

## **PATENT LICENSE AGREEMENT**

This Patent License Agreement (“Agreement”) is effective this \_\_\_ day of \_\_\_\_\_, 2011 (the “Effective Date”) and is entered into by and between (i) National Association of Realtors®, an Illinois corporation, having its principal place of business at 430 North Michigan Avenue, Chicago, Illinois 60611 (“NAR”), and (ii) \_\_\_\_\_, a \_\_\_\_\_ corporation, having a place of business at \_\_\_\_\_ (“MLS”). NAR and MLS are collectively referred to as the “Parties,” and individually as a “Party.”

### **RECITALS**

WHEREAS, NAR entered into an agreement with CIVIX-DDI, LLC (“CIVIX”) on May17, 2011 (“the NAR-CIVIX Agreement,” **Attachment 1**);

WHEREAS, in the NAR-CIVIX Agreement, NAR obtained a right to grant to MLS and its Affiliates (as defined below) a non-exclusive license under CIVIX’s Patents (as defined below);

WHEREAS, CIVIX, the owner of the patent rights that are the subject of this Agreement, has confirmed that terms and conditions of this Agreement are consistent with the NAR-CIVIX Agreement;

**NOW, THEREFORE**, in consideration of the above premises and mutual covenants of the Parties herein, the Parties, intending to be legally bound, agree as follows:

### **1. DEFINITIONS**

In addition to the terms defined above and elsewhere in this Agreement, the following terms shall have the following meanings:

- 1.1. “NAR” shall mean National Association of Realtors®.

- 1.2. “MLS” shall include MLS’s officers, directors, members, employees, Shareholders, agents, Subscribers, Users, predecessors, successors, assigns, subsidiaries and Affiliates.
- 1.3. “CIVIX Patents” shall mean (a) all patents and patent applications owned, pending or controlled by CIVIX as of, and acquired subsequent to, the Effective Date including, without limitation, (a) U.S. Patent No. 6,385,622 C1 and U.S. Patent No. 6,415,291 C1; (b) any reissues, reexaminations and extensions of any of the patents and/or applications identified in (a), and (c) all parent, grandparent, child, grandchild and sibling patents to those identified in (a).
- 1.4. “Licensed MLS Products and Services” shall mean any real estate products, software, applications, databases, systems or services owned, operated, used, offered, licensed, sold or provided by or for MLS or its Affiliates.
- 1.5. “Affiliate” shall mean any partnership, corporation, limited liability company, joint venture controlled by MLS, where “control” means the ownership of 50% or more of the equity interests directly by MLS, or indirectly through one or more subsidiaries of MLS, or 50% or more of the voting control of such entity, or the ability to direct the affairs of such entity whether by ownership of securities, contract or otherwise.
- 1.6. “MLS Shareholder” shall mean the shareholder real estate boards or real estate associations or real estate brokers who own the equity of MLS.
- 1.7. “MLS Subscriber” shall mean any licensed real estate broker, real estate brokerage, real estate agent, real estate agency, real estate appraiser or other

authorized person or entity that has entered into an agreement with MLS or is otherwise authorized to access and use the MLS multiple listing service.

1.8. “MLS Supplier” shall mean any third party that provides technology that is incorporated into the Licensed MLS Products and Services.

1.9. “MLS Customer” means all MLS Subscribers of the Licensed MLS Products and Services and all other users of any Licensed MLS Products and Services. The term “MLS Customer” includes all authorized users who have the right to access and use the Licensed MLS Products and Services to search for real estate information content or otherwise manage real estate information content.

1.10. “MLS User” means any user who accesses, uses, displays, runs or otherwise interacts with the MLS multiple listing service or other Licensed MLS Products and Services.

## **2. GRANT OF LICENSE**

NAR grants to MLS and its Affiliates a fully paid-up, worldwide, irrevocable, non-exclusive, non-transferable (except to the limited extent provided herein), retroactive and future license to make, have made, use, provide, sell, license, offer for sale, import or export any product, system, software, equipment or service or to practice any method covered by any claim of the CIVIX Patents. This license shall extend to and include all MLS Shareholders, MLS Subscribers, MLS Suppliers, MLS Customers and MLS Users only with respect to Licensed MLS Products and Services.

