



EXHIBIT "E"

Northwest Wyoming Board of REALTORS®, Inc. IDX Data Access Agreement

This **AGREEMENT** is made and entered into by Northwest Wyoming Board of REALTORS®, Inc. ("**NWBOR**"), with offices at 1132 Beck Ave. – Cody, WY 82414; and _____ ("**Brokerage/Firm**"), with offices at _____; and _____ ("**Consultant**"), with offices at _____.

DEFINITIONS

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

Confidential Information: "Confidential Information" means information or material proprietary to NWBOR or designated "confidential" by NWBOR and not generally known to the public that the other parties may obtain knowledge of or access to as a result of this Agreement. Confidential Information includes, but is not limited to, the following types of information (whether in oral, visual, audio, written or other form): (a) all NWBOR Data, except to the extent to which this Agreement and the NWBOR MLS Rules and Regulations or NWBOR Policies permit its disclosure; (b) IP addresses, access codes and passwords; (c) any information that NWBOR obtains from any third party that NWBOR treats as proprietary or designates as Confidential Information, whether or not owned or developed by NWBOR; and (d) any information designated as confidential or private from time to time by any applicable state, federal, local or other law, regulation or directive. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party; independently developed by the receiving party; received from a third party who has obtained and disclosed it without breaching any confidentiality agreement; or already possessed by the receiving party at the time of its disclosure.

Data Interface: The transport protocols and data storage formats provided by NWBOR for use by Firm and Consultant; NWBOR may modify the Data Interface in its sole discretion from time to time.

Firm Affiliates: The employees of Firm who are not licensed real estate agents; broker/managers and licensed real estate agents affiliated with Firm who are Subscribers of NWBOR; and Consultant, if any.

IDX: Use and display of portions of the NWBOR Data under the Internet Data Exchange provisions of the NWBOR MLS Rules and Regulations.

NWBOR Data: Data relating to real estate for sale, previously sold, or listed for sale and data relating to Subscribers (including text, photographs, and all other data formats now known or hereafter invented) entered into NWBOR's databases by Subscribers and NWBOR, or on their behalf.

NWBOR MLS Rules and Regulations: The Rules and Regulations of NWBOR, as amended from time to time, and any operating policies relating to the NWBOR Data and IDX program promulgated by NWBOR.

Subscriber: Any licensed real estate broker who is a Participant (as the term is defined in the NWBOR MLS Rules and Regulations or Policies) together with salespersons and broker associates licensed to the Participant, for whom the Participant is responsible under the laws of the State of Wyoming, licensed or certified real estate appraisers, unlicensed administrative and clerical staff, personal assistants and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant's licensed designee.

NWBOR'S OBLIGATIONS

2. During the term of this Agreement, NWBOR grants to Firm a non-exclusive, world-wide license to make copies of, display, perform, and make derivative works of the NWBOR Data, only to the extent expressly permitted by and subject at all times to the terms and restrictions of this Agreement; any other use of the NWBOR Data is hereby prohibited. All licenses hereunder shall terminate upon the termination of this Agreement. This Agreement is a non-exclusive license, and not a sale, assignment, or exclusive license. NWBOR retains all rights not expressly granted herein.

3. During the term of this Agreement, NWBOR agrees to provide to Firm and Consultant (a) access to the NWBOR Data via the Data Interface under the same terms and conditions NWBOR offers to other Subscribers; (b) seven days' advance notice of changes to the Data Interface; and (c) seven days' advance notice of changes to the NWBOR MLS Rules and Regulations or NWBOR Policies.

FIRM'S OBLIGATIONS

4. The firm shall comply with the NWBOR MLS Rules and Regulations or NWBOR Policies at all times. In the event of any perceived conflict between the NWBOR MLS Rules and Regulations or NWBOR Policies and this Agreement, the NWBOR MLS Rules and Regulations then the Policies shall prevail and govern.

5. The firm shall use the NWBOR Data obtained under this Agreement for IDX only. Any other use is strictly prohibited. Firm shall not make the NWBOR Data or the Confidential Information available to any third party unless expressly authorized to do so under this Agreement.

