

HEARTLAND MULTIPLE LISTING SERVICE, INC.

Contract for Access to Internet Data Exchange (IDX)

Note: This form is a legally binding contract between you and Heartland Multiple Listing Services, Inc. ("HMLS") Under HMLS Rules, if a Participant is qualified to be an IDX Participant (IDXP), then the Participant is presumed to participate in the Internet Data Exchange Program (IDX) unless the Participant specifically elects in writing not to participate. See the Section 12.3 of HMLS' Rules and Regulations for further details. This form/contract must be filled out completely and signed by the Participant or Participant's designee authorized to bind the Firm and any HMLS Subscribers affiliated with the Firm who participate in the IDX Program. There are no exceptions. A HMLS Subscriber may not enter into this Agreement unless the Subscriber is affiliated with a Participant that participates in the HMLS IDX Program. Once it is completed and signed, fax or email it to HMLS. Information on how to access the data feed will be emailed to the Consultant.

RECITALS

1. This **AGREEMENT** is made and entered into by and among Heartland Multiple Listing Service, Inc. ("**HMLS**"), the real estate firm whose name and contact information appear on the signature page of this Agreement, HMLS Subscribers who are affiliated with the Firm and participate in the IDX Program ("**IDX Subscribers**"), and the companies/individuals whose names and contact information appear on the signature page of this Agreement (collectively, "**the Consultants**"), if any.
2. Firm, and Subscribers affiliated with the Firm who participate in the IDX Program, wish to obtain, and HMLS wishes to provide, certain real estate data for display on Firm's publicly accessible Web Site, and the publicly accessible websites of HMLS Subscribers affiliated with the Firm, including the listing data of other real estate brokerage firms participating in HMLS. Firm or Subscriber may wish to engage Consultants 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.

Internet Data Exchange Data or IDX Data: The current aggregate compilation of all active listings of all IDX Program Participants except those listings that the seller has declined to allow the IDX Participant to display as part of the IDX Data.

Internet Data Exchange Participant or IDXP: A Participant who gives permission to other Participants to display its active listings on their web sites in return for their permission to advertise their listings on the Participants web site.

IDX Subscribers: A HMLS Subscriber affiliated with the Firm who participate in the IDX Program and operates and maintains a publicly accessible website on which the HMLS Subscriber displays IDX Data. A HMLS Subscriber may not become an IDX Subscriber unless the HMLS Subscriber is affiliated with a Participant who is an IDXP.

IDX Subscriber Website: A website on the World Wide Web owned or controlled by an IDX Subscriber that promotes the services of the IDX Subscriber and on which IDX Data is accessible to website visitors.

Firm Website: A website on the World Wide Web wholly owned or exclusively controlled by a Participant that promotes the products or services of the Participant's real estate brokerage or firm, and on which IDX Data is accessible to website visitors.

Intellectual Property Rights: Intangible property rights including copyright, trademark, patent, trade secret, trade dress, fair competition, and contract rights prohibiting unauthorized disclosure, copying, or use of data.

HMLS Computer System: Computer hardware and software owned by, or licensed to, HMLS that contains real estate information in electronic format, including, but not limited to, IDX Data, that is accessible to, and usable by Participants for purposes permitted under HMLS' Rules and Regulations and other policies and procedures.

Multiple Listing Service or MLS: A vehicle for collecting and disseminating information about real property that is or has been for sale to be used by real estate brokers to make offers of cooperation and compensation to each other, and a means to provide data processing, technical support, consulting, and other information technology services to real estate brokers and appraisers in connection with the sale and valuation of real property.

Rules: The Rules and Regulations promulgated by HMLS, as amended from time to time, and any other HMLS operating policies relating to the IDX Data and IDXPs.

Participant: Real estate offices (whether an entity or sole proprietorship) represented by a REALTOR® (principal broker) who is a principal, partner, or corporate officer, or branch office manager acting on behalf of the principal and has an active real estate broker's license.

Participant Data: Data relating to real estate for sale, previously sold or listed for sale, including IDX Data, and data relating to Participants that are entered into the HMLS Computer System by Participants.

