

IDX Paperwork Cover Sheet

IMPORTANT

This cover sheet **MUST** be filled out and returned via Email or Fax with your IDX paperwork. If this cover sheet is not included your IDX may not be approved and set-up properly.

How To Return

Scan & Email Cover Sheet & Paperwork to: IDXAdmin@z57.com

Fax Cover Sheet and Paperwork to: (858) 430-5599

Please Print Clearly

First Name: _____ (REQUIRED)

Last Name: _____ (REQUIRED)

Email Address: _____ (REQUIRED)

Domain Name: _____ (REQUIRED)

IF FACEBOOK PREMIUM CLIENT, PLEASE USE YOUR FACEBOOK BUSINESS PAGE URL AS THE DOMAIN NAME

MLS Agent ID: _____ (REQUIRED)

Office ID: _____



TUOLUMNE COUNTY ASSOCIATION OF REALTORS

14195 Tuolumne Road, Sonora, California 95370 • Tel. (209) 532-3432 • FAX (209) 533-9418



IDX REGISTRATION FORM

Name: _____

Complete

Office: _____

Address: _____

City: _____, Zip: _____

I have read and understand the MLS Rules & Regulations and the TCAR IDX Policy and agree to abide by them.

I will be setting up my own program for IDX

I will be using a third party vendor (i.e.: web consultant) to set up my IDX program. I understand the vendor I choose must sign a contract with the MLS before he can be given any access to the MLS or any MLS information.

Name of vendor: Constellation Web Solutions

My Web Address: _____

Complete

My E-Mail Address: _____

Agent Signature: _____

SIGN HERE

Broker Signature: _____

SIGN HERE

CONTRACT:

IDX (Internet Data Exchange) Access Agreement

Note: This form is a legally binding contract between you and the Tuolumne County Association of Realtors® (TCAR).

MLS Subscriber: This form/contract must be filled out completely and signed by the Broker Participant and/or Subscriber. If you are using a third party vendor it must also be signed by that vendor. There are no exceptions. Once you have filled it out and signed it, mail it to Tuolumne County Association of Realtors, 14195 Tuolumne Rd., Sonora, CA 95370. TCAR will sign the contract and return a copy to you with information on how to access the IDX Data Container.

AGREEMENT

1. Broker Participant or Subscriber whose name and contact information appear on the signature page of this Agreement designated "Participant or Subscriber Information and Signature" (hereinafter "Participant" or "Subscriber") and the companies/individuals whose names and contact information appear on the signature pages of this Agreement designated "Web Consultant Information and Signature" (collectively, "**the Consultants**"), if any.

RECITALS

2. Participant or Subscriber wishes to obtain, and Tuolumne County Association of Realtors wishes to provide access to TCAR MLS IDX data, including the listing data of other TCAR MLS real estate brokerages who have agreed to allow IDX Data Display. Participants and Subscribers may wish to engage Consultants, i.e., other companies or individuals who are not employees of the Participant or Subscriber, 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.

Tuolumne County Association of REALTORS® Multiple Listing Service: An MLS formed to cover the area served by TCAR.

IDX Data: A subset (selected by the TCAR MLS and TCAR) of the listing data in the TCAR MLS data base designated for the purpose of dissemination to other Broker Participants and Subscribers of the TCARMLS member associations in order to effect Internet Display on the websites of those Participants and Subscribers who have agreed to take part in IDX and conform to the applicable IDX Rules.

IDX Subscriber: 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.

Participant: Any real estate brokerage that purchases Multiple Listing Services from TCAR directly.

Rules: The Rules and Regulations of the Tuolumne County Association of Realtors, Inc. Multiple Listing Service, and any operating policies related to IDX promulgated by the Tuolumne County Association of Realtors®.

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Subscriber: Any real estate broker, appraiser, or other real estate related business professional that utilizes Multiple Listing Services either through a Broker Participant or by purchasing Multiple Listing Services from an Affiliated Association or from TCAR directly.

Subscriber Data: Data relating to real estate for sale, previously sold or listed for sale, including the IDX database, and data relating to Subscribers, entered into the current MLS System by Subscribers, and the Tuolumne County Association of Realtors (“TCAR”). The data is owned by the Tuolumne County Association of REALTORS®.

TUOLUMNE COUNTY ASSOCIATION’S OBLIGATIONS

4. During the term of this Agreement, Tuolumne County Association of Realtors® (“TCAR”) grants to Participant or Subscriber a license to:
 - a. display the IDX Data on the Participant or Subscriber’s web site, and
 - b. make copies of the IDX Data to the extent necessary to deliver IDX Data to consumers on Participant or Subscriber’s web site.
5. During the term of this Agreement, TCAR agrees to provide the Participant or Subscriber and its Consultants:
 - a. access to the IDX Data via the Internet using File Transfer Protocol (“FTP”) or other approved means, under the same terms and conditions TCAR offers to other Participants and 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.

