



SHASTA ASSOCIATION OF REALTORS 2022 RETS IDX AGREEMENT

This RETS IDX (Active/Pending/Sold Listings) Agreement (the "Agreement") is between the Shasta Association of REALTORS® Multiple Listing Service ("SAOR"), the Vendor("Vendor"), and an SAOR MLS Participant (SAOR MLS Participant).

SAOR MLS Member: _____ has retained the Vendor Constellation Web Solutions as of _____ ("Effective Date"). This Agreement is entered into at Redding, California.

BACKGROUND

- A. The purpose of this Agreement is to establish the terms and conditions upon which Vendor may access on behalf of SAOR MLS Participant the multiple listing database (the "Content") maintained by SAOR. The Content does not include those listings for which the property seller or broker member has opted out of broker reciprocity.
- B. Vendor agrees to use the Content solely for the purpose of accessing the Content on an Internet site or in-house multiple listing system for the SAOR MLS Participant. All of Vendor's clients that use the Content must be current members in good standing with SAOR and its multiple listing service.

AGREEMENT

SAOR, Vendor and SAOR MLS Participant hereby agree as follows:

Vendor and SAOR MLS Participant both represent and warrant that Vendor has been engaged by SAOR MLS Participant and that SAOR MLS Participant is a member of SAOR and its multiple listing system in good standing, that SAOR MLS Participant (or SAOR MLS Participant's broker) has opted in to Broker Reciprocity; and, that Vendor has been hired by SAOR MLS Participant to develop, modify, enhance or manage SAOR MLS Participant's in house multiple listing system or Internet site which uses the Content pursuant to SAOR MLS Participant's membership with SAOR (the " SAOR MLS Participant Site"). Vendor and SAOR MLS Participant shall notify SAOR within five (5) days of any change in these representations and warranties.

1. RULES AND REGULATIONS OF SAOR

Vendor represents and warrants that it has been provided and agrees to read and abide by the rules and regulations of SAOR and its multiple listing service with the same force and effect as those rules and regulations apply to SAOR MLS Participant.

2. LICENSE

SAOR hereby grants to Vendor a non-exclusive and non-transferable license (the "License") solely to copy, display, reproduce the Content in digital form and to combine digitized versions of the Content



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with other digitized images, photographs, animation, video, audio, text, software and other Content (the "Modified Content") exclusively for use on the SAOR MLS Participant Site. Vendor may use the License for the purpose of copying, reproducing, transmitting, communicating, displaying or distributing the Content and/or the Modified Content exclusively as part of the SAOR MLS Participant Site, but only to the extent allowed by and subject to the restrictions, limitations and obligations SAOR MLS Participant has to SAOR. The Shasta Association of REALTORS® shall have the right to review the implementation and placement of the Content on the SAOR MLS Participant Site at any time. Furthermore, Vendor may not use the content or any derivative of the content on any other site or for any other purpose than described herein. All additional Vendor Clients wishing to use the content require a separately executed contract and separate login credentials.

3. TERM

The term of this agreement shall begin as of the Effective Date and will continue for (1) one year, unless terminated earlier, shall automatically renew for successive one-year terms beginning of the effective date of each successive year.

4. TERMINATION

SAOR shall have the right to terminate the License at any time for any breach of the terms and conditions of this Agreement, for the termination of Vendor by SAOR MLS Participant, or for a breach of SAOR MLS

Participant's membership in SAOR (e.g. for nonpayment of dues). SAOR may also terminate this Agreement, upon thirty (30) days written notice to Vendor, in the event SAOR is charged a fee from its MLS system vendor for making the Content available to Vendor. Vendor may terminate this Agreement at any time. SAOR also reserves the right to terminate this agreement without cause subject to the provisions below. Upon termination of the License by either party:

4.1 The Vendor shall purge all of the Content and the Modified Content from its computers and destroy all of the copies of the Content and the Modified Content maintained by the Vendor on whatever medium;

4.2 The Vendor shall certify to SAOR that it has purged and destroyed all the Content and the Modified Content and all copies thereof in accordance herewith;

4.3 The Vendor shall cease all use of the Content and the Modified Content whether on the SAOR MLS Participant's System or in any other location or usage.

