



iHomefinder Inc.
1900 Addison St, Ste 300, Berkeley, Ca 94704
866-700-8855 fax 510-981-1439

CID: _____

Term License Agreement

Date: _____

MLS System(s): _____

Contact: _____

Company: _____

Address: _____

Billing Address (if Different): _____

Phone: _____

2nd Phone: _____

URL: _____

Fax: _____

Designer: The Marketing Shop

Licensee represents they are a member in good standing of any MLS Board whose data they license. iHomefinder does not control the quality of data received from multiple listing services and cannot provide any quality guarantees in connection with the data licensee provide.

Licensed Technology and Fees

Client ID Number: _____ **Note: for quick retrieval of account information have your Client ID number ready when contacting your sales representative

Account Type: _____

Monthly fees: \$_____ per _____ searches/mo

Additional Branch Offices (more than 5): \$_____

Additional MLS Data Feed Charges: \$_____

MLS Pass Through Charges \$_____

Payment:

- Credit Card: _____

Additional Usage Fee Rate: See page 4

Date: _____

Sales Representative: The Marketing Shop

License Fees are due and payable at the beginning of each term of service.

Agreed and Accepted:

Customer Signature/Date

We at iHomefinder strive to provide the highest quality services for our customers. Thank you for your business.

Software License Agreement

This Agreement is between _____, hereinafter referred to as Licensee, and iHOMEFINDER Inc. a California Corporation, located at 1900 Addison St, Ste 300, Berkeley, California, 94704, hereby referred to as Party or Parties.

1. License Grant.
 - a. Grant of Use of Licensed Technology. Subject to the terms and limitations provided in this Agreement, iHOMEFINDER grants Licensee a non-exclusive, non-sublicensable, non-transferable right and license in the region served by Licensee's MLS board, during the Term of this Agreement and under iHOMEFINDER's Intellectual Property rights, to use the Licensed Technology solely for the purpose of providing MLS data and related functions to Licensee's Website. The License may be exercised only for the benefit of or by Licensee or by entities acting as Licensee's agents and/or subcontractors. The License shall commence as of the effective date of this Agreement and shall terminate upon expiration, termination of this Agreement, or upon Licensee's failure to comply with MLS Agreements for their region.

2. Term and Termination
 - a. Term. This Agreement shall commence on the Effective Date, shall continue in full force and effect for a period of one (1) month and shall be automatically renewed thereafter for successive one (1) year periods unless written notice of intent not to renew is received by either Party at least thirty (30) days prior to the commencement of any subsequent term.
 - b. Termination. This Agreement may be terminated by either Licensee or iHOMEFINDER: (a) In the event of a material default or breach any term, condition or covenant contained in this Agreement by the other Party which is not cured within thirty (30) calendar days after written notice of the default or breach; (b) immediately upon written notice if the other Party files or is the subject of a bankruptcy case, makes an assignment for the benefit of creditors, becomes insolvent, is generally unable to pay its debts as they become due, or has a receiver, trustee, or conservator appointed for any substantial part of its assets or properties, or (c) Without cause upon thirty (30) days written notice, subject to the terms of Section 2(c), as set forth below.
 - c. Cancellation.
 - i. Monthly Fee Accounts. In the event that Licensee terminates this Agreement before the expiration of the initial term one (1) month and without providing thirty (30) days written notice prior to the next billing period, Licensee agrees to pay to iHOMEFINDER an early termination fee equal to one month of service. Payment of the early termination fee does not satisfy other outstanding obligations owed to iHOMEFINDER.

3. Ownership. iHOMEFINDER is and shall remain the sole and exclusive owner of all right, title and interest in its Intellectual Property, the Licensed Technology and Improvements thereto, including any Improvements as made to meet Licensee's needs.

