

**MLS Rules & Regulations**  
**of the**  
**Memphis Area Association of REALTORS®**

Revised January 26, 2012

**DEFINITION OF TERMS**

**MULTIPLE LISTING SERVICE:** The Multiple Listing Service (“MLS”) of the Memphis Area Association of REALTORS® (“Association”) is a facility for the orderly correlation and dissemination of listing information among Participants so they may better serve their clients and customers and the public; is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; is a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; and is a means by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker’s performance as a procuring cause of the sale (or lease).

**PARTICIPATION:** Any REALTOR® member of this or any other Association who is a principal, partner, corporate officer, or branch office manager acting on behalf of the principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service “membership” or “participation” unless they hold a current, valid real estate broker’s license and offer or accept compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association 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 an association multiple listing service where access to such information is prohibited by law.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. “Actively” means on a continual and ongoing basis during the operation of the participant's real estate business. The “actively” requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law.

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a “Virtual Office Website” (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants.

**SUBSCRIBER or USER:** The terms "subscriber" or "user" as used herein are the following persons who are affiliated with a Participant: REALTOR® Members, REALTOR-ASSOCIATE® Members, non-member licensees and licensed or certified real estate appraisers in the Participant's firm.

**ASSISTANT:** The term "Assistant" as used herein includes the following persons who are eligible to receive access to the MLS: Any person who has completed an "MLS System Access Agreement for Assistants" form and holds a valid real estate license or is employed (i.e., employee or independent contractor) by an MLS Participant/MLS Subscriber.

**FILED:** The term "filed" as used herein refers to input into the computer.

**SUBMITTED:** The term "submitted" as used herein refers to delivery to the MLS Department.

## **INTRODUCTION**

Every effort must be made to insure that the Member, who voluntarily joins the MLS, understands that he or she must be a responsible and ethical real estate practitioner as well as a cooperative competitor and must share in the spirit of fellowship and camaraderie that is necessary to achieve singular success in the real estate field of endeavor. The best interest of the real estate profession must be uppermost in the minds of Participants as any MLS system is only as strong as its weakest Members. This spirit must be imbued in every other MLS Member who is working with another Member using this system.

Therefore, the MLS Information Network Committee and the Board of Directors of the Association are pledged to protect the best interests of the Members in devising a system that is in consonance with the policy of the National Association of REALTORS®, the highest ethical standards, and efficient and effective business practices and procedures. Every effort will be made to insure that the lowest possible operating costs will be maintained consistent with the actual costs of operating an up-to-date system and that equitable and reasonable charges of fees are made to all Members who use this system.

In all fairness, all Members who use the system willingly shall pay their fair share of these expenses. A reasonable reserve will be necessary in these cost factors since the MLS system is profit-making and federal taxes are paid.

## **LISTING PROCEDURES**

**Section 1. LISTING PROCEDURES:** It shall be mandatory that Participants file with the MLS listings of Categories 1, 2, 3, and 5 located within the MLS's jurisdiction of Shelby, Tipton, Fayette, Hardeman, Hardin, Lauderdale and McNairy Counties in Tennessee, DeSoto County in Mississippi and Crittenden County in Arkansas (excluding existing residential properties listed for \$12,500 or less), wherein an exclusive right to sell listing has been obtained. Listings on homes under construction shall be filed with the MLS upon completion (the house will be considered complete when it has passed the FHA-VA final inspection or City-County final inspection).

**NOTE 1: Listing Forms:** Any Participant may use a form for submission to the MLS, however, the MLS reserves the right to refuse to accept any form submitted by a Participant which fails to adequately protect the interest of the public and the Participants and/or which establishes, whether directly or indirectly, any form of contractual relationship between the MLS on the one hand and the seller or buyer on the other hand.

**NOTE 2:** The MLS may not accept net listings because they are deemed unethical and illegal. Open listings are not accepted because the inherent nature of an 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.

An exclusive agency listing may be filed at the option of the listing broker. The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive right to sell listings with named prospects exempted should be clearly distinguished 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. The listing agent should state in the REALTOR® REMARKS "Exclusions" if the exclusive right to sell listing contains exclusions.

