

CONNECTICUT MULTIPLE LISTING SERVICE, INC.

RETS DATA ACCESS AGREEMENT

CTMLS
860 N. MAIN STREET EXT
WALLINGFORD, CT 06492
203-697-1006
203-697-1064 (FAX)
WWW.CTREAL.COM

RETS DATA ACCESS AGREEMENT

This **AGREEMENT** is made and entered into by and among the Connecticut Multiple Listing Service, Inc. ("**CTMLS**"), the real estate firm whose name and contact information appear on the signature page of this Agreement designated "Firm Information and Signature" (the "**Firm**"), and the companies/individuals, if any, whose names and contact information appear on the signature pages of this Agreement designated "Consultant Information and Signature" and who fall within the definition of "Consultant" set forth in Section 1. (collectively, "**Consultants**").

RECITALS

Whereas, Firm wishes to obtain, and CTMLS wishes to provide, data for Firm's website, or for other use including the listing data of other real estate brokerages.

Whereas, Firm may wish to engage Consultants, i.e., other companies or individuals who are not employees of Firm, to perform data downloading, manipulation, and formatting, as well as programming and Internet web-site design services and who will assist Firm in obtaining permitted data from CTMLS.

Whereas, any and every Consultant wishes to provide such services in accordance with this Agreement.

Now therefore, for consideration receipt whereof is hereby acknowledged, the parties agree as follows:

1.0 DEFINITIONS

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

Consultants: Other companies or individuals who are not employees of Firm, who perform data downloading, manipulation, and formatting, as well as programming and Internet web-site design services, and who are retained by Firm to assist it in accessing and employing RETS Data as herein provided.

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

RETS Data: The real-time, live access database containing detailed data concerning MLS active listings of real estate for sale, real estate previously sold or real estate previously listed. RETS Data is the Proprietary Property of CTMLS.

Rules: The rules and regulations of CTMLS, revised January 5, 2007, as may be amended from time to time, at the sole discretion of CTMLS, with notice to Firm, and any operating policies which are promulgated and amended from time to time, at the sole discretion of CTMLS, with notice to Firm.

Participant: Participation in the CTMLS is available to any REALTOR® principal who is an active member of the Connecticut Association of REALTORS® or any other Association of REALTORS® without further qualification except payment of required dues and fees and agreement to abide by the association's by-laws and the CTMLS Rules and completion of an orientation program of no more than three (3) classroom hours devoted to the CTMLS Rules. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "Membership" or "Participation" unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

Participant Data: Data relating to real estate for sale, previously sold or listed for sale, and data relating to Participants, entered into the CTMLS System by Participants and/or CTMLS. The compilation of the Participant Data is the Proprietary Property of CTMLS.

Proprietary Property: As defined in Section 6.0.

2.0 CTMLS'S OBLIGATIONS

2.1 During the term of this Agreement, CTMLS grants to Firm and its Consultants a limited, non-transferable and non-exclusive license to:

- (a) Access RETS Data as herein provided for use in accordance herewith;
- (b) Make copies of the RETS Data to the extent necessary to use the data for authorized purposes under the MLS Rules.

2.2 During the term of this Agreement, CTMLS agrees to provide to Firm and its Consultants:

- (a) Access to the RETS Data under the same terms and conditions CTMLS offers to other users.
- (b) Minimum seven (7) days' advance notice of changes to the software file and record formats in which the substantive RETS Data is to be stored for access under this Agreement; and
- (c) Minimum seven (7) days' advance notice of changes to the Rules.

3.0 FIRM'S OBLIGATIONS

3.1 Firm shall comply with the Rules and this Agreement at all times and shall timely pay all fees established in accordance with the Rules.

3.2 Firm acknowledges and agrees that CTMLS exclusively possesses as CTMLS's Proprietary Property the compilation of the Participant Data and owns exclusively any and all copyrights and all other rights with respect thereto and that such Proprietary Property shall be governed by Section 6.0.

3.3 If CTMLS notifies Firm of a breach by Firm of the Rules or this Agreement and Firm does not immediately cure such breach, Firm agrees that CTMLS may notify any or more of Firm's Consultant's of such breach and that such Consultant shall take immediate action at Firm's expense to cure such breach. Firm acknowledges that, in the

event Firm and/or Firm's Consultant fail to cure such breach within 48 hours of being notified of the breach, CTMLS may immediately terminate access to the RETS Data, without further notice to Firm. This provision shall not limit or otherwise restrict CTMLS's ability to terminate access to the RETS Data as provided elsewhere in this Agreement.

