

IDX LICENSE AGREEMENT

State Listings, Inc. (NY State MLS / My State MLS)

Access to IDX Data Feed for NY State MLS

77 Miller Rd. Suite 202, Castleton on the Hudson, NY 12033

This IDX License Agreement (the agreement) is made and entered into by and between NY State MLS ("MLS") and, a Participant of the MLS, _____ ("Participant") and _____ Consultant/Web Designer/Vendor.

Participant must be an IDX Broker. See MLS' Rules and Regulations for further details. This agreement must be filled out completely and signed by a Principal MLS Participant. IDX data is provided in RETS (Real Estate Transaction Standard) format.

AGREEMENT

1.This Agreement is made and entered into by and among State Listings, Inc. DBA NY State MLS, My State MLS ("MLS"), the real estate firm whose name and contact information appear on the signature page of this Agreement, designated "Firm Information and Signature" ("Firm"), and the companies/individuals whose names and contact information appear on the signature pages of this Agreement designated "Consultant Information and Signature" (collectively, "Consultants"), if any.

RECITALS

2.Firm wishes to obtain, and MLS wishes to provide, data for Firm's web site, including the listing data of other real estate brokerages participating in MLS from the state(s) which the participant is actively. Firm may wish to engage Consultants, i.e., other companies or individuals who are not employees of Firm, to perform data downloading, manipulation, and formatting, as well as programming and web design.

DEFINITIONS

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

IDX Database or IDX Data: The current aggregate compilation of all active exclusive listings of all IDX Brokers except those listings where the property seller has opted out of Internet publication by so indicating on the listing contract. MLS owns the IDX Data.

IDX Broker: A Participant who gives permission to other Participants to display its active listings on their web sites in return for their permission to display their listings on its web site.

Multiple Listing Service: A means for collecting and disseminating information about real property that is or has been for sale, including a means for real estate brokers to make offers of cooperation and compensation to each other. Multiple Listing Services may also include, without limitation, the provision of data processing, technical support, consulting, and other information technology services to real estate brokers and appraisers in connection with the sale, lease and appraisal of real property.

Rules: The Rules and Regulations of MLS, as amended from time to time, and any operating policies relating to the IDX Data and IDX Brokers promulgated by MLS.

Corporation: State Listings, Inc.

Participant: Any member of the MLS or any other Association who is a principal, partner, corporate officer, or branch manager acting on behalf of the principal, without further qualification, shall be eligible to participate in the Corporation upon agreeing in writing to conform to the Rules and Regulations thereof and pay the costs incidental thereto. For purposes of this Agreement, a "Participant" may also be a non-principal broker or sales licensee.

Participant Data: Data relating to real estate for sale or lease, previously sold or listed for sale or lease, including the IDX Database, and data relating to Participants and Affiliated Associations, entered into the multiple listing system by Participants, the Affiliated Associations, and MLS. MLS owns the Participant Data.

MLS'S OBLIGATIONS

4. During the term of this Agreement, MLS grants to Firm a license to:
 - a. Display the IDX Data on Firm's Website and
 - b. Make copies of the IDX Data to the extent necessary to deliver the IDX Data to consumers on
5. During the term of this Agreement, MLS agrees to provide to Firm and its Consultants:
 - a. Access to the MLS Listing IDX Data for real property from the state(s) participant is licensed via the Internet using FTP or RETS, under the same terms and conditions MLS offers to other Participants;
 - b. A minimum of Seven (7) days' advance notice of changes to the file and record formats of the IDX Data; and
 - c. Seven (7) days' advance notice of changes to the Rules.

FIRM'S OBLIGATIONS

6. Firm shall comply with the Rules at all times.
7. Firm acknowledges MLS's ownership of the copyrights in the Participant Data and the IDX Data.
8. Firm shall comply with the requirements relating to Confidential Information set forth below.
9. In the event that Firm desires to make the IDX Data or the Confidential Information available to any third party, Firm agrees to require such third party to execute this Agreement and become a Consultant.
10. If MLS notifies Firm of a breach of the Rules or this Agreement and Firm does not immediately cure such breach, Firm agrees that MLS may seek cure from the Consultants, or any one of them.
11. Firm shall notify MLS within five (5) business days of any change to the information relating to Firm on the Firm Information and Signature page below.