4. Payment. Licensee agrees to pay iHOMEFINDER License Fees that will be priced according to this Section 5 of the Agreement and as modified by iHOMEFINDER from time to time with (30) days written notice. **Add initials** ___/___

- a. Fees. Fees are due and payable at the beginning of the billing period and are non-refundable in the event that Licensee cancels service before the end of the billing period.
- b. MLS Pass Through Charges. iHOMEFINDER reserves the right to charge and collect all fees imposed on Licensee by the MLS system(s) used by Licensee in addition to iHOMEFINDER's License Fees.
- c. Past Due Accounts.

Payment is due and payable no later than the 15th day of each billing period for the current period's activity. Payment not received by the due date will accrue a 1.5% finance charge per month on the total unpaid balance of your account and a \$20 late payment processing fee per billing period plus any fees charged to iHOMEFINDER for payment processing.

Upon the first late payment by Licensee, iHOMEFINDER reserves the right to require all subsequent payments be made via credit card. We reserve the right to suspend your account without notice until payment is received.

iHOMEFINDER will charge a \$20 processing fee plus any fees charged to iHOMEFINDER by payment processing service providers each time Licensee's credit card is declined or a check is returned.

iHOMEFINDER reserves the right to suspend Licensee's account for failure to make timely payment. iHOMEFINDER shall reactivate suspended accounts upon the receipt of Licensee's payment all current obligations and a \$10 reactivation fee. Payment of the reactivation fee does not satisfy other outstanding obligations owed to iHOMEFINDER.

PRICING PACKAGE

<input type="checkbox"/>	Agent IDX Package	\$45/MO
	- Includes 5,000 searches/mo	
	- Each additional monthly search block (1,000 searches)	\$20/MO
	- Each additional MLS system (includes 2,000 additional searches/mo)	\$25/MO
<input type="checkbox"/>	Small Broker IDX Package	\$90/MO
	- Includes 10,000 searches/mo	
	- Each additional monthly search block (2,000)	\$40/MO
	- Each additional MLS system (includes 5,000 searches/mo)	\$50/MO

If Licensee's use exceeds search amounts allocated in its IDX package, Licensee shall incur additional usage fees for the additional monthly search blocks specified above.

6. **DISCLAIMER OF WARRANTIES.** NEITHER IHOMEFINDER NOR ANY OF ITS EMPLOYEES, OFFICERS, DIRECTORS, AFFILIATES, OR AGENTS MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THAT ACCESS TO OR USE OF ANY SOFTWARE, PRODUCTS, OR SERVICES TO BE PROVIDED PURSUANT TO THIS AGREEMENT SHALL BE UNINTERRUPTED OR ERROR FREE, THAT AGREED-UPON SECURITY MEASURES SHALL PREVENT UNAUTHORIZED ACCESS TO THE INTERNET, OR UNAUTHORIZED INTERCEPTION OF INFORMATION ON THE INTERNET, ANY INTRANET OR ANY COMMON CARRIER COMMUNICATIONS FACILITY.

iHomefinder does not control the source or quality of any data or data feeds received from multiple listing service boards and cannot provide any quality guarantees in connection with the data Licenses we provide.

LICENSEE UNDERSTANDS AND EXPRESSLY AGREES THAT ALL USE OF IHOMEFINDER'S TECHNOLOGY IS AT THE SOLE RISK OF LICENSEE. ALL SOFTWARE, CONTENT, AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE LICENSED TECHNOLOGY IS DONE AT LICENSEE'S OWN DISCRETION AND LICENSEE WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO THEIR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

IHOMEFINDER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, AND NON-INFRINGEMENT. IHOMEFINDER MAKES NO WARRANTY THAT (i) THE LICENSED TECHNOLOGY WILL MEET LICENSEE'S REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY LICENSEE THROUGH THE SERVICE WILL MEET LICENSEE'S EXPECTATIONS, AND (v) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

