

GFBR Internet Data Exchange Contract

Note: This form is a legally binding contract between you and the Greater Fairbanks Board of REALTORS®. Simultaneously or prior to submitting this form/contract, you must become a Subscriber (IDX). See the Greater Fairbanks Board of REALTORS® Multiple Listing Service's Internet Data Exchange: *Broker Information Packet* for further details. **This form/contract must be filled out completely and signed by the Participant of your firm. There are no exceptions.** Once you have filled it out and signed it, fax or mail it to the Greater Fairbanks Board of REALTORS® at 1449 Gillam Way, Fairbanks AK 99701, Fax: 452-7743. GFBR will sign the form/contract and return a copy to you.

Agreement

1. This **AGREEMENT** is made and entered into by and among the Greater Fairbanks Board of REALTORS®, (**GFBR**), the real estate firm whose name and contact information appear on the signature page of this Agreement designed "Firm Information and Signature" (the **Firm**), and the companies/individuals whose names and contact information appear on the signature pages of this Agreement designated "Consultant Information and Signature" (collectively, the **Consultants**), if any.

Recitals

2. Firm wishes to obtain, and GFBR wishes to provide, data for Firm's web site, including the listing data of other real estate brokerages participating in GFBR/MLS. 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 web design.

Definitions

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

Database or IDX Data: The current aggregate compilation of all active exclusive right to sell listings of all Internet Data Exchange Subscribers except those listings where the property seller has opted out of internet publication by so indicating on the listing contract. GFBR owns the Data.

Internet Data Exchange Subscriber or IDX: A Subscriber who gives permission to other subscribers to display its active listings on their web sites in return for their permission to advertise their listings on its web site.

Multiple Listing Service: 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.

Rules: The Rules and Regulations of GFBR/MLS, as amended from time to time, and any operating policies relating to the IDX Data and IDXS's promulgated by GFBR.

Subscriber: Any real estate broker, appraiser, or other real estate related business professional that purchases Multiple Listing Services from an Affiliated Association or from GFBR directly.

Subscriber Data: Data relating to real estate for sale, previously sold or listed for sale, including the Broker Reciprocity Database, and data relating to Subscribers and Affiliated Associations, entered into the Risco/FNIS system by Subscribers, the Affiliated Associations, and GFBR. GFBR owns the Subscriber Data.

GFBR's Obligations

4. During the term of this Agreement, GFBR grants to Firm a license to:
 - a. display the IDX Data on Firm's web site, and
 - b. make copies of the IDX Data to the extent necessary to deliver the IDX Data to consumers on Firm's web site.
5. During the term of this Agreement, GFBR agrees to provide to Firm and its Consultants:
 - a. access to the IDX Data via GFBR's IDX, under the same terms and conditions GFBR offers to other Subscribers;
 - b. seven (7) days' advance notice of changes to the file and record formats of the IDX data; and
 - c. seven (7) days' advance notice of changes to the Rules.

Firm's Obligations

6. Firm shall comply with the Rules at all times.
7. Firm acknowledges GFBR's ownership of the copyrights in the Subscriber Data and the IDX Data.
8. Firm shall comply with the requirements relating to Confidential Information set forth below.
9. In the event that Firm desires to make the IDX Data available to any third party, Firm agrees to require such third party to execute this Agreement and become a Consultant.
10. If GFBR notifies Firm of a breach of the Rule or this Agreement and Firm does

not immediately cure such breach, Firm agrees that GFBR may seek cure from the Consultants, or any one of them.

11. Firm shall notify GFBR within five (5) business days of any change to the information relating to Firm on the Firm Information and Signature page below.

Consultant's Obligations

12. If GFBR notifies Firm of a breach of the Rules of this Agreement and Firm does not immediately cure such breach, GFBR may contact Consultant to cure any such breach that is within Consultant's control. Consultant agrees to cooperate with GFBR and act immediately upon notification by GFBR of an incurred breach by Firm.