- 3.4 Firm shall provide CTMLS with five (5) business days advance notice of any change to the information relating to Firm on the Firm Information and Signature page below.
- 3.5 Firm shall take reasonable steps to ensure that the provisions of this Agreement and the Rules are not violated by any person under its control or in its service.
- 3.6 Firm shall not provide access to and/or share the RETS Data and/or the Proprietary Property with any person who or entity which is not a Participant or Consultant, including without limitation Firm's parent, subsidiary and/or affiliated entities.
- 3.7 Firm shall take reasonable steps to ensure that it has technical capability to carry out its activities without jeopardizing the RETS Data, the server on which the RETS Data is stored, the operating system or other data or systems of CTMLS. Firm further warrants that it will not retrieve or download data with a frequency, or at a rate, that will cause damage to CTMLS' databases, operating system or other systems.
- 3.8 Firm's use of the RETS Data shall conform to the advertising specifications as provided in the Rules.

4.0 CONSULTANT'S OBLIGATIONS

- 4.1 Each Consultant shall comply with the Rules and this Agreement at all times.
- 4.2 Each Consultant acknowledges and agrees that CTMLS exclusively possesses, as CTMLS's Proprietary Property, the compilation of Participant Data and owns exclusively any and all copyrights and all other rights with respect thereto and that such Proprietary Property shall be governed by Section 6.0.
- 4.3 If CTMLS contacts any Consultant to cure any breach by Firm or such Consultant that is within such Consultant's control, such Consultant hereby agrees to act immediately and cure such breach. Consultant acknowledges that, in the event Firm and/or Firm's Consultant fail to cure such breach within 48 hours of being notified of the breach, CTMLS may immediately terminate access to the RETS Data, without further notice to Firm's Consultant. This provision shall not limit or otherwise restrict CTMLS's ability to terminate access to the RETS Data as provided elsewhere in this Agreement.
- 4.4 Each Consultant shall provide CTMLS with five (5) business days advance notice of any change to the information relating to it on the Consultant Information and Signature page below.
- 4.5 Consultant shall take reasonable steps to ensure that the provisions of this Agreement and the Rules are not violated by any person under its control or in its service.
- 4.6 Consultant shall not provide access to and/or share the RETS Data and/or the Proprietary Property with any person who or entity which is not a Participant or Consultant, including without limitation Consultant's parent, subsidiary and/or affiliated entities.

- 4.7 Consultant shall take reasonable steps to ensure that it has technical capability to carry out its activities without jeopardizing the RETS Data, the server on which the RETS Data is stored, the operating system or other data or systems of CTMLS. Consultant further warrants that it will not retrieve or download data with a frequency, or at a rate, that will cause damage to CTMLS' databases, operating system or other systems.
- 4.8 Consultant's use of the RETS Data shall conform to the advertising specifications as provided in the Rules.

5.0 TERM, TERMINATION AND SURVIVAL

- 5.1 The term of this Agreement begins on the "Effective Date" set forth on the "CTMLS Information and Signature Page" below. CTMLS has the right at any time and in its sole discretion without advance notice of any kind to terminate this Agreement and/or terminate Firms' and/or Consultant's access to the RETS Data.
- 5.2 Firm may terminate this Agreement by notice to CTMLS and each Consultant.
- 5.3 This Agreement shall automatically terminate upon the termination of Firm's privileges as a Participant in CTMLS.
- 5.4 Within five (5) business days after termination of this Agreement, the receiving party shall return to CTMLS all Proprietary Property, CTMLS confidential information and any other materials provided by CTMLS to the receiving party. The receiving party shall also erase, delete, shred or destroy any Proprietary Property or CTMLS confidential information which is has stored on magnetic media or other computer storage systems, including onsite and/or offsite backup systems. Upon CTMLS' request, a duly authorized representative of the receiving party shall certify to CTMLS, in writing, that all Proprietary Property, CTMLS confidential information and any other materials provided by CTMLS to the receiving party have either been returned to CTMLS and/or erased, deleted, shredded or destroyed.
- 5.5 All provisions of this Agreement relating to Proprietary Property shall survive the termination of this Agreement.