4.4 If terminated by SAOR without cause, any fees or payments by Vendor will be prorated and returned. The termination of this agreement by any party shall not constitute or be deemed to constitute a waiver or release by any party of any right or claim such party may have against any other party to this agreement based on any act or omission of such other party occurring on or before termination.

5. SAOR OWNERSHIP OF MODIFIED CONTENT



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Vendor hereby irrevocably assigns to SAOR all of Vendor's rights in the Modified Content, including, without limitation, the images and text which are viewable on the SAOR MLS Participant's Site. All such materials shall belong exclusively to SAOR and Vendor agrees to assist SAOR in the perfection and enforcement of any of SAOR's rights pursuant to this Agreement. Nothing in this Agreement shall constitute a transfer of title to the Content or the Modified Content, including all photographs, images and data therein, to Vendor.

MLS Sold data will be for the previous 3 years. Vendor hereby acknowledges and agrees that SAOR owns and retains all rights; title and interest in and to the Content and the Modified Content, including all photographs, images and data therein, and that Vendor shall have no right to retain or use any of the Content or the Modified Content following the termination of this Agreement. Furthermore, Vendor agrees not to challenge any intellectual property right claimed by SAOR in or to the Content or the Modified Content, including any effort by SAOR to obtain and hold in its name copyrights, registration or other protection that may be appropriate for the protection of the Content and the Modified Content, and any extensions or renewals of such protections.

6. CONFIDENTIALITY

Vendor hereby agrees that all of the material accessed by or disclosed by SAOR to the Vendor, including the Content and the Modified Content, shall be presumed to be confidential trade secrets of SAOR and proprietary information of SAOR. Vendor agrees to use its best efforts to maintain and preserve the confidentiality of all such materials and to not disclose such information to third parties other than the SAOR MLS Participant, and then only to the extent as is covered by or subject to the SAOR MLS Participant's rights as a member of SAOR and its Multiple Listing system. Vendor shall not make any other disclosure of such information without the prior written consent of SAOR.

7. NO WARRANTY

THE CONTENT AS PROVIDED BY SAOR IS "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

SAOR ALSO DOES NOT WARRANT THE ACCURACY OF THE INFORMATION IN THE CONTENT. VENDOR HEREBY RELEASES AND DISCHARGES SAOR, ITS MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES FROM ANY AND ALL CLAIMS ARISING FROM OR BASED UPON THE OWNERSHIP, RIGHT TO USE OR ACCURACY OF ANY OF THE CONTENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL SAOR, ITS MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE FOR ANY DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, AS A RESULT OF OR IN CONNECTION WITH THIS AGREEMENT OR VENDOR'S USE OF THE CONTENT.



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8. NO ASSIGNMENT

Vendor may not transfer any of its rights in this Agreement to any party without the prior written consent of SAOR. Vendor shall not use the feed for another member.

9. INDEMNIFICATION

Vendor agrees to indemnify, defend and hold harmless SAOR, its members, officers, directors, employees, agents and representatives from and against all claims arising out of Vendor's use of the Content, the Modified Content and or this Agreement.

10. GOVERNING LAW

This Agreement shall be governed by, and construed under, the laws of the State of California. Any legal action pertaining to this agreement shall be brought in the Shasta County Superior Court.

11. BINDING UPON SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon, and inure to the benefit of any permitted successors, executors, heirs, representatives, administrators and assigns of the parties to this Agreement.

12. ENTIRE AGREEMENT

This Agreement sets forth the entire Agreement between Vendor, SAOR MLS Participant and SAOR concerning Vendor's use of the Content and/or the Modified Content.

13. AMENDMENT

This agreement may not be amended or modified in any manner except by a written agreement signed by SAOR, Vendor and SAOR MLS Participant.

14. NO JOINT VENTURE

Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between SAOR, Vendor and/or SAOR MLS Participant. Except as expressly set forth in this Agreement, none of the parties are authorized by virtue of this Agreement to act as an agent, employee or legal representative of any of the others, and the relationships of the parties are, and at all times will continue to be, that of Independent Contractors (other than all pre-existing and on-going relationships between SAOR MLS Participant and SAOR which are governed by separate agreements, rules and regulations).