13. Each Consultant acknowledges GFBR's ownership of the copyrights in the Subscriber Data and the IDX Data.

14. Each Consultant shall comply with the requirements relating to Confidential Information set forth below.

15. Each Consultant shall notify GFBR within five (5) business days of any change to the information relating to it on the Consultant Information and Signature page below.

Confidential Information

16. Confidential Information is information or material proprietary to GFBR or designated confidential by GFBR and not generally known to the public, that Firm or Consultants or any one of them (the Receiving Party) may obtain knowledge of or access to as a result of access under this Agreement. Confidential information includes, but is not limited to, the following types of information and other information of a similar nature (whether in oral, visual, audio, written or other form):

- a. all Subscriber Data, except the IDX Data to the extent to which this Agreement and the Rules permit its disclosure;
- b. all documentation and other tangible or intangible discoveries, ideas, concepts, designs, drawings, specifications, models, information;
- c. software, source code, object code, diagrams, flow charts;
- d. techniques, procedures;
- e. IP addresses, access codes and passwords; and
- f. any information that GFBR obtains from any third party that GFBR treats as proprietary or designates as Confidential Information, whether or not owned or developed by GFBR.

17. Exceptions. The Confidential Information does not include information that:

- a. is in the public domain at the time of disclosure;
- b. is known to the Receiving Party at the time of disclosure;

- c. is used or disclosed by the Receiving Party with the prior written consent of GFBR, to the extent of such consent;
- d. becomes known to the Receiving Party from a source other than GFBR without breach of this Agreement by the Receiving Party and provided that such source is not known by the Receiving Party to be bound by a confidentiality agreement with GFBR; or
- e. is required to be disclosed by judicial order or other compulsion of law, provided that the Receiving Party provides to GFBR prompt notice of any such order.

18. Title. The Receiving Party acknowledges that title to the Confidential Information remains at all times with GFBR or with the third parties in whom title existed prior to this Agreement or prior to disclosure by GFBR.

19. Restrictions on Use – Scope of Use. The Receiving Party will use or access the Confidential Information only as expressly permitted under this Agreement and the Rules and the Receiving Party will not use its access or the Confidential Information for any other purpose. The Receiving Party will employ measures to protect the confidential information from disclosure at least as rigorous as those it uses to protect its own trade secrets, but in no event less than reasonable care.

20. Restrictions on Use – Unauthorized Uses. The Receiving Party will not make copies of the Confidential Information. The Receiving Party will not directly or indirectly disclose, display, provide, transfer or otherwise make available the Confidential Information to any person or entity, unless the Receiving Party has received prior written consent of GFBR to do so. At no time and under not circumstances will the Receiving Party reverse engineer, decompile, or disassemble any disassemble any software constituting part of the Confidential Information. The Receiving Party will not incorporate the Confidential Information into any other work or product.

21. Restrictions on Use – No Third Party Access. Only the Receiving Party's own employees will access the Confidential Information. The Receiving Party will not provide access to the Confidential Information to third parties, including consultants or independent contractors, without prior written consent from GFBR. If GFBR grant consent, the Receiving Party will execute an agreement with the third party that imposes at least as strict a confidentiality obligation on the third party as that imposed by this Agreement on the Receiving Party.

22. Restrictions on Use – Location restriction. The Receiving Party will not remove the Confidential Information from its principal place of business without GFBR's prior written consent. In the event GFBR grants consent, the Receiving Party is not relieved of any of its obligations under this Agreement.

23. Termination and Return of Materials. Within five (5) days of the end of the term of this Agreement or receipt of notice of termination by GFBR, the Receiving Party will return to GFBR all Confidential Information and all other materials provided by GFBR to

the Receiving Party. The Receiving Party will also erase, delete, or destroy any Confidential Information stored on magnetic media or other computer storage, including system backups. Upon the request of GFBR, an officer of the Receiving Party will certify in writing that all materials have been returned to GFBR and all magnetic or computer data have been destroyed.

