



Principal Broker Info

Agent Info

WEBSITE DEVELOPMENT AGREEMENT

This Agreement is made by and between Middlesex County Multiple Listing System, Inc. hereinafter referred to as "MCMLS", and:

MLS Member/Office Name _____

MLS Member Name (Broker/Manager) _____

St. _____ City _____ State _____ Zip _____

Phone _____

Contact Name _____

Contact Email _____

Member URL _____

Agent or Parent/Franchisor Name (if applicable) (P/F/A) _____

St. _____ City _____ State _____ Zip _____

Phone _____

Contact Name _____

Contact Email _____

Agent or P/F URL _____

Constellation Web Solutions

Website Developer Name (Vendor) _____

6737 West Washington St., Suite 2120, West Allis, WI 53214

St. _____ City _____ State _____ Zip _____

(425) 636-6910

Phone _____

Daniel Dlyh

Contact Name _____

brokersolutions@constellationws.com

Contact Email _____

http://constellationws.com

Developer URL _____

414-918-9216

Fax _____ hereinafter "Member" and hereinafter all three, Member, Agent (if applicable) or Parent/Franchisor (if applicable) and Developer, are jointly referred to as "Users"

Fax _____ hereinafter "P/F/A"

Fax _____ hereinafter "Developer"

A. License. Subject to the provisions, terms and conditions set forth herein, including those on the second page of this Agreement, MCMLS hereby grants to Users during the Term a non-exclusive, non-transferable right to access the MCMLS current aggregated compilation of listing data ("MCMLS Content") as set forth on the attached Schedule A, and the RETS Application form, attached hereto and made a part hereof, for the SOLE purpose of integrating the MCMLS Content into the Member's or P/F/A's Web Site for display to prospective real estate purchasers. This license is granted for use only in conjunction with ordinary licensed real estate agency business activities and for no other purpose. Users are not authorized and understand and agree that they shall not transfer the MCMLS Content or, if applicable, access to the MCMLS Content or any part thereof to any third party. Developer specifically understands and agrees it is not authorized to display the MCMLS Content or any part thereof on its own websites or the website of any third party.

B. Term. The Term of this Agreement shall be one (1) year commencing on the date the last party executes this Agreement (the "Effective Date") and shall automatically extend for additional one (1) year Terms unless any party shall notify the others of its intention to terminate this Agreement, in writing. Each year of the Term of this Agreement, Users will be required by MCMLS to complete a RETS Application Form, if Users' contact information has changed during the previous Term, and pay the annual maintenance fee, described in Section C herein. The annual maintenance fee and RETS Application Form are due within thirty (30) days of the issuance of an invoice by MCMLS. In the event the form and fee are not returned to MCMLS by the Users within thirty (30) days of the date of the invoice, the MCMLS retains the right to either suspend access to the MCMLS Content or terminate this Agreement upon notification by the MCMLS. Upon termination of this Agreement, Users shall delete all MCMLS Content from their files and systems within thirty (30) days of such termination.

C. Fees. Member or Agent shall pay in advance the non-refundable setup fee of \$125.00 (One-Hundred Twenty-five Dollars) for custom feeds and \$62.50 (Sixty-two Dollars and Fifty Cents) for ILD feeds and a \$100.00 (One Hundred Dollar) non-refundable annual maintenance fee, prorated on a quarterly basis beginning July 1st, to the MCMLS. Payment shall be due and payable within thirty (30) days of the issuance of an invoice from MCMLS. MCMLS will provide set-up and support for Developer's continuing access to the MCMLCS Content which support hours will be billed at the rate of \$125.00 (One-Hundred Twenty-five Dollars) per hour billed in half-hour increments and with a minimum billing equal to one-half the hourly rate. The MCMLS charges a reactivation fee of \$25.00 (Twenty-Five Dollars) to reinstate a suspended feed. All fees referred to in this Agreement are subject to change at the sole discretion of the MCMLS with fifteen (15) days prior written notice to Members or Agents with existing feeds.

D. Set-Up Costs. Users' shall provide their own hardware, software and bear their own programming, technology and methodology expenses, if any, relating to the integration of MCMLS Content into Member's or P/F/A's Web Site and shall provide for all telecommunication needs in order to facilitate the accessibility of the MCMLS Content.

E. Security of Access ID and Penalties for Disclosure. Developer's Access ID is owned by MCMLS. Developer shall treat the Access ID as private, confidential and personal and shall safeguard and maintain its confidentiality. Use by any other person or entity shall be considered as theft. Member, P/F/A and Developer shall be jointly and severally liable for any consequences that may result from unauthorized disclosure of Developer's Access ID, whether intentional, negligent or inadvertent, including but not limited to immediate termination of this Agreement and liability for damages.

