

**RULES AND REGULATIONS OF THE  
BRYAN-COLLEGE STATION REGIONAL MULTIPLE LISTING SERVICE**

**ADOPTED AUGUST 6, 1984  
WITH AMENDMENTS THROUGH March 22, 2006  
ADOPTED May 17, 2006  
AMENDED January 21, 2009  
AMENDED March 18, 2010  
AMENDED JULY 18, 2012  
AMENDED JUNE 11, 2015  
AMENDED JUNE 16, 2016  
AMENDED FEBRUARY 21, 2019  
AMENDED AUGUST 15, 2019  
AMENDED APRIL 7, 2020**

**AGREEMENT**

Each Participant and Subscriber desiring access to the Bryan-College Station Regional Multiple Listing Service information shall sign an agreement acknowledging receipt and acceptance of a copy of these Rules and Regulations, prior to obtaining access to such information. The Board of Directors (“the Board”) of the Bryan-College Station Regional Multiple Listing Service may adopt policies which pertain to, interpret or expand on these Rules and Regulations (“Board Policy”), which Board Policy shall be deemed part of these Rules of Regulations. Amendments of the Board Policy shall be deemed to be amendments to these Rules and Regulations.

**ARTICLE I - LISTING PROCEDURES**

**Section 1. LISTING PROCEDURES:** All listings of real or personal property, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the Multiple Listing Service, hereafter referred to as the Service, and are taken by Participants on an exclusive right to sell or exclusive agency form shall be delivered to the Bryan-College Station Regional Multiple Listing Service, Inc., hereafter referred to as MLS, within the timeline stated in Board Policy in effect when the listing is delivered after all necessary signatures of seller(s) have been obtained (excepting weekends and holidays). To preclude fines for late submissions of listings, Participants should not date listings until all signatures and approvals have been affixed to the listing agreement. As stated in the Board Policy, a fine will be assessed if a Participant or Subscriber has repeated violations.

*MSL may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants.* No listing form filed with MLS shall establish, directly or indirectly, any contractual relationship between MLS and the client (buyer or seller).

The MLS will accept exclusive right to sell and leasing listing contracts, and exclusive agency listing and leasing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other Participants of the MLS acting as subagents, buyer agents, or both.

The listing agreement must include the seller’s written authorization to submit the agreement to the MLS.

MLS shall not accept net and open listings, however, Participants are free to accept such listings to be handled outside MLS. Open listings are not accepted because the inherent nature of any open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

The exclusive right to sell listing is the conventional form of listing submitted to the MLS in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. Participants must ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations.

All listing content (as defined in Sections 11) of listed property shall be a credible representation of the property listed.

**Section 1.01 CLEAR COOPERATION:** Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS Participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (11/19)

**Section 1.1 LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE.** Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the Rules and Regulations of the Service upon signature of the Seller(s).

**Section 1.2 EXEMPTED LISTINGS:** If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing ("office exclusive") and such listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service. **MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed.** A fine may be assessed as per Board Policy in effect at the time the violation occurs.

**Section 1.3 CHANGE OF STATUS OF LISTING:** Any change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service within specific time frame listed in current board policy (excepting weekends, holidays and postal holidays) after the authorized change is received by the listing broker.

The following action will be taken for failure to report a change within the required time:

If the MLS Board receives more than three (3) written and confirmed complaints within a

six (6) month period, the offending participant will be fined as stated in the Board Policy at the time of fine. Repeated offenses will be forwarded to the Grievance Committee in the form of a complaint from the MLS Board.

The Board reserves the right to obtain any documentation, including but not limited to settlement closing statements from a Participant or Subscriber upon request if a listing is believed to be in violation. Failure to provide requested documentation will result in a fine as stated in the Board Policy in effect at the time the violation occurs.

**Section 1.4 TERMINATION OF LISTING PRIOR TO EXPIRATION:** Listings of property may be terminated from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided notice is filed with the Service. A listing cannot be withdrawn, terminated or reported as expired in order to change days on market count, report sold information or to increase the views of the listing. If it is found that the Participant or Subscriber improperly used these statuses, a fine will be assessed as stated in the current board policy.