15. WAIVER

No waiver of any right or obligation under this Agreement by any party at any occasion shall be deemed to operate as a waiver of any such right or obligation on any subsequent occasion.



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16. SEVERABILITY

If any provision of this Agreement shall be held to be void or unenforceable, such provision shall be considered by all parties to be severed from this Agreement. All remaining provisions of the Agreement shall be considered by all parties to remain in full force and effect.

17. SURVIVAL OF VENDOR'S OBLIGATION AFTER TERMINATION

Notwithstanding any termination of the License, Vendor's obligations upon termination, of confidentiality, of indemnification and for attorney's fees shall survive the termination of this Agreement.

18. INTERPRETATION

Each party to this agreement represents that they have been represented by independent legal counsel and the rule of construction that this agreement shall be interpreted against the drafting party shall not apply.

19. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall be considered the same agreement.

20. ATTORNEY'S FEES

In the event of any lawsuit or other legal proceeding concerning this Agreement between the parties, the prevailing party shall be entitled to its reasonable attorney's fees, expenses, and costs in addition to any damages and injunctive or other relief.

21. FEES & ADDITIONAL TERMS

SAOR MLS Participant agrees to pay SAOR a \$95.00 Annual License Fee for each IDX Data Feed (Active/Pending/Sold Listings) requested.

If SAOR MLS Participant and/or Vendor shares the IDX Data Feed with other Client(s) and/or Vendor(s), it will be construed as a breach of the terms and conditions of this agreement. Upon breach of terms and conditions of agreement, SAOR shall have the right to terminate the RETS/IDX license agreement with a 30-day notice to SAOR MLS Participant and/or Vendor. License fee will be billed annually on January of each year. Any payment not received within 30 days of the invoice date, will incur a 10% late charge. After 30 days, the IDX services will be deactivated.

PLEASE SUBMIT PAYMENT OF \$95 WITH THIS AGREEMENT.

Payments on this contract agreement will be for the annual IDX billing cycle and will stay in force per the terms of the agreement as stipulated in condition 4.



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TERMS of the agreement. The billing for IDX is:

Agreements established between January – June 30th is billed \$ 95.00. NEW Agreements established between July – December 31st will be prorated to \$ 47.50 and then billed annually in January for \$ 95.00 (subject to change upon annual Board of Directors approval). Should an agreement be prepared based on an audit of the vendor, the IDX feed will not be prorated.

MLS Rules for IDX

12.16 Use of Listing Information on Internet. [Also known as Internet Data Exchange ("IDX")] "Internet Data Exchange" ("IDX") is a means by which listing brokers permit limited electronic display and delivery of their active, pending, and sold listings data, in accordance with the IDX rules set forth herein, by other participating Broker Participants and R.E. Subscribers via the following authorized mediums under said Broker Participants and R.E. Subscribers control: websites, mobile apps and audio devices. As used throughout this policy, "display" includes "delivery" of such listings.

a. Authorization. Subject to paragraphs b. through r. below, and notwithstanding anything in these rules and regulations to the contrary, Broker Participants and R.E. Subscribers may electronically display aggregated MLS active, pending, and sold listing information through either downloading or by framing such information on the MLS or association public access website (if such a site is available). The MLS's download will include publicly accessible sold listing data starting from January 1, 2012. "Publicly accessible" sold information as used in the IDX policy and rules, means data that is available electronically or in hard copy to the public from city, county, state or other government records.

b. Consent. The listing broker's consent for such internet display is presumed, in satisfaction of Section 12.8, unless a listing broker affirmatively notifies the MLS that the listing broker refuses to permit display on either on a blanket or on a listing-by-listing basis. Listing brokers that refuse to permit other Broker Participants or R.E. Subscribers to display their listing information on a blanket basis may not display MLS active listing information of other brokers' listings. Even where listing brokers have given blanket authority for other Broker Participants and R.E. Subscribers to partake in IDX display of their listings, such consent may be withdrawn on a listing-by-listing basis where the seller has affirmatively directed that their listing or their property address not appear on the Internet or other electronic forms of display or distribution.