## **3. MUTUAL RELEASES**

3.1. **Release to MLS.** CIVIX authorized NAR in the NAR-CIVIX Agreement to grant the following release on behalf of CIVIX. CIVIX and its predecessors, successors

and successors-in-interest, heirs, executors, administrators, assigns, officers, managers, directors, employees, shareholders, Affiliates and agents do hereby and forever release and discharge MLS from any and all claims, actions, causes of action, suits, damages, injuries, duties, rights, obligations, liabilities, adjustments, responsibilities, judgments, trespasses and demands, whatsoever, in law or in equity, whether known or unknown, suspected or unsuspected to exist, now existing or later acquired, based upon, related to or arising out of any fact, circumstance, occurrence or event existing or occurring prior to or after the Effective Date of this Agreement, including, without limitation, all claims for infringement of the CIVIX Patents, either direct and/or contributory and/or by inducement or otherwise that CIVIX has or may have at any time prior to the Effective Date and that could have been asserted against MLS. This release shall extend to MLS Affiliates, MLS Shareholders, MLS Subscribers, MLS Suppliers, MLS Customers and MLS Users only with respect to Licensed MLS Products and Services.

3.2. **Release to CIVIX.** MLs and its predecessors, successors and successors-in-interest, heirs, executors, administrators, assigns, officers, managers, directors, employees, shareholders, Affiliates and agents do hereby and forever release and discharge CIVIX from any and all claims, actions, causes of action, suits, damages, injuries, duties, rights, obligations, liabilities, adjustments, responsibilities, judgments, trespasses and demands, whatsoever, in law or in equity, whether known or unknown, suspected or unsuspected to exist, now existing or later acquired, based upon, related to or arising out of any fact, circumstance, occurrence or event existing or occurring prior to the Effective Date of this Agreement.

#### **4. COVENANT NOT TO SUE**

CIVIX authorized NAR in the NAR-CIVIX Agreement to grant the following covenant not to sue on behalf of CIVIX. CIVIX agrees not to initiate, cooperate in or assist in any litigation, lawsuit, claim, action or appeal against MLS or any of its Affiliates or any MLS Shareholders, MLS Subscribers, MLS Suppliers, MLS Customers or MLS Users relating to any subject that is licensed in paragraph 2, or that is released in paragraph 3.1.

#### **5. INDEMNIFICATION**

CIVIX authorized NAR in the NAR-CIVIX Agreement to grant the following indemnification rights. CIVIX agrees to indemnify, hold harmless and defend MLS in connection with its purchase, use, sale, offer for sale, importation, exportation or license of any products or services that are subject of this Agreement for any claim of infringement arising out of or relating to any patent or application (i) claiming priority to U.S. Patent Application No. 08/371,425, or (ii) currently owned by Procept LLC and previously acquired from CIVIX, including all costs, fees and expenses associated with defending against any such claim and the enforcement of this indemnity obligation. For the avoidance of doubt, the scope of the indemnification obligation in this paragraph 5 extends to the same extent as to the licenses granted by NAR pursuant to paragraph 2 above as if the patents and applications referenced in this paragraph were the CIVIX Patents.

#### **6. RESERVED RIGHTS**

Any and all rights of CIVIX not explicitly granted herein are expressly reserved by CIVIX. No license or immunity as to the CIVIX patents is granted by CIVIX and/or NAR to MLS or any other person or entity directly, by implication, by estoppel or otherwise, other than the license rights in paragraph 2, the release in paragraph 3.1 and the covenant not to sue in

paragraph 4. Furthermore, CIVIX expressly reserves all rights against each of the following entities: Craigslist, CoStar, LoopNet, Trulia and Zillow.

## **7. PAYMENT**

As a condition to obtaining the license in paragraph 2, the release in paragraph 3.1 and the covenant not to sue in paragraph 4, MLS shall pay to NAR a one-time, guaranteed, non-refundable fee of \_\_\_\_\_ U.S. Dollars (\$\_\_\_\_\_), and NAR shall pay to CIVIX the amount required by paragraph 3 of the NAR-CIVIX Agreement, which is:

(a) Within thirty (30) calendar days after the Effective Date of the NAR-CIVIX Agreement, the greater of: (1) Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000); or (2) the sum of (i) Nine U.S. Dollars and Six U.S. Cents (\$9.06) per Participant covered by licenses granted by NAR and (ii) Two U.S. Dollars (\$2.00) per Participant in a Previously Licensed MLS covered by licenses granted by NAR;

(b) Within sixty (60) calendar days after the Effective Date of the NAR-CIVIX Agreement, the greater of: (1) the lesser of Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) and Five Million U.S. Dollars (\$5,000,000) less the amount paid pursuant to (a) above; or (2) the sum of (i) Nine U.S. Dollars and Six U.S. Cents (\$9.06) per Participant covered by licenses granted by NAR and (ii) Two U.S. Dollars (\$2.00) per Participant in a Previously Licensed MLS covered by licenses granted by NAR beyond the Participants and Participants in Previously Licensed MLSs addressed in (a) above; and

(c) Within ninety (90) calendar days after the Effective Date of the NAR-CIVIX Agreement, the lesser of: (1) Seven Million Five Hundred Thousand U.S. Dollars (\$7,500,000) less the amounts paid pursuant to (a) and (b) above; or (2) the sum of (i) Nine U.S. Dollars and Six U.S. Cents (\$9.06) per Participant covered by the licenses granted by NAR and (ii) Two U.S. Dollars

(\$2.00) per Participant in a Previously Licensed MLS covered by licenses granted by NAR beyond the Participants and Participants in Previously Licensed MLSs addressed in (a) and (b) above.