Sellers do not have the unilateral right to require MLS to terminate a listing without the listing broker's concurrence. However, when a seller(s) can document that his exclusive relationship with the listing broker has been terminated, the Multiple Listing Service may remove the listing at the request of the seller.

**Section 1.5 CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions other than status change of any term in a listing shall be specified and noticed to the participants in the Private Remarks section of the MLS database (i.e. reserve names, limited showing instructions, legal issues, etc.)

**Section 1.6 LISTING PRICE SPECIFIED:** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

**Section 1.7 LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold or which may be sold separately must be indicated individually in the listing. When part of a listed property has been sold, proper notification should be given to the Multiple Listing Service.

**Section 1.8 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and nonparticipants.

**Section 1.9 EXPIRATION, EXTENSION, AND RENEWAL OF LISTINGS:** Listings filed with the Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement unless prior to that date the MLS receives notice that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the

compilation of current listings, the extension or renewal will be published in the same manner as a new listing.

For a breakdown of the Board Policy may establish the fines to be imposed for expired listings.,

**Section 1.10 TERMINATION DATE ON LISTING:** Listings filed with the Service shall bear a definite and final termination date, as negotiated between the listing broker and the seller.

**Section 1.11 SERVICE AREA:** Only listings of property located within the service area of the MLS are required to be submitted to the Service. The MLS service area shall be the following Texas counties: Brazos, Burleson, Grimes, Leon, Madison and Robertson. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a Participant but cannot be required by the Service.

**Section 1.12 LISTINGS OF SUSPENDED PARTICIPANTS:** When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be edited, renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

**Section 1.13 LISTINGS OF EXPELLED PARTICIPANTS:** When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his clients.

**Section 1.14 LISTINGS OF RESIGNED PARTICIPANTS:** When a Participant resigns from the MLS; the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised in writing of the intended removal so that the resigned Participant may advise his clients.

### **Section 1.15 TOUR CUT-OFF DAY AND TIME:**

Monday 3:30 p.m. for Tuesday MLS Tour (Tour hours will be from 9:30 a.m. to 3:00 p.m. exclusively.)

**Section 1.16 PUBLIC REMARKS, PRIVATE REMARKS, AND SUBMISSION OF WEB HYPERLINKS, DIGITAL DOCUMENTS AND PHOTOS ON ALL LISTINGS:** Public Remarks shall only describe the physical traits of the property and incentives provided solely by the seller to a buyer, specifically related to the property with a specific purpose and must comply with HUD regulations/guidelines, including but not limited to RESPA. Remarks of a promotional nature are strictly prohibited; incentives cannot include a third-party or third-party reference. (Adopted 4/7/20)

Any name(s), phone number(s), agent photo(s), logo(s), promotion for a closing service provider or any other peripheral service, agent branding or email addresses or web site addresses, including the use of embedded, overlaid, or digitally stamped information is prohibited in the Public Remarks section. Homebuilder name is permitted as long as the homebuilder is not a member of the MLS, as it describes the property. (Adopted 8/16/06)

Digital images, photo descriptions or digital documents submitted to MLS shall only contain photos and information pertinent to the listed property, floor plans of the listed property, and renderings of the listed property or plat maps. Digital images shall not contain contact information such as name(s), phone number(s), agent photo(s), logo(s), promotion for a closing service provider or any other peripheral service, agent branding or email addresses or web site addresses, including the use of embedded, overlaid, or digitally stamped information since this information is displayed on IDX sites. (Adopted 8/16/06)

Virtual tour hyperlinks or any other hyperlinks shall focus on the subject property only. Links to galleries or other web sites are prohibited. The link cannot display any contact information such as name(s), phone number(s), agent photo(s), logos or promotion for a closing service provider or any other peripheral service, agent branding or web addresses, including the use of embedded, overlaid, or digitally stamped information since this information is displayed on IDX sites. (Adopted 8/16/06)