6.0 PROPRIETARY PROPERTY

- 6.1 CTMLS retains title to the compilation of Participant Data including without limitation all RETS Data, and further including, without limitation, all copies and audiovisual and computer graphic aspects thereof and all rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights inherent therein and appurtenant thereto (the "Proprietary Property"). No Consultant shall by virtue of this Agreement or otherwise, acquire any proprietary rights whatsoever in the Proprietary Property, all of which shall be the sole and exclusive property of CTMLS. Any right not expressly granted to Firm or a Consultant by this Agreement is hereby expressly reserved by CTMLS and shall be deemed to be part of its Proprietary Property.
- 6.2 Firm and any and each Consultant agree that during the term hereof and at all times hereafter, and except as specifically permitted herein or in a separate writing signed by the CTMLS, neither Firm nor any and each such Consultant shall directly or indirectly commercialize, transfer, publish, disseminate or otherwise disclose any portion of the Proprietary Property to any person or entity, except during the term of this Agreement to

its own employees having a “need to know” (and who themselves are bound by similar nondisclosure restrictions, of which CTMLS shall be deemed to be a third party beneficiary). Notwithstanding the above, portions of the CTMLS Proprietary Property may be published by a Participant within a virtual office website, but only as may be expressly authorized under the Rules and Regulations agreed to by Participant in the CTMLS Participant Agreement. Firm and any and each Consultant shall use its best efforts in safeguarding the Proprietary Property from access by unauthorized individuals and entities and to ensure that its employees comply with the terms of this section. Firm shall use its reasonable best efforts to cooperate with and assist CTMLS in identifying, preventing and terminating any unauthorized use, copying or disclosure of the Proprietary Property, the RETS Data or any portion thereof.

- 6.3 Firm and any and each Consultant agree that during the term hereof and at all times hereafter, and except as specifically permitted herein or in a separate writing signed by the CTMLS, neither Firm nor any and each such Consultant shall make copies of any portion of the Proprietary Property or the RETS Data.

7.0 INDEMNIFICATION OF CTMLS

- 7.1 Firm will, at its own expense, indemnify, promptly reimburse CTMLS for the defense of, and hold CTMLS and its affiliates, directors, officers, employees, agents and contractors harmless from and against any and all claims, actions, liabilities, losses, damages, judgments, grants, costs and expenses (including attorneys' fees): (i) arising out of injury or death to persons, or damage to property, or any other claim, resulting from or pertaining to the access to and use of RETS Data and whether or not occasioned by the negligence or misconduct of Firm or any Consultant; or (ii) arising out of any breach by Firm or any Consultant of this Agreement.

8.0 LIMITED WARRANTY

- 8.1 CTMLS warrants to Firm that it owns or otherwise has rights in the RETS Data and has the right to license the RETS Data as described in this Agreement.
- 8.2 CTMLS MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE ABILITY TO ACCESS OR INTEGRATE RETS DATA. FURTHER, CTMLS MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE ACCURACY OF RETS DATA.
- 8.3 THE WARRANTY SET FORTH IN SECTION 8.1 IS A LIMITED WARRANTY AND IT IS THE ONLY WARRANTY MADE BY CTMLS. CTMLS MAKES NO WARRANTY TO ANY CONSULTANT. CTMLS EXPRESSLY DISCLAIMS, AND FIRM HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OF THE RETS DATA, INFORMATIONAL CONTENT OF THE RETS DATA OR PARTICIPANT DATA, OR FITNESS OF THE RETS DATA FOR FIRM'S PURPOSE OR SYSTEM INTEGRATION. THERE IS NO WARRANTY AGAINST INTERFERENCE WITH ENJOYMENT OF THE RETS DATA, OR AGAINST INFRINGEMENT OF PROPRIETARY RIGHTS OF ANOTHER. CTMLS DOES NOT WARRANT AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS THAT ACCESS TO RETS DATA AND/OR ITS USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ACCESS PROBLEMS, IF ANY, WILL BE CORRECTED BY IT OR BE CORRECTABLE. FIRM SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE, EFFICIENCY

AND SUITABILITY OF ANY CONSULTANT AND CTMLS SHALL HAVE NO LIABILITY THEREFOR.

