This AGREEMENT is made and entered into by Montana Regional MLS, LLC. ("MRMLS"), with offices at 110 Cooperative Way Kalispell, MT 59901; the brokerage firm participating in MRMLS identified on the "Firm" section of the signature page below ("Firm"), and the individual or business association identified on the "Consultant" section of the signature page below, if any ("Consultant"). To the extent that Firm permits any Salespersons affiliated with Firm to work with Consultant under this Agreement (collectively, the "Salesperson Party"), Firm is liable for Salesperson Party's conduct as if Salesperson Party were a party to this Agreement.

DEFINITIONS

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

Confidential Information: "Confidential Information" means information or material proprietary to a party or designated "confidential" by the party and not generally known to the public that the other parties may obtain knowledge of or access to as a result of this Agreement. Confidential Information includes, but is not limited to, the following types of information (whether in oral, visual, audio, written or other form): (a) all MRMLS Data, except to the extent to which this Agreement and the MRMLS Policies permit its disclosure: (b) IP addresses, access codes and passwords; (c) any information that MRMLS obtains from any third party that MRMLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by MRMLS; (d) any information designated as confidential or private by any applicable state, federal, local or other law, regulation or directive; and (e) any claims and evidence presented by any party in any arbitration under this Agreement. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party; independently developed by the receiving party; received from a third party who has obtained and disclosed it without breaching any confidentiality agreement; or already possessed by the receiving party at the time of its disclosure.

Data Interface: The transport protocols and data storage formats provided by MRMLS for use by Firm, Salesperson Party, and Consultant; MRMLS may modify the Data Interface in its sole discretion from time to time.

Firm Internal Use: Any use of those portions of the MRMLS Data relating to Firm's own listings; and any use of those portions of the MRMLS Data relating to listings of Participants other than Firm that exposes MRMLS Data only to Firm-Related Persons and to Salespersons affiliated with Firm, subject to the MRMLS Policies.

 $\label{lem:Firm-Related Persons: Consultant, if any, and employees of Firm who are not Salespersons or broker/managers.$

IDX: Use and display of portions of the MRMLS Data under the Internet Data Exchange provisions of the MRMLS Policies.

MRMLS Customer Affiliate: Any licensed real estate broker who is a Participant (as the term is defined in the MRMLS Policies). For purposes of this Agreement, "MRMLS Customer Affiliate" does not apply to participants of MLSs other than MRMLS. Where applied in this Agreement to Participants other than Firm, "MRMLS Customer Affiliate" also includes Salespersons affiliated with those Participants for whom the Participants are responsible under the laws of the State of Montana.

MRMLS Data: Data relating to real estate for sale, previously sold, or listed for sale and data relating to MRMLS Customer Affiliates (including text, photographs, and all other data formats now known or hereafter invented) entered into MRMLS's databases by MRMLS Customer Affiliates and MRMLS, or on their behalf.

MRMLS Policies: MRMLS's Rules and Regulations, as amended from time to time, and any operating policies promulgated by MRMLS.

Salesperson: Any person holding a real estate license in Montana who is not a Participant but who is subject to a Participant's supervision under the laws of Montana.

Second Level Domain: "Second Level Domain" has the meaning given to it in this paragraph. "URL" means a web address, including the "http://" and any material appearing after a slash in the address. "Domain Name" means a URL, less the "http://" and any material appearing to the right of the next slash the address. (So for example, in the "Http://ianesmith.abcrealtv.com/homepage.html". the Domain Name is "JANESMITH.ABCREALTY.COM".) "Top Level Domain" means the portion of the Domain Name to the right of the right-most period. (In the example, "COM".) "Second Level Domain" means that portion of a domain name to the left of the right-most period, up to the second period from the right, if any, plus the Top Level Domain. (In the example, "ABCREALTY.COM".) "Third Level Domain" means that portion of a domain name to the left of the second period from the right, if any, up to the third period from the right, if any, plus the Second Level Domain. (In the example, "JANESMITH.ABCREALTY.COM".).

VOW: Use and display of portions of the MRMLS Data under the Virtual Office Website (VOW) provisions of the MRMLS Policies.