HMLS' COVENANTS

4. During the term of this Agreement, HMLS grants to Firm and IDX Subscribers a non-exclusive and limited license to:
 - a. display the IDX Data on Firm's or the IDX Subscribers' Web Site, and
 - b. copy the IDX Data to the extent necessary to deliver the IDX Data to consumers from Firm's or the IDX Subscribers' Web Sites.
5. During the term of this Agreement, HMLS agrees to provide to Firm, the IDX Subscribers, and their Consultants:
 - a. access to the IDX Data via the Internet using Real Estate Transaction Standard ("RETS"), or other method approved by HMLS, under the same terms and conditions HMLS offers to other IDXPs;
 - 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 affecting the IDX Program.

FIRM'S AND IDX SUBSCRIBERS' COVENANTS

6. Firm and IDX Subscribers shall comply with the Rules at all times. If for any reason, such as non-payment of fees or failure to complete membership transfer, the Firm or IDX Subscriber does not show as active on the current member data file, the Firm or IDX Subscriber website may not be updated.
7. Firm and IDX Subscribers acknowledge and agree that, as between Firm, the IDX Subscribers' and HMLS, HMLS owns all Intellectual Property Rights in or to the IDX Data, Participant Data, and any other data, information or content accessible from the HMLS' Computer System. Firm and IDX Subscribers shall not contest HMLS' Intellectual Property Rights claims nor assist others in doing so. Firm and IDX Subscribers shall cooperate with HMLS on reasonable terms and conditions in any efforts by HMLS to enforce its Intellectual Property Rights against actual or potential infringers.
8. Firm and IDX Subscribers shall comply with the requirements relating to Confidential Information set forth below.
9. In the event that Firm or IDX Subscribers desire to make available to any third party the IDX Data other than as permitted by the Rules, or the Confidential Information, Firm or IDX Subscribers shall require such third party to execute this Agreement and become a Consultant.
10. If HMLS notifies Firm of a breach of the Rules, or of this Agreement, and Firm or IDX Subscribers does not immediately cure such breach, Firm and IDX Subscribers agree that HMLS may seek cure from the Consultants, or any one of them. Firm and IDX Subscribers agree that HMLS may immediately terminate the Firm's or the Consultant's access to the data feed until the breach is cured.
11. Firm and Firm's IDX Subscribers shall notify HMLS of any change to the information relating to Firm or the IDX Subscribers on the Firm or IDX Subscribers Information and Signature page below within five (5) business days after the facts giving rise to the change occur.
12. Firm or the IDX Subscribers shall defend, indemnify and hold harmless HMLS from any claims or demands asserted by third parties based upon Firm's or the IDX Subscriber's display of IDX Data on the Firm Web Site or IDX Subscriber Websites, including any judgments, damages, interest, penalties, attorneys fees at all levels, and litigation costs and expenses.

CONSULTANT'S OBLIGATIONS

13. If HMLS notifies Firm or IDX Subscriber of a breach of the Rules or of this Agreement and Firm or IDX Subscriber does not immediately cure such breach, HMLS may require Consultant to cure any such breach that is within Consultant's control. Consultant agrees to cooperate with HMLS and act immediately upon notification from HMLS of an uncured breach. Consultant agrees that HMLS may immediately terminate the Consultant's access to data feed until the breach is cured.
14. Each Consultant must verify that the Firm or IDX Subscriber is active in the most recent member data file available before the Firm or IDX Subscriber website may be updated.
15. Each Consultant acknowledges and agrees that, as between Consultant and HMLS, HMLS owns all Intellectual Property Rights in or to the IDX Data, the Participant Data, and any other data, information or content accessible from the HMLS Computer System. Consultant shall not contest HMLS' Intellectual Property Rights claims nor assist others in doing so. Consultant shall cooperate with HMLS on reasonable terms and conditions in any effort by HMLS to enforce its Intellectual Property Rights against actual or potential infringers.
16. Each Consultant shall comply with the requirements relating to Confidential Information set forth below.
17. Each Consultant shall notify HMLS within five (5) business days of any change to the information relating to it on the Consultant Information and Signature page below.
18. Each Consultant shall defend, indemnify and hold harmless HMLS from any claims or demands by third parties arising from Consultant's access to and use of IDX Data on behalf of Firm, including any judgments, damages, interest, penalties, attorneys fees at all levels, and litigation costs and expenses.