For failure to comply with Section 1.16, agent and broker will be sent a warning email to correct listing within the time frame stated in the email. If listing is not corrected within the time allotted, a branding violation as stated in the Board Policy in effect at that time will be assessed and the MLS staff will take corrective action to remove the incorrect data or link. (Adopted 8/16/06)

**Section 1.17 COMING SOON STATUS:** MLS Participants and Subscribers may enter a listing into the MLS using the Coming Soon Status. By filing a property in MLS with “Coming Soon” status, an MLS Participant or Subscriber is deemed to represent and warrant that (a) the MLS Participant or Subscriber has a listing agreement with the Seller; (b) the Seller has requested that the property be withheld from Active status in the MLS for a stated amount of time (not to exceed the maximum Coming Soon Period defined below) and for a stated reason (e.g. to prepare the home for showings, needed repairs, legal matters); and (c) Seller authorizes entry in the MLS under the “Coming Soon” Status during the Coming Soon Period. The “Coming Soon Pe-

riod” is defined as the time commencing on the date the listing is first entered into MLS by the listing Subscriber or Participant (“the CS Entry Day”) and ending no later than the 5:00 p.m. on the thirtieth (30<sup>th</sup>) day following the CS Entry Day (“the CS Expiration Time”). No later than 12:00 noon on the day following the CS Expiration Time, the listing must be changed to Active. However, if the MLS Participant does not change the status of the Coming Soon listing prior to 12:00 noon on the day after the CS Expiration Time, the listing shall automatically convert to an Active listing.

Additionally, listings utilizing the Coming Soon Status are subject to the following rules: (1) the property may not be shown by any Subscriber or Participant (including the listing Subscriber or Participant) during the Coming Soon Period; (2) during the Coming Soon Period, a Seller may not accept any offers; and (3) during the Coming Soon Period Seller may not conduct an Open House. The fine schedule is as follows: a first violation = \$100.00, a second violation = \$250.00 and a third violation = \$500.00. The MLS Board shall set and impose additional fines for repeat offenders and any other sanction(s), provided by the Rules and/or Board policy, in order to ensure compliance with this rule. Any fine(s) established by the MLS Board shall reset annually.

*Note: The COMING SOON status is provided to insure maximum exposure of properties for the benefit of sellers and is not intended to give the listing broker an advantage in finding a buyer for the property to the detriment of sellers or cooperating brokers, or to circumvent the selling of the property on an open market. The intended use of this status is to 1) provide a vehicle for Participants and Subscribers to notify other Participants and Subscribers of properties that will be made fully available for showing and marketing after preparations have been completed, and to 2) provide Participants and Subscribers a method to comply with NAR’s MLS Policy Statement 8.0.*

## **ARTICLE II - SELLING PROCEDURES**

**Section 2. APPOINTMENTS FOR SHOWING:** Appointments for showings with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing Participant or Subscriber, except where the listing Participant or Subscriber gives the cooperating Participant or Subscriber specific authority to contact the owner directly for showing; provided, however, the cooperating Participant or Subscriber may not engage in negotiations, directly or indirectly, with the seller. Listing Participants or Subscribers also have the option to use Board Approved Showing Services online program to conduct showings. All Participant or Subscriber must look at the showing instructions prior to showing the property to their clients. Failure to follow the showing instructions will lead to a fine stated in the Board Policy. (Amended 3/18/10)

**Section 2.1 SHOWING AGENT’S IDENTITY POLICY:** Each broker or agent (other than the listing broker and agent) who shows a residential property may leave a business card in the residential property each time the property is shown identifying the agent and the agent’s contact information; however, there cannot be any solicitation on the business card. No other items may be left at the property. Violations of this Section shall be punishable by uniform warnings or fines in such sums as the MLS Board may establish and revise from time to time by written policy. (Adopted 3/18/10)

**Section 2.2 PRESENTATION/DELIVERY OF OFFERS:** The listing broker must make arrangements to present the offer within 48 hours or give the cooperating broker a satisfactory

reason for not doing so. The cooperating broker may deliver an offer to the seller directly if the listing broker consents to the delivery, a copy of the offer is sent to the listing broker (unless the seller is a governmental agency using a sealed bid process does not allow a copy to be sent), and the cooperating broker does not engage in any negotiations, directly or indirectly, with the seller.