MRMLS'S OBLIGATIONS

- 2. MRMLS grants to Firm and Salesperson Party a non-exclusive, world-wide license to make copies of, display, perform, and make derivative works of the MRMLS Data, during the term of this Agreement, only to the extent expressly permitted by and subject at all times to the terms and restrictions of this Agreement; any other use of the MRMLS Data is hereby prohibited. All licensees hereunder shall terminate upon the termination of this Agreement. This Agreement is a non-exclusive license, and not a sale, assignment, or exclusive license. MRMLS retains all rights not expressly granted herein.
- 3. MRMLS agrees to provide to Firm and Consultant, during the term of this Agreement, (a) access to the MRMLS Data via the Data Interface under the same terms and conditions MRMLS offers to other MRMLS Customer Affiliates; (b) seven days' advance notice of changes to the Data Interface; and (c) seven days' advance notice of changes to the MRMLS Policies. MRMLS does not undertake to provide technical support for the Data Interface or the MRMLS Data.

FIRM'S OBLIGATIONS

- 4. Firm and Salesperson Party shall comply with the MRMLS Policies at all times. In the event of any perceived conflict between the MRMLS Policies and this Agreement, the MRMLS Policies shall prevail and govern.
- 5. Firm and Salesperson Party shall use the MRMLS Data obtained under this Agreement for Firm Internal Use, IDX, and VOW Uses only. Any other use is strictly prohibited. Firm and Salesperson Party shall not make the MRMLS Data or the Confidential Information available to any third party unless expressly authorized to do so under this Agreement. Firm and Salesperson Party may display the MRMLS Data on a web site available to the public only to the extent permitted by the MRMLS Policies and then only on a site or sites resident at the second-level and third-level domain(s) indicated on the signature page and in Exhibit A of this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.
- 6. Firm and Salesperson Party acknowledge that ownership and use rights relating to copyrights in the MRMLS Data are defined in the MRMLS Policies or in the terms of the participant and subscriber agreements between MRMLS Firm and Salesperson Party, or both. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.
- 7. If MRMLS notifies Firm of a breach of the MRMLS Policies or this Agreement and Firm does not immediately cure the breach, Firm shall hold Consultant harmless from any liability arising from Consultant's cooperation with MRMLS under Paragraph 10.
- 8. Firm is surety for Consultant's obligations to pay fees under Paragraph 14. The provisions of the preceding sentence shall survive the expiration or other termination of this Agreement in perpetuity. Firm acknowledges receipt of MRMLS's current schedule of such fees, if any.

MRMLS may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Firm. Firm shall be liable for all costs, including reasonable attorney fees, associated with collecting amounts due under this Agreement.

9. Firm is surety for Salesperson Party's and Consultant's obligations under this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.

CONSULTANT'S OBLIGATIONS

- Consultant shall immediately correct any breach of this Agreement or violation of the MRMLS Policies within its control, whether committed by Firm or Consultant, upon notice from MRMLS.
- 11. Consultant acknowledges that (as among the parties to this Agreement) Firm and MRMLS possess all right, title, and interest in all copyrights in the MRMLS Data. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.
- 12. Consultant shall not make the MRMLS Data or the Confidential Information available to any third party, except on behalf of Firm and Salesperson Party and in a manner consistent with Firm's and Salesperson Party's obligations under Paragraphs 4 through 9 of this Agreement; nor shall it make any other use of the MRMLS Data, whether commercial or personal. In the event that Consultant provides services to MRMLS Customer Affiliate other than Firm, Consultant must enter separate contracts with MRMLS. Consultant must ascertain, using the Data Interface on a daily basis, that each MRMLS Customer Affiliate to which Consultant provides services remains an eligible MRMLS Customer Affiliate; and in the case of Salespersons, that each Salesperson Party remains affiliated with Firm. Failure to comply with the provisions of this paragraph, will result in MRMLS terminating all of Consultant's access(es) to the MRMLS Data under this Agreement and all similar agreements. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.
- 13. Consultant warrants that any effort or use of the MRMLS Data will not constitute patent infringement of any third party. The provisions of this paragraph shall survive the expiration or other termination of this Agreement in perpetuity.
- 14. Consultant shall pay the fees, if any, that MRMLS customarily charges for data access. Fees paid shall not be prorated should the Agreement be terminated pursuant to Paragraph 17. Consultant acknowledges receipt of MRMLS's current schedule of such fees, if any. MRMLS may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Consultant. Consultant shall be liable for all costs, including reasonable attorney fees, associated with collecting amounts due under this Agreement. Consultant shall notify MRMLS within five business days of any change to the information relating to it in this Agreement, including change of its corporate name or address.

