

## Electronic Lockbox Sub-Lease Agreement

This Electronic Lockbox Sub-Lease Agreement ("Lease") is entered as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Broker"), and the Greater Metropolitan Association of REALTORS® ("Organization"). Broker and Organization agree as follows:

### **1. LEASE AGREEMENT**

a. Organization leases to Broker, and Broker leases from Organization, Lockboxes, ("Keybox(s)") (the "Equipment"). In addition, Organization grants to Broker (i) a limited non-exclusive, non-transferable sub-license to use the network, the use of which Organization licenses from Sentrilock LLC., a Delaware Limited Liability Corporation ("Licensor"), which is necessary for the use and operation of the Equipment (the "Network") and (ii) a limited, non-exclusive, nontransferable sub-license to use the software Organization licenses from Licensor (the "Software"). The Equipment, Software and Network are collectively referred to herein as the "Service."

b. This Lease shall commence on the date set forth above and have a month-to-month term ("Term") until terminated by either Organization or Broker.

c. Broker agrees to comply with the Rules and Regulations relating to the use of the Service which are set forth in the Roles/Responsibilities of the Designated Broker document by Organization. By executing this Lease, Broker agrees that it is necessary to maintain the security of the Equipment and the personal identification number of each piece of Equipment to prevent the use of the Equipment by unauthorized persons. Broker further agrees that neither the Service, nor any other Licensor product used in connection with the Service (including the Equipment), is a security system. The Service is a marketing convenience key-control system, and as such, any loss of Equipment or disclosure of personal identification numbers compromises the integrity of the Service, and Broker agrees to use her or his best efforts to ensure the confidentiality and integrity of all components of the Service.

d. Broker acknowledges that, in order to make the Service available to Broker, Organization and Licensor entered into a Master Agreement (the "Agreement") that provides the terms under which Licensor will provide the Service to Organization. **Broker understands that, if the Agreement is terminated for any reason during the Term of this Lease, the Service will no longer be available to Broker and this Lease will terminate. Broker further agrees that, under the terms of the Agreement, Organization may elect a different Service or choose to upgrade the Service at any time during the Term of this Lease, which may result in termination of this Lease.**

**2. TITLE AND USE.** The Service, including all its components, are and shall at all times remain the property of Licensor. All additions, attachments, replacement parts and repairs to the Equipment, and any Replacements shall become part of the Equipment and shall, without further act, become the property of Licensor. The Software and all applicable rights in patents, copyrights, trade secrets, and trademarks are and shall at all times remain the property of Licensor.

### **3. RISK OF LOSS; RETURN OF EQUIPMENT**

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

b. Upon termination of the Lease Agreement, Broker, at Broker's expense and risk, shall immediately return or cause the return to Organization to such location as Organization shall specify, all of the Equipment with all Software and any components included within the Service that have been leased to Broker pursuant to this Lease. The Equipment and components used in connection with the Service shall be returned in good condition, repair and working order, ordinary wear and tear excepted.

### **4. DEFAULT**

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

i. Broker's failure to pay, for any reason, any amount required under the applicable sub-lease/license within thirty (30) days after the date that such payment is due; or

ii. The commencement of either an involuntary or voluntary action under any bankruptcy, insolvency or other similar law of the United States of America or any state thereof or of any other country or jurisdiction with respect to Broker; provided, however, that the commencement of any involuntary case or proceeding will not be an Event of Default under this Lease if such case or proceeding is dismissed within sixty (60) days after it was commenced.

### **5. RIGHTS AND REMEDIES**

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

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

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

iii. Direct Licensor to deactivate Broker's access to the Service or any component of the Service;

iv. Bill the Broker for any outstanding amounts owed under this Lease, including any applicable liquidated damages for the failure to return the Equipment; and/or

v. Take any and all actions necessary to collect all amounts currently due and owing under this Lease, including any and all costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, or in bankruptcy, including any adversary proceeding, contested matter or motion, or otherwise) incurred by Organization in connection with the exercise of its rights and remedies under this Lease.

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

c. If Organization deactivates the Service because of a default by Broker under this Lease, but does not otherwise terminate this Lease, Broker will be entitled to seek to have the Service reactivated. In order to so, Broker shall be required to cure any and all existing defaults, and to pay any and all outstanding amounts owed under this Lease and the reasonable costs and attorneys' fees incurred by Organization in connection with collecting under this Lease.

d. In the event that Organization institutes any action for the collection of amounts due and payable hereunder, Broker shall pay, in addition to the amounts due and payable under this Lease, all reasonable costs and attorneys fees incurred by Organization in connection with collecting under this Lease. Broker expressly waives all rights to possession or use of the Service or the Equipment or any component thereof after the occurrence of an Event of Default, and waives all claims or losses caused by or related to any repossession or termination of use.

e. Organization's failure or delay in exercising any right or remedy under this Lease shall not operate as a waiver thereof or of any subsequent breach or of such right or remedy. Organization's rights and remedies are cumulative, not exclusive, and no exercise of any remedy shall preclude the exercise of another remedy.

**6. ARBITRATION; LITIGATION** Any controversy or claim arising out of or relating to this Lease shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association or such other rules as may be agreed to by the parties. The arbitration shall be conducted in a location mutually agreed to by the parties. If the parties, following good-faith diligent efforts, fail to agree on the location of the arbitration within thirty (30) days after either party requests arbitration, the arbitration shall be conducted in Southfield, Michigan; provided that either party shall be entitled to participate in such arbitration by video conference or teleconference. The substantially prevailing party in any arbitration under this Lease shall be entitled to recover from the other as part of the arbitration award reasonable costs and attorney's fees. Any arbitration award may be enforced by a court of competent jurisdiction in accordance with applicable law. In the event that legal action to enforce the arbitration award is necessary, the substantially prevailing party shall be entitled to recover its reasonable costs and attorney's fees in such action and in any appeals.

