

## INTERNET CONTENT EXCHANGE AGREEMENT

THIS INTERNET CONTENT EXCHANGE (IDX) AGREEMENT (this "Agreement"), dated \_\_\_\_\_, is entered into between \_\_\_\_\_ located at \_\_\_\_\_ ("Vendor"), \_\_\_\_\_ ("Member") and The CRIS Multiple Listing Service, Inc., located at 405 South High Street, Akron, Ohio, 44311 ("CRIS").

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

### 1. Scope of Agreement.

1.1 Scope of Agreement. CRIS grants to Member a limited, non-exclusive, non-transferable right to use MLS listing content, open house content, roster, information and digital images related to real estate included in the CRIS's database or a subset of content fields from such database, including updates thereof ("MLS Content") for linking MLS Content to Member's web site and to download and format the MLS Content for use by Member on Member's web site ("Service"). The rights granted to Member under this Agreement are in addition to the rights granted by CRIS to the Member under CRIS's Rules and Regulations. CRIS grants to Vendor a limited, non-exclusive, non-transferable right to use MLS Content for providing Service to the Member. The rights granted under this Agreement will only commence upon receipt of a written request from Member identifying Vendor as the provider of Service and upon execution and acceptance of this Agreement by an authorized representative of CRIS.

1.2 Ownership. Subject to the limited license rights granted under this Agreement, all rights, title and interest in and to the MLS Content, will remain with CRIS. Member and Vendor hereby acknowledge and agree that CRIS holds all copyrights and other intellectual property and proprietary rights to the MLS Content. Vendor shall use the MLS Content solely for providing Services to Member. Without limiting the generality of the foregoing, CRIS shall retain all ownership right or title, any security interest, any intellectual property rights, or any other interest in or to the MLS Content, any derivative works created by Member or Vendor in connection with the use of the MLS Content and other materials furnished to Vendor or Member by CRIS in connection with this Agreement is vested exclusively in CRIS. No title or ownership of intellectual property rights to the MLS Content are transferred to Vendor or Member hereunder. Except as expressly provided herein, CRIS reserves all rights in and to: (i) the MLS Content; (ii) all logos, trademarks, service marks, trade names, copyrights and other intellectual property and proprietary rights in the MLS Content.

1.3 Access to Content. CRIS shall provide access to the MLS Content to Member only and Member shall be responsible for providing access to MLS Content to Vendor. Vendor will retrieve the MLS Content from Member's account, through its own efforts and resources for providing Service to Member. CRIS will not provide access to MLS Content to Vendor. Vendor will not store the MLS Content on its servers or network equipment, however, MLS Content can be stored on Vendor's server or network if the space on Vendor's server or network is leased or rented by Member. CRIS may, without notice to Vendor modify the MLS Content, including without limitation, its format.

### 2. Confidential Information.

2.1 Acknowledgment of Confidentiality; Non-Disclosure. Confidential Information shall mean any information relating to or disclosed in the course of this Agreement, which is or should be reasonably understood to be confidential or proprietary to CRIS. Confidential Information shall include and is not limited to information contained in the MLS Content, Rules and Regulations, access codes, passwords, issues about the MLS Content and the business affairs of CRIS. Member and Vendor acknowledge that they may receive Confidential Information from CRIS and both Vendor and Member acknowledge and agree that all Confidential Information of CRIS shall be held in strict confidence and shall not be disclosed or used without express written consent of CRIS, except to the Member's or Vendor's employees having a need to know (and who are themselves bound by the non-disclosure restrictions contained in this Agreement), and to such other persons as CRIS may approve in writing, provided that all such persons shall have first executed a confidentiality agreement in a form acceptable to CRIS.

2.2 No Use of Confidential Information. Vendor agrees that it will only use the Confidential Information for the purposes of providing Service, and that it shall not use Confidential Information for any other commercial or other purpose without the prior written consent of CRIS.

### 2.3 Return of Confidential Information.

Upon expiration or earlier of termination of this Agreement or request of CRIS, with respect to the Confidential Information, Member and Vendor shall promptly return or destroy such Confidential Information, as requested by CRIS, and provide certification to CRIS that all such Confidential Information has been returned or destroyed as requested.