**NOTE 3: Definitions**

**Active:** A listing for which the Participant has a current listing Agreement. Listings that are not available to be shown by anyone, including the listing agent, may be placed in Active Status with the Seller's written authorization.

**Active Contingency:** A listing for which there is a valid, working contract with a contingency, as clarified by contingency type as reference in Note 4 of this Section.

**Expired:** A listing for property that did not sell during the timeframe specified in the listing agreement.

**Off Market:** A listing for which the participant has a current listing agreement but currently is not available to be shown and has been temporarily withdrawn from the market (i.e. to make repairs, to accommodate out-of-town guests), as per written instructions by the seller.

**Pending:** A listing for which the seller and a buyer would have a valid, working contract to sell-purchase the property. Note: A Pending Listing will not remain in the Active section of the computer.

**Sold:** A listing for which the closing has occurred. Note: A closing is determined to have occurred when the deed on the listing property has been recorded or the net sales proceeds have been disbursed to the account of the seller whichever occurs first.

**Withdrawn:** A listing for which the listing broker has a current listing agreement but for which the seller has requested be withdrawn from the market prior to the expiration date of the listing agreement.

**Withdrawn-Released:** A listing that the listing broker and the seller mutually have agreed to terminate prior to the expiration of the listing agreement.

**Note 4: Contingencies:** In making a change to a listing regarding a contingency, listing brokers shall indicate the type of contingency by appropriate use of the following types, as provided for in the MLS system:

- CLAGT – Call Agent\*
- CT 24hr – 24-hour clause
- CT 48hr – 48-hour clause
- CT 72hr – 72-hour clause
- CT DPA – Financing-Down Payment Assistance
- CT Insp – Inspection contingency
- CTS – Continue to Show\*
- Other – See REALTOR® REMARKS
- SUBPR – Sub-Prime Financing

\*The "\*" referenced in Note 4 shall draw MLS Participants' attention to the REALTOR® REMARKS, in which the listing broker shall provide further comment on the contingency.

Note 5: Photos: One primary image (i.e., photo, drawing, plat, survey or similar media,) is required for each listing filed with the MLS, unless written documentation requesting an image not be submitted is signed by the seller and submitted to the MLS. In satisfying this requirement, MLS Participants should be mindful of Article 12 of the NAR Code of Ethics, which requires that "Realtors shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations." For failure to submit a primary image within seventy two (72) hours of entering the listing, the Participant shall be sanctioned according to Section 7 Compliance With Rules.

**Limited Service Listings**

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**MLS ENTRY-ONLY LISTINGS:** Listing agreements under which the listing broker will not provide any of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g., EO) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**EQUITABLE OWNERSHIP INTEREST LISTINGS:** Listing brokers, who enter into listing agreements to market properties in which the seller has an equitable ownership interest by an accepted offer to purchase the property, shall state in the REALTOR® REMARKS: "Equitable Ownership Interest. Call Listing Agent for details."

**TYPES OF PROPERTIES:** The following are some of the types of properties that may be published through the MLS, including types described in the preceding paragraph that are required to be filed with the MLS, and other types that may be filed with the MLS at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker:

- a. Residential
- b. Residential Income
- c. Subdivided Vacant Lot
- d. Land
- e. Business Opportunity (if building or land included)
- f. Motel-Hotel
- g. Mobile Home (if land included)
- h. Mobile Home Parks
- i. Commercial Income
- j. Industrial
- k. Rentals

**INELIGIBLE LISTINGS:** The following are not acceptable for filing in the MLS and shall be rejected if submitted:

- a. Properties joint-listed by a Participant with a licensed broker who is not a member of the MLS
- b. Net listings and open listings
- c. Cemetery lots

**CATEGORY:** A listing must be filed in its appropriate category as defined by the computer profile sheets and staff will be permitted under these Rules and Regulations to correct listings not entered properly:

- a. Category 1 - Residential Single Family, P.U.D., Zero Lot Line
- b. Category 2 - Condominium
- c. Category 3 - Lots and Acreage
- d. Category 4 - Improved Commercial and Industrial
- e. Category 5 - Duplexes
- f. Category 6 - Multi-Residential Investment
- g. Category 7 – Rentals

**AUCTION PROPERTIES:** Auction properties may be accepted into the MLS only with the list price as stated in the Listing Agreement. The following shall be included in the PUBLIC REMARKS section: “This property subject to auction and the auction will be held on (date).”