F. Membership Status and Information Changes. Member, P/F/A and Developer acknowledge that if Member is no longer a Member of MCMLS or if Member's status with MCMLS is inactive, neither Member, P/F/A, nor Developer shall be granted access to the MCMLS Content and access will be denied until Member's status is returned to active. Member agrees to notify MCMLS in writing, and both P/F/A and Developer agree to notify both Member and MCMLS in writing, within ten (10) days of any change to its information set forth at the top of this page.

G. MCMLS Logo. If Member or P/F/A has elected to receive the MCMLS ILD Content on the attached Schedule A, Developer shall not integrate the MCMLS Content into the Member or P/F/A Web Site unless and until the MCMLS logo, in a form, size and format presented by MCMLS to Developer, is displayed on at least the first screen of such User's Web Site.

H. Access. The MCMLS Content may be accessed by Developer by (check one): FTP (file transfer protocol) RETS (real estate transaction standard) during the Term and such access shall commence within three (3) business days of the Effective Date. MCMLS reserves the right to change the means of access with sixty (60) days prior notice to Developer.

I. Breach. Within five (5) days of becoming aware of any breach of this Agreement, MCMLS shall notify all Users, specifying the nature of the breach. Users shall have ten (10) days to mutually determine which of them caused the breach. The party at cause shall cure said breach within the next ten (10) days. If Users are unable to determine the party at cause, they shall be jointly and severally liable to cure the breach, within the ten (10) day cure period. If Users become aware of a breach of this agreement by the misuse or violation of the terms of this agreement or the MCMLS ILD Policy, each agrees to immediately notify MCMLS in writing.

J. Limitation and Disclaimers. MCMLS and its data suppliers are not responsible for errors or omissions. The MCMLS Content is provided on an "as is, as available" basis. Neither MCMLS nor any of its suppliers makes any warranties, express or implied, including without limitation, those of merchantability and fitness of a particular purpose, with respect to the MCMLS Content.

K. USERS SHALL NOT REPRODUCE, SELL, PUBLISH, OR IN ANY MANNER COMMERCIALY EXPLOIT ANY INFORMATION OBTAINED THROUGH ACCESS TO THE MCMLS CONTENT OR PARTICIPATE IN OR ALLOW SUCH REPRODUCTION, SALE, PUBLICATION OR EXPLOITATION BY ANY PERSON EXCEPT WITH THE EXPRESS WRITTEN CONSENT OF MCMLS, WHICH MAY BE WITHHELD IN MCMLS'S SOLE DISCRETION.

MCMLS (OFFICE USE)

Print Name _____

Title: _____

Date: _____

Signature _____

MEMBER (Broker/Manager)

Print Name _____

Title: _____

Date: _____

Signature _____

P/F/A

Print Name _____

Title: _____

Date: _____

Signature _____

DEVELOPER (Vendor)

Daniel Dlyh

Print Name _____

Title: Data & Compliance Manager

Date: _____

Signature _____

Both Broker & Agent signatures required

Daniel Dlyh

TERMS AND CONDITIONS

1. Billing and Payment: Users agree to pay the annual maintenance fee set forth on the face hereof in advance. Fees are non-refundable and accrue whether or not Users access the MCMLS Content. Users are responsible for and will be charged for any overdue account collection expenses including, but not limited to, Member and/or Agent fees, attorney's fees, court costs and other associated expenses. MCMLS reserves the right to exclude Users from access to the MCMLS Content if Users' account becomes delinquent and/or Member/User becomes inactive, until Member and/or P/F/A bring its account current or reinstates membership. A payment that is not honored by the payor's financial institution will be treated as though no payment was received and will be subject to a Thirty Dollar (\$30.00) dishonored payment fee.

