

IDX END-USER AGREEMENT

This Agreement, executed this _____ day of _____, _____ between the Northwest Arkansas Board of REALTORS® MLS (“NABOR MLS”) and Constellation Web Solutions (“Vendor”), a Delaware Corp _____ (*indicate whether Vendor is a corporation, partnership, sole proprietor, or other*). For consideration of the mutual covenants and promises herein, the parties agree as follows:

1. **DEFINITIONS.** For the purposes of this Agreement, the following terms shall have the meanings set forth below:
 - a. **Confidential Information.** Information or material proprietary to NABOR MLS or designated “confidential” by NABOR MLS and not generally known to the public the Users or Vendors may obtain knowledge of or access to as a result of access to the System under this Agreement. Confidential information includes, without limitation, the following: all user data; all documentation and other tangible and intangible discoveries, ideas, concepts, designs, drawings, specifications, and models; all software, source code, object code, diagrams, and flow charts; all techniques and procedures; all IP addresses, access codes, and passwords; and all information obtained from third parties that NABOR MLS treats as proprietary or designates as “confidential”, whether or not owned or developed by NABOR MLS. Confidential Information does not include information that: is in the public domain at the time of disclosure; is known to the receiving party at the time of disclosure; is used or disclosed by the receiving party with the prior consent of NABOR MLS to the extent of such consent; becomes known to the receiving party from a source other than NABOR 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 NABOR MLS; or is required to be disclosed by judicial order or other compulsion of law, provided that the receiving party provides to NABOR MLS prompt notice of any such order.
 - b. **Vendor.** A person, company or entity who performs downloading, manipulation, formatting, receiving, printing, housing, as well as programming and web design or distributing the IDX Data over the Internet or by any other method to Participants or to members of the public. Such Vendors must agree to comply with this Agreement.
 - c. **IDX Data.** The information extracted from MLS content, which includes, but is not limited, images and listing content of all approved MLS Participants except those listings where the property seller has opted out of Internet publication by so indicating on the listing contract. NABOR MLS owns the IDX Data.
 - d. **Multiple Listing Service (“MLS”).** A means for collecting and sharing information about real property that is or was for sale, including a means for real estate brokers to make offers of cooperation and compensation to each other. MLS may include the provision of data processing, technical support, consulting, and other information technology services to real estate brokers and appraisers in connection with the sale and appraisal of real property.
 - e. **MLS Participant (“Participant”).** A REALTOR; who is a principal, partner, or corporate officer of a real estate brokerage; who holds a current, active, and valid real estate license; who participates in the MLS; and who agrees to be bound by the NABOR MLS broker reciprocity agreement and all current MLS Rules.
 - f. **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 MLS by Participants, the Affiliated Associations, and MLS. MLS owns the Participant Data.

- e. **Vendor Access.** The Vendor has a non-exclusive license to access listing information from the system. If the Vendor contracts with more than the Participant signing this Agreement, then Vendor will not provide access to the Participant by way of other Participant's access. The Vendor's access to the entire System may be restricted or terminated for violation of this Agreement.
9. **TERMINATION.** If at any time NABOR MLS is notified, or otherwise learns that the Vendor or Participant has in any way circumvented the existing security of the System, the Vendor's or Participant's access to the System will be terminated without notice. If at any time NABOR MLS is notified, or otherwise learns that the Vendor or Participant has compromised the confidentiality of the data in the System, the Vendor's or Participant's connection and access to the System will be terminated without notice. If at any time NABOR MLS is notified, or otherwise learns that the Vendor or Participant has shared the data in the System with any other individual or entity, the Vendor's or Participant's connection and access to the System will be terminated without notice. If the Vendor's or Participant's access is terminated for the reasons stated in this Paragraph, the Vendor or Participant will not be re-connected to the System until re-connection is approved by the NABOR MLS Committee at its regularly scheduled meeting subsequent to the termination.
10. **RETURN OF MATERIALS.** Within five (5) days of the end of the term of this Agreement or receipt of notice of termination by NABOR MLS the Vendor and Participant will return to NABOR MLS all Confidential Information and all other materials provided by NABOR MLS to the Receiving Party. The Vendor and Participant will also erase, delete, or destroy any Confidential Information stored on magnetic media or other computer storage, including system backups. Upon the request of NABOR MLS, an officer of the Vendor and Participant will certify in writing that all materials have been returned to NABOR MLS and all magnetic or computer data have been destroyed.
11. **INVOICING.** Annual invoices for Vendor's access to the MLS Data shall be sent by NABOR MLS in advance for the subsequent year. NABOR MLS invoices for fees shall be due and payable within thirty (30) days of the date of invoice.
12. **DEFAULT.** Failure of the Vendor to make payments as defined herein or perform any other condition of this Agreement shall constitute default of this Agreement. If the default is not cured within one (1) month from the date the payment is due, NABOR MLS may suspend service to Vendor and Participant. If the default is not cured within two (2) months from the date the payment is due, NABOR MLS may terminate service to Vendor and Participant. If the default is not cured within three (3) months from the date the payment is due, services will automatically terminate unless within that time the amount due is paid. If the Vendor's or Participant's access is terminated for the reasons stated in this Paragraph, the Vendor or Participant may be re-connected to the System upon payment to NABOR MLS of all payments due.
13. **NOTICE.** For the purposes of this Agreement, any notice required to be given shall be given to the parties hereto in writing, sent to the address or email shown for each party at the end of this Agreement.
14. **LIMITATION OF LIABILITY.** Vendor waives, releases, and holds NABOR MLS and MarketLinx harmless from and against any commercialization, disclosure or other use made by any other Vendor or Participant of Vendor's MLS Data, confidential or proprietary information. Vendor further waives, releases, holds NABOR MLS and MarketLinx harmless and agrees to indemnify, defend and hold harmless from any and all damages and liabilities, including reasonable attorney's fees and costs, relating to any claim by a Vendor or Participant against NABOR MLS or MarketLinx arising from or related to the operation of the MLXchange System or RETS Interface.
15. **DISCLAIMER.** WITH THE EXCEPTION OF THE SPECIFIC WARRANTIES SET FORTH IN THIS AGREEMENT OR IN THE MASTER AGREEMENT, NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE WITH RESPECT TO THE SYSTEM, DOCUMENTATION, OR SERVICES TO BE SUPPLIED BY NABOR MLS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
16. **INCORPORATION BY REFERENCE:**
- a. **MASTER AGREEMENT.** The Master Agreement between NABOR MLS and MarketLinx is incorporated herein by reference. The provisions of the Master Agreement and all exhibits attached thereto shall control and supersede any inconsistent provisions contained in this Agreement.
- b. **RULES AND REGULATIONS.** NABOR MLS's IDX Rules and Rules and Regulations are incorporated herein by reference. The provisions of the IDX Rules and Rules and Regulations and all exhibits attached