**MULTI-CATEGORY:** A listing may not be filed in more than one category except in these situations or unless approved by the MLS Information Network Committee on a case-by-case basis:

- a. A house and lot being sold either as commercial or residential property may be filed in either Category 1 or 4 or both.
- b. A house on a lot of 5 acres or more may be filed in either Category 1 or 3 or both.
- c. A single family house which has been converted to multi-residential and could be sold to revert to single family may be filed in either Category 1 or 6 or both.
- d. A commercial property with a structure may be filed in either Category 3 or 4 or both.
- e. A property that is available for rent or sale, may be filed in Category 7 or another Category or both.
- f. A duplex that was formerly a single Family Home and can be converted back to a Single Family Home may be entered in both Category 1 and Category 5.

**AREA:** Listings may only be filed in their proper geographical area as defined by the MLS Reference Maps. Staff will be permitted under these Rules and Regulations to correct listings not entered properly.

**LISTINGS IN SAME SUBDIVISION:**

- a. Model Home Not Presently For Sale: A Participant may submit a listing of a model home that may or may not be for sale as “representative” of others of the same floor plan, builder, subdivision, price and offered compensation. The Participant shall stipulate in the PUBLIC REMARKS that the model home IS NOT PRESENTLY AVAILABLE.
- b. New Homes: A Participant may submit a listing of a new home that is for sale and “representative” of others of the same floor plan, builder, subdivision, price and offered compensation.
- c. Lots: A Participant may submit a listing of a Lot “representative” of others of the same seller, subdivision, price and offered compensation.
- d. Reporting “Representative” Sales to MLS: Sales of all “representative” properties described in a), b), or c) above not filed in MLS should be reported to the MLS, with seller’s permission, within forty-eight (48) hours.

**FILING OF LISTINGS:** Participants shall be responsible for having on file the written authorization of the owner to submit a listing or extension to the MLS. The MLS has the right to audit office records periodically to ensure proper listing agreements are on file.

**TIME LIMITS:** The listing data must be added to the computer within forty-eight (48) hours of the date of the listing. Firms without a computer access must submit the profile sheet to the MLS within forty-eight (48) hours of the date of the listing. All time limits or periods specified in these Rules and Regulations are exclusive of Saturdays, Sundays, and legal holidays. Holidays are determined by the banking institutions of Shelby County.

**Section 1.1. LISTINGS SUBJECT TO MLS RULES & REGULATIONS:** Any listing taken on a contract to be filed with the MLS is subject to the Rules & Regulations herein prescribed, upon signature of the seller(s).

**Section 1.2. DETAIL ON LISTINGS FILED WITH MLS:** The listing shall be complete in every detail, which is ascertainable, as shown on the profile sheet.

a. Personal contact information may only be entered in the REALTOR® REMARKS section of listings.

**NOTE 1:** The listing agreement shall be signed by the seller prior to submitting to the MLS.

**NOTE 2:** Branding of photographs and virtual tours with any information or additional images is prohibited. Virtual tours and photographs submitted to the MLS for display in listing information and for sharing by IDX participants must exclude branded information. Examples of branded tours are tours that include visual, verbal, or written information, in an image, such as “for sale” signs, e-mail addresses, Web sites, office-mobile-fax numbers, company affiliations, primary or ancillary advertisement’s logos, agent or team names, or any other identifiable codes or identifiable codes or symbols. This rule also applies to framing. Neither the tour itself, nor the surrounding frame, can be branded. The frame in which the tour is presented in the e-mail must also be free of any identifying information listed above.