CONFIDENTIAL INFORMATION

19. **"Confidential Information"** is information or material proprietary to HMLS or designated "Confidential" by HMLS and not generally known to the public, to which Firm, IDX Subscribers, or Consultants, or any one of them (the "Receiving Party") may obtain access as a result of 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 Participant Data, except the IDX Data that this Agreement and the Rules permit to be disclosed;
 - 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 HMLS obtains from any third party that HMLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by HMLS

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

The Receiving Party acknowledges that as between the Receiving Party and HMLS, all Intellectual Property Rights in or to the Confidential Information remain at all times with HMLS.

20. **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 unauthorized disclosure to the same extent as it protects its own trade secrets, but in no event using less than reasonable care.

21. **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 HMLS, which HMLS may grant, condition or withhold in its sole discretion. At no time and under no circumstances will the Receiving Party reverse engineer, decompile, or disassemble any software constituting or containing any Confidential Information. The Receiving Party will not incorporate the Confidential Information into any other work or product.
22. **Restrictions on Use – No Third Party Access.** Only the Receiving Party or its 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 HMLS, which HMLS may grant, withhold or condition in its sole discretion. If HMLS grants consent, the Receiving Party will execute an agreement with the third party that imposes on the third party a confidentiality obligation that is at least as strict as is imposed by this Agreement on the Receiving Party.
23. **Restrictions on Use – Location restriction.** The Receiving Party will not remove the Confidential Information from its principal place of business without HMLS' prior written consent, which HMLS may grant, condition or withhold in its sole discretion. In the event HMLS grants such consent, the Receiving Party is not relieved of any of its obligations under this Agreement.
24. **Termination and Return of Materials.** Within five (5) days of the end of the term of this Agreement or receipt of notice of termination from HMLS, the Receiving Party will return to HMLS all Confidential Information and all other materials provided by HMLS 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 that all materials have been returned to HMLS and all magnetic or computer data have been destroyed.

TERM AND TERMINATION

25. The term of this Agreement begins on the "Effective Date" set forth on the "HMLS Information and Signature Page" below. HMLS 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. HMLS' notice to Firm or IDX Subscriber that this Agreement is terminated.
 - b. Firm's or IDX Subscriber's notice to HMLS that it no longer intends to display IDX Data on a public web site.
 - c. Termination by HMLS of Firm's privileges as a Participant or the Subscriber's privileges as A HMLS Subscriber.
 - d. The Participating Firm's or the IDX Subscriber's failure to remain eligible for MLS services.
 - e. The Participant's or IDX Subscriber's failure to remain eligible to be an IDX Participant or IDX Subscriber.

GENERAL PROVISIONS

26. **Survival of Obligations.** The Firm's, IDX Subscriber's and Consultant's Covenants shall survive the termination or expiration of this Agreement.
27. **HMLS' Remedies.** Because of the unique nature of the Participant Data and Confidential Information, Firm, IDX Subscribers, and Consultants acknowledge that HMLS would suffer irreparable harm in the event any of them breach their obligations under this Agreement, and that monetary damages would be inadequate to compensate HMLS for such a breach. HMLS is therefore entitled, in addition to all other forms of relief, to temporary or permanent injunctive relief as may be necessary to restrain any continuing or further breach by Firm, IDX Subscribers, or Consultants, or any one of them, without the need to show that its remedies at law are inadequate.
28. **Attorney's fees.** If HMLS prevails in any action to enforce or interpret this Agreement or any provision hereof, HMLS shall be entitled to an award against the non-prevailing party of its reasonable attorney's fees and costs in such action.
29. **Limitation of Liability.** HMLS shall not be liable to Firm, IDX Subscriber, or Consultant for damages of any type under this Agreement, whether in contract or tort. Firm's, IDX Subscribers', and Consultants' only remedy shall be termination of this Agreement.