7. **LIMITATION OF LIABILITY**

(a) **GENERAL LIMITATION.** BOTH PARTIES UNDERSTAND AND AGREE THAT NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES, ARISING OUT OF OR RELATED TO THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY SHALL BE LIABLE FOR ANY DELAY OR FAILURE TO PERFORM WHICH IS CAUSED BY MATTERS BEYOND ITS REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION FAILURE OR UNAVAILABILITY OF, OR IMPAIRED

ACCESS TO, MLS DATA FEEDS, LEGAL OR REGULATORY RESTRICTIONS, LABOR DISPUTES, MECHANICAL, ELECTRONIC OR EQUIPMENT, BREAKDOWNS IN FACILITIES CONTROLLED BY THIRD PARTIES, ACTS OF TERROR, OR ACTS OF GOD.

(b) DAMAGES LIMITATION. THE MAXIMUM LIABILITY AND THE EXCLUSIVE REMEDY AVAILABLE TO LICENSEE IN CONNECTION WITH THIS AGREEMENT SHALL BE TO RECOVER NO MORE THAN THE CUMULATIVE AMOUNTS PAID BY LICENSEE TO IHOMEFINDER OVER THE PREVIOUS NINETY (90) DAYS DURING WHICH LICENSEE RECEIVED SERVICE OR USE PRODUCTS UNDER THE TERM OF THIS AGREEMENT, AND/OR TO RECEIVE EQUITABLE RELIEF, (INCLUDING BUT NOT LIMITED TO INJUNCTIVE RELIEF OR SPECIFIC PERFORMANCE) AND/OR TO TERMINATE THIS AGREEMENT IN ACCORDANCE WITH SECTION 2. THE FOREGOING LIMITATION OF MONEY DAMAGES SHALL BE CALCULATED UP TO THE DATE OF SUCH TERMINATION. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR EXTEND THE LIMITATION OF MONEY DAMAGES. LICENSEE ACKNOWLEDGES THAT OTHER PARTS OF THIS AGREEMENT RELY UPON THE INCLUSION OF THIS SECTION 7.

(c) Exclusions. None of the limitations in Section 7 shall apply in the case of infringement of iHOMEFINDER's intellectual property.

8. Indemnification. Each Party to this Agreement, shall, upon written request, indemnify and hold the other Party, its affiliates, subsidiaries, directors, officers, employees, agents and licensors harmless from and against all claims, demands and actions of or by a any third Party, including all liabilities, damages, obligations, costs and expenses (such as reasonable attorneys' and experts' fees) ("Claims"), which arise from or relate to: (i) breach of such Party's warranty set forth in this Agreement, (ii) such Party's gross negligence or willful misconduct, or (iii) an allegation that the Licensee's use of products, services, content, or materials provided by iHOMEFINDER under this Agreement, as set forth in this Agreement, violates the intellectual property, including but not limited to copyright, trademark, trade secret, patent, or right of personality, publicity, or privacy of any third party.

The Party receiving indemnification (the "Indemnified Party") agrees that the Party providing indemnification (the "Indemnifying Party") may assume sole and exclusive control over the defense and settlement of any third party claim with respect to which the foregoing indemnity obligations apply, except that the Indemnifying Party will not, however, enter into any settlement that adversely affects the Indemnified Party's rights or interests without the prior written consent of the Indemnified Party. The Indemnified Party shall promptly notify the Indemnifying Party of any Claim against it of which it becomes aware. At the Indemnifying Party's expense, the Indemnified Party will provide reasonable cooperation to the Indemnifying Party in connection with the defense or settlement of any such claim. At the Indemnified Party's expense, the Indemnified Party will be entitled to participate in the defense of any such claim.

9. Miscellaneous

(a) Party Representations and Warranties. Each Party to this Agreement hereby represents and warrants to the other that it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation and has full power and authority under its organizational documents and the laws of such jurisdiction to execute and deliver this Agreement and to perform its obligations hereunder; and this Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation enforceable in accordance with its terms.