**NOTE 3: No Signs in Photos (including “For Sale” signs)** No broker, agent or builder signs or other promotional material may be displayed in photographs uploaded to a listing. This includes “For Sale” signs.

**Section 1.3. EXEMPTED LISTINGS:** If the seller refuses to permit the listing of the property to be disseminated by the MLS, the listing broker may take a listing (termed "Office Exclusive"), and such listing shall then be submitted to the MLS within 48 hours but will not be processed and disseminated to Participants.-Submission of the listing must be accompanied by certification signed by the seller that he does not desire the listing be disseminated by the MLS.

**Section 1.4. CHANGE OF STATUS OF LISTING:** Any changes in the listing price or any other changes in the original listing agreement shall be made only when authorized in writing by the seller and must be filed with the MLS within forty-eight (48) hours.

**Section 1.5. WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Property filed with the MLS may be withdrawn from the MLS by the Participant before the expiration date of the listing agreement provided notice is filed with the MLS which authorizes withdrawal. Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker’s concurrence. However, when a seller(s) can document that his or her exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the seller.

**Section 1.6. CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants in the REALTOR® REMARKS section of the listing.

**Section 1.7. LISTING PRICE SPECIFIED:** The full gross listing price shall be stated in the listing agreement and entered in the “List Price” Keyword field published in the MLS compilation of current listings.

- a. Full gross listing price is defined as the lot price plus the cost of existing or proposed construction.
- b. Once an offer has been accepted the list price should not be increased unless the contract has been terminated.

**Section 1.8. LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold or may be sold separately must be listed individually.

**Section 1.9. NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The MLS shall not fix, control, recommend, suggest, maintain or enforce commission rates or fees for services to be rendered by its Participants. Further, the MLS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or fees between Participants and non-Participants.

**Section 1.10. EXPIRATIONS AND EXTENSIONS OF LISTINGS.**

- a. All listings filed with the MLS will automatically be removed from the compilation of current listings on the expiration date in the listing agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed by the listing broker. If notice of renewal or extension is received after the listing has been removed from the compilation of current listings the extension or renewals of listings will be published in the same manner as a new listing. Extensions and renewals of listings must be in writing by the seller(s) and filed with the service.
- b. At any time and for any reason, the MLS has the right to request a copy of the seller's written authorization to extend or renew a listing.
- c. To avoid misleading the general public as to the number of days on market with the same agency, no listing shall be re-listed as a new listing within 30 days of being withdrawn-released by the same agency. For the first offense, the listing agent shall be issued a warning, with notification to his Participant. For the second offense, the listing agent shall be assessed a \$100 fine, with notification to his Participant. For the third offense, the listing agent shall be assessed a \$500 fine, with notification to his Participant. For the third and any subsequent offense(s), the listing agent shall be notified that the matter has been referred to the Association's Grievance Committee to be handled in accordance with the professional standards procedures established in the Code of Ethics and Arbitration Manual, with notification to his Participant. For any offense described in this subsection c. of Section 1.10, staff will correct the listing to reflect the original listing date.

**Section 1.11. TERMINATION DATE ON LISTINGS:** Listings filed with the MLS shall bear a definite and final termination date as negotiated between the Participant and the seller.

**Section 1.12. JURISDICTION:** Only listings of the designated types of property located within the MLS's jurisdiction of Shelby, Tipton and Fayette Counties in Tennessee, DeSoto County in Mississippi and Crittenden County in Arkansas are required to be filed with the MLS. Listings of property located outside the MLS's jurisdiction will be accepted if filed voluntarily by a Participant but are not required by the MLS.

**Section 1.13. LISTINGS SERVICED BY TRANSFERRING LICENSEE:** If a Participant and the seller mutually agree to void a listing agreement when a licensee that has been servicing the listing transfers to another broker, the listing will be withdrawn from the system upon written notice on the Membership Transfer Form by the Participant. A new listing may be filed after obtaining the signature of the seller. The listing agent or the MLS Department may add the new listing to the computer or the listing agent may submit a Broker Office Change Card with the new listing and staff will change the office code on the original listing in the computer.