3. Member's and Vendors Duties and Obligations. Member and Vendor each agreeing to be individually bound by the duties and obligations listed in this Section agree and acknowledge: (i) not to remove or alter, remove or destroy any proprietary copyright, trademark or confidentiality legend from the MLS Content and any Confidential Information; (ii) not to sell, transfer, rent, share, lease, sublicense or provide access to the MLS Content or information contained in the MLS Content to any third party except as to the extent expressly provided herein; (iii) not to modify, add to, or change the MLS Content or the information contained in the MLS Content; (iv) to comply with Section 18 (IDX Rules) of CRIS's Rules and Regulations at all times (the "Rules"). In the event of any ambiguity with regard to this Agreement, the terms of the Rules as amended from time to time shall take precedence and control over this Agreement. A copy of the current Rules is attached as Attachment A to this Agreement; (v) that MLS Content will only be merged with the listings owned by Member and the multiple listings content provided by other companies ("MLS Providers") to which the Member has been provided authorized access by the MLS Provider in accordance with the Rules, however, any content or listings not provided by MLS Provider must be separately searchable and should be displayed separately from MLS Content; and (vi) to promptly notify CRIS in writing of any misuse or infringement of MLS Content or any intellectual property rights of CRIS. In addition Vendor agrees to provide CRIS by the first of each month a list of all broker participants who have been authorized by CRIS to access MLS Content and to whom Vendor provides Service.

4. Payment: Vendor agrees that Member alone will be responsible for payment of all dues or fees associated with the Services provided by Vendor to Member. Vendor and Member both agree that in no instance will CRIS be held liable for payment of any fees or dues owned by Member to Vendor or for breach of any agreement between Vendor and Member. Content licensing fees may apply.

### 5. Term and Termination.

5.1 Term. The term of this Agreement shall commence on the date this Agreement is signed and accepted by CRIS, which shall not be later than five (5) business days after receipt by CRIS of the signed and executed copy(ies) of the Agreement from Vendor and Member, unless earlier terminated as provided herein.

5.2 Termination. CRIS shall have the right to terminate this Agreement without cause, by providing twenty (20) days written notice. This Agreement shall terminate immediately upon the occurrence of the following events: (a) Vendor or Member commits a material breach of this Agreement, (b) Vendor or Member fails to comply with the duties and obligations set forth in this Agreement; (c) agreement between CRIS and Member is terminated or suspended; (d) termination of Member as an authorized user of MLS Content; or (e) termination of any written or oral agreement between Member and Vendor.

5.3 Expiration of Agreement. If or when the CRIS MLS makes the process of renewing your IDX agreement annually, on a given date made into effect MLS wide, the MLS will advise the broker one month before the implied expiration date in writing. If the broker does not respond to renewing the agreement it will be understood that this agreement will no longer be in effect and thus no content (MLS content) will be authorized for display for the stated URL of this contract and/or third party vendor.

5.4 Termination of Rights. Upon the termination of this Agreement (i) the rights granted pursuant to Section 1 of this Agreement to Vendor shall immediately terminate; and (ii) Vendor shall cease all use of the MLS Content.

6. Warranties. Vendor represents and warrants to CRIS that (i) it has all right, power and authority to enter into and perform its obligations set forth in this Agreement in accordance with its terms; (ii) it is in full compliance with and will comply with all applicable federal, state, and local laws and governmental rules and regulations with respect to its rights and obligations under this Agreement; and (iii) it will not share information regarding the link assigned by Member or CRIS with any other individual, company, vendor or brokerage firm.

### 7. Indemnification; and Limitation of Liability.

7.1 Indemnification By Vendor. Vendor shall indemnify and hold harmless CRIS and its directors, officers, agents and licensees against any claims, demands, actions, liabilities, losses, costs, damages or expenses, including legal fees, to the

extent arising out of any breach of any warranty, duties, obligations or other provisions of this Agreement by Vendor or as a result of any claim arising from Vendor's activity. In the event of a claim where Vendor is obligated to defend or indemnify CRIS pursuant to this Section, CRIS reserves all rights to directly participate in all aspects in the defense of, and any settlement negotiations with respect to such claim, including the selection and approval of Vendor's counsel; the right to maintain separate and independent counsel; and to receive Vendor's full cooperation in the defense or settlement of such claim. In such event where such claim arises, Vendor shall be solely responsible for any and all associated costs, legal fees, and amounts required to discharge a judgment or for settlement of any such claim under the terms and conditions of this provision.