(b) Technical Support. During the Term of this Agreement, iHOMEFINDER shall make available to Licensee during normal business hours such personnel as iHOMEFINDER may have reasonably available, and who have appropriate knowledge to provide technical support to Licensee on the use of the Licensed Technology.

(c) Licensee MLS Compliance. Licensee represents and warrants that it is a member in good standing and in full compliance with the rules and regulations of the MLS systems whose data they receive. Compliance is the sole responsibility of Licensee and iHomefinder expressly disclaims any responsibility for Licensee's failure to comply with the rules and regulations of the MLS systems.

(d) Licensee Account Information. iHOMEFINDER will create, maintain and record Licensee information including the identifying details of the Licensee, the Licensee provided under this Agreement, and the payment records. iHOMEFINDER will make reasonable

commercial effort to maintain the confidentiality of any of Licensee's confidential or proprietary information. iHOMEFINDER may share any and all Licensee account and end-user information with MLS Boards and related third-party service and product providers, which are bound by contractual arrangements with iHOMEFINDER to maintain confidentiality.

(e) Additional Products and Related Services. iHOMEFINDER reserves the right to offer to Licensee any additional IDX and related services during the Term of this Agreement.

(f) Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of Licensee and iHOMEFINDER. It shall not be deemed to be for the direct or indirect benefit of customers of Licensee or iHOMEFINDER products or any other person, and customers of these products shall not be deemed to be third party beneficiaries of this Agreement or to have any other contractual relationship with Licensee or iHOMEFINDER by reason of this Agreement.

(g) Covenant Not to Sue. Subject to the Parties' compliance with this Agreement, iHOMEFINDER and Licensee hereby agree that and covenant that either Party shall not sue or otherwise assert any claim against the other Party based on the Parties' use of any iHOMEFINDER Product. Other than those claims falling directly and solely within the scope of the foregoing covenant, iHOMEFINDER reserves the right to assert, protect and enforce all of its proprietary rights to the fullest extent permitted by applicable law.

(h) Dispute Resolution. The Parties hereto agree to submit any unresolved disputes concerning the interpretation of this Agreement to a mediation process to occur within Alameda County, California with each Party to bear its own attorneys' fees and cost of the mediation to be borne equally by both Parties. If mediation is unsuccessful, the parties agree to resolve the dispute through arbitration to occur within Alameda County, California following the rules and practices of the American Arbitration Association.

(i) Construction. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (i) such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement will remain in full force and effect. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party. The section headings used in this Agreement are intended for convenience only and will not be deemed to affect in any manner the meaning or intent of this Agreement or any provision hereof.

(j) Independent Contractors. The Parties are independent contractors, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, or a joint venture between the Parties.

(k) Notices. All notices and requests in connection with this Agreement shall be deemed given as of the day they are received either by messenger, delivery service, or in the United States of America mails, postage prepaid, certified or registered, return receipt requested, and addressed as set forth below or to such other address as a Party may designate.

(l) Attorney's Fees: If any legal action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing Party will be entitled to reasonable attorney's fees and costs, as well as other out of pocket legal expenses.

(m) Assignment: Neither this Agreement nor any duties or obligations under this Agreement may be assigned by either Party without the prior written consent of the other Party.

(n) Agreement Governed By: This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California.

(o) Waivers: Waiver of one Party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

(h) Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter hereof, and supersedes any prior or contemporaneous agreements or understandings relating to such subject matter.

In witness thereof the parties have caused their authorized representatives to sign in the space provided below.

iHOMEFINDER Inc.
1900 Addison Street #300
Berkeley, California 94704

iHOMEFINDER, Inc.:

LICENSEE:

**By Authorized
iHomefinder
Representative:**

**By Authorized
Representative:**

Signature:

Signature:

Date:

Date:

CHECK ONE:

Mastercard

VISA

American Express

CREDIT CARD #: _____

EXPIRATION DATE: _____

NAME ON CARD: _____

BILLING ADDRESS FOR CREDIT CARD: _____