7. **NOTICES** All notices hereunder shall be sent by (i) hand-delivery, (ii) facsimile, (iii) certified mail, return receipt requested, postage prepaid, (iv) overnight delivery service, or (v) electronic delivery to the party being noticed at its address set forth in the signature block of this Lease, or to such other address as a party shall subsequently specify to the other party in writing. Notices shall be deemed to have been delivered when received, if hand-delivered, sent by facsimile, certified mail or electronic delivery, three (3) days after the day deposited in the mail; or one (1) day after the day deposited with an overnight delivery service.

8. **TERMINATION**

a. Broker may terminate this Lease at any time by returning the Equipment to Organization and paying Organization any amounts owing prior to such termination, including (i) any applicable damages for the failure to return the Equipment as set forth in Section 3 hereof.

b. Organization may terminate this Lease upon termination of the Agreement for any reason, including without limitation, a default by Organization under the Agreement or an upgrade of the Service by Organization. Upon termination, Broker shall be obligated to satisfy the obligations in Section 8(a).

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

9. **WARRANTY** Broker expressly agrees and acknowledges that Organization makes no express or implied representations or warranties of any kind or nature regarding the Equipment and Software, including without limitation against any defects therein, merchantability, fitness for a particular purpose, compliance with laws or otherwise. The Equipment and Software have been warranted by Licensor against defects in workmanship and/or materials, to be fit for the intended purpose and to conform in all material respects to its written specifications for the term of the Agreement. Licensor has agreed, without charge, to repair or replace such defective or nonconforming component for the term of the Agreement. Broker must return any defective system component under warranty to Organization at Broker's sole cost and expense and Organization shall make best efforts to obtain repairs or replacement Equipment from Licensor under the terms of the Agreement and if such repaired or replacement equipment is obtained from Licensor, Organization will provide such repaired or replacement Equipment to Broker. Licensor's warranty does not extend to any damage caused by accident, abuse, neglect or misuse of system components. Broker acknowledges and agrees that Organization shall have no obligation or responsibility for repairing or replacing any of the Equipment or Software and makes no representations or warranties about the use, condition or functionality of any Equipment or Software, except for Organization's obligation to issue warranty claims against Licensor as permitted under the Agreement.

10. **REPRESENTATIONS AND COVENANTS** Broker covenants and agrees:

a. If Broker misuses the Service or any component thereof, including without limitation, use of the Service in violation of the User Guide or Lockbox Rules and Regulations, and a third party brings an action against Organization and/or Licensor relating to such misuse, Broker agrees to indemnify, defend and hold harmless Organization and/or Licensor, and their respective directors, officers, agents, representatives, employees, successors and assigns, from and against any and all claims, demands, actions, losses, damages, injuries, obligations, liabilities and costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, in bankruptcy, including without limitation, any adversary proceeding, contested matter or motion or otherwise) incurred by Organization and/or Licensor in or as a result of such proceeding. If Broker misuses the Service or any component thereof, including without limitation, use of the Service in violation of the User Guide, and Licensor brings an action against Organization relating to such misuse, Broker agrees to indemnify, defend and hold harmless Organization and its respective directors, officers, agents, representatives, employees, successors and assigns, from and against any and all claims, demands, actions, losses, damages, injuries, obligations, liabilities and costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, in bankruptcy, including without limitation, any adversary proceeding, contested matter or motion or otherwise) incurred by Organization in or as a result of such proceeding.

b. **That neither Organization nor Licensor shall be liable for any compensatory, indirect, incidental, consequential, punitive, reliance or special damages, including, without limitation, damages for lost profits, advantage, savings or revenues of any kind or increased cost of operations, arising out of the use or inability to use the Service for any purpose whatsoever whether or not Broker has been advised of the possibility of such damages.**

c. That Broker will not (i) use or gain access to the source code for the Software; (ii) alter, reproduce, modify, adapt, translate, reverse engineer, de-compile, disassemble or prepare derivative works based upon the Software; or (iii) provide or otherwise make available the Software or any part or copies thereof to any third party.

d. To provide Organization and Licensor with written notice of any legal proceeding or arbitration in which Broker is named as a defendant and that alleges defects in the Equipment within five (5) days after Broker receives written notice of such action. The obligations set forth in this Section shall survive termination of this Agreement.

11. **GENERAL PROVISIONS**

a. This Lease constitutes the entire agreement between Organization and Broker relating to the lease of Equipment and use of the Service.

b. This Lease shall be amended only by a written agreement signed by the parties.

c. Any waiver or consent by any party to any breach by the other, whether express or implied, shall not constitute a consent to or waiver of any other or subsequent breach.

d. All agreements, representations and warranties contained in this Lease shall survive the expiration or other termination of this Lease.

e. This Lease shall be governed by the laws of the State of Michigan.

f. This Lease shall be binding upon and inure to the benefit of Organization, and its successors and assigns, and Broker and its permitted successors and assigns.

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

**BROKER:**

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

By (signature of DR): \_\_\_\_\_

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

Date: \_\_\_\_\_

**ORGANIZATION:**

**Greater Metropolitan Association of REALTORS®**

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

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

Date: \_\_\_\_\_