7.2 Indemnification by Member. Member shall indemnify and hold harmless CRIS and its directors, officers, agents and licensees against any claims, demands, actions, liabilities, losses, costs, damages or expenses, including legal fees, to the extent arising out of any dispute between Member and Vendor relating to (i) Services or (ii) any fees, dues or amounts owed by Member to Vendor. Member assigns all of its right to bring any action against Vendor under this Agreement relating to misuse of MLS Content by Vendor or breach of any duties, obligations, representations or warranties provided by Vendor under this Agreement and agrees to cooperate fully with CRIS in case of any claim or action taken by CRIS against Vendor to protect the misuse of MLS Content.

7.3 Disclaimer of Warranty and Limitation of Liability. CRIS DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CRIS DOES NOT WARRANT THE ACCURACY, RELIABILITY OR COMPLETENESS OF ANY INFORMATION OBTAINED FROM THE MLS CONTENT. IN NO EVENT SHALL CRIS BE LIABLE TO VENDOR, MEMBER OR ANY THIRD PARTY FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFIT OR OPPORTUNITY, LOSS OF USE OR OTHER FINANCIAL LOSS ARISING OUT OF OR USE OF THE MLS CONTENT OR RELATING TO THIS AGREEMENT. IN NO EVENT SHALL CRIS'S LIABILITY HEREUNDER EXCEED TWO THOUSAND DOLLARS (\$2,000).

## 8. Miscellaneous.

8.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Ohio, without regard to any conflicts of law principles that would require the application of the laws of a different state. With respect to any litigation arising out of or relating to this Agreement, each party agrees that it shall be filed in and heard by the state or federal courts with jurisdiction to hear such suits located in Summit County, Ohio.

8.2 Assignment. Vendor and Member may not assign this Agreement without CRIS prior written consent.

8.3 Independent Contractors. The parties to this Agreement are independent contractors and nothing herein shall be construed as creating an employment, agency, franchise, joint venture or partnership relationship between the parties. Neither party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability, or to otherwise bind, the other party.

8.4 Entire Agreement. This Agreement, including all of the attachments hereto, constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes and amends, in its entirety, all prior or contemporaneous agreements, representations or understandings, whether oral or written, with respect to that subject matter.

8.5 Amendment; Waiver. This Agreement may be modified or amended only by a written agreement duly executed by each of the parties. No right of any party under this Agreement will be deemed to be waived unless that waiver is in a writing duly executed by the party who is alleged to have waived that right. No failure to exercise a right, or delay in exercising a right, shall operate as a waiver of that right.

8.6 Notices. All notices, requests, or other communications required to be given pursuant to this Agreement shall be in writing.

8.7 Severability. In the event that any term, condition or provision of this Agreement is for any reason rendered void, all remaining terms, conditions and provisions shall remain and continue as valid and enforceable obligations of the parties hereto.

8.8 Survival. The provisions of Sections 2, 4, 7 and 8 and Subsections 1.2 and 5.3 shall survive the expiration or termination of this Agreement.

8.9 No Interpretation Against Drafter. This Agreement is the result of negotiations between the parties hereto and in the event an ambiguity or question of intent or interpretation arises, this

Agreement shall be construed as if drafted jointly by both parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

8.10 Further Assurances. The parties agree to do such other acts and things as may be reasonably necessary or requested by the other party for the purpose of carrying out the intent of this Agreement.

8.11 Injunctive Relief. The parties to this Agreement recognize that a remedy at law for a breach of the provisions of this Agreement relating to Confidential Information, misuse of MLS Content, IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

[NAME OF VENDOR]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Date: \_\_\_\_\_

[NAME OF MEMBER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Date: \_\_\_\_\_  
URL MLS Content is to be displayed on: \_\_\_\_\_

duties and obligations of Vendor, use of CRIS's trademark, copyright, and other intellectual property rights, will not be adequate for CRIS's protection, and accordingly CRIS shall have the right to obtain, in addition to any other relief and remedies available to it, injunctive relief to enforce the provisions of this Agreement.

8.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

CRIS MLS, INC.

By: \_\_\_\_\_  
Name: Heather Shupe  
Title: Membership & IDX Administrator  
Email Address: Heather.Shupe@crismls.com  
Date: \_\_\_\_\_

\*For all questions about this agreement please contact Heather Shupe @ 330-497-4093 or [Heather.Shupe@crismls.com](mailto:Heather.Shupe@crismls.com)