**Section 1.14. LISTINGS OF SUSPENDED OR EXPELLED PARTICIPANTS:** When a Participant of the MLS is suspended or expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, the Association's Bylaws, these Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS by the suspended or expelled Participant shall, at the Participant's option, be retained in the MLS until sold, withdrawn or expired, but shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension or expulsion became effective. If a Participant has been suspended or expelled from his or her Association or this MLS (or both) for failure to pay appropriate dues, fees or charges, the MLS is not obligated to provide MLS services, including continued inclusion of the suspended or expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended or expelled Participant's listings from the MLS, the suspended or expelled Participant should be advised in writing of the intended removal so that the suspended or expelled Participant may advise his or her clients.

**Section 1.15. LISTINGS OF RESIGNED PARTICIPANTS:** The Participant by these Rules and Regulations authorizes the MLS to withdraw the firm's listings from the system if the firm resigns from MLS. The firm's listings will be allowed to remain in the system for a maximum of two (2) weeks after the firm's resignation provided applicable MLS dues and fees have been paid for said period but in no event beyond the expiration date(s) of the listing(s). The firm's effective resignation shall be the date specified in the firm's letter of resignation to the Membership Committee.

**SECTION 1.16. CHECKLIST FOR LISTINGS.** The following are among the requirements for every MLS listing, and no listing shall contain any provisions or terms that are inconsistent with these requirements; provided, however, that subsection (h) below is a professional standards requirement and not an MLS requirement:

- (a) The listing agreement must be signed by the sellers and the listing broker or agent, who shall maintain such agreement in his or her files and, upon request, produce the same for verification by MLS staff.
- (b) The listing agreement must evidence, and the MLS listing must reflect, either an exclusive right to sell or an exclusive agency listing, both of which are described in Note 2 to Section 1 above.
- (c) The MLS listing constitutes and shall reflect a blanket unilateral offer of compensation (expressed as either a definite percentage of the gross selling price or a definite dollar amount) by the listing broker or agent to cooperating brokers or agents. The MLS shall not be used as a medium for communicating a seller's offer to pay a cooperating broker or agent.
- (d) Such offer of compensation by the listing broker is unconditional, with entitlement to compensation being determined by the cooperating broker's or agent's performance as the procuring cause of the sale or lease.
- (e) The right to such compensation shall be enforceable by mandatory, binding arbitration in accordance with the Association's Bylaws, including the Code of Ethics and Arbitration Manual.
- (f) The listing broker or agent must adhere to the time limits specified in these Rules and Regulations, including: (i) adding the listing data to the MLS system within 48 hours of the listing; (ii) making any changes in the price or other terms of the listing within 48 hours of the seller's written agreement to such change in terms; and (iii) reporting all contracts pending, contracts active contingency, and closed sales to the MLS within 48 hours of the occurrence of any such event.
- (g) If a key box is to be used on the property, the listing broker or agent should obtain advance written authorization from the owners and should include in the listing agreement, or some other agreement signed by the owners, provisions whereby the owners acknowledge the risk of using the key box system and release the Association, the MLS, and their officers, directors, employees, independent contractors, and agents from any and all liability in connection with the key box system.
- (h) When entering into a listing agreement, MLS participants should be mindful of Standard of Practice 1-12 of the NAR Code of Ethics, pursuant to which sellers/landlords must be advised of: (i) the listing broker's company policies regarding cooperation and the amount of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities; (ii) the fact that buyer/tenant agents or brokers, even if compensated by the listing broker or by sellers/landlords, may represent the interests of buyers/tenants; and (iii) any potential for the listing broker to act as a disclosed dual agent (*e.g.*, buyer/tenant agent).

## **SELLING PROCEDURES**

**Section 2. SHOWINGS AND NEGOTIATIONS:** Appointments for showings and negotiations with the seller for the purchase of listed property filed with the MLS shall be conducted through the listing broker except under the following circumstances:

- (a) the listing broker gives the cooperating broker specific authority to show and/or negotiate directly with the seller or
- (b) after reasonable effort, the cooperating broker cannot contact the listing broker or his representative. However, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers.