30. **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.
31. **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.
32. **Assignment.** Neither Firm, IDX Subscribers, 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 HMLS.
33. **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.
34. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of Kansas applicable to contracts entered into and performed entirely with the State.
35. **Stopping of the Data Feed.** If any provision of this Agreement is breached by the Firm, IDX Subscriber or the Consultant, HMLS may immediately terminate the Firm's, IDX Subscriber's or Consultant's data feed, until the breach is cured.
36. **Disclaimers of Warranties:** HMLS DISCLAIMS ANY WARRANTY CONCERNING THE ACCURACY OR RELIABILITY OF THE IDX DATA OR PARTICIPANT DATA. HMLS FURTHER DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE IDX DATA OR PARTICIPANT DATA FOR A PARTICULAR PURPOSE. FIRM, IDX SUBSCRIBER(S), AND CONSULTANT(S) ACKNOWLEDGE AND AGREE THAT HMLS IS PROVIDING THE IDX DATA OR PARTICIPANT DATA ON AN "AS IS" BASIS.

HEARTLAND MLS PARTICIPANT/SUBSCRIBER IDX INFORMATION AND SIGNATURE

Agent websites require both Agent and Broker signatures. Office websites only require Broker signature.

NOTE TO HEARTLAND MLS CUSTOMER: Reproduce this page for each individual or company to whom you intend to provide access to the IDX data under this Agreement.

Please email completed form to idx@heartlandmls.com or fax to 913-661-1618

NAME _____ EMAIL ADDR _____

AGENT ID _____ FIRM (OFFICE) NAME _____
(Login name or user ID)

FIRM (OFFICE) CODE _____ FIRM (OFFICE) PHONE _____ FIRM (OFFICE) FAX _____
(HMLS Office ID)

FIRM (OFFICE) STREET ADDRESS _____ CITY _____ STATE _____ ZIP _____

ADDRESS OF WEBSITE WHERE IDX LISTING DATA WILL APPEAR:
(example – www.sellinghomes4u.com) _____

Entered into on behalf of IDX Subscriber by:

Approved on behalf of Firm by:

Agent Signature

Broker Signature

Print Name

Print Name

Date

Date

IDX VENDOR CONSULTANT INFORMATION AND SIGNATURE

NOTE TO VENDOR CONSULTANT: Be sure to enter into this Access to Internet Data Exchange data feed contract with HMLS and EVERY real estate Broker or Agent to which you provide services. Please keep a copy of this Agreement for your records. By signing this contract, you are agreeing to abide by all provisions of this Agreement.

VENDOR CONSULTANT NAME (company or individual) _____

VENDOR CONSULTANT EMAIL ADDRESS _____
(You **must** supply an email address here. This address will be HMLS's principal means of communicating with you for notices under this Agreement.)

VENDOR CONSULTANT STREET ADDRESS _____ CITY _____ STATE _____ ZIP _____

VENDOR CONSULTANT PHONE _____ VENDOR CONSULTANT FAX _____

Entered into on behalf of Vendor Consultant by:

Vendor Consultant Signature

Date

Print Name

Title

RETS URL: <http://matrixrets.heartlandmls.com/rets/login.ashx>
Query limit = 5000 records

RETS Info: version 1.7
Max Concurrent Connections/Downloads: 1

HEARTLAND MLS INFORMATION AND SIGNATURE

This section is for HMLS use only

Entered into on behalf of HMLS by:

_____ HMLS Staff Signature	_____ Print Name	_____ Effective Date
Date website checked _____	<input type="checkbox"/> Copyright disclaimer on each page with data	<input type="checkbox"/> Terms of Use <input type="checkbox"/> Partial data disclaimer for partial data
<input type="checkbox"/> Font size/color/placement of firm name of site owner	<input type="checkbox"/> No more than 300 listings per single search	<input type="checkbox"/> MLS wording ok <input type="checkbox"/> Only display A, AU, B, C, M
<input type="checkbox"/> Listing firm name if more than 2 lines of data	<input type="checkbox"/> Any co-mingled listings displayed properly	<input type="checkbox"/> Display date this website data was last updated
Date website compliant _____	_____	_____

Please email completed form to idx@heartlandmls.com or fax to 913-661-1618