9.0 LIMITATION OF LIABILITY

9.1 IN NO EVENT SHALL CTMLS BE LIABLE TO ANY CONSULTANT HEREUNDER FOR ANY REASON INCLUDING WITHOUT LIMITATION ANY INTERNAL OR NEGLIGENT ACT OF CTMLS. IN NO EVENT SHALL CTMLS BE LIABLE TO FIRM FOR ANY DAMAGES RESULTING FROM OR RELATED TO FIRM'S ATTEMPTS TO ACCESS RETS DATA, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OF ANY SORT. CTMLS SHALL HAVE NO LIABILITY, IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE AGGREGATE LIABILITY OF CTMLS FOR ANY REASON AND UPON ANY CAUSE OF ACTION OR CLAIM, SHALL BE LIMITED TO THE AMOUNT, IF ANY, PAID TO CTMLS BY FIRM UNDER THIS AGREEMENT DURING THE PRECEDING 12-MONTH PERIOD. FIRM'S ONLY OTHER REMEDY SHALL BE TERMINATION OF THIS AGREEMENT. THE LIMITATIONS OF THIS SECTION APPLY TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND ALL OTHER TORTS.

10.0 REMEDIES

10.1 Firm and any and each Consultant each acknowledge that violation by it of the provisions of Section 6.0 or the Rules would cause immediate irreparable harm to CTMLS for which there would be no adequate remedy at law, including, without limitation, compensable monetary damages. In addition to any other relief, it is agreed that an immediate temporary and preliminary injunction, as well as a permanent injunction, shall be available, without necessity of a hearing or the posting of a bond, to prevent any actual or threatened violation of such provisions and that FIRM shall be liable for all attorney's fees and other costs incurred by CTMLS in obtaining such injunctive relief.

11.0 MISCELLANEOUS

11.1 This Agreement and performance hereunder shall be governed by the laws of the State of Connecticut, without giving effect to the principles of conflict of laws of such state or international treaties. CTMLS, Firm and any and each Consultant hereby agree on behalf of themselves and any person claiming by or through them that the sole and exclusive jurisdiction and venue for any litigation arising from or relating to this Agreement or the subject matter hereof shall be an appropriate federal or state court located in Connecticut.

11.2 This Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their permitted successors in interest and permitted assigns. Firm may not, without CTMLS's prior written consent, assign its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, whether by assignment, merger, transfer of assets, sale of stock, operation of law or otherwise, and any attempt to do so shall be deemed null and void. Consultant may not assign without the prior written consent of CTMLS and Firm, any of its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, whether by assignment, merger,

- 11.3 The waiver or failure of either party to exercise any right in any respect provided for herein shall not be deemed a waiver of any further right hereunder.
- 11.4 If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.
- 11.5 The headings of the sections of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.
- 11.6 The parties agree that this Agreement is for the benefit of the parties hereto and is not intended to confer any rights or benefits on any third party, and that there are no third party beneficiaries as to this Agreement or any part or specific provision of this Agreement.
- 11.7 If CTMLS prevails in any action to enforce or interpret this Agreement or any provision hereof, the party against whom enforcement or interpretation was sought will pay CTMLS's reasonable attorney's fees and costs for such legal action.
- 11.8 All notices to be given under this Agreement shall be: (i) mailed by certified or first class U.S. Mail; (ii) sent via facsimile transmission; (iii) delivered by courier or overnight courier service; or (iv) sent via e-mail with a hard copy sent by first class U.S. Mail, to the parties at their respective addresses set forth below or such other address of which any party may advise the others in writing during the term of this Agreement. Notices shall be deemed received upon the earlier of: (a) two (2) business days after mailing; or (b) actual receipt of the notice by the recipient whether by mail, facsimile transmission, courier, overnight courier or e-mail.

Notices to CTMLS shall be sent to:

Connecticut Multiple Listing Service, Inc.
860 N. Main Street Ext.
Wallingford, CT 06492
Attn: Cameron Paine, CEO
Fax: 203-697-1064 Attn: Cameron Paine, CEO
E-mail: Cameron@ctreal.com

Notices to Firm or to any and each Consultant shall be addressed per the information provided on the applicable signature page.

- 11.9 This Agreement and the Rules contain the full and complete understanding of the parties regarding the subject matter of this Agreement and supersede all prior representations and understandings whether oral or written. The Rules are expressly incorporated into this Agreement by reference.