thereto shall control and supersede any inconsistent provisions contained in this Agreement. Vendor and Participant acknowledge that they have received a copy of the IDX Rules and Rules and Regulations, and that the terms of said IDX Rules and Rules and Regulations shall apply to this Agreement. Vendor and Participant agree to abide by the IDX Rules and Rules and Regulations, as they may be amended from time to time.

17. GENERAL:

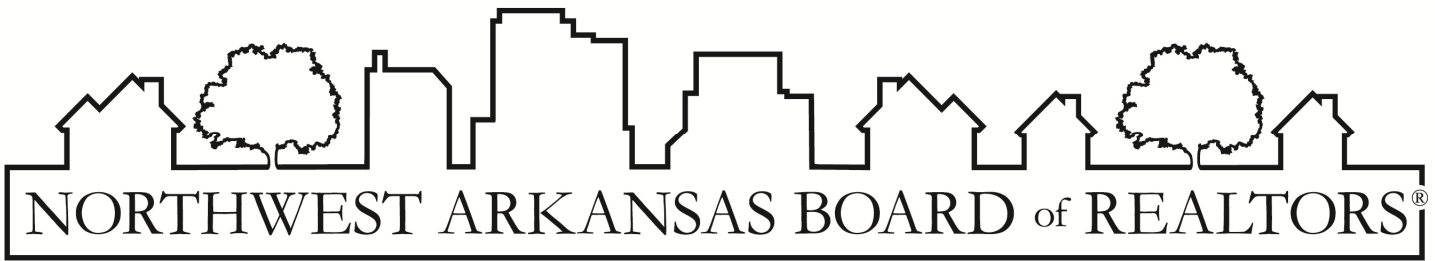
- a. **Assignment.** Neither this Agreement nor any license hereunder may be assigned by Vendor or Participant without NABOR MLS's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, NABOR MLS may assign its rights and obligations under this Agreement to any of its affiliates or to any successor entity pursuant to the acquisition (by stock or asset purchase, merger or otherwise) of all or substantially all of NABOR MLS's business and its assignee may also assign the same.
- b. **Attorney's Fees.** If NABOR 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 NABOR MLS reasonable attorney's fees and costs for such legal action.
- c. **Entire Agreement.** This Agreement, together with the Schedules and attachments hereto, constitutes the entire agreement of the parties and supersedes all previous and contemporaneous communications, representations, understandings or agreements related to the subject matter hereof. This Agreement may be modified only in a writing signed by both parties.
- d. **Governing Law; Venue.** This Agreement shall be governed by and construed under the laws of the State of Arkansas. The parties agree that the venue for any action in a court of law shall be a court of competent jurisdiction in the Washington County or Benton County, Arkansas.
- e. **Headings.** The headings in this Agreement are for the convenience of the parties and shall not constitute a part of the Agreement nor are considered to be interpretative.
- f. **Remedies.** Because of the unique nature of the IDX Data and Confidential information, the Vendor and Participant acknowledge that NABOR 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 NABOR MLS for a breach. NABOR 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 Vendor or Participant or any one of them, without showing or proving any actual damages sustained by NABOR MLS. Vendor and Participant shall be liable for all damages which Vendor causes to the Listing Data, the IDX Data, or the operating systems of NABOR MLS or its vendors, or any other database or system which Vendor or Participant uses in connection with their activities. Vendor and Participant acknowledge that the owners of any operating systems and other Users of the System are third-party beneficiaries of this Agreement.
- g. **Survival of Obligations.** The obligation of Vendor and the obligations of the Participant herein shall survive the termination or expiration of this Agreement.
- h. **Severability.** If any provision of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the invalid provision is declared to be severable and the validity and enforceability of the remaining provisions and the applications thereof shall not be affected thereby. Notwithstanding the above, such invalid provision shall be construed, to the extent possible, in accordance with the original intent of NABOR MLS and Vendor.
- i. **Third Parties.** No provision in this Agreement is intended or shall be construed to be for the benefit of any third party.
- j. **Waiver.** Failure by either party to enforce any term of this Agreement shall not be deemed a waiver of enforcement of that term or any other term.