OBLIGATIONS OF PARTICIPANTS AND SUBSCRIBERS

6. Participant or Subscriber shall comply with the Rules/Policies at all times.
7. Participant or Subscriber acknowledges TCAR’s ownership of the copyrights on the Subscriber Data and the IDX Data.
8. Participant or Subscriber shall comply with the requirements relating to Confidential Information set forth below.
9. No Participant or Subscriber shall allow any third party to access, review, download, manipulate or formulate any IDX Data. Notwithstanding the foregoing, it is understood that Participants or Subscribers may utilize certain Web Consultants to assist them in performing data downloading, manipulation and formatting, and access to the IDX Data shall be permissible in such instances provided that Participants or Subscribers first delivers to the Tuolumne County Association Realtors® a copy of this IDX Access Agreement signed by said Consultant.
10. If TCAR notifies Participant or Subscriber of a breach of the Rules or this Agreement, and Participant or Subscriber does not immediately correct the breach, Participant or Subscriber agrees that TCAR may seek correction from the Web Consultants.
11. Participant or Subscriber shall notify TCAR within three (3) business days of any change to the information relating to Participant or Subscriber on the Participant or Subscriber Information and Signature page below.

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CONSULTANT'S OBLIGATIONS

12. If TCAR notifies Participant or Subscriber of a breach of the Rules or this Agreement and Participant or Subscriber does not immediately cure such breach, TCAR may contact Consultant to cure any such breach that is within Consultant's control. Consultant agrees to cooperate with TCAR and act upon notification by TCAR within 3 business days of an uncured breach by Participant or Subscriber.
13. Each Consultant acknowledges TCAR's ownership of the copyrights in the Subscriber Data and the IDX Data.
14. Any website used for display of the IDX Database must be controlled by the Participant or Subscriber and be advertised as that Participants or Subscribers website. Any "Branding" or identification of website by a Consultant must not detract from the "Branding" of the site as belonging to and being under the control of the Participant or Subscriber.
15. Each Consultant shall comply with the requirements relating to Confidential Information set forth below.
16. Each Consultant shall notify TCAR within three (3) business days of any change to the information relating to it on the Consultant Information and Signature page below.

CONFIDENTIAL INFORMATION

17. **"Confidential Information"** is information or material proprietary to TCAR or designated "confidential" by TCAR and not generally known to the public, that Participant, Subscriber or Consultants or any one of them (the "Receiving Party") may obtain knowledge of or access to as a result of access permitted 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. Internet provider (IP) addresses, access codes and passwords; and
 - f. any information that TCAR obtains from any third party that TCAR treats as proprietary or designates as Confidential Information, whether or not owned or developed by TCAR.
18. **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;

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- c. is used or disclosed by the Receiving Party with the prior written consent of TCAR, to the extent of such consent;
 - d. becomes known to the Receiving Party from a source other than TCAR 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 TCAR; or
 - e. is required to be disclosed by judicial order or other compulsion of law, provided that the Receiving Party provides to TCAR prompt notice of any such order.
19. **Title.** The Receiving Party acknowledges that title to the Confidential Information remains at all times with TCAR or with the third parties in whom title existed prior to this Agreement or prior to disclosure by TCAR.
20. **Restrictions on Use – Scope of Use.** The Receiving Party will use or access the Confidential Information only as expressly permitted under this Agreement, the MLS Rules and any applicable operating policies, 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.
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 TCAR 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.
22. **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 TCAR. If TCAR 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. Participant or Subscribers with IDX websites must make reasonable efforts to prevent the "scraping" of data by third parties. "Scraping," is an automated process used to gather or "scrape" information. If "scraping," is suspected, Participant or Subscriber must report that possibility to the MLS Committee for investigation.
23. **Restrictions on Use – Location restriction.** The Receiving Party will not remove the Confidential Information from its principal place of business without TCAR's prior written consent. In the event TCAR grants consent, the Receiving Party is not relieved of any of its obligations under this Agreement.
24. **Restrictions on Use – Disclosures.** An explanation that IDX Data is compiled of listings provided courtesy of the TCAR MLS and the Tuolumne County Association of Realtors, Inc. must appear on the first page where any listing data appears. Suggested language and required disclosures are as follows:
- a. "The data relating to real estate for sale on this website comes in part from the IDX program of the Tuolumne County Association of REALTORS® Multiple Listing Service and the Tuolumne County Association of Realtors®. Real estate listings held by Participants or Subscribers other than (insert your brokerage's name here) include the name of the listing broker and listing agent."
 - b. Listing Broker has attempted to offer accurate data, but buyers are advised to confirm all items.

