

TCMLS/TCAOR – IDX and MLS DATA ACCESS AGREEMENT

This form is a legally binding contract between you and the Tulare County Association of REALTORS. Simultaneously with or prior to submitting this contract, you must be or become an Internet Data Exchange Participant (IDX). Each licensed agent of the firm who wishes to obtain IDX data must ensure this contract is filled out completely and signed by the MLS Participant or authorized designee for their firm. There are no exceptions.

Once you have filled out the contract and obtained all of the required signatures, please mail it to the Association.

AGREEMENT

1. This AGREEMENT is made and entered into by and among the Tulare County Association of REALTORS and the Participant/Subscriber/Consultant, any or all of whose contact information appears on the signature page of this Agreement designating:

- a. The Participant information and signature,
- b. The Subscriber information and signature,
- c. The Consultant information and signature,

2. Participant/Subscriber wishes to obtain, and the Tulare County Association of REALTORS wishes to provide, data for Participant/Subscriber website, namely the listing data of other real estate brokerages participating in the IDX Program. Participant/Subscriber 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.
Association. Tulare County Association of REALTORS

Consultant. A consultant is defined as a person, company or entity who is not an employee of the Participant or Subscriber who acts to assist an IDX Participant or Subscriber in performing downloading, manipulation or formatting or receiving, presenting, housing, as well as programming and web design or distributing the IDX data over the Internet or by any other method to members of the public. Such consultants must agree to comply with this Agreement.

Consumer. A consumer is a member of the public, an end user, who has access to the IDX data through the web site of an IDX Participant and who is seeking a property for their own use or is seeking general information for their personal use but not for a business use.

Firm. The entity under which the Participant/Subscriber is doing business. Internet Data Exchange IDX or Internet Data Exchange Data Base (IDXDB). The current aggregate compilation of only ACTIVE listings of all Internet Data Exchange Participants of the TCMLS. Those listings where the property seller has opted out of Internet publication by so indicating on the listing agreement are excluded. The Tulare County Association of REALTORS and TCMLS own the IDX Data, and the compilation is protected under copyright law.

Internet Data Exchange Participant (IDX). The Participant who has not declined to give permission to other IDXPs and their agents to display its active listings on their websites in return for their permission to advertise their listings on its website.

IDX Data. The data supplied by the MLS specifically for use by the IDX Participants/Subscribers on their websites. It includes only those data fields from the MLS that are approved by the Association for distribution to the public by Participants/Subscribers.

Multiple Listing Service (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 Service 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.

MLS Data. The compilation of data relating to real estate entered into the MLS database by the MLS Participants and Subscribers and is protected under copyright law.

Participant. A Broker Participant (often the Designated REALTOR® for a firm) is defined as any individual broker who applies and is accepted by the MLS and meets the requirements listed in the Association's MLS Rules and Regulations.

Receiving Party. A Participant, Subscriber or their Consultant or any one of them acting in accordance with the Association's MLS IDX Rules and Regulations.

Subscriber. An individual, usually a Broker or Agent who is operating subordinate to a Designated Realtor (DR) who applies and is accepted by the MLS, and meets the requirements of the Association's MLS Rules and Regulations. Rules. MLS Rules and Regulations and any operating policies of the Association relating to IDX, as amended from time to time.

MLS OBLIGATIONS. During the term of this Agreement, TCMLS grants a license to display the Data on the web site or as otherwise agreed in writing.

FIRM/PARTICIPANT/SUBSCRIBER/CONSULTANT OBLIGATIONS

EACH shall comply with TCMLS Rules, Regulations and Policies at all times.

Firm/Participant/Subscriber/Consultant acknowledges TCMLS ownership of the copyrights in the Data and shall comply with the requirements relating to Confidential Information set forth herein and in the MLS Rules. In the event that anyone desires to make the MLS Data or the Confidential Information available to any third party, parties agree to require such third party to execute this Agreement and become a Consultant and so notify TCMLS.

If TCMLS notifies Firm/Participant/Subscriber/Consultant of a breach of the Rules or this Agreement and Firm/Participant/Subscriber/Consultant does not immediately cure such breach, Firm/Participant/Subscriber/Consultant agrees that TCMLS may seek cure from the Firm and/or Consultants, or anyone of them.