Northwest Arkansas Board of REALTORS® MLS Information and Signature

Entered into on behalf of Northwest Arkansas Board of REALTORS® MLS by:

Northwest Arkansas Board of REALTORS®

Address for Notice:
314 N. Goad Springs Road
Lowell, AR 72745



IDX Agreement Vendor Information and Signature Page

Vendor Name: Dan Dlhy
(Please Print)

Vendor Company Name: Constellation Web Solutions

Address: 6737 W. Washington Street Suite: 2120

City: Milwaukee State: WI Zip: 53214

Phone: 425-636-6910 Fax: 866-299-4385

Vendor E-mail Address: brokersolutions@constellationws.com

You must supply an e-mail address here. This address will be the MLS office's principal means of communicating with you for notices under this agreement.)

Name of the Client for whom you are providing IDX-related services

Name of Client's Firm

Client Mailing Address City: _____ State: _____ Zip: _____

Client's E-mail Address

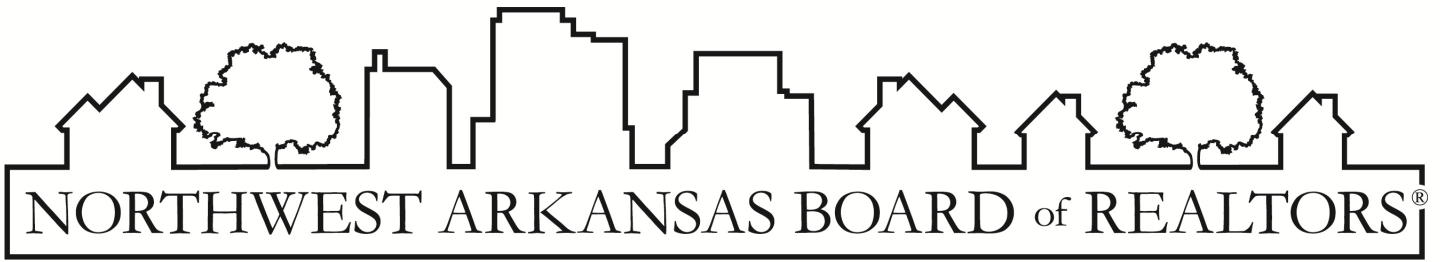
Client's Website URL for IDX Display

I CERTIFY THAT I HAVE RECEIVED A COPY OF THE FULL AGREEMENT FOR INTERNET DATA EXCHANGE (IDX) TO WHICH THIS SIGNATURE APPLIES AND THAT I AGREE TO ABIDE BY THE RULES AND GUIDELINES SET FORTH WITHIN THAT AGREEMENT AND THE ASSOCIATED POLICIES AND DOCUMENTS.

Dan Dlhy
Vendor Signature) Date

Dan Dlhy Data & Compliance Manager
Print Name Title

NOTE TO VENDOR: Be sure to enter into this IDX Agreement with the MLS office and every Participant for which you provide services. If you sign only one and that client's access to the IDX Data is terminated, you will not be able to get the data for your other clients.



IDX Agreement MLS Participant Information and Signature Page

Participant Firm Name: _____

Participant (Designated Realtor®/Auth. Branch Manager): _____

Participant MLS ID: _____ Website Address: _____

MLS Participant E-mail Address: _____

Please Note: You must supply an e-mail address here. This address will be the Association's principal means of communicating with you for notices under this Agreement.

Firm Street Address: _____ Suite: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

I CERTIFY THAT I HAVE RECEIVED A COPY OF THE FULL AGREEMENT FOR INTERNET DATA EXCHANGE (IDX) TO WHICH THIS SIGNATURE APPLIES AND THAT I AGREE TO ABIDE BY THE RULES AND GUIDELINES SET FORTH WITHIN THAT AGREEMENT AND THE ASSOCIATED POLICIES AND DOCUMENTS.

This Agreement is entered into on behalf of the above-identified Firm by:

MLS Participant Signature Print Name

Title Date