**Section 2.1. PRESENTATION OF OFFERS:** The listing broker must make arrangements to present the offer as soon as possible or give the cooperating broker a satisfactory reason for not doing so.

**Section 2.2. SUBMISSION OF WRITTEN 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 2.3. RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:** The cooperating broker (sub-agent or buyer agent) or his or her representative has the right to participate in the presentation to the seller or lessor of any offer he or she secures to purchase or lease. He or she does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

**Section 2.4. RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFERS:** The listing broker or his or her representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He or she 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 2.5. REPORTING SALES TO THE MLS:** Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing broker within forty eight (48) hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof—the cooperating broker shall report the accepted offers and prices to the listing broker within forty-eight (48) hours after occurrence and the listing broker shall report them to the MLS within forty-eight (48) hours after receiving notice from the cooperating broker. The listing office and listing agent shall be reported as the Selling Office and Selling Agent only if the sale was not a cooperative sale. For the purpose of definition:

a. A Contract Pending is a fully completed and signed contract to purchase, accepted and signed by the seller. The listing office shall choose one of two statuses for a contract:

1. Active Contingency - a contract with a time element contingency. Listing will remain in the Active section of the computer.
2. Pending - a valid working contract pending. Listing will not remain in the Active section of the computer.

NOTE: Under direct request of the seller, a listing may remain in the Active Status of the MLS when there is a signed purchase agreement, with a contingency. All showings of this property type must be scheduled through the listing agent. Listing agent must disclose that there is a signed purchase agreement, with a contingency, at the time the appointment is scheduled.

b. A closing has occurred when the deed on the listed property has been recorded or the net sales proceeds have been disbursed to the account of the seller whichever occurs first.

c. Sales of all properties not listed in the MLS on which a commission, fee or other compensation is paid to an MLS firm should be reported to the MLS, with seller's permission, within thirty (30) days. Information not reported within thirty (30) days will not be accepted by MLS.

Note 1: 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 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 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS.

In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the 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 requirement to report sale prices.

Note 3: As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records.)

**Section 2.6. REPORTING RESOLUTIONS OF CONTINGENCIES:** The listing broker shall report to the MLS within forty-eight (48) hours that a contingency on file with the MLS has been fulfilled or renewed, or the agreement canceled.

**Section 2.7. ADVERTISING OF LISTING FILED WITH MLS:** Advertising of any listing by a Participant, other than the listing office, is permissible only with the prior consent of the listing office.

**Section 2.8. REPORTING CANCELLATION OF PENDING SALE:** The listing broker must report immediately to the MLS at the time any contract pending is canceled, and the listing must be reinstated immediately for the remainder of the listed period.

**Section 2.9. DISCLOSURE 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, if asked, the listing broker shall also disclose whether offers were obtained by the listing licensee, by another licensee in the firm or by a cooperating broker.

**Section 2.10. AVAILABILITY:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

### **REFUSAL TO SELL**

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

### **PROHIBITIONS**

**Section 4. INFORMATION FOR PARTICIPANTS ONLY:** No listing filed with the MLS may 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 broker may be placed on a property.

**Section 4.2. “SOLD” SIGNS:** Prior to closing, only the “Sold” sign of the listing broker 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 MLS:** Participants shall not solicit a listing on property filed with the MLS unless solicitation is consistent with Article 16 of the REALTORS<sup>(R)</sup> Code of Ethics, its Standards of Practice and its Case Interpretations.

**NOTE 1:** 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 MLS 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 MLS by assuring them other Participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempt 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 listings under the circumstances otherwise recognized by Standards of Practice related to Article 16 of the Code of Ethics.

**Section 4.4 USE OF THE TERMS MLS AND MULTIPLE LISTING SERVICE:** No MLS participant, subscriber or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

#### **DIVISION OF COMMISSIONS**

**Section 5. COMPENSATION SPECIFIED ON EACH LISTING:** The listing broker shall specify on each listing filed with the MLS, the compensation offered to other 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). 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.