Firm/Participant/Subscriber/Consultant shall notify TCMLS within five (5) business days of any change to the information relating to Firm/Participant/Subscriber/Consultant on the Information and Signature page herein.

CONSULTANT'S OBLIGATIONS.

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

Each Consultant acknowledges TCMLS ownership of the copyrights in the Data. Each Consultant shall comply with the requirements relating to Confidential Information set forth. Each Consultant shall notify TCMLS within five (5) business days of any change to the information relating to it on the Consultant Information and Signature page herein.

Consultant agrees to safeguard MLS Data and database. Because of the unique nature of the Data and Confidential Information, Consultants acknowledge that MLS 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 TCMLS for a breach. TCMLS 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 anyone of them, without showing or proving any actual damages sustained by TCMLS.

CONFIDENTIAL INFORMATION. Participant/Subscriber/Consultant acknowledge and agree that all material accessed by, or disclosed to the Participant /Subscriber/Consultant or other authorized parties pursuant to this Agreement shall be presumed to be confidential information, trade secrets, and proprietary information of TCAOR/TCMLS (collectively the “Proprietary Information”) and shall be so regarded by Participant, Subscribers and Participant’s agents, including Consultants and other authorized parties. Unless RECEIVING PARTY proves conclusively to the contrary by a preponderance of the evidence that certain material is not encompassed by this Access Agreement, all material accessed by, or disclosed to RECEIVING PARTY shall be presumed to be (i) confidential, (ii) trade secrets of TCAOR/TCMLS (iii) and proprietary information of TCAOR/TCMLS (collectively without distinction, “Proprietary Information”), and it will be so regarded by RECEIVING PARTY and RECEIVING PARTY’s agents, and consultants.

Exceptions. The Confidential Information does not include information that is required to be disclosed by judicial order or other compulsion of law, provided that the Receiving Party provides to TCMLS prompt notice of any such order.

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

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 MLS 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.

Restrictions on Use. The Receiving Party will not make copies of the Confidential Information except and to the extent specifically authorized to do so. 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 TCMLS to do so. At no time and under no circumstances will the Receiving Party reverse engineer, decompile, 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 without specific written authority to do so.

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 TCMLS. If TCMLS 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.

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 TCMLS, the Receiving Party will return to TCMLS all Confidential Information and all other materials provided by TCMLS 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 TCMLS, an officer of the Receiving Party will certify in writing that all materials have been returned to TCMLS and all magnetic or computer data have been destroyed.

TERM AND TERMINATION. The term of this Agreement begins on the "Effective Date" set forth on the "TCMLS Information and Signature Page." TCMLS 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. TCMLS's notice to Firm that this Agreement is terminated.
- b. Firm/Participant/Subscriber/Consultant notice to TCMLS that it no longer desires the data.
- c. Termination of Firm's privileges as a Subscriber either by TCMLS or the Affiliated Association from which Firm purchases Multiple Listing Services.

GENERAL PROVISIONS

Survival of Obligations. The obligations of Firm set forth under "Firm's Obligations" above and the obligations of Consultants under "Consultants' Obligations" above shall survive the termination or expiration of this Agreement.

TCMLS's Remedies. Because of the unique nature of the Data and Confidential Information, Firm and Consultants acknowledge that TCMLS 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 TCMLS for a breach. TCMLS 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 anyone of them, without showing or proving any actual damages sustained by TCMLS.

Attorney fees. If TCMLS 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 TCMLS's reasonable attorney's fees and costs for such legal action.

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

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.

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.

No Assignment. Neither Firm/Participant/Subscriber/Consultant may assign or otherwise transfer any of their rights under this Agreement to any party without the prior written consent of TCMLS.

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 MLS Rules are expressly incorporated into this Agreement by reference.