## **8. REPRESENTATIONS AND WARRANTIES**

8.1. **Representations and Warranties of CIVIX.** CIVIX represents and warrants to MLS that: (i) CIVIX owns all right, title and interest in and to, and has the right to license and enforce, the CIVIX Patents; (ii) CIVIX granted NAR the legal authority to grant the rights in this Agreement in and through the NAR-CIVIX Agreement at Attachment 1; and (iii) CIVIX participated in the drafting of, and reviewed and approved, this Agreement.

8.2. **Representations and Warranties of NAR.** NAR represents and warrants to MLS that NAR has the full legal authority necessary to enter into this Agreement.

## **9. TERM AND TERMINATION**

Subject to MLS's and NAR's full compliance with the requirements of paragraph 7 above, and unless terminated upon the mutual written agreement of the Parties and CIVIX, the term of this Agreement shall extend from the Effective Date through the last-to-expire of the CIVIX Patents. All notices required or permitted to be given hereunder shall be in writing and shall be deemed delivered (i) upon receipt if delivered by hand, (ii) the next business day after being sent by prepaid, nationally recognized, overnight air courier, (iii) five (5) business days after being sent by registered or certified airmail, return receipt required, postage prepaid, and (iv) upon transmittal when transmitted by confirmed telecopy (provided that such notice is followed notice pursuant to any of (i)-(iii) above). All notices shall be addressed as follows:

If to CIVIX:

Raymond P. Niro  
David J. Sheikh  
Niro, Haller & Niro  
181 West Madison Street, Suite 4600  
Chicago, Illinois 60602

If to NAR:

Laurene K. Janik  
National Association of Realtors®  
430 North Michigan Avenue  
Chicago, IL 60611

If to MLS:

## **10. ASSIGNMENT AND RESTRICTION ON TRANSFER**

Neither NAR nor MLS may assign, delegate, sell, transfer, sublicense or otherwise dispose of, voluntarily or involuntarily, by operation of law or otherwise, any of its rights or obligations under this Agreement to any other person, business, or entity, without the prior written consent of CIVIX.

## **11. EXECUTION**

This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute a single instrument. This Agreement will become binding upon the exchange between the Parties of facsimile or PDF copies of the required signatures and such faxed or PDF copies shall be binding and effective. The Parties will thereafter exchange formal signed originals of this Agreement for

their permanent records.

## **12. MISCELLANEOUS**

12.1. If any ambiguity arises between the terms and conditions of this Agreement and the terms of the NAR-CIVIX Agreement, the terms of the NAR-CIVIX Agreement shall govern.

12.2. This Agreement shall be governed by and construed in accordance with the federal laws of the United States.

12.3. This Agreement, including the NAR-CIVIX Agreement at Attachment 1, constitutes and contains the final, complete and exclusive Agreement and understanding between the Parties relating to the CIVIX Patents, and this Agreement, including the NAR-CIVIX Agreement at Attachment 1, supersedes and replaces all prior negotiations and all agreements, proposed or otherwise, whether written or oral, concerning the subject matter hereof.

12.4. This Agreement will inure to the benefit of and be binding upon any and all successors-in-interest to the Parties hereto, as well as upon and to any of their successors.

12.5. No amendment, waiver, cancellation or other change in any term or condition of this Agreement shall be valid or binding on any Party, or on CIVIX, unless the same shall have been mutually assented to in writing by all Parties and CIVIX.

12.6. The provisions of this Agreement are severable, and if any part of this Agreement is found to be void or unenforceable, the other parts of this Agreement shall remain fully valid and enforceable in accordance with their terms. Courts may substitute therefore a suitable and equitable provision to carry out, so far as may be valid and enforceable provisions and, if such court shall not do so, the Parties and CIVIX shall negotiate in good faith to agree upon such a provision.

12.7. The failure to enforce any provision of this Agreement shall not be deemed a waiver of any rights under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

NATIONAL ASSOCIATION  
OF REALTORS®

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**ATTACHMENT 1**

**MAY 16, 2011 AGREEMENT BY AND BETWEEN NATIONAL  
ASSOCIATION OF REALTORS AND CIVIX-DDI, LLC**