AUDITS OF COMPLIANCE

15. MRMLS may, or at its option may engage an independent third party to, review, inspect, and test the books, records, equipment, and facilities of Firm, Salesperson Party, and Consultant to the extent reasonably necessary to ascertain Firm's, Salesperson Party's, and Consultant's compliance with this Agreement ("Audit"). MRMLS may conduct an Audit upon any notice reasonable under the circumstances. Audit activities may include, without limitation, obtaining full access to Firm's, Salesperson Party's, and Consultant's web sites and systems to ensure that MRMLS Data is displayed in accordance with the MRMLS Policies; using all features available to end-users of Firm's, Salesperson Party's, and Consultant's systems that employ the MRMLS Data; and posing as consumers to register and test services Firm, Salesperson Party, and Consultant make available to consumers using the MRMLS Data. MRMLS shall pay the costs it incurs, and the out-of-pocket costs Firm, Salesperson Party, and Consultant incur, as part of any Audit; provided, however, Firm shall be liable for all costs of any Audit that discloses that Firm or Consultant has breached this Agreement. The provisions of this paragraph shall survive the expiration or other termination of this Agreement for one year.

CONFIDENTIAL INFORMATION

16. The parties shall protect the Confidential Information with the same degree of care they take to protect their own sensitive business information of like kind, but in no event less than reasonable care. A party may disclose Confidential Information if such disclosure is required by law or court order; provided, however, that such party makes commercially reasonable efforts to notify the others in writing in advance of disclosure. Within five days after termination of this Agreement, the receiving party shall return to the disclosing party all Confidential Information of the disclosing party. The receiving party shall also erase or destroy Confidential Information stored on magnetic media or other computer storage. An officer of the receiving party shall certify in writing that all materials have been returned or destroyed.

TERM AND TERMINATION

- 17. The term of this Agreement begins on the date that MRMLS signs it. This Agreement shall terminate upon the occurrence of any of the following events: (a) immediately upon termination of Firm's privileges as a Participant in MRMLS; (b) 30 days after any party's notice to the others of its intent to terminate; (c) 10 days after any party's notice to another that the other has breached this Agreement, provided the breach remains uncured; (d) immediately upon any party's notice to another that the other has breached this Agreement, provided the breach is not susceptible to cure, is one of a pattern of repeated breaches, or has caused the party giving notice irreparable harm; (e) immediately upon Firm's notice to a Consultant that Consultant is no longer designated to provide IDX or VOW services to it; (f) with regard to any Salesperson Party, immediately upon any event that results in the Salesperson Party no longer being affiliated with Firm; (g) as provided in Paragraph 33 and 36.
- 18. In the event Firm's privileges as a Participant (or Salesperson Party's privileges of affiliation with Firm) are terminated while this Agreement is in effect and MRMLS subsequently reinstates those privileges, this Agreement shall automatically be reinstated if MRMLS resumes its obligations under Paragraphs 2 and 3. In the event Firm, Salesperson Party, or Consultant breaches this Agreement and entitles MRMLS to terminate under Paragraph 17, MRMLS may in its sole discretion suspend its performance instead of terminating this Agreement. MRMLS may make this election by notice to the other parties within three days after the initiation of the suspension. Firm's, Salesperson Party's, and Consultant's obligations hereunder continue during any period of suspension. In the event of any suspension or termination of this Agreement, neither Firm, Salesperson Party, nor Consultant shall make any further use of the MRMLS Data or any derivative works based on it (except the portions of it relating to Firm's own listings) until and unless Firm's or Salesperson Party's rights under this Agreement are restored.

TRADEMARKS

- 20. **Grant**. MRMSL grants to Consultant a limited, non-exclusive, revocable license to use the MRMLS Trademark for the purposes of identifying MRMLS as the source of the MRMLS Data.
- 21. **Terms of Trademark License.** Consultant shall use the MRMLS Trademark in the exact form as provided by MRMLS and strictly in accordance with the applicable terms of the Display Standards.
- 22. **Discretion to Terminate.** MRMLS may terminate this License to use the MRMLS Trademark at any time and in its sole discretion, upon ten (10) days notice.
- 23. **No Other Right.** No other right is granted to Consultant under this Agreement with respect to the MRMLS Trademark or any other trademark of MRMLS or its Parent or Subsidiary entities.
- 24. **Prohibited Use and Action.** Consultant shall not use the MRMLS Trademark or any other trademark of MRMLS or its Parent or Subsidiary entities, or any marks that are confusingly similar, to assert any right, license, or interest with respect to the MRMLS Trademark or any other trademarks of MRMLS or its Parent or Subsidiary entities, or represent or suggest any affiliation between MRMLS and Consultant. Consultant shall not file any applications or assert any rights to the MRMLS Trademark or any other

trademark of MRMLS or its Parent or Subsidiary entities, in the United State or in any other country or territory.