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

*Real Estate Firm/Office Name: Name of Brokerage

*Designated Broker Name: Name of Broker of Record

*E-mail address: Office Email Address *Site URL: Brokerage URL Address

*MLS Office ID: Office ID Broker MLS ID: Broker ID

*Firm Street Address: Office Address

*Firm City, ST, ZIP: Office City, State, Zip Code

*Phone: Office Phone Number

*Fax: Office Fax Number

Other offices and/or firms, which are covered by the agreement, for which you are the designated broker, **should be listed** on another page (* indicates data necessary for each, feel free to copy this page and complete for each if applicable).

Yes, there are other offices and/or firms **No, there are not other offices and/or firms**

I represent that I am the Designated Broker for the MLS office(s) listed.

I represent that I have authority to execute this form on behalf of my office and all other offices or firms listed (if any). Entered into on behalf of on Firm/Participant/Subscriber/Consultant

Date Date

Signature of Broker of Record
Signature (Broker or Broker Representative)

Name / Title
Print Name & Title

*****FOR TCMLS USE ONLY*****

TCMLS use only - TCMLS will then return a copy of this Agreement to Firm and Consultant.

Added to Magic List – IDX/RETS/ETC _____
 If for company file under office in Magic or if branch office, file under branch office in Magic _____

Set-up fee of \$ _____ received by _____ or N/A Monthly fee of \$ _____ received by _____ or N/A
Set-up in Magic for billing of monthly fee by _____ or N/A

MLS Approval by _____ Membership by _____
Reviewed by & Ok'd for shredding by _____

AGENT/SUBSCRIBER Information & Signature

**If this is for an agent site (attach additional sheet for each additional agent if applicable):
By signing this page you are acknowledging that you have read and agree to the TCMLS Rules including section 12.16 Use of Active Listing Information on Internet. [Also known as Internet Data Exchange ("IDX")] AND the "TCMLS Data Access Agreement"**

*Agent's Name: Agent Name MLS ID: MLS ID

*Email address: Agent's e-mail address

*Agent Site URL: Agent's URL Address

Vendor: WolfNet Technologies

Vendor Contact Name: MLS Coordinator

Vendor Contact E-mail: mlsnotify@wolfnet.com

Vendor Contact Phone Number: 612-342-0088

Has this vendor been previously approved by the TCAOR MLS Committee and the Board of Directors?
 Yes No (Please Contact TCMLS @ 559-627-1776 to verify)

Agent Signature

Agent/Subscriber Signature

Broker of Record Signature

Broker/Participant Signature

Agent Name

Print Agent/Subscriber Name

Broker of Record Name

Broker/Participant Name

Consultant, Developer, Contractor, etc., Information & Signature

I/We request the data access indicated herein. The Participant/Subscriber has provided me/us with the MLS Rules, Policy, etc., referenced herein. (NOTE: Reproduce this page for each individual/company to whom you intend to provide access to the Data under this Agreement)

1. MLS Database. The parties acknowledge that among the services offered by TCMLS/TCAOR is a computer-based electronic on-line information system (the "On-Line MLS System") designed to provide, and which provides, MLS Participants with access to current and historical information and data, and compilations of such information and data, about real estate listings and leases (the "MLS Database").
2. Exclusive Rights. The parties agree that only TCMLS possesses the exclusive, nontransferable right and license to operate, administer, and manage the ordinary and customary day-to-day operations, activities and services of the MLS, including but not limited to, the On-Line MLS System.
3. Ownership of Database. The parties recognize that TCMLS owns and claims all rights, titles, and interests (including but not limited to rights of copyright) in and to the MLS Database and each and every item of information and data, and each and every compilation of information and data, which is at present and which shall be at any time and from time-to-time hereafter a part of the On-Line MLS System and MLS Database; and access thereto and use thereof is strictly limited and regulated by the MLS Rules and Regulations. Vendor/Consultant acknowledges receipt of a copy of the MLS Rules, has reviewed same, and agrees to comply with them as they are from time to time modified.
4. Access of Database. Broker hereby grants permission to Vendor to access, retrieve, and download data from the MLS Database for the limited purpose of providing the following services and/or products (collectively referred to herein as the Service)

5. Covenants and Obligations of Vendor. During the term of this agreement, Vendor agrees:

- a. If MLS is required to perform any service, including but not limited to any software interface required by Vendor to provide the Service to Broker, Vendor shall pay for all programming costs, installation costs, and other expenses involved in such interface.
- b. To maintain in full force and effect during the term of this Agreement adequate professional and general liability insurance issued by an insurance company. Upon request of Broker, Vendor agrees to provide Broker a certificate of insurance evidencing the existence of such coverage, naming Broker and MLS as an additional insured, and containing the agreement of the carrier that such coverage will not be cancelled or terminated without furnishing thirty (30) days' prior written notice to Broker and MLS.
- c. Vendor hereby acknowledges and agrees that ownership and control of the MLS Database, including all data therein, will remain exclusively in TCMLS and that Vendor will never acquire or assert a claim to ownership of such data.
- d. Vendor will take all appropriate steps and precautions to safeguard and protect the access, use, and security of the MLS Database. Vendor will not reconfigure, reformat, resell, transmit, download, copy, furnish, or otherwise make available to any person, firm, or corporation other than for the use and benefit of participants and subscribers of the MLS affiliated with Broker. For purposes of this agreement, any reference to "use" of the MLS Database shall mean and include the accessing, using, disclosing, revealing, making available, displaying, delivering, distributing, transferring, transmitting, communicating, publishing, and/or disseminating of the MLS Database, whether originals or copies, whether in whole or in part, whether directly or indirectly, or whether knowingly or otherwise.
- e. Confidentiality. Vendor will treat as confidential the MLS Database, including all data therein, and recognize the same to be the proprietary property of TCMLS. Nothing contained herein shall be deemed or construed to grant Vendor any right, title, or interest in or to the data or the MLS Database. Vendor further acknowledges that the MLS Database is of substantial value to TCMLS and that there exists a necessity to preserve the sanctity and confidential nature thereof. Accordingly, Vendor shall implement and maintain all necessary controls to protect and safeguard the MLS Database from and against unauthorized use.
- f. Any modification of the terms of this Addendum will not be effective unless Broker and vendor/consultant obtains the prior written approval of TCMLS to such modifications.

Vendor/Consultant Name: WolfNet Technologies, LLC

E-mail address: mlsnotify@wolfnet.com

Street Address: 211 N. 1st Street, Suite 455

City, ST, ZIP: Minneapolis, MN 55401

Phone: 612-342-0088

Fax: 612-342-0087

Vendor/Consultant's Contact Name MLS Coordinator

Site / Application is/are being developed for

(Client Name): Name of Agent

URL of site being applied for: Agent's URL/ Website

Entered into on behalf of Consultant, Contractor, Developer, Third Party by

Signature for WolfNet Technologies

Joel P. MacIntosh

Signature (Firm Representative)

Print Name

CEO

Date

Title

Date

NOTE TO VENDOR/CONSULTANT: Be sure to enter into this Access to Broker data feed contract with TCMLS and **every real estate participant/subscriber, etc.,** to which you provide services.

TCMLS use only - TCMLS will then return a copy of this Agreement to Firm and Consultant.

Added to Magic List – IDX//RETS/ETC. _____

MLS Approval By _____ Membership by _____ EO Approval _____

(TCMLS USE ONLY)
TCMLS Data Access Information Form

Applicant Name _____

IDD/IDX - Broker Reciprocity Other _____

TCMLS use only - TCMLS will then return a copy of this Agreement to Firm and Consultant.

URL and/or FTP URL:

User ID: _____ Password: _____

Consultants Identified: _____ Consultant(s) Name(s): _____

Listing Office ID: _____ Listing Office Name: _____

Broker Name:

Contact Person:

Notes:

- _____ Paperwork Complete
- _____ Billed and Paid Set-Up Fee (MLS Coordinator)
- _____ Added to data access list in Magic and invoiced (in Magic) prorated amount for remainder of MLS billing cycle (Copy of invoice to MLS Coordinator attached).
- _____ Added to Magic List – IDX//RETS/ETC. _____
- _____ Paid for setup and prorated amount of remainder of billing cycle
- _____ MLS Vendor set up complete
- _____ Agreement Scanned to M:\ Drive

- _____ Member notified _____

EO Approval _____ Completed paperwork to member file