c. Control. Broker Participants and R.E. Subscribers may only partake in IDX display on websites, applications for mobile devices and audio devices which they control. Under IDX policy, "control" means that Broker Participants and R.E. Subscribers must have the ability to add, delete, modify and update information as required by the IDX policy. All displays of IDX listings must also be under the actual and apparent control of the Broker Participant and/or R.E. Subscriber, and must be presented to the public as being that Broker Participant's and/or R.E. Subscriber's display. Actual control requires that Broker Participants and R.E. Subscribers have developed the display, or caused the display to be developed for themselves pursuant to an agreement giving the Broker Participant and/or R.E. Subscriber authority to determine what listings will be displayed, and how those listings will be displayed. Apparent control requires that a reasonable consumer receiving the Broker Participant's and/or R.E. Subscriber's display will understand the display is the Broker Participant's and/or R.E. Subscriber's, and that the display is controlled by the Broker Participant and/or R.E. Subscriber.



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d. Display Content. Broker Participants and R.E. Subscribers shall not display confidential information fields, as determined by the MLS in the MLSs' sole discretion, such as that information intended for buyer brokers rather than consumers.

Listing Attribution. All IDX listing displays shall identify the name of the listing firm, **and the email or phone number provided by the listing Participant**, and the name of the listing agent in a manner designed to easily identify such listing firm or agent. Such identification shall be in a reasonably prominent location and provide clear, conspicuous written or verbal identification of the name of the listing firm and listing agent, **and the email or phone number provided by the listing Participant**. Displays of minimum information (e.g. a one line or thumbnail search result, text messages, "tweets", etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.

f. Modifications and Augmentations. Broker Participant and R.E. Subscribers shall not modify or manipulate information relating to other participants listings. Broker Participants and R.E. Subscribers may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields.

g. Source and Update. Information displayed shall indicate the MLS as the source of the information being displayed and the most recent date updated. Displays of minimum information (e.g. a one-line or thumbnail search result, text messages, "tweets", etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. Broker Participants and R.E. Subscribers shall update all downloads and refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every 12 hours.

h. Usage Limitations. Broker Participants and R.E. Subscribers shall indicate on their displays that the information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing. Displays of minimum information (e.g. a one-line or thumbnail search result, text messages, "tweets", etc., of two hundred (200) characters or less) are exempt from this requirement, but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.



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- i. Display Purpose. Broker Participants and R.E. Subscribers may not use IDX provided listings for any purpose other than display as provided in these rules. This does not require Broker Participants and R.E. Subscribers to prevent indexing of IDX listings by recognized search engines.
- j. Restricted Display. Listings, including property addresses, can be included in IDX display except where sellers have directed their listing brokers to withhold their listings or the listings' property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs).
- k. Selective Listing Display. Not all listings from the MLS must be displayed as long as any exclusions from display on Broker Participants' and R.E. Subscribers' IDX sites are based on objective criteria, *e.g.* type of property, listed price, listing status or geographical location. Selection of listings displayed on any IDX site must be independently made by each Participant.
- l. Restricted Access and Distribution. Sharing of the MLS compilation with any third party not authorized by the MLS is prohibited. Except as provided in the IDX policy and these rules, an IDX site or a Participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide or make any portion of the MLS database available to any person or entity.
- m. Brokerage Identification. Any IDX display controlled by a Broker Participant or R.E. Subscriber must provide clear conspicuous written or verbal identification of the name of the brokerage firm under which they operate.
- n. Co-Mingling. A Broker Participant or R.E. Subscriber may co-mingle listings through IDX from this MLS with listings from other MLS sources on its IDX display, provided all such displays are consistent with these IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. Co-mingling is the ability for a visitor to the website to execute a single property search of multiple IDX feeds resulting in the display of IDX information from each of the MLS's on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. Listings obtained from other MLSs must display the source from which each such listing was obtained. Displays of minimum information (*e.g.* a one-line or thumbnail search result, text messages, "tweets", etc. of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.
- o. Third Party Comments and Automated Value Estimates. Any IDX display controlled by a Broker Participant or R.E. Subscriber that (a) allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (b) displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, shall disable or discontinue either or both of those features as to the seller's listing at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by Broker Participants² and R.E. Subscribers. Except for the foregoing and subject to section (o) below, a Broker Participant's or R.E. Subscriber's IDX display may communicate the Broker Participant's or R.E. Subscriber's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its viewers that a particular feature has been disabled at the request of the seller.



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- p. Making Corrections. Broker Participants and R.E. Subscribers shall maintain a means (*e.g.* e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of Broker Participants and R.E. Subscribers beyond that supplied by the MLS and that relates to a specific property. Broker Participants and R.E. Subscribers shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for that property explaining why the data or information is false. However, the Broker Participants and R.E. Subscribers shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.
- q. Search Result Limitation. Broker Participants and R.E. Subscribers shall limit the number of listings that a viewer may view, retrieve, or download to not more than 500 in response to any inquiry.
- r. Advertising. Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the Broker Participant's and/or R.E. Subscriber's logo and contact information is larger than that of any third party.
- s. Disclaimer. Broker Participants and R.E. Subscribers shall indicate on their displays, in a manner readily visible to consumers, but not less than 7pt typeface, the following, or substantially similar notice indicating that the MLS data is deemed reliable but is not guaranteed accurate by the MLS.

Shasta Association of REALTORS® (alternatively, from the SAOR MLS) for the period (date) through (date). All data, including all measurements and calculations of area, is obtained from various sources and has not been, and will not be, verified by broker or MLS. All information should be independently reviewed and verified for accuracy. Properties may or may not be listed by the office/agent presenting the information.

Displays of minimum information (*e.g.*, a one-line or thumbnail search result, text messages, "tweets", etc., of two hundred (200) characters or less) are exempt from this requirement, but only when linked directly to a display that includes the required disclosure. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.

Violation of this section will be cause for Citations as outlined in Section 14.4 of the rules herein.

12.16.1 Notification by Authorized Participants and Subscribers. Broker Participants and R.E. Subscribers partaking in the display of IDX information of other brokers' listings pursuant to Section 12.16 must notify the MLS before displaying said IDX information and must give the MLS direct access as well as allow access for other MLS Participants for purposes of monitoring/ensuring compliance with applicable rules and policies.

12.16.2 Right to Charge for Download. The MLS has the right to charge the costs of adding or enhancing its downloading capacity to Broker Participants and R.E. Subscribers who request downloading of listing information pursuant to Section 12.16.

12.16.3 Listing Broker's Right to Opt Out of Internet Advertising of MLS Information. If the A.O.R.



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advertises MLS information on the Internet or licenses MLS information for advertising on the Internet, the listing broker shall have the right to opt out of such advertising in accordance with the MLS's procedures for opting out. The listing broker also shall have the right to refuse to have listings displayed on a blanket basis or on a listing by listing basis in accordance with Section 12.16 by affirmatively notifying the MLS in accordance with the MLS procedures for opting out. Notwithstanding anything in these rules and regulations to the contrary, the A.O.R. reserves the right to determine whether to provide Internet advertising services and whether such services are to be made available to non-A.O.R. members.

12.17 Website Name and Status Disclosure. MLS Participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner. Websites of Subscribers affiliated with a Participant's firm shall disclose the firm's name and the Subscriber's state(s) of licensure in a reasonable and readily apparent manner.

12.18 Use of the Terms MLS and Multiple Listing Service. No MLS Participant or Subscriber shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants and Subscribers shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to Participants and Subscribers. This does not prohibit Participants and Subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.



**SHASTA ASSOCIATION OF REALTORS
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SHASTA ASSOCIATION OF REALTORS®

Tom H. Whitacre

Executive Officer

Signature

Idx.shastamls@gmail.com

Date

Email

VENDOR

Constellation Web Solutions

brokersolutions@constellationws.com

Company

Email

Data & Compliance Manager

Signature

Title

Date: _____

Vendor URL Address <http://constellationws.com>

Web site URL Address for IDX Feed _____

(The URL Address listed is the only site which this data is approved for. All Sub accounts containing agents profile information requires a separate IDX agreement).

SAOR MLS MEMBER

Name

Office

Signature

Email

Date: _____

Please return agreement to: idx.shastamls@gmail.com