GENERAL PROVISIONS

- 25. **Applicable law**. This Agreement shall be governed by and interpreted according to the laws of the State of Montana, without regard to its conflicts and choice of law provisions.
- 26. **Survival of Obligations**. The "Definitions," "Confidential Information," and "General" provisions of this Agreement shall survive its termination or expiration in perpetuity. Other provisions shall survive according to their terms
- 27. MRMLS's Remedies. (a) Injunctive relief: Because of the unique nature of the MRMLS Data and Confidential Information, Firm and Consultant acknowledge and agree that MRMLS would suffer irreparable harm in the event that either of them breaches or threatens to breach its obligations under this Agreement, and that monetary damages would be inadequate to compensate MRMLS for a breach. MRMLS is therefore entitled, in addition to all other forms of relief, to injunctive relief to restrain any threatened, continuing or further breach by Firm, Salesperson Party, or Consultant or any one of them, without showing or proving any actual damages sustained by MRMLS. and without posting any bond. (b) Liquidated damages: Firm and Consultant acknowledge that damages suffered by MRMLS from access to the MRMLS Data by an unauthorized third party as a result of disclosure of any passwords or an unauthorized disclosure of the MRMLS Data to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to MRMLS to enter into this Agreement, Firm and Consultant agree that (in the event Firm, Salesperson Party, Firm-Related Persons, or Consultant, or its employees, agents, or contractors, disclose any password to access the MRMLS Data or disclose the MRMLS Data itself to any unauthorized third party, regardless of whether such disclosure is intentional or negligent, Firm shall be liable to MRMLS for liquidated damages in the amount of \$15,000 for each such disclosure and termination of this Agreement. Liability of Firm and Consultant under this paragraph is joint and several.
- 28. Limitation of liability/exclusion of warranties. IN NO EVENT SHALL MRMLS BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (EVEN IF MRMLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), OR LOST PROFITS ARISING FROM THIS AGREEMENT OR ANY BREACH OF IT. IN NO EVENT SHALL MRMLS BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY AMOUNT IN EXCESS OF THE GREATER OF (A) THE FEES FIRM AND CONSULTANT HAVE PAID MRMLS, IF ANY, IN THE YEAR IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY CLAIM FOR DAMAGES AND (B) \$100. FIRM AND CONSULTANT ACKNOWLEDGE THAT MRMLS PROVIDES THE MRMLS DATA ON AN "AS-IS," "AS-AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTY OF TITLE, NON-INFRINGEMENT, AND ACCURACY. MRMLS SHALL NOT BE LIABLE TO FIRM, SALESPERSON PARTY, OR CONSULTANT FOR ANY CLAIM ARISING FROM INACCURACIES IN THE MRMLS DATA, ANY FAILURE TO UPDATE THE MRMLS DATA PROMPTLY, OR THE MRMLS DATA'S INADEQUACY FOR ANY PARTICULAR USE, WHETHER PERSONAL OR COMMERCIAL.
- 29. **Dispute resolution; Attorney's fees.** In the event MRMLS claims that Firm, Salesperson Party, or Consultant has violated the MRMLS Policies, MRMLS may, at its option, resolve such a claim according to the disciplinary procedures set out in the MRMLS Policies. Except as set forth in the preceding sentence, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, including any claim against Consultant shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, including its Optional Rules for Emergency Measures of Protection (collectively, the "Arbitration Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having