6. Firm acknowledges that NWBOR possesses all rights, title, and interest in all copyrights in the NWBOR Data.

7. Firm acknowledges that NWBOR provides the NWBOR Data on an as-is, as-available basis. NWBOR shall not be liable to Firm for any claim

arising from inaccuracies in the NWBOR Data or from any failure to update the data promptly.

8. If NWBOR notifies Firm of a breach of the NWBOR MLS Rules and Regulations or NWBOR Policies or this Agreement and Firm does not immediately cure such breach, NWBOR may seek cure from the Consultant. The firm shall hold Consultant harmless from any liability arising from Consultant's cooperation with NWBOR under this paragraph.

9. Firm shall display the NWBOR copyright notice on each display screen, web page (whether Internet or Intranet based), and printout displaying NWBOR Data. The NWBOR copyright notice may take the following form: "Copyright 2005 Northwest Wyoming Board of REALTORS®, Inc."

10. Firm shall pay the initial and periodic fees, if any, that NWBOR customarily charges other Subscribers for data access. Firm acknowledges receipt of NWBOR's current schedule of such fees, if any. NWBOR may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Firm.

11. Firm shall stand as surety for Consultant's performance under this Agreement.

CONSULTANT'S OBLIGATIONS

12. Consultant shall immediately correct any breach of this Agreement or violation of the NWBOR MLS Rules and Regulations or Policies within its control upon notice from NWBOR.

13. Consultant acknowledges that NWBOR possesses all rights, title, and interest in all copyrights in the NWBOR Data.

14. Consultant shall not make the NWBOR Data or the Confidential Information available to any third party, except on behalf of Firm and in a manner consistent with Firm's obligations under Paragraphs 4 through 11 of this Agreement.

15. Consultant shall notify NWBOR within five business days of any change to the information relating to it in this Agreement, including change of its corporate name or address.

CONFIDENTIAL INFORMATION

16. Firm and Consultant shall protect the Confidential Information with the same degree of care they take to protect their own sensitive business information of like kind, but in no event less than reasonable care. A party may disclose Confidential Information if such disclosure is required by law, court order or regulation; provider, however, that such party makes commercially reasonable efforts to notify NWBOR in writing in advance of such disclosure.

17. Within five days after the termination of this Agreement, the receiving party shall return to NWBOR all Confidential Information and materials provided by NWBOR to the receiving party. The receiving party shall also erase or destroy Confidential Information stored on magnetic media or other computer storage, including system backups. Upon NWBOR's request, an officer of the receiving party shall certify in writing that all materials have been returned to NWBOR or destroyed.

TERM AND TERMINATION

18. The term of this Agreement begins on the date that NWBOR signs it. This Agreement shall terminate upon the occurrence of any of the following events: (a) immediately upon termination of Firm's privileges as a Subscriber; (b) 30 days after any party's notice to the others of its intent to terminate; (c) 10 days after any party's notice to another that the other has breached this Agreement, provided the breach remains uncured. In the event Firm's privileges as a Subscriber are terminated while this Agreement is in effect and NWBOR subsequently reinstates those privileges, this Agreement shall automatically be reinstated if NWBOR resumes its obligations under paragraphs 2 and 3.

GENERAL PROVISIONS

19. **Applicable law.** This Agreement shall be governed by and interpreted according to the laws of the State of Wyoming. The parties agree that any action to enforce or interpret this Agreement shall have venue in Park County, Wyoming, and the parties hereby submit to personal jurisdiction in that venue.

20. **Survival of Obligations.** The obligations of the Firm set forth under "Firm's Obligations" above and the obligations of Consultant under "Consultant's Obligations" above shall survive the termination or expiration of this Agreement for three years. The "Definitions," "Confidential Information," and "General" provisions of this Agreement shall survive its termination or expiration.

21. **NWBOR's Remedies.** Because of the unique nature of the NWBOR Data and Confidential Information, Firm and Consultant acknowledge that NWBOR would suffer irreparable harm in the event that either of them breaches its obligations under this Agreement, and that monetary damages would be inadequate to compensate NWBOR for a breach. NWBOR 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 Consultant or any one of them, without showing or proving any actual damages sustained by NWBOR, and without posting any bond.