- 11.10 Notwithstanding any rule of law or custom to the contrary, the parties agree that any rule of construction that any ambiguities be construed against the drafting party will not apply to this Agreement, the Rules or to any other agreement or document collateral to or otherwise relating to this Agreement and/or the Rules.
- 11.11 Each party hereto acknowledges that it is an independent contractor in the performance of this Agreement. Nothing contained herein shall be deemed to create the relationship of partners, joint venturers, or of principal and agent between the parties hereto. Each party covenants that it shall not hold itself out to any third party as having the authority to act on behalf of, to bind or to serve as the agent of any party to this Agreement. Firm and Consultant will not, without CTMLS's prior written approval, undertake commitments or incur liability on behalf of CTMLS for any services or expenditures and CTMLS will not be liable for any such commitments or liabilities incurred without such written approval.
- 11.12. **WAIVERS OF RIGHT TO JURY TRIAL & FILING COUNTERCLAIMS. Each Party Hereby Knowingly, Voluntarily And Intentionally Waives Any Right To A Trial By Jury In Any Litigation, Action Or Proceeding Based On, Arising Out Of, Under Or In Connection With This Agreement, The Rules Or Any Course Of Conduct, Statements Or Actions Of Any Party With Respect Hereto. Each Party Further Waives All Rights To Interpose Any Counterclaim(s) And/Or Cross-Claim(s) In Any Action Seeking To Enforce Obligations Under And/Or For Damages Relating To This Agreement And/Or The Rules And/Or Any Breach(es) Thereof.**

Signatures are set forth on the pages which follow.

Firm/Broker/Agent Information and Signature Page

Broker/Agent Name: _____

MLS User ID: _____ **Contact Phone:** _____

MLS Office ID: _____

Broker/Agent E-mail address: _____

(You **must** supply an e-mail address here. This address will be part of CTMLS's principal means of communicating with you for notices under this Agreement.)

Firm/Company Name: _____

Firm Street Address: _____

Firm City, ST, ZIP: _____

Firm Phone: (____) _____ **Firm Fax:**(____) _____

Website URL(s) on which IDX will be displayed: _____

Please Note: For office websites only the Participant/Broker must sign below.

**For Subscriber/Agent websites both the Subscriber/Agent and the
Participant/Broker must sign below.**

The parties signing below acknowledge and agree to comply with all CTMLS IDX policies and understand that IDX services will not be provided to Participants and Subscribers whose services have been suspended or terminated for any reason. By signing this page, all parties agree to be bound by all the terms and obligations set forth in the foregoing CTMLS RETS Data Access Agreement.

Participant/Broker Signature

Subscriber/Agent Signature

Print Name

Print Name

Title

**Both broker and agent
signatures are required**

Date

Consultant/Vendor Information and Signature

NOTE TO CONSULTANT: Please reproduce this page for each Broker, Agent, or Company to whom you intend to provide access to the RETS Data under this Agreement.

Consultant (company or individual) Name: Constellation Web Solutions

E-mail address: brokersolutions@constellationws.com
(You **must** supply an e-mail address here.)

Consultant Street Address: 6737 W Washington St Ste 2120

Consultant City, State, Zip Code: West Allis, WI 53214

Phone: (425) 636-6910 Fax: (414) 918-9215

Technical Contact Name: John Flaig

Technical Contact Email: brokersolutions@constellationws.com

PLEASE NOTE: By signing below the Consultant/Vendor accepts responsibility for filtering out the "ADDRESS" and "UNIT NO" data from those listings which either or both the Listing Broker or the Seller has refused permission for the display of address information on IDX websites.

By signing this page, Consultant agrees to be bound by all the terms and obligations set forth in the CTMLS RETS Data Access Agreement executed between CTMLS and (Consultant/Vendor Company Name): Constellation Web Solutions.

Entered into on behalf of Consultant by the undersigned duly authorized agent

Signature

Trevor Peterson

Print Name

MLS Compliance Administrator

Title

8/22/2013

Date

NOTE TO CONSULTANT: Be sure to enter into this RETS Data Access Agreement with CTMLS and every real estate broker to which you provide services. If you sign only one and that Firm's access to the RETS Data is terminated, you will not be able to get the data for your other clients.

CTMLS Information and Signature Page

This section is for CTMLS's use only.

CTMLS will fill out the information in it after signing this Agreement. CTMLS will then return a copy of this Agreement to the Firm and any and each Consultant. The contents of this section are Proprietary Property under this Agreement and included in the limited license granted by this Agreement.

Connecticut Multiple Listing Service, Inc.

Signature

Title

Print Name

Effective Date

RETS URL: _____

RETS User ID: _____

RETS Password: _____