



Name of IDX site owner



License Agreement

(Between Participant, Vendor and The MLS™ for Display of Listings)

This License Agreement (the “Agreement”) is made and entered into by and between **Combined L.A./Westside MLS, Inc.**, a California corporation (“The ML S™ /C L A W” or “M L S”), and _____ (“Participant”), and Constellation Web Solutions (“Vendor”). Participant and Vendor are sometimes collectively referred to as “Licensee”.

AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, MLS and Participant and/or Vendor agree as follows:

1. Grant of License. Subject to the terms and conditions of this Agreement, MLS hereby grants to Participant and/or Vendor a limited, non-exclusive, non-transferable, revocable License, solely for the purposes set forth in this Agreement. The License granted under this Agreement is intended to facilitate the display of Licensed Listings on the Display Media. Participant and/or Vendor agree and acknowledge that MLS may terminate or modify the terms of this Agreement at any time, in its sole and exclusive discretion, subject to MLS’s delivery to Participant and/or Vendor of notice of termination or modification. In the event any material modification to this Agreement is unacceptable to Participant or Vendor, either of them may terminate this Agreement in accordance with Section 22.b. **Note: (a) This Agreement covers one business entity for one business model. (b) A separate license agreement may be required by MLS if Participant or Vendor (i) operates under more than one entity, or (ii) engages in business operations under more than one business model, as determined by MLS in its sole and exclusive discretion. (c) To obtain access to display listings of other CARETS multiple listing services, Participant and/or Vendor must enter into a separate license agreement with each CARETS multiple listing service unless the data is being used for the Participant’s internal/back-office application or website.**

2. Limitations on License. Except as expressly set forth in this Agreement, no rights are granted to Participant or Vendor to do any of the following, and neither of them shall do, or cause or permit any other person or entity to do, any of the following: (a) use, display, access, distribute, transfer, alter, or modify the Licensed Listings, or otherwise create any derivative works of any of the Licensed Listings, or any portion thereof, except strictly as permitted under this Agreement, (b) download, distribute, export, deliver, or transmit the Licensed Listings, or any portion thereof, including to any computer or other electronic device, except the Display Server subject to the limitations under this Agreement, (c) sell, grant, share, access to, or sublicense the Licensed Listings, or any portion thereof, to any third party, except subject to the limitations under this Agreement, or (d) take any action inconsistent with this Agreement. Participant and/or Vendor each agree to take all reasonable steps necessary to protect the Licensed Listings from all uses, access, distribution, copying, or use beyond the scope of this Agreement.

3. License Fees and Payment; Expenses. Vendor shall pay to MLS: (a) the license fees and other fees and costs (the “Fees”) as described in the attached Schedule D (“Fees and Payment Terms”); and (b) all legal expenses, including reasonable attorney’s fees, incurred by MLS in negotiating or making changes to this Agreement, or any documents or agreements in connection with this Agreement, if such changes are made or negotiated at the request of Participant or Vendor. Participant or Vendor, as applicable, shall each be responsible for its own expenses and costs in connection with this Agreement, the exercise of their rights or performance of their duties, and MLS shall have no obligation for any portion thereof.

Note: If Vendor does not pay the Fees as and when due, MLS may suspend service to Participant and/ or Vendor without Notice.

4. Display Servers. All Display Servers, if applicable, shall be under the direct control and supervision of Participant or Vendor. In the event Participant or Vendor intend or propose that any other person or entity have any control over, responsibility for, or access to the Display Server (each, a "Sub licensee"), Participant and/or Vendor shall first cause to be entered into a written agreement with the Sub licensee obligating the Sub licensee, along with Participant and/or Vendor, to comply with all of the terms and conditions of the Agreement. MLS shall be an express third-party beneficiary of any such agreement and named as an additional insured on all policies of insurance, including, but not limited to General Liability Insurance and Workers Compensation Insurance.

5. Compliance with Standards.

a. Participant and/or Vendor each agree: (a) to be bound by and comply with all of the terms and conditions of the Access Standards and the Display Standards, as may be modified by MLS from time to time, (b) to maintain, as applicable, the Display Media and the Display Servers, in accordance with such Standards, (c) to cause any display of Licensed Listings to be in compliance with the terms of the Display Standards, (d) not to facilitate or permit any noncompliance with the terms of the Display Standards, the Access Standards, or this Agreement, by any person or entity, including Participant, Vendor, or any Sales Licensee, host or creator, or other person or entity involved in publication or distribution of the Display Media.

b. Participant and/or Vendor each acknowledge that the Access Standards and the Display Standards may include terms and conditions in addition to those set forth in this Agreement, and that MLS may modify the terms thereof, at any time, in its sole and exclusive discretion, subject to delivery to Participant and/or Vendor of a copy of any such modification. In the event any modification to the Access Standards or the Display Standards is unacceptable to Participant or Vendor, either of them may terminate this Agreement in accordance with Section 22.b, or the display of Licensed Listings on a particular Participant or Sales Licensee Website, or in the Print Media, as applicable, and in accordance with Section 22.c.

c. Participant and/or Vendor shall each immediately notify MLS of any failure to comply with this Agreement or the Access Standards and the Display Standards of which it becomes aware, including Participant, Vendor, or any Sales Licensee, and including any actual or attempted unauthorized access to or download or use of the Licensed Listings or any portion thereof. Upon the occurrence of any such event or action, Participant and/or Vendor shall each take all steps necessary, and shall cooperate in every way requested by MLS, to remedy and prevent the continuation or recurrence of any such action or event, including with respect to any litigation or other proceeding, as deemed necessary or appropriate by MLS.

d. Participant and Vendor acknowledge they have read, and will comply with, the MLS Rules and the Data Use Policy of the MLS, as amended from time to time, in connection with its rights to access and use the Licensed Listings and Display Data. Participant and Vendor shall use appropriate business media and methods to notify Licensee Customers of their rights, rules, limitations and restrictions that are applicable to the permitted use of Licensed Offerings in conjunction with the Licensed Listings and Display Data, and provide evidence that it has done so if and when requested by MLS.

e. Participant and Vendor shall not use or permit use of the Licensed Listings and Display Data for the purpose of establishing an individual's eligibility for credit or insurance; evaluating an individual for employment purposes, determining an individual's eligibility for a government license or permit; or in any other manner that would cause such use of the Licensed Listings or Display Data to be construed as a consumer report by any authority having jurisdiction over either of the Parties.

f. If Participant or Vendor is required hereunder to pay Customer fees or other fees as set forth on the Fee Schedule attached hereto, MLS shall have the right to audit Participant or Vendor's business records regarding its payment obligations hereunder. MLS shall give fifteen (15) days prior written notice to Participant or Vendor of its intent to conduct such an audit. Participant or Vendor shall cooperate in supplying the records requested and provide additional records and information relevant to the required Customer fees. MLS shall pay for the cost of this audit, unless the audit reveals that Licensee has underpaid MLS by more than ten percent (10%) of the required payments, in which case, the entire cost of the audit shall be paid or reimbursed by Participant or Vendor.

g. Licensee expressly understands that the Licensed Listings and Display Data may be Seeded, Watermarked and Monitored by MLS and MLS hereby reserves the right to suspend or immediately terminate this Agreement upon notice to Participant or Vendor pending investigation of any evidence or allegation that either Participant, Vendor or a subcontractor has breached the terms and conditions of this Agreement, or that Notice has been received that Participant or Vendor is in breach of

any governmental rules, regulations or statutes, and that such breach may interfere with the Parties' performance of this Agreement. Promptly upon notification from MLS of a breach of this Agreement or the MLS Rules or data display policies, or is in breach of applicable law, Participant and Vendor agree to suspend and/or terminate the use of the Licensed Listings or Data Display.

h. This Agreement does not convey or grant to Participant or Vendor an interest in the Database or the Licensed Content of the MLS but only a limited right to use and display the Licensed Listings and Display Data revocable in accordance with the terms hereof. In the event of any claim for infringement or misappropriation of the Database or the Licensed Content, all damages awarded, and other awards and recoveries shall be the exclusive property of MLS and all such amounts shall be paid to MLS. In the event Participant or Vendor obtain possession or control of any such damages or awards, it agrees to hold all such funds as trustee in trust of the exclusive benefit of MLS. Participant and Vendor agree that it will not challenge or take any action inconsistent with MLS's rights to the Database or the Licensed Content.

i. Participant and Vendor shall comply with all applicable privacy and information security laws including but not limited to security breach notification laws. In the event a security breach of Participant or Vendor's computerized system containing Licensed Listings and Display Data that results in access or use by an unauthorized third party, Participant and Vendor shall notify the MLS by confirmed email or confirmed telephone within twenty-four (24) hours of its discovery. Participant and Vendor shall also take all reasonable steps, in accordance with commercially reasonable security practices, to protect the security and privacy of the Licensed Listings and Display Data from unauthorized access, use or disclosure. Other than as necessary to perform its rights and obligations under this Agreement, Participant and Vendor shall not use or disclose the Licensed Listings or Display Data without the prior consent of MLS.

j. MLS retains the right to request for inspection and conduct an inspection of all marketing material of Participant and Vendor utilizing the Licensed Listings and Display Data, and MLS reserves the right, at its sole and exclusive discretion, to deny Participant or Vendor to use the proposed marketing materials.

6. Means of Access to Licensed Listings. Access by Participant and/or Vendor to the Licensed Listings shall be exclusively by the means and nature designated by MLS, from time to time, in its sole and exclusive discretion, including as set forth in the Access Standards. MLS may, in its sole and exclusive discretion and upon thirty (30) days' prior written notice to Participant and/or Vendor, change the means and nature of accessing the Licensed Listings.

7. Changes to MLS's Server or Software. Participant and/or Vendor each understand and agree that: (a) MLS may in its sole and exclusive discretion, at any time, but shall not be obligated, to make any changes to or replacements in MLS's Server, any software running on MLS's Server, the configuration, protocols, or any other aspects thereof, for any reason; (b) that any such changes or replacements may require changes to any Websites, hardware, software, or configurations, maintained or used by Participant or Vendor in order to provide for access to the Licensed Listings; (c) Participant and/or Vendor shall be solely responsible for any resulting fees and costs of making any such changes; (d) MLS's Server, together with access to the Licensed Listings, may from time to time be unavailable to Participant or Vendor, whether because of technical failures or interruptions, scheduled or unscheduled downtime for service or changes, or otherwise; (e) any modification, interruption, unavailability, or failure of access or MLS's Server or the Licensed Listings shall not constitute a default by MLS under this Agreement, and MLS shall have no liability of any nature to Participant, Vendor, or any third party for any such modifications, interruptions, unavailability, or failure of access.

8. Intellectual Property. Participant and/or Vendor each acknowledge and agree that: (a) the Database and the Licensed Listings are proprietary, original works of authorship of MLS, or licensed to MLS, protected under United States copyright, trademark, patent, trade secret, and other laws of general applicability; (b) all right, title, and interest in and to the MLS Database and the Licensed Listings, together with all modifications, enhancements, and derivative works, are and shall remain with MLS or the persons or entities who have licensed same to MLS; (c) Participant and/or Vendor shall acquire no rights therein except as specifically set forth in this Agreement; (d) notwithstanding the prohibition against modification of the Database, any such modifications shall be the sole property of MLS, and Participant and/or Vendor each hereby assign to MLS any and all modifications to the Database made by Participant or Vendor or any person or entity within their control; (e) Participant and/or Vendor shall execute all documents and take all actions reasonably requested by MLS to confirm or effect the matters in this Section 8; (f) this Agreement does not convey or grant to Participant or Vendor an interest in or to the Database or Licensed Listings, but only a limited, revocable, non-exclusive right to access and display the Licensed Listings, strictly in accordance with the terms of this Agreement; (g) in the event of any claim for infringement or misappropriation of the Database or Licensed Listings, or any default under this Agreement, all damages and other remedies awarded shall be the exclusive property of and paid to MLS; (h) in the event, for any reason, Participant or Vendor obtain possession or control of any such damages or other remedies, Participant and/or Vendor agree to hold same as trustee in trust for the exclusive benefit of MLS. Participant and/or Vendor each agree that they will not challenge or take any action inconsistent with MLS's rights to the Database or Licensed Listings including as set forth in this Section 8.

9. Trademarks. MLS grants to Participant and/or Vendor a limited, non-exclusive, revocable license to use the trademark identified in the attached Schedule C ("MLS Trademark") as follows: (a) use of the MLS Trademark shall be solely for the purpose of identifying MLS as the source of the Licensed Listings; (b) the MLS Trademark shall be used exactly in the form displayed on Schedule C, and shall be used strictly in accordance with the applicable terms of the Display Standards; (c) the limited license granted under this Section 9 may be terminated at any time by MLS, in its sole and exclusive discretion, upon ten (10) days' notice; (d) MLS makes no representations or warranties of any kind or nature with regard to title to the MLS Trademark, the rights of any other persons or entities to the MLS Trademark, or the enforceability of any rights to the MLS Trademark. Participant and/or Vendor each agree: (i) Except as provided in this Section 9, no right is granted to Participant or Vendor with respect to any trademark of MLS; (ii) Participant and/or Vendor shall not use the MLS Trademark or any other trademark of MLS, or any mark that is confusingly similar, and shall not assert any right, license, or interest with respect to any trademark of MLS, or represent or suggest any affiliation between MLS and Participant or Vendor, except pursuant to a written agreement with MLS; (iii) Participant and/or Vendor shall not file any application or assert any rights to any of MLS's trademarks, or any confusingly similar mark, in the United States, or any other country or jurisdiction.

10. No Warranties. EACH LICENSE OR OTHER RIGHT GRANTED BY MLS UNDER THIS AGREEMENT, INCLUDING FOR ACCESS AND DISPLAY OF THE LICENSED LISTINGS, IS GRANTED "AS IS." EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 12, MLS MAKES NO OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND MLS EXPRESSLY DISCLAIMS ANY AND EVERY SUCH WARRANTY.

11. Audit. MLS may, in its sole and exclusive discretion, at its option, at any time, utilize its own personnel or engage one or more independent third parties to audit, test, and inspect the books, records, equipment, and facilities of Participant or Vendor, including each Display Server, and to perform tests of their controls, systems, procedures, and Websites, discretion, including, without limitation, (a) external attempts to penetrate any firewalls established in connection with any Display Server and protection of the Licensed Listings, (b) monitoring or review of attempts to penetrate or access any Display Server or Participant's or Vendor's other systems and controls, (c) viewing all of the pages constituting each Website or the Print Media, as applicable, (d) using the Websites to initiate and execute searches, (e) using all other features and functions available on the Websites, and if any feature or function of a Website require registration or other information, MLS may input information which is inaccurate in order to access the

feature or function, (f) monitor and review the adequacy of Participant's and Vendor's internal controls, security systems, procedures, compliance with applicable laws, rules, and regulations, and compliance with the terms of this Agreement. Participant and/or Vendor shall not attempt to block or otherwise interfere with any such actions by MLS. Each such audit, test, or inspection shall be performed in accordance with standards and procedures established from time to time by MLS. The costs of such audits and tests shall be at the expense of MLS, except that if an audit discloses that Participant or Vendor is not in full compliance with this Agreement or has otherwise not met the audit, test, or inspection standards established by MLS, Participant and/or Vendor shall pay all of MLS's internal and out-of-pocket costs of the audit, test, or inspection, including the independent auditor costs.

12. Mutual Representations and Warranties. Each party represents and warrants to the other as follows: (a) this Agreement, when executed by such party, will be valid, binding, and enforceable with respect to such party in accordance with its terms; (b) the execution of this Agreement or the performance of such party's obligations under this Agreement will not constitute a default, or an event which with the passage of time, the giving of notice, or both, would constitute a default, under any other agreement by which such party is bound; (c) Participant and/or Vendor are not and shall not be under any disability, restriction, or prohibition related to the execution and performance of their obligations pursuant to this Agreement; and (d) this Agreement and the fulfillment of Participant's and Vendor's obligations pursuant to this Agreement are proper and lawful.

13. Contract Administration; Technical Contact. Each party shall designate the name, address, telephone number, fax number, and e-mail address of a person who shall be its contract administrator under this Agreement (the "Contract Administrator") and its technical contact under the Agreement (the "Technical Contact"). The Contract Administrator and Technical Contact for each party shall be identified in Schedule B ("Contact and Notice Information"). Either party may from time to time change the name and contact information for its Contract Administrator and Technical Contact, subject to prior to delivery of written notice thereof to the other party. Each party's Technical Contact will be the point of contact for all technical issues related to the Database, Display Server(s), and other technical matters arising under this Agreement.

14. Disclaimer. Participant and/or Vendor each acknowledge and agree that the use of, access to, and display of the Licensed Listings by Participant or Vendor do not constitute an endorsement, acceptance, or approval by MLS of the Licensed Listings, or the means of displaying the Licensed Listings, including the Display Media, or the accuracy of or compliance with applicable standards of any content thereof or of the Display Media. MLS expressly disclaims any responsibility for the content of the Display Media and any other medium of display of the Licensed Listings, including without limitation, intellectual property infringement, content, accuracy, defamation, and other unlawful content.

15. Operation in Accordance with Law and Other Standards. Participant and/or Vendor each agree that they will at all times develop, maintain, conduct, and display, as applicable, the Licensed Listings, Display Media, Display Servers, content of the Display Media, and all of their business matters and business operations in a professional manner and in accordance with all applicable federal, state, and local laws, ordinances, and regulations, this Agreement, and the Rules and Regulations and other applicable standards. Participant and/or Vendor each agree not to include in the content of the Display Media any content which is illegal, immoral, unethical, or offensive.

16. Confidential Information and Trade Secrets. Participant and/or Vendor each acknowledge and agree that the Licensed Listings, any non-public information delivered by or under the direction of MLS in connection with access to the Licensed Listings, and the terms and conditions of this Agreement (collectively "Confidential Information"), shall be maintained and protected by Participant and/or Vendor as confidential and available exclusively for use by Participant and/or Vendor strictly as provided in this Agreement, and for no other purpose or in any other manner. Participant and/or Vendor shall not disclose any Confidential Information or any trade secret of MLS to any person or entity, except as expressly permitted by the terms of this Agreement, or ordered by a court of competent jurisdiction, or as otherwise required by law; provided, Participant and/or Vendor shall not disclose any Confidential

Information pursuant to a court order or as otherwise required by law until Participant and/or Vendor have given MLS ten (10) days' prior written notice and opportunity to oppose such disclosure. The terms and provisions of this Agreement are confidential and shall not be disclosed except as provided for in this Agreement.

17. Indemnification. Participant and/or Vendor each agree to indemnify and hold harmless MLS, its officers, directors, employees, agents, licensees, and their affiliates, from and against any and all claims, causes of action, demands, liabilities, actions and matters of any kind or nature, of any person or entity, including the payment of reasonable attorney's fees and costs, arising out of or in any matter related to either (1) any actual or threatened material breach or default by Participant or Vendor of any of the terms and conditions of this Agreement, or (2) any claim by any third party that the business practices or uses of data or information used in conjunction with the Licensed Listing and/or Display Data by either Participant or Vendor constitutes an infringement or wrongful or unauthorized use of any proprietary right, intellectual property, trademark, copyright or other alleged property right, including but not limited to any representation or warranty of Participant or Vendor set forth in Section 12, and the use, display, and distribution of the Licensed Listings, including the defense of MLS which shall have the right to control its own defense and engage legal counsel acceptable to MLS.

18. Limitation of Liability. TO THE FULLEST EXTENT AVAILABLE UNDER APPLICABLE LAW, MLS'S ENTIRE AND CUMULATIVE LIABILITY TO PARTICIPANT AND/OR VENDOR, OR ANY THIRD PARTY, FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS OF ANY NATURE ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE USE OR DISPLAY OF THE LICENSED LISTINGS, WHETHER BASED ON TORT, SUCH AS NEGLIGENCE, CONTRACT, STATUTE, OR OTHERWISE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LICENSE FEE PAID TO MLS UNDER THIS AGREEMENT DURING THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ACCRUED. WITHOUT WAIVER OF THE LIMITATIONS SET FORTH IN THIS SECTION 18, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OR LOST PROFITS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL MLS BE LIABLE FOR ANY CONSEQUENTIAL OR EXEMPLARY DAMAGES.

19. Injunction. MLS, and Participant and/or Vendor, agree that a breach or violation of the terms and provisions of Sections 2, 5, 8, 9, 11, 15, 16, or 20 will result in immediate and irreparable injury and harm to MLS. In such event, MLS shall have, in addition to any and all other remedies at law or in equity, including the rights set forth in this Agreement, the right to an injunction, specific performance or other equitable relief to prevent any continued, repeated, or threatened breach or violation of Participant's or Vendor's obligations under this Agreement; provided, however, this shall in no way limit any other remedies available to MLS including, without limitation, the right to seek monetary damages or other relief.

20. Proprietary and other Notices. Participant and/or Vendor each agree to include and not alter or remove any trademark, copyright, or other notice, or any disclaimer located or used on, or in connection with the Licensed Listings, or otherwise required from time to time by MLS. Participant and/or Vendor agree to provide notice to all persons with access to the display of any Licensed Listings that the source of the Licensed Listings is MLS, and that the Licensed Listings are confidential and proprietary information of MLS. Specifically, without limitation, the notices set forth in the Display Standards shall be displayed on all pages displaying the Licensed Listings, or a portion of the Licensed Listings, in a conspicuous manner as specified from time to time by MLS.

21. License Suspension. MLS may, at its option and without prior notice to Participant or Vendor, immediately suspend the License and all rights granted to them hereunder, including access to or display of the Licensed Listings, or any portion of the Licensed Listings, including those of a particular Participant, on any particular Website or in Print Media, upon written notice to Participant and/or Vendor, for a period specified by MLS, upon the occurrence of any threatened or actual default by Participant or Vendor, or the threatened or actual occurrence of any event which MLS believes may constitute a default, under this Agreement, including any breach or violation of or noncompliance with the Access Standards or the Display Standards, or failure by Participant or Vendor, Sales Licensee, or brokerage firm to pay any

Fees owing to MLS under this Agreement. Nothing under this Section 21 shall be construed as requiring MLS to suspend the License prior to exercising its right of termination under Section 22 or any of its other rights under this Agreement.

22. Term and Termination.

a. The term of this Agreement shall commence on the Effective Date, and continue until either party gives Notice of its termination, provided, however, this Agreement shall terminate five years from the effective date unless earlier terminated

b. Participant or Vendor may terminate this Agreement at any time prior to the expiration of the initial term or any renewal term by delivering to MLS prior notice of termination.

c. MLS may terminate this Agreement at any time after MLS has given ten (10) days' notice to Participant and/or Vendor of any of the defaults set forth in Section 22.d or elsewhere in this Agreement, and such defaults have not been cured, to MLS's satisfaction, in its sole and exclusive discretion, within such ten (10) day period; provided, however, that if, in the reasonable discretion of MLS, the default by Participant or Vendor could result in irreparable harm to MLS, MLS may terminate this Agreement without prior written notice, in which event MLS shall give notice of such termination to Participant or Vendor within ten (10) days of termination by MLS.

d. The foregoing Section 22.c includes without limitation: (1) Participant's or Vendor's (or any applicable Sales License's or brokerage firm's) failure to pay any amounts owing to MLS under this Agreement when due; (2) Participant's or Vendor's disclosure or use in any manner not expressly permitted under this Agreement of the Licensed Listings or any Confidential Information or trade secret of MLS; (3) suspension of Participant or Vendor pursuant to Section 21, and Participant's or Vendor's failure to cure the reason for suspension within the suspension period; (4) at any time, any representation or warranty of Participant or Vendor is false or misleading, whether based on facts or events existing on the Effective Date or at any time thereafter; or (5) any other breach or default by Participant or Vendor under the term and conditions of this Agreement.

e. MLS may terminate this Agreement upon ten (10) days' notice if Participant or Vendor ceases doing business or becomes insolvent, or is the debtor under a voluntary or involuntary petition under Title 11, United States Code (Bankruptcy Code) that is not dismissed within sixty (60) days, or ceases to operate or control the Websites or ceases to publish the Print Media, as applicable.

f. MLS may terminate this Agreement, at any time, upon thirty (30) days' notice to Participant and/or Vendor, in the event MLS decides that the terms hereof, or the performance of Participant or Vendor or any other person or entity in connection therewith, are not compatible with MLS's business plans or operations, or that on a going forward basis MLS will offer services of a type set forth herein, or otherwise, on different terms and conditions.

g. Upon the expiration or any termination of this Agreement, for any reason, the License and any other license or rights granted to Participant or Vendor under this Agreement shall terminate and Participant and/or Vendor shall within ten (10) business days of the date of expiration or termination of this Agreement (a) permanently delete and remove all copies of the Licensed Listings and all related software from all computers and other storage devices on which they were loaded or copied, including the Display Media or elsewhere, and (b) terminate the use and display of any Licensed Listings on or in the Display Media or elsewhere, and (c) deliver to MLS written certification acceptable to MLS of Participant's and Vendor's compliance with the provisions of this Section 22.e.

h. No Fees, costs, or expenses, or any portion thereof, payable under this Agreement will be refunded upon the expiration or any termination of this Agreement, for any reason, including any termination by MLS or by Participant or Vendor.

23. General.

a. Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action or proceeding brought to interpret or enforce this Agreement shall be brought and maintained exclusively before a court of competent jurisdiction situated in Los Angeles County, California. Participant and/or Vendor acknowledge by entering into this Agreement that Participant and/or Vendor have transacted business in the state of California, and voluntarily submit and consent to and waive any defense to the jurisdiction of such courts as to all matters relating to or arising from this Agreement, the parties' performance, and all related matters.

b. Notices. Each notice (whether or not capitalized), demand, or consent ("Notice") required or permitted under this Agreement be in writing and delivered personally, in which event such

Notice shall be deemed received when delivered; or sent by reputable overnight courier service providing tracking and proof of delivery, charges prepaid or secured, in which event such Notice shall be deemed received upon delivery; or sent by electronic mail (e-mail), in which event such

Notice shall be deemed received when the addressee transmits acknowledgment of receipt; to the appropriate party at the address for notices provided in the attached Schedule B (“Contact and Notice Information”), or in the case of Notice to Participant, at the address maintained by MLS for Participant. Any such address may be changed from time to time by Notice to the parties to this Agreement complying with this Section 23.

c. Costs of Litigation. If any action or proceeding is brought by either party to interpret or enforce this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney’s fees and costs of litigation.

d. No Joint Venture or Employment. Nothing in this Agreement shall be construed to create or reflect a partnership, joint venture, or employment between MLS and Participant or Vendor, or between MLS and any personnel of Participant or Vendor. Participant and/or Vendor shall be solely responsible for the wages, hours, and conditions of employment of their personnel during the term of this Agreement.

e. Severability. If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such determination shall have no effect upon any other term or provision of this Agreement, or the same term or provision in a different context, all of which shall remain in full force and effect.

f. No Waiver. No failure of either party to take action with respect to a breach or default of any term, covenant, or condition herein shall not be deemed a waiver of such term, covenant, or condition. All waivers must be in writing and signed by the party making the waiver. The subsequent acceptance of any payment due under this Agreement by any party shall not be deemed to be a waiver of any preceding or subsequent breach or default by the party making such payment.

g. No Assignment. Participant and/or Vendor agree that they will not assign, license, sublicense, or otherwise transfer this Agreement, any license granted under it, or any of their rights under it, or delegate any obligation of Participant or Vendor under this Agreement, except with the prior written consent of MLS. Any attempt by Participant or Vendor to so assign shall be void.

h. Third Party Beneficiaries. This Agreement is made for the sole and exclusive benefit of MLS and of Participant and/or Vendor, and shall not be construed to be intended to benefit any third party. No third party shall claim any right or benefit under or seek to enforce any term or condition of this Agreement.

i. Entire Agreement. This Agreement, including any attached schedules, which are incorporated by this reference, constitutes the entire agreement and understanding between MLS and Participant or Vendor concerning the subject matter of this Agreement. This Agreement supersedes any or prior written or oral proposal, representation, agreement, or understanding, and any contemporaneous oral understanding, between the parties. This Agreement may not be amended except in writing signed by MLS and by Participant and/or Vendor.

j. Survival. The provisions of Sections 2, 3, 7, 8, 10, 14, 16, 17, 18, 19, 22.e, 22.f, and 23 shall survive the expiration or any termination of this Agreement.

k. Authority. Each party and each person signing on its behalf below represents and warrants that this Agreement has been duly authorized by such party’s final decision-making body, and that upon such person’s signature below this Agreement shall constitute the binding obligation of such party.

l. Counterparts. This Agreement may be executed and delivered in counterparts, and may be delivered by paper original, scan to electronic mail, facsimile, or other digital technology, each of which shall for all purposes be deemed an original and all of which together shall constitute one and the same instrument.

24. Definitions. The underlined terms set forth in this section 24 shall have the meanings given them in this Section 24.

a. Access Standards means the terms and conditions for accessing the Licensed Listings, which terms and conditions are established and amended by MLS from time-to-time. The Access Standards current as of the Effective Date are attached to this Agreement as Schedule E (“Access Standards for RETS Download”).

b. Agreement means this License Agreement, together with all documents which are incorporated by reference into this Agreement.

- c. Confidential Information has the meaning set forth in Section 16.
- d. Contract Administrator has the meaning set forth in Section 13.
- e. Database means collectively the compilations of Listings and other data and information maintained by MLS as the MLS Database.
- f. Display Media means the Participant's (or a Sales Licensee's) or Vendor's website.
- g. Display Standards means MLS's standards for display of Licensed Listings, which standards are established and amended by MLS from time to time. A copy of the current version of the Display Standards as of the Effective Date is attached as Schedule F ("Display Standards").
- h. Display Server means all of the computer hardware and software, commonly referred to as a server, which generate the web pages on which the Licensed Listings, or portions of the Licensed Listings, are displayed for the respective Websites, and make them available through the Internet.
- i. Effective Date means the date identified as the effective date shown on the signature page of this Agreement, and if no date is there shown then the date on which the last of the signatures is affixed to this Agreement.
- j. "Fees" has the meaning set forth in Section 3.
- k. "License" means only the License specified in this Agreement.
- l. "Licensed Listings" means the Participant Listings, consisting of only the specific data provided by MLS in only the fields identified by MLS from time to time.
- m. "MLS's Server" means the computer server or servers, including both hardware and software, maintained by MLS which provides or provide the means for Participant or Vendor to access the Licensed Listings.
- n. "MLS Trademark" has the meaning set forth in Section 9.
- o. "Participant" means each principal real estate broker, broker in charge, or brokerage firm that is a participant in MLS's multiple listing service, and has executed a Participant Request for MLS to grant Participant or Vendor a License pursuant to this Agreement.
- p. "Participant Listings" means the portion of the MLS Database which consists of the real estate listings of a particular Participant.
- q. "Participant Request" means an agreement provided by MLS and executed by a Participant or Sales Licensee in connection with granting a License to Participant or vendor for a particular Display Media. Each such Participant Request is incorporated into this Agreement by this reference.
- r. "Participant or Sales Licensee Website" means an Internet website established by or for a Participant or Sales Licensee located at and with the domain name identified in the Participant Request.
- s. "Rules and Regulations" means the MLS Rules and Regulations established by MLS, as amended by MLS from time to time.
- t. "Sales Licensee" means each real estate agent, sales licensee, or non-principal broker who is affiliated with Participant, who is a subscriber to MLS's multiple listing service, and who has executed a Participant Request for MLS to grant to Participant or Vendor a License.
- u. "Sub licensee" has the meaning set forth in Section 4.
- v. "Technical Contact" has the meaning set forth in Section 13.
- w. "Website" means each Participant Website, or Sales Licensee Website, or Vendor Website, as applicable.

EXECUTED effective as of _____, 201____.

MLS:

COMBINED L.A./WESTSIDE MLS, INC.

By: _____
Name: _____
Title: _____

PARTICIPANT:
(Broker/Manager)

By: _____
Name: _____
Title: _____

VENDOR: *David Dily*
By: _____
Name: Dan Dily
Title: Data & Compliance Manager

SUBSCRIBER:
(Agent)

By: _____
Name: _____
Title: _____

SCHEDULE A
Data License Application

MLS ID of website owner



Application is (select one)

_____ **Participant** | **Office ID** _____ | **User ID** _____

Type(s) of Data Requested: Statuses Requested:

- ___ Standard: Active | Active Under Contract | Pending | Sold
- ___ Custom: Active | Active Under Contract | Pending Sold (# Years) | Cancelled | Withdrawn | Expired

Property Types Requested:

- ___ Single Family
- ___ Condominium/Co-op
- ___ Income
- ___ Land
- ___ Leases
- ___ Manufactured/Mobile Homes

_____ **Vendor**

Name of Business Constellation Web Solutions (CWS Data) Product

Name http://constellationreg.com URL/Domain

Name Dan Dily, Data & Compliance Manager

Note: Monthly roster must be submitted to idx@themls.com

Type(s) of Data Requested:

Statuses Requested:

- X Standard: Active | Active Under Contract | Pending | Sold

Property Types Requested:

- X Single Family
- X Condominium/Co-op
- X Income
- X Land
- X Leases
- X Manufactured/Mobile Homes

Data Use & Purpose: Display listing data on public facing Real Estate websites

Participant = Broker

SCHEDULE B

Contact and Notice Information

Participant's Contract Administrator (See Section 13 of the Agreement): Name: _____ Title: _____ Address: _____ Telephone: _____ E-mail: _____	Vendor's Contract Administrator (See Section 13 of the Agreement): Name: <u>Dan Dlhy</u> Title: <u>Data & Compliance Manager</u> Address: <u>6737 W. Washington Street, Suite 2120</u> <u>Milwaukee, WI 53214</u> Telephone: <u>425-636-6910</u> E-mail: <u>brokersolutions@constellationws.com</u>
Participant's Technical Contact (See Section 13 of the Agreement): Name: _____ Title: _____ Address: _____ Telephone: _____ E-mail: _____	Vendor's Technical Contact (See Section 13 of the Agreement): Name: <u>Joe Wiesner</u> Title: <u>Research & Development Manager</u> Address: <u>6737 W. Washington Street, Suite 2120</u> <u>Milwaukee, WI 53214</u> Telephone: <u>425-636-6910</u> E-mail: <u>brokersolutions@constellationws.com</u>
Participant's Address for Notices (See Section 23.b of the Agreement): Name: _____ Title: _____ Address: _____ Telephone: _____ E-mail: _____	Vendor's Address for Notices (See Section 23.b of the Agreement): Name: <u>Dan Dlhy</u> Title: <u>Data & Compliance Manager</u> Address: <u>6737 W. Washington Street, Suite 2120</u> <u>Milwaukee, WI 53214</u> Telephone: <u>425-636-6910</u> E-mail: <u>brokersolutions@constellationws.com</u>
MLS's Contract Administrator (See Section 13 of the Agreement): Name: <u>Harry Yerikyan</u> Title: <u>Contract Administrator</u> Address: <u>8350 Wilshire Blvd.</u> <u>Suite #100</u> <u>Beverly Hills, CA 90211</u> Telephone: <u>(310) 358-1100</u> E-mail: <u>hyerikyan@corp.themls.com</u>	MLS's Director of Technology Name: <u>Santanu Barua</u> Title: <u>Director of Technology</u> Address: <u>8350 Wilshire Blvd.</u> <u>Suite #100</u> <u>Beverly Hills, CA</u> <u>90211</u> Telephone: <u>(310) 358-1100 Ext 116</u> E-mail: <u>sbarua@corp.themls.com</u>

SCHEDULE C

MLS Trademark

[To be provided from time to time.]



SCHEDULE D

Fees and Payment Terms

- | Note: As used in this Schedule, “Licensee” refers to the Participant and/or Vendor named in the License Agreement to which this Schedule D is attached.
- | The annual licensing fee is \$ 7,500.00
- | Term will begin on the Effective Date of this License Agreement and continue for one year.
- | Invoicing will be sent to Vendor’s Contract Administrator shown in Schedule B, unless otherwise requested. Invoicing will be sent annually.
- | Credit Card payments will be charged automatically.
- | No refunds.

Checks should be made payable to: **The MLS™/CLAW**

SCHEDULE E

Access Standards for RETS Download

1. Means of Access. Access to the Licensed Listings shall be exclusively through download of the Licensed Listings through CLAW/CARETS Server via real estate technology standard (RETS) (“RETS Download”).
2. License Grant. In addition to the License granted to Licensee under the Agreement, MLS hereby grants to Licensee a license to download the Licensed Listings exclusively through RETS Download and subject to the other terms and conditions of the Agreement including these Access Standards. Upon expiration or any termination of the Agreement, for any reason, the license granted to Licensee under this Section 2 of these Access Standards, and all licenses granted under the Agreement, shall automatically terminate.
3. Change of Means of Access; Photographs. MLS may, in its sole and exclusive discretion, and upon thirty (30) days’ prior written notice to Licensee, change the means and nature of downloading the Licensed Listings and/or terminate the download of the Licensed Listings to the Display Server. In addition, but without limitation, MLS may change the applicable table structures at any time upon fifteen (15) days’ notice to Licensee. Unless otherwise specified from time to time by MLS, the download of and access to photographs will be by providing to Licensee the primary photograph for each Licensed Listing included in the data feed either by (a) a hypertext mark-up language (HTML) document containing an image tag to the photograph stored on MLS’s Server, or (b) a compressed file containing the actual photographs.
4. Access Standards. It is understood that RETS will create an updated file of the Licensed Listings and photographs at least one (1) time every fifteen (15) minutes. Licensee may download the Licensed Listings no more frequently than one (1) time every fifteen (15) minutes. Licensee’s initial download of the Licensed Listings shall be a full download. After the initial download, Licensee’s downloads of the Licensed Listings may be full or incremental as determined by MLS in its sole and exclusive discretion.

Note: As used in this Schedule, “Licensee” refers to the Participant and/or Vendor named in the License Agreement to which this Schedule is attached.

SCHEDULE F

Display Standards

1. Licensee Website. These Display Standards apply to display of Licensed Listings on any Website subject to this Agreement as shown in Schedule A (the "Licensee Website").
2. Definitions. Definitions for purposes of these Display Standards purposes of these Display Standards are as set forth in Section 24 of this Agreement.
3. Suspension/Termination of the Agreement. In addition to the suspension events set forth in Section 21 of the Agreement, MLS may terminate the License with respect to the Participant Listings of a particular Participant, at any time upon notice to Licensee and particular Participant (1) upon the occurrence of any default by the applicable Participant under the Rules and Regulations or any other agreement entered into with MLS, (2) if, at any time, the applicable Participant or Sales Licensee is not a participant in MLS's multiple listing service, or (3) upon delivery of notice by such Participant to MLS that the License should be terminated with respect to the Listings of such Participant, for any reason including Participant's unwillingness to accept a material modification to the Agreement, so long as such notice is delivered to MLS no later than thirty (30) days after notice of the material modification is given to the applicable Participant. Upon termination of the License for Participant Listings of a particular Participant, in accordance with this Section 3.b of these Display Page Standards, the terms of Sections 22.e and 22.f of the Agreement shall apply with respect to the Participant Listings for which the License is terminated.
4. Display Restrictions and Requirements.
 - a. The Licensee Website must include terms and conditions of use which are substantially in conformance with the terms and conditions included on MLS's website.
 - b. Each display by Licensee of any Licensed Listings, or portion of Licensed Listings, shall clearly and conspicuously identify MLS as the source of the Licensed Listings in accordance with Section 4.c of these Display Standards.
 - c. Each web page which displays any Licensed Listings, or portion of Licensed Listings, shall include the following notices which shall be in a typeface not smaller than the median used in the display of Licensed Listings on that page:
 - i. The multiple listings information is provided by The MLS™/CLAW from a copyrighted compilation of listings. The compilation of listings and each individual listing are ©2014 The MLS™/CLAW. All Rights Reserved.
 - ii. The information 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. All properties are subject to prior sale or withdrawal. All information provided is deemed reliable but is not guaranteed accurate and should be independently verified.
 - d. The display or use of the Licensed Listings, or any portion of the Licensed Listings, and the Licensee Website, including all content included on the Licensee Website, shall not include any of the following:
 - i. Any Material which infringes the intellectual property rights of any third party.
 - ii. Any material which promotes pornography, violence, or discrimination on the basis of race, sex, religion, nationality, disability, age, or sexual orientation.
 - iii. Any material which is immoral, unethical, offensive, illegal, or inappropriate for a professional website or other display.
 - iv. Viruses, worms, "Trojan horses" or other similar contaminating or harmful features.
 - e. No display or use of the Licensed Listings, or any portion of the Licensed Listings, shall be used in connection with sending unsolicited or unauthorized advertising, spam,

promotional materials, or any other forms of unsolicited message, whether commercial or otherwise.