**Section 2.3 SUBMISSION OF WRITTEN OFFERS AND COUNTER-OFFERS:** The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

**Section 2.4 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:**

Cooperating participants or their representatives have the right to participate in the presentation of any offer they secure to purchase or lease to the seller or lessor. They do not have the right to be present at any discussion or evaluation of the offer by the seller or lessor and the listing broker. However, if a seller or lessor gives written instructions to a listing broker that cooperating brokers may not be present when offers they procure are presented, cooperating brokers have the right to a copy of those instructions. This policy is not intended to affect listing brokers' right to control the establishment of appointments for presentation of offers.

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, **as soon as practical**, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. (11/19)

**Section 2.5 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFERS:** The listing broker or his representatives has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

**Section 2.6 REPORTING SALES TO THE SERVICE:** Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing Participant or Subscriber within the appropriate time frame as stated in the Board Policy. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 48 hours after receiving notice from the cooperating broker. (Amended November, 2008)

NOTE: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to

provide sales information including selling price to the MLS upon the sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants.

NOTE: Failure to report sale prices can result in disciplinary action because MLS:

1. Categorizes sale price information as confidential, and
2. Limits use of sale price information to participants and subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below.

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirements to report sale prices.

NOTE: As established in the Virtual Office Website (“VOW”) policy, sales prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records.

For failing to comply with this regulation, will result in a fine determined by the board that will be added to the Participant’s next monthly invoice.

**Section 2.7 REPORTING RESOLUTIONS OF CONTINGENCIES:** The listing broker shall report to the Multiple Listing Service that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement canceled within the time frame stated in the Board Policy at that time..

**Section 2.8 ADVERTISING OF LISTING FILED WITH THE SERVICE:** A listing shall not be advertised by any Participant, other than the listing Participant or Subscriber without the prior consent of the listing broker.

**Section 2.9 REPORTING CANCELLATION OF PENDING SALE:** The listing agent/broker shall report immediately to the Multiple Listing Service the cancellation of any pending sale, and the listing shall be reinstated immediately.

**Section 2.10 DISCLOSING THE EXISTENCE OF OFFERS:** Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.



**Section 2.11 Availability of Listed Property:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

### **ARTICLE III - REFUSAL TO SELL**

**Section 3. REFUSAL TO SELL:** If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

### **ARTICLE IV - PROHIBITIONS**

**Section 4. INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

**Section 4.1 "FOR SALE" SIGNS:** Only the "For Sale" sign of the listing Participant or Subscriber may be placed on a property.

**Section 4.2 "SOLD" SIGNS:** Prior to closing, only the "Sold" sign of the listing Participant or Subscriber may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

**Section 4.3 SOLICITATION OF LISTING FILED WITH THE SERVICE:** Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTORS®' Code of Ethics, its Standards of Practice and its Case Interpretations.

NOTE: This Section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This Section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

This Section is also intended to encourage brokers to participate in the Service by assuring them that other Participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this Section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

This Section does not preclude solicitation of listing under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.

**Section 4.4 LOCKBOXES:** "Lockbox" is defined for purposes of MLS Rules and Policies as a device which holds one or more keys or codes intended to provide entry into a structure, which is not permanently installed or affixed to the structure. All Bryan-College Station Regional Multiple Listing Service, Inc. participants and subscribers shall use MLS authorized lockboxes on properties submitted to the MLS database, when the sellers of such properties permit the use of a lock box. Participants and subscribers also may place additional approved lock boxes other than MLS authorized lockboxes on such listings. For a list of approved lockboxes and board

procedure regarding non-Supra lockboxes, refer to the Board Policy at that time. If owner of property does not want a lockbox on their property, the listing Participant or Subscriber must have this documented in the listing agreement and file with Service.

## **ARTICLE V - DIVISION OF COMMISSIONS**

### **Section 5 Compensation Specified on Each Listing**

The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

In filing a property with the multiple listing service of an association of REALTORS<sup>®</sup>, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.