- jurisdiction thereof. The parties irrevocably agree, consent, and submit themselves to personal jurisdiction in the courts of the State of Montana located in Flathead County or the federal court of the United States situated in Missoula, Montana, as applicable, which shall have sole and exclusive jurisdiction over any action under this Agreement not subject to MRMLS's disciplinary procedures or to arbitration. If any party prevails in an action or proceeding to enforce or interpret this Agreement or any provision hereof, it shall be entitled to reasonable attorney's fees and costs for the legal action.
- 30. Indemnification. Subject to Paragraph 22, in the event a party breaches any provision of this Agreement, that party (the Indemnifying Party) shall indemnify the other parties, their subsidiaries and affiliated companies, and all their respective employees, directors, agents, and authorized successors and assigns (the Indemnified Parties), against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from each claim of any third party resulting from the breach. Consultant indemnifies MRMLS, Firm, Salesperson Party, or customers of MRMLS, Firm, or Salesperson Party, to whom Consultant provides a product or service using MRMLS Data, against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from any third party claim of patent infringement. The Indemnified Parties shall (a) promptly notify the Indemnifying Party of any claim and give the Indemnifying Party the opportunity to defend or negotiate a settlement of any such claim at the Indemnifying Party's expense, and (b) cooperate fully with the Indemnifying Party, at the Indemnifying Party's expense, in defending or settling any claim. The Indemnified Parties shall be entitled to engage their own local counsel at the Indemnifying Party's expense.
- 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 herein or such other address of which any party may advise the others in writing during the term of this Agreement; and shall be effective the earlier of the date of receipt or three days after mailing or other transmission.
- 26. **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.
- 27. **No Assignment**. No party may assign or otherwise transfer any of its rights or obligations under this Agreement to any other party without the prior written consent of all other parties to this Agreement. Any purported assignment or delegation in contravention of this paragraph is null and void, and shall immediately cause this Agreement to terminate.
- 28. Entire Agreement; Amendment. Subject to MRMLS Policies, 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, relating to the same. MRMLS may amend this agreement by providing 30 days' advance notice of the amendment to all other parties; if any party continues to use the Data Interface or the MRMLS Data after the expiration of the 30-day notice period that party will be deemed to have agreed to the terms as amended.
- 32. **Relationship of the Parties**. The parties hereunder are independent contractors. No party shall be deemed to be the agent, partner, joint venturer, franchisor or franchisee, or employee of MRMLS or have any authority to make any agreements or representations on the behalf of MRMLS. Each party shall be solely responsible for the payment of compensation, insurance, and taxes of its own employees.
- 33. **Severability.** Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. In the event that any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the parties, the invalid or unenforceable provision shall be replaced, if possible, with a valid provision which most closely approximates the intent and economic effect of the invalid provision. In the event any provision of the limitation of liability, exclusion of warranties, or indemnification is held invalid or unenforceable, this Agreement shall immediately terminate.

MONTANA REGIONAL MLS, LLC. PARTICIPANT DATA ACCESS AGREEMENT

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Under this Agreement, FIRM IS PERMITTED TO WORK ONLY WITH THE CONSULTANT NAMED HERE. If Firm chooses to engage a different consultant or additional consultants, Firm must enter into a new version of this Agreement with MRMLS and each such consultant. Under this Agreement, Consultant is Permitted to Work only with the Firm NAMED HERE AND SALESPERSON PARTY (SALESPERSONS OF FIRM THAT FIRM HAS CONSENTED TO WORK WITH CONSULTANT). Consultant may not use data obtained under this Agreement to provide any services to MRMLS Customer Affiliates other than Firm, or with Salespersons affiliated with Firm except the Salesperson Party. Consultant must enter into a new version of this Agreement with MRMLS and each additional MRMLS Customer Affiliate.

If Firm will perform its own technical work and there is no Consultant party to this Agreement, Firm should cross out the Consultant signature box before returning this Agreement to MRMLS.

This Agreement is for the following uses (check all that apply): △ IDX □ VOW □ Firm Internal Use.

FIRM	CONSULTANT
	Constellation Web Solutions
Firm name	Consultant's name
	Dan O Dla
Signature of owner or officer	Signature of owner or officer
	, Dan Dihy
Name of owner or officer	Name of owner or officer
Date:	Date:
Contact for notices and operations matters	Contact for notices and operations matters
Name:	Name: Dan Dlhy
Phone:	Phone: 425-636-6910
Email:	Email: brokersolutions@constellationws.com
Mailing:	Mailing: 6737 W. Washington Street, Suite 2120
	Milwaukee, WI 53214
Website URL:	
(Example: MyWebsite.com - If more than one will be used, specify each in Exhibit A.)	
Check One: ☒ RETS ☐ Frameable Link	
MRMLS	IDX Vendor
Montana Regional MLS, LLC	Constellation Web Solutions
Montana Negional MES, EEC	IDX Vendor name
	A
Derek Close, Director of Technology	Danie Dla
Date:	Signature of owner or officer
(effective date of this Agreement)	Dan Dlhy Name of owner or officer
Contact for notices and operations matters	
•	Date:
Name: Derek Close, Director of Technology Phone: (406) 752-4197	Contact for notices and operations matters
Email: dclose@406mls.com	Name: Dan Dlhy
Mailing: 1 N Last Chance Gulch Ste 4.06	Phone: 425-636-6910
Helena, MT 59624-0146	Email: brokersolutions@constellationws.com
	Mailing: 6737 W. Washington Street, Suite 2120
	Milwaukee, WI 53214

Montana Regional MLS,LLC. Participant Data Access Agreement

Exhibit A – Additional Domains

Additional Domains. In addition to the 2nd and 3rd level domains specified on the signature page Firm, Salesperson Party, and Consultant may display MRMLS Data subject to the terms of this Agreement at the following 2nd and 3rd level domains: