



Webmaster/Consultant CONTRACT

Access to CC&IMLS IDX Smart Frame Link Solution

Note: This is a legally binding contract between you, the Webmaster/Consultant and the Cape Cod & Islands Multiple Listing Service Inc. (CC&IMLS). Once you have filled it out and signed it, fax or mail it to Cape Cod & Islands Multiple Listing Service, Inc. at 22 Mid-Tech Drive, West Yarmouth, MA, 02673 Phone: (508) 957-4300 Fax: (508) 771-0067. CC&IMLS will sign the contract and return a copy to you. Individual Participants or their associated agents will then supply you with their linking information.

AGREEMENT

1. This **AGREEMENT** is made and entered into by the Cape Cod & Islands Multiple Listing Service, Inc. (“**CC&IMLS**”) and the Webmaster/Consultant (“**Webmaster**” or “**Consultant**”) whose name and contact information appears on the signature page of this Agreement designated “**Webmaster/Consultant Information and Signature**”.

RECITALS

2. Webmaster/Consultant wishes to obtain, and CC&IMLS wishes to provide, a Broker Reciprocity Smart Frame link hosted by the CC&IMLS System vendor (herein referred to as hyperlink). Webmaster/Consultant may wish to engage Consultants, i.e., other companies or individuals who are not employees of Webmaster/Consultant, to perform hyperlinking services. Said Consultants may not use hyperlink or supply hyperlink for any other purpose other than directed by Webmaster/Consultant and must also complete a Webmaster/Consultant Contact with CC&IMLS.

DEFINITIONS

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

Affiliated Association: Any Association or Board of REALTORS[®] that purchases Multiple Listing Services from CC&IMLS for resale to its members.

Broker Reciprocity Website Wizard/ IDX Solution: The current IDX solution offered by the CC&IMLS system, and hosted by CC&IMLS service provider (referred to as hyperlink), which provides a compilation of all active exclusive right to sell listings of all BR Subscribers except those listings where the Participant has chosen to “blanker opt out” or property seller has opted out of Internet publication by so indicating on the listing contract. CC&IMLS owns the BR Data.

Broker Reciprocity Subscriber or BRS: 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.

CSV Export: In order to obtain listings for Sold or Pending statuses, a CSV Export must be completed. All CSV Exports must be initiated from the CC&IMLS system and executed by a registered CC&IMLS Participant with a valid user log in and password. Non member involvement is strictly forbidden. This activity is a manual process which must be performed by a human being. Any automated process performed by a machine is strictly prohibited.

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 CC&IMLS, as amended from time to time, and any operating policies or guidelines relating to the BR Data and BRS's promulgated by CC&IMLS.

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

Subscriber Data: Data relating to real estate with an active status for sale, including the BR Database, and data relating to Subscribers and Affiliated Associations, entered into the InternetMLS System by Subscribers, the Affiliated Associations, and CC&IMLS. CC&IMLS owns the Subscriber Data.

Webmaster/Consultant – Any Business or Individual who supplies a web based service to any CC&IMLS participant which makes use of web based links to CC&IMLS provided IDX Solutions. Said vendor accesses CC&IMLS hyperlink information by requesting Broker Reciprocity hyperlink from CC&IMLS Participant or associated agent.

CC&IMLS'S OBLIGATIONS

4. During the term of this Agreement, CC&IMLS grants to Webmaster/Consultant a license to: Create a website hyperlink used by CC&IMLS **Participants Only** that conform to the Rules and Regulations of the CC&IMLS as they change from time to time.

5. During the term of this Agreement, CC&IMLS agrees to provide to Webmaster/Consultant:

- a. access to the Data via, CC&IMLS vendor hyperlink after proper registration procedures have been completed.
- b. seven (7) days' advance notice of changes to the Rules.

WEBMASTER/CONSULTANT OBLIGATIONS

6. There will be no cost per year to the Webmaster/Consultant for access to the hyperlink.

7. Webmaster/Consultant shall comply with, and keep informed of, changes to the Rules at all times.

8. Webmaster/Consultant shall provide the CC&IMLS Broker Reciprocity Website Wizard hyperlink only to CC&IMLS Inc. Participant, or REALTOR® participant affiliated office/agent. Webmaster/Consultant shall disconnect any hyperlinks immediately upon notice that Participant or associated agent is no longer a member of the CC&IMLS.

9. Webmaster/Consultant acknowledges that pursuant to this agreement, CC&IMLS will not provide Webmaster/Consultant with data relative to "Sold" or "Pending" listings. In order to obtain data relative to "Sold" or "Pending" listings, Webmaster/Consultant must request a Client, who is a registered CC&IMLS Participant, to execute a CSV export and then forward the data to Firm electronically. Only registered CC&IMLS Participants with valid user logins and passwords may execute CSV exports. Non-participant involvement is strictly forbidden. Under no circumstances may Webmaster/Consultant request any CC&IMLS Participant to disclose his/her user name and/or password.

10. Webmaster/Consultant acknowledges CC&IMLS's ownership of the copyrights in the Subscriber Data and the BR Data.

11. Webmaster/Consultant shall comply with the requirements relating to Confidential Information set forth below.

12. In the event that Webmaster/Consultant desires to make the HyperLink available to any third party to perform hyperlinking services, Webmaster/Consultant agrees to require such third party to execute this Agreement and become a Webmaster/Consultant.

13. If CC&IMLS notifies Webmaster/Consultant of a breach of the Rules or this Agreement and Webmaster/Consultant does not immediately cure such breach, Webmaster/Consultant agrees that CC&IMLS may seek cure from the Webmaster/Consultant, their Consultants, or any one of them.

14. Webmaster/Consultant shall notify CC&IMLS within five (5) business days of any change to the information relating to Webmaster/Consultant on the Webmaster/Consultant Information and Signature page below.

CONFIDENTIAL INFORMATION

15. **“Confidential Information”** is information or material proprietary to CC&IMLS or designated “confidential” by CC&IMLS and not generally known to the public, that Webmaster/Consultant 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 BR 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 CC&IMLS obtains from any third party that CC&IMLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by CC&IMLS.

16. **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 CC&IMLS, to the extent of such consent;
- d. becomes known to the Receiving Party from a source other than CC&IMLS 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 CC&IMLS; or
- e. is required to be disclosed by judicial order or other compulsion of law, provided that the Receiving Party provides to CC&IMLS prompt notice of any such order.

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

18. **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.

19. 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 CC&IMLS to do so. At no time and under no circumstances will the Receiving Party reverse engineer, recompile, or disassemble any software constituting part of the Confidential Information. The Receiving Party will not incorporate the Confidential Information into any other work or product.

20. 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 CC&IMLS. If CC&IMLS grants 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.

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

22. 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 CC&IMLS, the Receiving Party will return to CC&IMLS all Confidential Information and all other materials provided by CC&IMLS 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. An officer of the Receiving Party will certify in writing, and fax or mail to CC&IMLS document certifying that all materials have been returned to CC&IMLS and all magnetic or computer data have been destroyed.

TERM AND TERMINATION

23. The term of this Agreement begins on the "Effective Date" set forth on the "CC&IMLS Information and Signature Page". CC&IMLS has the right at any time and in its sole discretion to terminate or modify this Agreement. If modifications in the Agreement are made, CC&IMLS has the right at any time and in its sole discretion to request the Webmaster/Consultant to execute an updated agreement. This Agreement shall terminate upon the occurrence of any of the following events:

- a. CC&IMLS's notice to Webmaster/Consultant that this Agreement is terminated.
- b. Webmaster/Consultant's notice to CC&IMLS that it no longer wishes to have access to the CC&IMLS hyperlink.

The parties hereto acknowledge that CC&IMLS has the right at anytime and in it's sole discretion to modify this agreement and that future amendments including said modifications may be provided by CC&IMLS's notice to Webmaster/Consultant at anytime.

GENERAL PROVISIONS

24. **Survival of Obligations.** The obligations of Webmaster/Consultant set forth under "Webmaster/Consultant's Obligations" above and the obligations of Consultants under "Webmaster/Consultant's Obligations" above shall survive the termination or expiration of this Agreement.

25. **CC&IMLS's Remedies.** Because of the unique nature of the Subscriber Data and Confidential Information, Webmaster/Consultant acknowledge that CC&IMLS would suffer irreparable harm in the event that any of

them breaches its obligation under this Agreement, and that monetary damages would be inadequate to compensate CC&IMLS for a breach. CC&IMLS 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 Webmaster/Consultants or any one of them, without showing or proving any actual damages sustained by CC&IMLS. This agreement and the use of the hyperlink here under shall be subject to and in accordance with the Bylaws, Regulations, Policies and Guidelines of the CC&IMLS and Cape Cod and Islands Association of REALTORS®.

26. **Attorney's fees.** If CC&IMLS 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 CC&IMLS's reasonable attorney's fees and costs for such legal action.

27. **Limitation of Liability.** CC&IMLS's liability to Webmaster/Consultant for damages under this Agreement, whether in contract or tort, shall be limited to the aggregate amounts paid by Webmaster/Consultant to CC&IMLS, if any, under this Agreement. Webmaster/Consultant's only other remedy shall be termination of this Agreement. CC&IMLS shall not be liable for any incidental or consequential damages under any circumstances, even if CC&IMLS has been advised of the possibility of such damages. **CC&IMLS shall have no liability for inaccuracies or operational functions of the Broker Reciprocity IDX Smart Frame linking solution hosted by the CC&IMLS system vendor.**

28. **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.

29. **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.

30. **No Assignment.** Webmaster/Consultant, may not assign or otherwise transfer any of their rights under this Agreement to any party without the prior written consent of CC&IMLS.

31. **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.

32. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of Massachusetts.



CAPE COD & ISLANDS
MULTIPLE LISTING SERVICE, INC.

WEBMASTER/CONSULTANT INFORMATION AND SIGNATURE

Fax Contract to: 508-771-0067
Mail Original Contract to CC&IMLS

Webmaster/Consultant (company or individual):

Company Name: _____

Address: _____

Contact Name: _____ Phone: _____

Email Address: _____ FAX: _____

(This email address will be the CC&IMLS's primary means of communicating with you for notices under this agreement.)

By signing this agreement, the Webmaster/Consultant acknowledges that the hyperlink being provided is solely owned by the Cape Cod & Islands Multiple Listing Service, Inc., and the Webmaster/Consultant agrees that it will not substantively or by process alter the integrity of the hyperlink or hyperlinked websites content, and also acknowledges that it may not under any circumstances, ever provide the hyperlink to any party other than to the Cape Cod & Islands Multiple Listing Service Inc. Participant, or REALTOR® participant affiliated office/agent.

Executed into as a sealed instrument on behalf of Webmaster/Consultant by:

Signature, Duly Authorized Date

Print Name Title

NOTE TO WEBMASTER/CONSULTANT: All Webmaster/Consultants are required to complete the Webmaster/Consultant Contract with CC&IMLS.

DISCLAIMER: The above form is to provide information for the sole purpose and use of the CC&IMLS and shall not be construed as an endorsement for the services provided by any of the disclosed Webmaster/Consultant.

CC&IMLS Information and Signature:

Entered into on behalf of CC&IMLS by:

Signature, Duly Authorized

Print Name

Effective Date

CCIMLS will return a copy of this Agreement to Webmaster/Consultant after fully executed.

Last revised on 12/2/04