22. **Limitation of liability/exclusion of warranties. IN NO EVENT SHALL NWBOR BE LIABLE TO FIRM OR CONSULTANT FOR DAMAGES OF ANY KIND WHATSOEVER ARISING FROM ANY BREACH OF THIS AGREEMENT, INCLUDING INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES; FIRM'S AND CONSULTANT'S SOLE REMEDIES AGAINST NWBOR HEREUNDER SHALL BE TERMINATION OF THIS AGREEMENT.**

IN NO EVENT SHALL THE LIABILITY OF NWBOR ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT FIRM HAS PAID UNDER THIS AGREEMENT TO NWBOR IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE LAST EVENT GIVING RISE TO SUCH CLAIM.

NWBOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT.

23. **Attorney's fees.** If any party prevails in any action, proceeding, or arbitration to enforce or interpret this Agreement or any provision hereof, it shall be entitled to its reasonable attorney's fees and costs for such legal action.

24. **Indemnification.** In the event any party breaches any provision of this Agreement, that party (the Indemnifying Party) shall indemnify the other parties, their subsidiaries and affiliated companies, and all their respective employees, directors, agents, and authorized successors and assigns (the Indemnified Parties), against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from each claim of any third party resulting from the Indemnifying Party's breach. The Indemnified Parties shall (a) promptly notify the Indemnifying Party in writing of any claim and give the Indemnifying Party the opportunity to defend or negotiate a settlement of any such claim at the Indemnifying Party's expense, and (b) cooperate fully with

the Indemnifying Party, at the Indemnifying Party's expense, in defending or settling any such claim.

25. **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 herein or such other address of which any party may advise the others in writing during the term of this Agreement; and shall be effective the earlier of the date of receipt or three days after mailing or other transmission.

26. **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.

27. **No Assignment.** No party may assign or otherwise transfer any of its rights or obligations under this Agreement to any other party without the prior written consent of all other parties to this Agreement, which consent may be withheld for any reason or for no reason at all. Any purported assignment or delegation in contravention of this paragraph is null and void *ab initio*.

28. **Entire Agreement.** Subject to NWBOR MLS Rules and Regulation or NWBOR Policies, 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, relating to the same subject matter.

29. **Relationship of the Parties.** The relationship of NWBOR to the other parties hereunder is that of independent contractors. No party shall be deemed to be the agent, partner, joint venturer, franchisor or franchisee, or employee of NWBOR or have any authority to make any agreements or representations on the behalf of NWBOR. Each party shall be solely responsible for the payment of compensation, insurance, and taxes of its own employees.

30. **Severability.** Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. In the event that any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the parties, the invalid or unenforceable provision shall be replaced, if possible, with a valid provision which most closely approximates the intent and economic effect of the invalid provision.

<p style="text-align: center;">NOTE:</p> <p>Under this Agreement, Firm is permitted to work only with the Consultant named here. If Firm chooses to engage a different consultant or additional consultants, Firm must enter into a new version of this agreement with NWBOR and each such consultant.</p>	<p>FIRM</p> <p>_____</p> <p>Firm name</p> <p>_____</p> <p>Signature of Responsible Broker</p> <p>_____</p> <p>Printed Name of Responsible Broker</p> <p>Date: _____</p> <p>Name of Agent: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p> <p>Agent Signature: _____</p>
<p>Northwest Wyoming Board of REALTORS®, Inc.</p> <p>Name of Officer: _____</p> <p>Title: _____</p> <p>Signature: _____</p> <p>Date: _____</p> <p style="text-align: center;">_____</p> <p>Contact for notices and operations matters</p> <p style="text-align: center;">—Northwest Wyoming Board of Realtors®—</p> <p style="text-align: center;">Phone: (307) 587-8418</p> <p style="text-align: center;">Email: Admin@nwbor.com</p> <p style="text-align: center;">Mailing: P.O. Box 2714 Cody, WY 82414</p>	<p>CONSULTANT</p> <p>Consultant name: _____</p> <p>Signature of owner or officer: _____</p> <p>Name of owner or officer: _____</p> <p>Date: _____</p> <p>Contact for notices and operations matters</p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p> <p style="text-align: center;">_____</p>