (5) days after notice from us, or with respect to Sections 11(a)(ii), 11(a)(iii) or 11(a)(iv), your rights under this Agreement shall be automatically suspended.

- b. **You May Terminate.** You may terminate this Agreement at any time, provided you give us prior written notice, and provided that you comply with the termination procedures and obligations as set forth in the PropTx Requirements.
- c. **We May Terminate.** If we decide, at any time, not to continue to offer, maintain or develop the MLS® Database to meet PropTx Requirements and Standards, we may terminate this Agreement provided we give you six months prior written notice and you shall comply with the termination procedures and obligations contained in the PropTx Requirements.
- d. **We May Terminate.** This Agreement will automatically terminate if at any time, there is not in existence a valid and current PROPTX Service Agreement with your Association; If at any time during the term of this Agreement there is not in existence a validly executed and current Guarantee and Indemnity relating from you, in the then current form as authorized by PROPTX from time to time, then PROPTX may at any time thereafter terminate this Agreement by notice to You.
- e. **Notification of Changes – Suspension.** You will promptly advise us of any change relating to your registration under TRESA, your real estate association affiliation, the real estate brokerage with whom you are licensed, your address, telephone number or other contact or other information contained in Part 1 of this Agreement and failing which, we shall upon discovering a change which has not been reported, suspend your rights under this Agreement until you have reported the change.
- f. **Reinstatement.** If:
 - i. Your rights have been suspended under this Agreement due to any breach on your part for which your rights under this Agreement may be suspended; and
 - ii. If such breach is at any time following your suspension cured,

You may apply to us to have your rights under this Agreement reinstated and upon you producing evidence satisfactory to us that such breach has been cured we may elect to lift your suspension and we shall act reasonably in connection with that decision. The preceding provisions of this Section shall only apply to the first suspension of your rights under this Agreement. For the second and any subsequent suspension we may, in our sole, absolute and non-reviewable discretion refuse to reinstate your rights under this Agreement and we shall not be obliged to provide any reasons for such decision.

- g. **Survival of Your Obligations.** You shall not be relieved of any of your obligations under this Agreement, including, without limitation, any payment obligations, during any period that your rights under this Agreement are suspended. Your obligations under this Agreement, including, without limitation, any payment obligations, shall survive the termination of this Agreement for the longest period permitted by law.
- h. **Professional Standards Proceedings.** In addition to any other rights or remedies we may have in connection with an uncured breach of this Agreement by you, we may institute professional standards proceeding against you through the appropriate Association or professional standards process as applicable.
- i. **Rights Cumulative.** No reference to or exercise of any specific right or remedy by us in connection with any breach of this Agreement by you shall prejudice or preclude us from exercising or invoking any other remedy in respect thereof, whether allowed at law or in equity, expressly provided for herein or in the PropTx Requirements. No such remedy shall be exclusive or dependent upon any other such remedy, but we may from time to time exercise any one or more of such remedies independently or in combination.

12. INJUNCTIVE RELIEF

A violation of Sections 5, 6, 7, and 8 of this Agreement will cause irreparable harm to us for which damages may not be an adequate remedy and therefore you agree that, in addition to any other remedies that may be available to us, we shall be entitled to seek injunctive relief and to recover all costs and expenses, including reasonable lawyer's fees incurred in connection therewith and this Section may be pleaded by us as a bar to prevent you from claiming that an injunction should not be issued. You will also pay us for all reasonable legal fees on a full indemnity basis that we incur in connection with any breach of this Agreement on your part.

13. NOTICES

- a. Any notice, direction or other instrument required or permitted to be given to either you or us shall be in writing and shall be sufficiently given if delivered personally, mailed by prepaid registered mail as follows:
 - i. If to us, addressed as follows:

PropTx Innovations Inc., 1400 Don Mills Rd., Toronto, Ontario M3B 3N1
Attention the Membership Department,
 - ii. if to you, to your attention to your business address identified in the Subscriber Application
[with a copy to the attention of the Subscriber's Broker of Record/Manager (as applicable) at your business address identified in the Subscriber Application]
- b. You or we may change our respective addresses for service from time to time by notice given to the other in accordance with the foregoing.