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- c. Copyright 2005 Tuolumne County Association of Realtors®, inc. all rights reserved.
 - d. If your firm does not display all the IDX data you must disclose that fact and also describe the nature of the selection, i.e. only houses in Sonora, only residential property, only houses priced over \$500,000, or all properties, but those listed by a particular Participant.
 - e. Data current as of (date).
 - f. All IDX websites must include a notice that the use of the data for any purpose other than by a consumer looking to purchase real estate is prohibited.
 - g. Detailed and thumbnailed displays of another Participant's listing information must not have any branding or contact information of the owner of the IDX website in the "body" of the listing data.
25. **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 TCAR, the Receiving Party will return to TCAR all Confidential Information and all other materials provided by TCAR 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 TCAR, an officer of the Receiving Party will certify in writing that all materials have been returned to TCAR and all magnetic or computer data have been destroyed.

TERM AND TERMINATION

26. The term of this Agreement begins on the "Effective Date" set forth on the "TCAR Information and Signature Page" below. TCAR 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. TCAR's notice to Participant, Subscriber or Consultant that this Agreement is terminated.
 - b. Participant or Subscriber's notice to TCAR that it no longer intends to display IDX Data on its web site.
 - b. Termination of Participant or Subscriber's privileges as a Participant or Subscriber by TCAR.

GENERAL PROVISIONS

27. **Survival of Obligations.** The obligations of Participant or Subscriber set forth under "Obligations of Participant or Subscriber" above, the obligations of Consultants under "Consultants' Obligations" above, and all parties' obligations under "Confidential Information" shall survive the termination or expiration of this Agreement.
28. **TCAR's Remedies.** Because of the unique nature of the Subscriber Data and Confidential Information, Participant or Subscriber and Consultants acknowledge that TCAR 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 TCAR for a breach. TCAR 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 Participant or Subscriber or Consultants or any one of them, without showing or proving any actual damages sustained by TCAR.
29. **Attorney's fees.** If TCAR 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 TCAR's reasonable attorney's fees and costs for such legal action.
30. **Limitation of Liability.** TCAR's liability to Participant or Subscriber and Consultants for damages under this Agreement, whether in contract or tort, shall be limited to the aggregate amounts paid

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by Participant or Subscriber and Consultants to TCAR, if any, under this Agreement. Participant or Subscriber's and Consultants' only other remedy shall be termination of this Agreement. TCAR shall not be liable for any incidental or consequential damages under any circumstances, even if TCAR has been advised of the possibility of such damages. TCAR shall have no liability for inaccuracies in the IDX Data or the Subscriber Data.

31. **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.
32. **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.
33. **No Assignment.** Neither Participant, Subscriber 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 TCAR.
34. **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.
35. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of California.

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Tuolumne County Association of Realtors® Information and Signature

Entered into on behalf of TCAR by:

Signature

Print Name

Effective Date

Participant or Subscriber Information and Signature



Firm Name: _____

Designated Broker Name: _____

E-mail address: _____

(You **must** supply an e-mail address here. This address will be T.C.A.R.'s principal means of communicating with you for notices under this Agreement.)

Firm Street Address: _____

Firm City, ST, ZIP: _____

Firm Phone: _____ Fax: _____

Entered into by:



Signature DR Signature

Print Name

Title

I CERTIFY THAT I HAVE RECEIVED A COPY OF THE COMPLETE "CONTRACT-IDX ACCESS" AGREEMENT TO WHICH THIS SIGNATURE APPLIES AS WELL AS COPIES OF THE IDX POLICY AND THE MLS RULES AND REGULATIONS; AND THAT I AGREE TO ABIDE BY THE GUIDELINES AND RULES SET FORTH WITHIN THIS AGREEMENT, THE IDX POLICY AND MLS RULES AND REGULATIONS. AND THAT I AGREE TO TAKE NECESSARY ONGOING SECURITY MEASURES TO ENSURE AVOIDANCE OF SCRAPING OR DOWNLOADING BY UNAUTHORIZED PARTIES AND ANY ASSOCIATED POLICY AND/OR TECHNICAL DOCUMENTATION.

Consultant Information and Signature

NOTE TO PARTICIPANT OR SUBSCRIBER:

Consultant (company or individual) Name: Constellation Web Solutions

E-mail address: brokersolutions@constellationws.com

(You **must** supply an e-mail address. E-mail will be TCAR's principal means of communicating with you for notices under this Agreement.)

Consultant Street Address: 6737 W Washington St. Ste 2120

Consultant City, ST, ZIP: West Allis, WI 53214

Phone: 425-636-6910 Fax: 414-918-9215

Entered into on behalf of Consultant by:

Signature Trevor Peterson

Print Name MLS Compliance Administrator

Title

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

This box is for TCAR's use only. The rest of the information will be filled in after the Agreement is signed. A copy will be returned to you. This information is confidential and will be treated as such.

FTP URL: _____ FTP User ID: _____ FTP Password: _____

Consultants Identified: _____ Consultants Name: _____

Listing Office ID: _____ List Office Name: _____ Participant/Subscriber: _____