The compensation specified on listings filed with the multiple listing service shall appear in one of two forms. The essential and appropriate requirement by an association multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount

**Note:** MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation).

The listing broker retains the right to determine the amount of compensation offered to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities

defined by law) which may be the same or different.

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

**Note 1:** The association multiple listing service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The association multiple listing service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

**Note 2:** The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. (Amended 4/92)

**Note 3:** The multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

**Note 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction.

**Note 5:** Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction.

**Note 6:** Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be

communicated through dedicated fields or confidential “remarks” available only to participants and subscribers.

**Section 5.0.1:** Participants may, but are not required to, disclose potential short sales to other participants and subscribers. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.

**Section 5.1 PARTICIPANT AS PRINCIPAL:** If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any ownership interest in property, the listing of which is to be disseminated through the Multiple Listing Service, that person shall disclose that interest when the listing is filed with the Multiple Listing Service and such information shall be disseminated to all Multiple Listing Service Participants and must be stated in the private remarks of the listing.

**Section 5.2 PARTICIPANT AS PURCHASER:** If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker as well as stated in the private remarks of the listing.

**Section 5.3 DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS:** The existence of a dual or variable rate commission arrangement (i.e. one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord ) shall be disclosed by the listing broker by the symbol "\*" inserted after the selling commission. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternately, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

## **ARTICLE VI - SERVICE CHARGE & FEES**

**Section 6. SERVICE FEES AND CHARGES:** The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:

- (a) **Initial Participation Fee:** An applicant for participation in the Service shall pay an application fee to accompany the application. The application fee for Participant or Subscriber are non-refundable.
- (b) **Recurring Participation Fee:** The monthly participation fee of each Participant shall be an amount equal to an amount to be set by the MLS Board, multiplied by each salesperson and licensed or certified appraiser who has access to and use of the service (“a Subscriber”), whether licensed as a broker, sales licensee or licensed or certified

appraiser, who is employed by or affiliated as an independent contractor with such Participant (plus current sales tax). The monthly participation fees shall be billed directly to each Subscriber. Payment of such fees shall be made on or before the date determined by the Board. Fees shall be prorated on a monthly basis for new applicants.

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that broker participants to sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated.

- (c) **Late Fee:** A late fee as stated in the Board Policy will be added to the outstanding balance of any service charge or fee that has not been paid. If the participant continues to have an outstanding balance, a suspension fee as stated in the Board Policy will be added to their account.
- (d) **Computer Input Charges:** The MLS will charge a set amount determined by the Board to input or change a listing by the MLS staff into the computer system.
- (e) **Other Fees:** The MLS will charge a set amount as established by the Board Policy for the following: agent application, branch office, transfer and reinstatement .

**Section 6.1 FIRMS OUTSIDE OF TERRITORY EXERCISING BOARD OF CHOICE OPTION:** Firms outside the territory of the Service requesting Participant status shall provide written confirmation of REALTOR® membership through another Board or Association of REALTORS®. Fees shall be the same as for other Participants.

**Section 6.2 PUBLIC AND PRIVATE IDS:** The public and private ID issued to each MLS Participant and user shall not be loaned, shared, disclosed, or allowed to come into the possession of any other person. The public and private ID shall only be used for purposes permitted by the MLS rules and for no other purposes whatsoever. In the event that any disclosure of Public and Private ID results in access to the MLS by an unauthorized third party, regardless if such disclosure is intentional, negligent, or inadvertent, the ID holder shall be liable to the MLS for liquidated damages as stated in the Board Policy.

**Section 6.3 LOCKBOX KEY/COMBO CODE RULES:** Each MLS Participant and user shall be eligible to obtain a lockbox key subject to their execution of a key agreement with the MLS approved key provider and payment of the required fees (“keyholder”).