2. Confidentiality & Suspension: (a) Users shall use the MCMLS Content only for the purposes set forth on the face of this Agreement, and shall make no copies, extracts, digests or summaries for any other purpose. Users shall not disclose or provide the MCMLS Content, or access thereto, to any affiliates, parent organization, subsidiaries, corporate partners, consultants, shareholders, agents, third parties or any persons within its organization not having a need to know for the purposes permitted on the face hereof. Users agree not to provide or otherwise make available any licensed program or material or access to the MCMLS Content to any person other than Member, P/F/A and Developer's designated authorized users without prior written consent from MCMLS. (b) Users acknowledge that the MCMLS Content is proprietary to MCMLS and its supplier and have been developed as commercial trade secrets at the expenditure of MCMLS time and money, and are furnished to Users in trust. Users agree that they will hold the MCMLS Content in the same manner as they deal with their own proprietary information and trade secrets. (c) Users will issue appropriate instructions to their authorized users having access to the MCMLS Content concerning the restrictions contained herein, and shall initiate strict security measures to prevent the accidental or otherwise unauthorized use or release of the access identification to the MCMLS Content, with particular respect to consumer information that is considered "sensitive". (d) Upon Users' violation of this paragraph and without cause stated, MCMLS may exclude Users from access to the MCMLS Content and suspend or terminate this agreement upon notification by MCMLS.

3. Ownership and Dissemination of the MCMLS Content: Users shall acquire no proprietary rights in or to MCMLS Content or in any data elements contained therein. MCMLS and its data suppliers shall remain the exclusive owners of all right, title and interest in the MCMLS Content licensed hereunder and all copyrights and renewals thereof, heretofore or hereafter secured therein. All publication, dissemination and other rights to the MCMLS Content licensed hereunder are reserved for MCMLS in all languages, formats and media throughout the world for the sole and exclusive use or any other disposition by MCMLS or its assignees or grantees at anytime and from time to time without obligation or liability to Users.

4. Responsibility for Use and Limitation of Liability: Users assume sole responsibility for all use of the MCMLS Content on the Member's or P/F/A's web site, which use Users acknowledge to be at their own risk. Access to the MCMLS Content is made on an "as is, as available" basis without any warranty express or implied by sources either MCMLS or its data suppliers, including without limitation, those of merchantability or fitness for a particular purpose. The data contained therein is sourced from public, publicly available or non-public sources. Neither MCMLS nor any MCMLS Content supplier is responsible for errors or omissions. MCMLS disclaims any warranty that the MCMLS Content is error-free or that access to the MCMLS Content will be uninterrupted. MCMLS full liability hereunder for any and all claims of damages, for any cause whatsoever, and regardless of the form of the actions, whether in contract or tort, including negligence, shall be limited to the fee paid by Users for access to and use of the MCMLS Content, during the period any events which are the basis for any such claim(s) occur. IN NO EVENT SHALL MCMLS BE LIABLE FOR ANY DAMAGES RESULTING FROM USERS INABILITY OR FAILURE TO PERFORM PROFESSIONAL WORK OR FOR ANY LOST PROFITS OR ANY OTHER CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES RELATING IN WHOLE OR PART TO USERS' RIGHTS UNDER THIS AGREEMENT, EVEN IF MCMLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MCMLS' data suppliers are not responsible for any damages including, but not limited to, those incurred as a result of lost profits or revenue, loss of use of access to the MCMLS Content, loss of the MCMLS Content, or the cost of recovering access to the MCMLS Content, the cost of any substitute thereof, or claims by third parties, or for other similar costs. In no event shall any MCMLS' Content supplier be liable

for any damages resulting from Users' inability or failure to access the system or any use or availability of the MCMLS Content.

5. Membership Termination Results in Termination of Web Site Development Agreement: Should Member terminate its membership with the MCMLS or be terminated or suspended from participation in MCMLS such that Member or any licensed agent, or employee and/or non-licensed office staff affiliated with Member, if applicable, is not entitled to access and use the MCMLS Content, Member understands and agrees that access by Developer and P/F/A and/or any licensed agent, employee and/or non-licensed office staff affiliated with them may be terminated.

6. Jurisdiction: In any dispute arising out of this Agreement, this Agreement shall be construed and governed in accordance with the laws of the State of New Jersey, without giving effect to conflicts of law provisions, and the parties hereby submit to the exclusive jurisdiction of and venue in any state or federal courts located within Middlesex County, New Jersey with respect to such dispute.

7. Assignment: This agreement may not be assigned by Users without MCMLS' prior written consent. Said consent may be withheld at the sole discretion of MCMLS.

8. Consequential Damages: No party shall be liable to another party for any indirect, special or consequential damages.

9. Force Majeure: No party shall be responsible for delays or failures in performance resulting from acts beyond the control of such parties. Such acts shall include, but not be limited to, acts of God, strikes, lock-outs, riots, acts of war, epidemics, governmental regulation superimposed after the fact, fire, communication line failures, power failures, wind storms, ice storms, snow storms, flooding or other disasters.