14. MISCELLANEOUS

- a. **Entire Agreement.** This Agreement combined with the PropTx Requirements together with any amendments and updates that we may publish or post on the PROPTX Website from time to time collectively comprise the entire agreement between you and us and supersedes all prior agreements relating to the subject matter of this Agreement and cancels and supersedes any and all prior understandings, agreements, negotiations and discussions with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements or understandings, express or implied, between the parties other than as expressly set forth in this Agreement.
- b. **Time of the Essence.** Time shall be of the essence of this Agreement.
- c. **Governing Law.** This Agreement shall be construed in accordance with the laws of the Province of Ontario except that no choice of law doctrine shall be used to apply the laws of any other jurisdiction. The Parties further agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- d. **Consent to Jurisdiction.** You consent to the exclusive jurisdiction of the federal and provincial courts located in the Province of Ontario in connection with any action or proceeding to enforce, or arising out of, this Agreement and agree that venue will be proper in such court on any such matter. The Parties agree that a summons and complaint may be served by mail or overnight courier service at their addresses first set forth above or at such other address as such party may have given written notice of in accordance with Section 13.
- e. **Waiver.** The waiver by either Party of any breach or default by the other Party in the performance of any obligation hereunder shall not constitute a waiver of any subsequent breach or default.
- f. **Amendments.** Notwithstanding any other provision of this Agreement to the contrary, we may amend, add or remove portions of this Agreement at any time and from time to time without notice to you and the then current version shall be posted on PropTx's Website. Upon the posting of such version as aforesaid and your access to or use of the Services thereafter, this Agreement shall be deemed to be so amended without your further acknowledgement.
- g. **Severability.** To the extent that any law, statute, treaty or regulation by its terms as determined by a court, tribunal or other governmental authority of competent jurisdiction, is in conflict with the terms of this Agreement, the conflicting terms of this Agreement shall be superseded only to the extent necessary by the terms required by such law, statute, treaty or regulation. If any provision of this Agreement shall be otherwise unlawful, void or for any reason unenforceable, then that provision shall be enforced to the maximum extent permissible so as to affect the intent of the Parties. In either case, the remainder of this Agreement shall continue in full force and effect.
- h. **Currency.** All dollar amounts referred to in this Agreement, including the symbol \$, refer to lawful money of Canada.
- i. **Language.** This Agreement and any documents relating thereto have been prepared in the English language at the express request of the parties. Les parties ont exigé, et par les présentes confirment leur demande, que ce contrat soit rédigé en

anglais seulement.

- j. **Headings.** The division of this Agreement into Sections and the use of headings are for convenience of reference only and shall not affect the interpretation of this Agreement.
- k. **Gender and Number.** In this Agreement words importing a specific gender include all genders and words importing the singular include the plural and vice versa.
- l. **Force Majeure.** We are not responsible for any failure to perform due to causes beyond its reasonable control, including, acts of God, acts of terrorism, war, riot, embargoes, acts of civil or military authorities, national disasters, pandemic, strikes and the like.
- m. **Assignment and Corporate Reorganization.** The rights granted to you under this Agreement are personal in character. Neither this Agreement nor any rights granted hereby may be assigned by you voluntarily or by operation of law without PropTx's prior written consent and any such attempted assignment shall be null and void. For purposes of this Agreement, "assignment" shall be deemed to include the transfer of all or substantially all of the assets of, or a majority interest in an entity or the voting stock of an entity, or the merger of entity with one or more entities. This Agreement shall inure to the benefit of and be binding upon any of our successors or assigns.
- n. **Parties.** Nothing contained in this Agreement is intended to confer upon any person other than the Parties hereto and their respective successors and permitted assigns, any benefit, right or remedy under or by reason of this Agreement, except with respect to Parties who shall be deemed third party beneficiaries under this Agreement but solely with respect to those terms that specifically reference a Party or the Parties.

15. ACCEPTANCE

- a. **Electronic Acceptance.** By clicking "I accept" or signing this Agreement where indicated below, you agree and consent to (i) contract electronically with us for the Services in accordance with this Agreement; (ii) receipt of electronic legal notices regarding this Agreement to your last known email account or upon accessing the Services; and (iii) that by clicking "I Accept", you intend to be bound by this Agreement.
- b. **Copy of Agreement.** For electronic acceptance: In order to access, download, and print this Agreement, you should click on the link for the .PDF file version of this Agreement.
- c. **Signature Acceptance of this Agreement:** You acknowledge having received a copy of this Agreement. Changes to hardware and software requirements, if any, will be e-mailed to you. You may also request to receive a copy of this Agreement by Canada Post mail free of charge by giving notice to us of such request within 45 days after entering into this Agreement.

DATED this _____ day of _____, 20_____.

ACCEPTED AND AGREED TO BY THE UNDERSIGNED

SIGNATURE

SUBSCRIBER (Please Type Name)

EMAIL ADDRESS (Please Type Email Address)

SIGNED, SEALED AND DELIVERED in the presence of

SIGNATURE

WITNESS (Please Type Name)