Each lockbox key and PIN Code shall not be loaned, shared, or allowed to come into the possession of anyone other than the keyholder. A keyholder and the keyholder's broker who violates this rule may discuss the alleged violation with the MLS President to discuss the facts or situation. The MLS President, if he or she determines the rule has been violated, will impose fines and punishment as stated in the Board Policy in effect at that time. The MLS President will immediately contact the MLS office and communicate the findings and punishment to the appropriate staff. With respect to this paragraph, if the MLS President has a conflict of interest because the keyholder alleged to have committed a violation works in the same company or has a personal or direct business affiliation with the MLS President, the President Elect of MLS shall act on behalf of the President. The decision of the President regarding the alleged violation of lockbox rules will be processed consistent with the procedures in Sections 9 and 9.1. To the

extent of any conflict between Section 9 and 9.1 and this Section 6.2 and 6.3 with respect to public and private IDs and lockbox key and combination locks, the provisions of 6.2 and 6.3 shall control.

Each combo code shall not be shared or allowed to come into the possession of anyone other than the listing agent and showing agent. The combo code shall not be listed in the MLS. Subscribers must use an approved showing service along with the use of a combo lockbox. Any Participant or Subscriber found in violation will impose the fines and punishment as stated in the Board Policy.

The policy for handling charges in Section 6.2 and 6.3 will be as follows:

In writing (fax, email or mail), with dated explanation attached (i.e. detail listing view sheet, lockbox reading report, written documentation from buyer, seller, broker or agent, etc.).

A charge will automatically be entered into the appropriate MLS account, if appropriate. It will then appear on the Participant's next MLS invoice. It will be up to the Subscriber or Participant to show he/she did not violate the MLS rule. MLS Participant will have a chance to protest the charge.

## **ARTICLE VII - COMPLIANCE WITH RULES**

**Section 7. COMPLIANCE WITH RULES:** The following action may be taken for noncompliance with the Rules:

- (a) For failure to pay any service charge or fee, and provided that notice has been given, the Service of the participant shall be suspended until service charges or fees are paid in full.
- (b) For violation of the provisions of the MLS key agreement, the MLS Board of Directors may fine the Participant (Designated REALTOR®) and Subscriber.
- (c) For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

**Section 7.1 APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS:** Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any user or subscriber to abide by the Rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

## **ARTICLE VIII - MEETINGS**

**Section 8. MEETINGS:** The meetings of the Participants of the Service or the Board of Directors of the Service for the transaction of business of the Service shall be held in accordance with the provisions of Article 7, Bylaws of the Service.

## **ARTICLE IX - ENFORCEMENT OF RULES OR DISPUTES**

**Section 9. CONSIDERATION OF ALLEGED VIOLATIONS:** The Board of Directors shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Board of Directors.

**Section 9.1 VIOLATIONS OF RULES AND REGULATIONS:** If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Board of Directors of the Service, and if a violation is determined, the Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws of the Association within 20 days following receipt of the directors' decision.

If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the Board of Directors of the MLS. Alleged violations involving unethical conduct shall be referred to the Professional Standards Committee of the Association of REALTORS® for processing in accordance with the professional standards procedures of the Association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Association of REALTORS.

**Section 9.2 COMPLAINTS OF UNETHICAL CONDUCT:** All other complaints of unethical conduct shall be referred by the Board of Directors of the Service to the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's Bylaws.

### Section 9.3 Complaints of Unauthorized Use of Listing Content

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the Board of Directors will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the Board of Directors that the use is authorized. Any proof submitted will be considered by the Board of Directors, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Board of Directors determines that the use of the content was unauthorized, the Board of Directors may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Board of Director's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

#### Section 9.4 MLS Rules Violations

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules.

### **ARTICLE X - CONFIDENTIALITY OF MLS INFORMATION**

**Section 10. CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

**Section 10.1 MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:** The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

### **ARTICLE XI - OWNERSHIP OF MLS COMPILATIONS\* AND COPYRIGHTS**

**Section 11.** By the act of submission of any property listing content to the MLS, the Participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and there rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property, all of which must be a credible representation of the listed property.

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content.

*Note: The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the*



penalties for copyright infringement occurring on the Internet. The law provides exemptions or “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as participants and subscribers hosting an IDX display.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

- (1) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
  - (2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
  - (3) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
  - (4) Have no actual knowledge of any complained-of infringing activity.
  - (5) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
  - (6) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.
- Full compliance with these DMCA safe harbor criteria will mitigate an OSP’s copyright infringement liability. For more information see [17 U.S.C. §512](#).