10. Compliance: Each party agrees that it will perform its obligations hereunder in accordance with all the applicable laws, rules and regulations now or hereafter in effect, including, but not limited to the MCMLS ILD Policy and this Agreement including the Terms and Conditions, as may be amended from time to time.

11. Severability: If any term or provision of this Agreement shall be found to be illegal or unenforceable then, notwithstanding that term or provision, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

12. Amendments: No amendment of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of each party.

13. Non-Waiver: Waiver by MCMLS of any breach or any provision of this Agreement by Users shall not operate or be construed as a waiver of any subsequent or other breach by Users.

14. Authority: Each party has full power and authority to enter into and perform this Agreement and the persons signing this Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this agreement, understands it, and agrees to be bound by it.

15. Entire Agreement: This contract constitutes the entire Agreement between the parties with respect to this subject matter; all prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

16. Notices: Any notice required or permitted to be given hereunder shall be by "confirmed email" (effective only upon confirmation of receipt by the recipient) to the email addresses as set forth on the face of this Agreement or in writing sent by accountable means such as Federal Express to Member, P/F/A or Developer at their respective address on the face hereof and to MCMLS at 77 Hamilton Ave., Fords, NJ 08863 or to such other address as any party shall have provided to the other parties in accordance with this section.

17. Privacy: Member, P/F/A and Developer understand and agree to comply with all applicable privacy, data security, best practices and all other laws, rules and regulations relevant to Users' business model.

Broker & Agent initials required

Schedule A Website Development Agreement

This Agreement is for the development of a website for:

- Member
- Agent
- Parent/Franchisor

One or more of the following types of data feeds is being requested for User's Website display to prospective purchasers in accordance with the Terms and Conditions of this Agreement and any applicable sections of the MCMLS ILD Policy incorporated herein and made a part hereof by reference:

- ILD/IDX (A, AR and US Listings of all ILD Participants)
- Custom Data Feed consisting of Member's (Agency) listings, statuses below.
- Agents' Custom Data Feeds authorized by Member/Manager will consist of Member's (Agency) Listings, statuses below.

List of Statuses included on Custom RETS feeds

A (Active)
AR (in Attorney Review)
US (Under Contract, Continue to Show)
U (Under Contract)
C (Closed)
ZA (Uncirculated Active)
ZR (Uncirculated, in Attorney Review)
ZS (Uncirculated, Under Contract, Continue to Show)
ZU (Uncirculated, Under Contract)

Middlesex County Multiple Listing System

77 Hamilton Avenue, Fords, NJ 08863

732-661-9500 Fax 732-661-9557

www.mcmls.net

Rev. 6/13/2014

via Mail
 Fax

RETS Application Form

Type of setup:

ILD (IDX) data
 Custom setup
(select either or both)

(Office ID)

**Broker/Manager
signature required**

COMPLETE ALL BLANKS!

MLS Member Name **Broker /Manager (Please print)** Date **Broker/Manager Signature**

If authorization for Agent **(print agent's name)** **Agent's Public ID**

Office Name _____

Office Address _____

Tel _____ **Fax** _____

Office email address _____

Office/Agent website url (display of listing data) _____

Constellation Web Solutions
Web Designer Company Name (Vendor)

Contact Person Daniel Dlhy

Address 6737 West Washington St, Suite 2120

City West Allis State WI Zip 53214

Tel 425-636-6910 Fax 414-918-9216

Email addr. brokersolutions@constellationws.com

UserAgent wrecks/1.0

Not required if data will be retrieved via RETSConnector

[] **Check box if you are using RETSConnector as your data retrieval application.**

Data Aggregation Company Name (if other than Vendor)
Contact Person _____

Address _____

City _____ State _____ Zip _____

Tel _____ Fax _____

Email addr. _____

UserAgent _____

Not required if data will be retrieved via RETSConnector

[] **Check box if you are using RETSConnector as your data retrieval application.**

APPLICATION WILL NOT BE PROCESSED IF ANY OF THESE 4 STEPS ARE NOT COMPLETED:

- 1.) **SIGN** this form.
- 2.) **SIGN** attached Website Development Agreement and secure SIGNATURE of your WEB DEVELOPER.
- 3.) **RETURN BOTH FORMS within 4 weeks from Application date.**
- 4.) **PAYMENT INSTRUCTIONS/Invoice to follow, see Web Development Agreement on MLS website for fees.**

Payment received date: ___/___/20___ Amount paid: \$_____

Setup completed ___/___/20___ (within 3 business days of receipt by MLS).

Emailed access codes and link to the RETS server to Web Designer on

___/___/20___.

For MCMLS by: _____