Note: As used in this Schedule, "Licensee" refers to the Participant and/or Vendor named in the License Agreement to which this Schedule is attached.

CARETS – Standardized Rules and Regulations
(Applicable Only to IDX Raw Data Feed)

5. **12.16 Use of Active Listing Information on Internet. Also known as Internet Data Exchange (“IDX”)** “Internet Data Exchange” is a means by which each participant subscribing to the program (IDX) permits the display of its listings appearing in Internet Data Exchange Database on each participants IDX Internet website. The “Internet Data Exchange Database” is the current aggregate compilation of all On-Market listings information as defined in Section 10.1, Pending and Sold/Leased listings of all Internet Data Exchange participants except those listings where the property seller has opted out of Internet publication by so indicating on the listing contract. Sold/Leased listings may be displayed for a period of one (1) year following the sold/Leased date of the subject listing. The intent of IDX is to allow participants that represent real estate sellers or buyers (or both) to permit other such participants to advertise their listings on their public websites. IDX is not available to any other participants.
- a. **Authorization.** Subject to paragraphs (b) through (m) below, and Section 12.11 and notwithstanding anything in these rules and regulations to the contrary, Participants and subscribers may display on their public websites aggregated MLS On-Market listings information, Pending and Sold/Leased Statuses through either downloading and placing the data on the Participant or subscriber’s public access websites or by framing such information on the MLS or Association public access website (if such a site is available). The downloading of raw data will be through the participant only.
 - b. **Consent.** The Listing Broker’s consent for such Internet display is presumed, in satisfaction of Rule 12.8 unless a Listing Broker affirmatively notifies the MLS that the Listing Broker refuses to permit display on either a blanket or on a listing-by-listing basis. Listing Broker that refuse to permit other MLS Participants or Subscribers to display their listing information on a blanket basis may not display MLS listing information of other Broker’s listings.
 - c. **Display Content.** Participants and Subscribers shall not display confidential information fields, as determined by the MLS in the MLS’s sole and exclusive discretion, such as that information intended for Cooperating Brokers rather than consumers. Participants and subscribers shall not modify the information displayed pursuant to these MLS Rules.
 - d. **Listing Credit.** All listings on a Participant or Subscribers site displayed by framing or other electronic means shall identify the name of the listing firm and the name of the listing agent in a manner designed to easily identify such listing firm or agent. The name of a co-listing firm and name of a co-listing agent, if any, will be displayed in a manner designed to easily identify such listing firm or agent. Listing broker and agent names are required for all IDX display formats except a one-line or thumbnail search result display format as long as there is one or more additional display formats available for the listing. Each subsequent display format must identify the listing broker and listing agent.
 - e. **Source.** Information displayed shall indicate the source MLS of the information being displayed and the most recent date updated. Participants and Subscribers shall update all downloads and refresh all data at least once every seven (7) days.
 - f. **Usage.** Sharing of the MLS compilation or portion thereof with any third party not authorized in writing by the MLS is prohibited. Participants and Subscribers shall indicate on their websites 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.

- g. **Security.** Participants and Subscribers websites must protect MLS data from misappropriation by employing reasonable efforts to monitor for and prevent “scrapping” and other unauthorized accessing, reproduction or use of the MLS Database.
- h. **Restricted Display.** Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or their property address from display on the Internet (including, but not limited to, publicly accessible websites or VOW’s) shall not be accessible via IDX sites. This does not preclude listings participants or subscribers from displaying on their IDX sites or their other website(s) the listings property address of consenting sellers.
- i. **Excluded Listings.** Not all listings from the MLS must be displayed on the participant’s and/or subscriber’s IDX sites as long as exclusions are based on objective criteria, e.g. type of property, listed price or geographical location.
- j. **Website Identification.** When displaying listing content, a participant’s or subscriber’s website must clearly identify the name of the brokerage firm under which they operate and the subscriber’s name, if applicable, in a readily visible type font and color.
- k. **Co-Mingling.** A participant or subscriber may co-mingle the listings of other participants with listings from other sources on its web site, provided all such displays are consistent with these rules. Co-mingling is (a) the ability for a visitor to the site to execute a single search that searches any portion of the IDX database at the same time it searches listing data from any other source(s); or (b) the display on a single web page of any portion of the IDX database and listing data from any other source.
- l. **Compliance.** All IDX sites are subject to ongoing compliance auditing by the AOR/MLS. Changes to an IDX site necessary to cure a violation of MLS Rules must be accomplished within ten (10) calendar days of the transmittal of notice from the AOR/MLS of such violation. Violations may subject a participant to sanctions as defined in the AOR’s Data Integrity Standards – Appendix B, including but not limited to the immediate termination of the download agreement to receive or republish the IDX information.
- m. **Notification by Authorized Participants and Subscribers.** Participants and Subscribers partaking in the display of MLS active listing information of other broker’s listing pursuant to Section 12.16 must notify the MLS before displaying said MLS active listing information and must make their website directly accessible to the MLS and other MLS participants for purposes of monitoring/ensuring compliance with applicable rules and policies.
- n. **Right to Charge for Download.** The MLS has the right to charge the cost of adding or enhancing its downloading capacity to Participants and Subscribers who request downloading of listing information pursuant to Section 12.16.

Note: As used in this Schedule, “Licensee” refers to the Participant and/or Vendor named in the License Agreement to which this Schedule is attached