**Section 11.1** All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Bryan-College Station Regional Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the Bryan-College Station Regional Association of REALTORS®.

**Section 11.2** Each Participant shall be entitled to lease from the Bryan-College Station Regional Association of REALTORS® a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay, for each such copy the rental fee set by the Association. \*\*

Participants shall acquire by such lease only the right to use the MLS compilations in accordance with these rules.

\* The term “MLS compilation”, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer database, card file, or any other format whatever.

\*\* This section should not be construed to require the Participant to lease a copy of the MLS Compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling or appraising the types of properties which are required to be

filed with the MLS, and who does not, at any time, have access to nor use of the MLS information or MLS facility of the Association.

## **ARTICLE XII - USE OF COPYRIGHTED MLS COMPILATIONS**

**Section 12. DISTRIBUTION:** Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the Association, and shall not distribute any such copies to persons other than subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by the Association's Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by the Association's Multiple Listing Service where access to such information is prohibited by law.

**Section 12.1 DISPLAY:** Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.

**Section 12.2 REPRODUCTION:** Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable\* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are, or may, in the judgment of the Participants or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage

purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

Under no circumstances shall the seller's name and telephone number be included in the reproduction of any MLS Compilation.

It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent, and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS Compilation, how closely the types of properties contained in such listing accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

### **ARTICLE XIII - USE OF MLS INFORMATION**

**Section 13. LIMITATIONS ON USE OF MLS INFORMATION:** Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the Association or MLS may be used by MLS Participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other Participants, or which were sold by other Participants (as either listing or cooperating broker).

However, any print or non-print forms of advertisement or other forms of public representations based in whole or in part on information supplied by the Association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

☐Based on information from the Bryan-College Station Regional Multiple Listing Service for the period (date) through (date)".

### **ARTICLE XIV - CHANGES IN RULES AND REGULATIONS**

**Section 14. CHANGES IN RULES AND REGULATIONS:** Amendments to the rules and regulations of the Service shall be by consideration and approval of the Board of Directors of the Multiple Listing Service, in accordance with the provisions of Article X, Section B, Bylaws of the Service, subject to final approval by the Board of Directors of the Association (shareholder).

### **ARTICLE XV – ORIENTATION**

**Section 15. ORIENTATION:** Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided.

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely.

## **ARTICLE XVI – INTERNET DATA EXCHANGE (IDX)**

**Section 16. IDX DEFINED:** IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant’s control: websites, mobile apps, and audio devices. As used throughout these rules, “display” includes “delivery” of such listings..

**Section 16.1. AUTHORIZATION:** Participants’ consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant’s listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.

**Section 16.2. PARTICIPATION:** Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants.

**Section 16.2.1** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

**Section 16.2.2** MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines.

**Section 16.2.3** Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing brokers to withhold their listing or the listing’s property address from all display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) or other electronic forms of display or distribution.

**Section 16.2.4** Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location

(“uptown”, “downtown”, etc.), list price, type of property, (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each Participant.

**Section 16.2.5** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads not less frequently than every 12 hours. Failure to comply will result in a fine determined by the Board. After three (3) IDX violations within a twelve (12) month period will result in the termination of the Designated Broker’s IDX privileges for a stated period of one (1) to three (3) years, consistent with the procedures of Sections 9 and 9.1. (Amended 11/14)

**Section 16.2.6** Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity.

**Section 16.2.7** Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules.

#### **Section 16.2.8**

Any IDX display controlled by a participant or subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 16.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

#### **Section 16.2.9**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

#### **Section 16.2.10**

An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

### **Section 16.2.11**

Participants shall not modify or manipulate information relating to other participants listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields.

### **Section 16.2.12**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.

Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the devices application.

**Section 16.3 DISPLAY:** Display of listing information pursuant to IDX is subject to the following rules:

**Section 16.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participant and users (e.g. cooperative compensation offers, showing instruction, property security information, etc.) may not be displayed on IDX sites.