CONSULTANT'S OBLIGATIONS

12. If MLS notifies Firm of a breach of the Rules or this Agreement and Firm does not immediately cure such

breach, MLS may contact Consultant to cure any such breach that is within Consultant's control. Consultant agrees to cooperate with MLS and act immediately upon notification by MLS of an uncured breach by Firm.

13. Each Consultant acknowledges MLS's ownership of the copyrights in the Participant Data and the IDX Data.

14. Each Consultant shall comply with the requirements relating to Confidential Information set forth below.

15. Each Consultant shall notify MLS within five (5) business days of any change to the information relating to it on the Consultant Information and Signature page below.

16. You are required to sign an IDX License Agreement with NY State MLS for every real estate broker and agent for whom you provide service. Any Consultant that provides the information to anyone other than approved members of the NY State MLS, who have signed an IDX agreement, will lose access to all IDX Web Links and IDX Data provided to them for their clients. Consultant agrees to comply with the NY State MLS Rules and Regulations.

CONFIDENTIAL INFORMATION

17. **“Confidential Information”** is information or material proprietary to MLS or designated “confidential” by MLS and not generally known to the public, which Firm or Consultants or any one of them (the “Receiving Party”) may obtain knowledge of or access to as a result of access under this Agreement. Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether in oral, visual, audio, written or other form):

- a. All Participant Data, except the IDX Data to the extent to which this Agreement and the Rules permit its disclosure;
- b. All documentation and other tangible or intangible discoveries, ideas, concepts, designs, drawings, specifications, models, information;
- c. Software, source code, object code, diagrams, flow charts;
- d. Techniques, procedures;
- e. IP addresses, access codes and passwords; and
- f. Any information that MLS obtains from any third party that MLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by MLS.

18. **Exceptions.** The Confidential Information does not include information that:

- a. Is in the public domain at the time of disclosure;
- b. Is known to the Receiving Party at the time of disclosure;
- c. Is used or disclosed by the Receiving Party with the prior written consent of MLS, to the extent of such consent;
- d. Becomes known to the Receiving Party from a source other than MLS without breach of this Agreement by the Receiving Party and provided that such source is not known by the Receiving Party to be bound by a confidentiality agreement with MLS; or
- e. Is required to be disclosed by judicial order or other compulsion of law, provided that the Receiving Party provides to MLS prompt notice of any such order.

- 19.**Title.** The Receiving Party acknowledges that title to the Confidential Information remains at all times with MLS or with the third parties in whom title existed prior to this Agreement or prior to disclosure by MLS.
- 20.**Restrictions on Use - Scope of Use.** The Receiving Party will use or access the Confidential Information only as expressly permitted under this Agreement and the Rules and the Receiving Party will not use its access or the Confidential Information for any other purpose. The Receiving Party will employ measures to protect the Confidential Information from disclosure at least as rigorous as those it uses to protect its own trade secrets, but in no event less than reasonable care.
- 21.**Restrictions on Use - Unauthorized Uses.** The Receiving Party will not make copies of the Confidential Information. The Receiving Party will not directly or indirectly disclose, display, provide, transfer or otherwise make available the Confidential Information to any person or entity, unless the Receiving Party has received prior written consent of MLS to do so. At no time and under no circumstances will the Receiving Party reverse engineer, decompile, or disassemble any software constituting part of the Confidential Information. The Receiving Party will not incorporate the Confidential Information into any other work or product.
- 22.**Restrictions on Use - No Third Party Access.** Only the Receiving Party's own employees will access the Confidential Information. The Receiving Party will not provide access to the Confidential Information to third parties, including consultants or independent contractors, without prior written consent from MLS. If MLS grants consent, the Receiving Party will execute an agreement with the third party that imposes at least as strict a confidentiality obligation on the third party as that imposed by this Agreement on the Receiving Party.
- 23.**Restrictions on Use - Location restriction.** The Receiving Party will not remove the Confidential Information from its principal place of business without MLS's prior written consent. In the event MLS grants consent, the Receiving Party is not relieved of any of its obligations under this Agreement.
- 24.**Termination and Return of Materials.** Within five (5) days of the end of the term of this Agreement or receipt of notice of termination by MLS, the Receiving Party will return to MLS all Confidential Information and all other materials provided by MLS to the Receiving Party. The Receiving Party will also erase, delete, or destroy any Confidential Information stored on magnetic media or other computer storage, including system backups. Upon the request of MLS, an officer of the Receiving Party will certify in writing that all materials have been returned to MLS and all magnetic or computer data have been destroyed.

TERM AND TERMINATION

25. The term of this Agreement begins on the "Effective Date" set forth on the "MLS Information and Signature Page" below. MLS has the right at any time and in its sole discretion to terminate this Agreement. This Agreement shall terminate upon the occurrence of any of the following events:
- a. MLS's notice to Firm that this Agreement is terminated.
 - b. Firm's notice to MLS that it no longer intends to display IDX Data on its web site.
 - c. Termination of Firm's privileges as a Participant either by MLS or the Affiliated Association from which Firm purchases Multiple Listing Services.
- 26.No Fees, portion of the Fees, or other fees payable by Participant or Consultant/Web Designer/Vendor under this Agreement will be refunded to Participant or Consultant/Web Designer/Vendor upon termination of this Agreement for any reason.

GENERAL PROVISIONS

- 27.**Survival of Obligations.** The obligations of Firm set forth under "Firm's Obligations" above and the obligations of Consultants under "Consultants' Obligations" above shall survive the termination or expiration of this Agreement.
- 28.**MLS's Remedies.** Because of the unique nature of the Participant Data and Confidential Information, Firm and Consultants acknowledge that MLS would suffer irreparable harm in the event that any of them breaches its obligation under this Agreement, and that monetary damages would be inadequate to compensate MLS for a

breach. MLS is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Firm or Consultants or any one of them, without showing or proving any actual damages sustained by MLS.

29. **Attorney's fees.** If MLS prevails in any action to enforce or interpret this Agreement or any provision hereof, the party against whom enforcement or interpretation was sought will pay MLS's reasonable attorney's fees and costs for such legal action.

30. **Limitation of Liability.** MLS's liability to Firm and Consultants for damages under this Agreement, whether in contract or tort, shall be limited to the aggregate amounts paid by Firm and Consultants to MLS, if any, under this Agreement. Firms and Consultants' only other remedy shall be termination of this Agreement. MLS shall not be liable for any incidental or consequential damages under any circumstances, even if MLS has been advised of the possibility of such damages. MLS shall have no liability for inaccuracies in the IDX Data or the Participant Data.

31. **Notice.** All notices to be given under this Agreement shall be mailed, sent via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth below or such other address of which any party may advise the others in writing during the term of this Agreement.

32. **No Waiver.** No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.

33. **No Assignment.** Neither Participant nor Consultant may assign or otherwise transfer any rights under this Agreement to any party without the prior written consent of MLS.

34. **Entire Agreement.** This Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings whether oral or written. The previous sentence notwithstanding, the Rules are expressly incorporated into this Agreement by reference.

35. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of New York.

36. **MLS Access to the IDX.** Participant shall at all times make Participant's IDX readily accessible to MLS and to all MLS Participants for purposes of verifying compliance with the Rules. Participant's IDX is accessible to MLS at the following URL (include any necessary third-level domain names):

37. **Changes.** You must supply in writing any and all websites that will be using data obtained through this agreement. If any changes are made to the distribution of said data this page must be resubmitted to reflect these changes. If we are not notified of a change and one is reported to or found by NY State MLS, Inc. this agreement will be considered null and void; and the data feed or URL will be canceled.

38. **BROKER/LICENSEE:** Broker and Licensee must understand that if the agent leaves the brokers employ both the agent and broker must immediately notify MLS so that the access may be terminated. If the agent wishes to continue the IDX access they must complete a new agreement with the new broker.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their authorized representatives as of the Effective Date.

Effective Date: _____

Participant/Licensee Signature

Consultant/Web
Designer/Vendor

Signature of Participant/Broker

Signature

Print Name Title

Print Name Title

Date

Date

Signature of Licensee if not Participant

Date

NY State MLS Representative

Signature of Participant/Broker

Print Name Title

Date