Term and Termination

24. The term of this Agreement begins on the “Effective Date” set forth on the GFBR Information and Signature Page below. GFBR has the right at any time and in its sole discretion to terminate this Agreement. This Agreement shall terminate upon the occurrence of any of the following events:

- a. GFBR’s notice to Firm that this Agreement is terminated.
- b. Firm’s notice to GFBR that it no longer intends to display IDX Data on its website.
- c. Termination of Firm’s privileges as a Subscriber by GFBR.

25. **Survival of Obligations.** The obligations of Firm set forth under “Firm’s Obligations” above and the obligations of Consultants under “Consultant’s Obligations” above shall survive the termination or expiration of this Agreement.

26. **GFBR’s Remedies.** Because of the unique nature of the Subscriber Data and Confidential Information, Firm and Consultants acknowledge that GFBR would suffer irreparable harm in the event that any of them breaches its obligations under this Agreement, and that monetary damages would be inadequate to compensate GFBR for a breach. GFBR is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Firm or Consultants or any one of them, without showing or proving any actual damages sustained by GFBR.

27. **Attorneys fees.** If GFBR 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 GFBR’s reasonable attorney’s fees and costs for such legal action.

28. **Limitation of Liability.** GFBR’s liability to Firm and Consultant for damages under this Agreement, whether in contract or tort, shall be limited to the aggregate amounts paid by Firm and Consultants to GFBR, if any, under this Agreement. Firm’s and Consultants’ only other remedy shall be termination of this Agreement. GFBR shall not be liable for any incidental or consequential damages under any circumstances, even if GFBR has been advised of the possibility of such damages. GFBR shall have no liability for inaccuracies in the IDX Data or the Subscriber Data.

29. **Notice.** All notices to be given under this Agreement shall be mailed, sent via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth below or such other address of which any party may advise the others in writing during the term of this Agreement.

30. **No Waiver.** No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.

31. **No Assignment.** Neither Firm nor Consultants, nor any of them, may assign or otherwise transfer any of their rights under this Agreement to any party without the prior written consent of GFBR.

32. **Entire Agreement.** This Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings whether oral or written. The previous sentence notwithstanding, the Rules are expressly incorporated into this Agreement by reference.

33. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of Alaska. (Alaska Statutes & Regulations 12 AAC. 64.130.6 states the following: Grounds for revocation or suspension...Advertising a property for sale, lease, or rent without first obtaining the written authority of the owner or the owner's authorized agent to sell, lease or rent the property.)

[The remainder of this page is left blank intentionally.]

GFBR Information and Signature

Entered into on behalf of GFBR by

Signature

Print Name

Effective Date

The area below is for GFBR's use only. GFBR will fill out the information in it after signing this Agreement. GFBR will then return a copy of this Agreement to Firm and Consultants. The contents of this box are Confidential Information under this Agreement.

FTP URL: _____

FTP User ID: _____

FTP Password: _____

Consultants Identified: _____

Consultant(s) Name(s): Constellation Web Solutions

Listing Office Name: _____

Broker or Contact Person: _____

Firm Information and Signature

Firm Name: _____

Broker/Office Manager Name: _____

E-mail address: _____

Firm Street Address: _____

Firm City, State, Zip: _____

Firm Phone: _____ Fax: _____

Entered into on behalf of Firm by:

Signature

Print Name

Date

Consultant Information and Signature

NOTE TO FIRM: Reproduce this page for each individual/company to whom you intend to provide access to the IDX Data under this Agreement

Consultant (company or individual) Name: Constellation Web Solutions

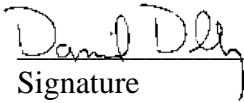
E-mail address: brokersolutions@constellationws.com

Consultant Street Address: 6737 W. Washington Street, Suite 2120

Consultant City, State, Zip: Milwaukee, WI 53214

Phone: 425-636-6910 Fax: 866-299-4385

Entered into on behalf of Consultant by:


Signature

Dan Dlh

Print Name

Date

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