**Section 16.3.1.1** The type of listing agreement (e.g. exclusive right to sell, exclusive agency, etc.) may not be displayed.

~~**Section 16.3.2** Participants shall not modify or manipulate information relating to other Participant’s listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.~~

**Section 16.3.3** All listings displayed pursuant to IDX shall identify the listing agent and listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

**Section 16.3.4** All listings displayed pursuant to IDX shall identify the listing agent.

**Section 16.3.5** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their Participant’s consent and control and the requirements of state law and/or regulation.

**Section 16.3.6** Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 11/14)

Note: An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display.

**Section 16.3.7** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumer’s personal, non-commercial use, that it not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

**Section 16.3.8** The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer.

**Section 16.3.9** The right to display other Participant’s listings pursuant to IDX shall be limited to a Participant’s office(s) holding participatory rights in this MLS.

**Section 16.3.10** Listings obtained through IDX must be displayed separately from listings

obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g. from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

**Section 16.3.11** Display of expired, withdrawn, and sold listings\* is prohibited.

\*Note: If “sold” information is publicly accessible, display of “sold” listings may not be prohibited. (Amended 11/09 11/14)

**Section 16.3.12** Display of seller’s (s’) and /or occupant’s (s’) name(s), phone number(s), and email address (es) is prohibited.

**Section 16.3.13** Participants are required to employ appropriate security protection such as firewalls on their websites and displays provided that any security measures required may not be greater than those employed by the MLS.

**Section 16.3.14** Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

**Section 16.3.15** Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

**Section 16.4 – SERVICE FEES AND CHARGES:** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **ARTICLE XVII-VIRTUAL OFFICE WEBSITES**

**Section 17.1 (a):** A Virtual Office Website (“VOW”) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.

(b) As used in Section 17 of these Rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees – except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner (“AVP”) on behalf of a Participant.

(c) “Affiliated VOW Partner” (“AVP”) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the participant’s



supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

- (d) As used in Section 17 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

**Section 17.2 (a):** The right of a Participant’s VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

- (b) Subject to the provisions of the VOW Policy and these Rules, a Participant’s VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange (“IDX”).
- (c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant’s VOW.

**Section 17.3 (a):** Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

- (i) The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - (ii) The Participant must obtain the name of, and a valid email address for, each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of use.
  - (iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.
- (b) The Participant must assure that each Registrant’s password expires on a date certain but

may provide for renewal of the password. The Participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The Participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant's password.

- (c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- (d) The Participant shall require each Registrant to review, and affirmatively to express agreement (by mouse click or otherwise) to, a "Terms of Use" provision that provides at least the following:
  - (i) That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
  - (ii) That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use;
  - (iii) That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
  - (iv) That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant's consideration of the purchase or sale of an individual property;
  - (v) That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.
- (b) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- (c) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

**Section 17.4:** A Participant's VOW must prominently display an email address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee

licensed with the Participant, must be willing and able to respond knowledgeably to inquires from Registrants about properties within the market area served by that Participant and displayed on the VOW.

**Section 17.5:** A Participant’s VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, “scraping”, and other unauthorized use of MLS Listing Information. A Participant’s VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

(Note: MLSs may adopt rules requiring Participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.)

**Section 17.6 (a):** A Participant’s VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller’s listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

(b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision:

**Seller Opt-Out Form**

1. Please check either Option a or Option b

a.  I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.

OR

b.  I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.

2. I understand and acknowledge that, if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.

\_\_\_\_\_  
Initials of seller

(c) The Participant shall retain such forms for at least one year from the date they are signed, or one year from the date the listing does off the market, whichever is greater.

**Section 17.7:**

- (a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- (b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has selected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to section 17.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

**Section 17.8:** A Participant's VOW shall maintain a means (e.g., email address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 17.9:** A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

**Section 17.10:** Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

**Section 17.11:** A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 17.12:** A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

**Section 17.13:** A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

**Section 17.14:** A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a

Participant by an AVP is subject to the supervision and accountability of the Participant.