**NOTE 1:** In filing a property with the MLS the Participant of the MLS is making a blanket unilateral offer(s) of compensation to the other Participants, and shall therefore specify on each listing filed with the MLS, the compensation being offered to the other 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 or her endeavor to sell.

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 non-agency capacities defined by law) which may be the same or different.

This shall not preclude the listing broker from offering any 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 the modification in the specified compensation is not the result of any agreement among all or any other Participants in the MLS. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

The MLS shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the MLS shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The MLS shall not disclose in any way the total commission negotiated between the seller and the listing broker.

The compensation specified on listings filed with the MLS shall appear in one of two forms. The essential and appropriate requirement by the MLS 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 (Keywords: "Commission to Subagent, Commission to Buyer's Agent and Commission to Transaction Broker) or
2. by showing a definite dollar amount (Keywords: "Commission to Subagent, Commission to Buyer's Agent and Commission to Transaction Broker)

**NOTE 2:** The listing broker may, from time to time, adjust the compensation offered to other Participants for their services with respect to any listing by advanced published notice to the MLS so all Participants will be advised.

**NOTE 3:** The MLS shall make no rule on the division of commissions between Participants and non-participants. This should remain solely the responsibility of the listing broker.

**NOTE 4:** 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 5:** Participants may offer cooperative compensation as a percent of the net sale price with net sale price defined as the gross sale price minus buyer upgrades (with respect to new construction) and minus "seller concessions" which include any funds paid toward buyer's closing costs or prepaid by the seller.

**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 a property, the listing of which is to be disseminated through the MLS, that person shall disclose that interest when the listing is filed with the MLS and such information shall be disseminated to all Participants. Listing broker shall state in the PUBLIC REMARKS section: "Owner/Agent."

**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.

**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 Keyword required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, 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.

**Section 5.4 POTENTIAL SHORT SALES:** Participants must disclose potential short sales (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) when reasonably known to the listing Participants. 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. The phrase “Short Sale” must be put in the Public Remarks.

**Section 5.5. COOPERATION:** Cooperation is a privilege and not a rule; however, brokers are cautioned that the best interest of the seller must be considered.

## SERVICE CHARGES

**Section 6. SERVICE CHARGES:** Payment of Dues and Fees: All MLS fees, dues, and charges, including, but not limited to initial Participation Fees, recurring Participation Fees, etc., may be assessed to the Participant or to individual users as subscribers. This does not preclude the Participant from being reimbursed by affiliated licensees for fees or charges incurred on their behalf pursuant to any in-house agreement that may exist. If direct billing of subscribers is utilized, the ultimate responsibility for delinquent dues, fees and charges is that of the Participant.

a. **Initial Participation Fee:** Any firm Member including new or present firm Members, that desire to join the MLS shall pay an Initial Participation Fee of \$200 to defray initial cost of providing the MLS to the firm Member. Said fee having been used to defray initial cost, firm Member shall have no vested right to said fee. It shall be non-refundable.

**NOTE 1: Reinstatement Fee:** Any Participant who resigns from MLS will be required to pay a Reinstatement Fee, in lieu of the Initial Participation Fee, prior to rejoining the MLS.

1. If the Participant has been continuously affiliated with another Participant and has continuously paid MLS dues since his or her firm’s resignation, he or she will be charged a Reinstatement Fee of \$25 when he or she reapplies for MLS firm membership.

2. If the Participant has not been continuously affiliated with another Participant and continuously paid dues since his or her resignation, he or she will be charged a Reinstatement Fee of \$50 plus an additional \$10 per quarter that he or she was not a subscriber of MLS since his or her resignation but not more than a total of \$200.

3. The Reinstatement Fee will not be required of any Participant who has been suspended from MLS for non-payment of MLS fees of any kind provided said Participant pays all fees within three (3) months from due date of first notice of payment due.

4. Neither the Initial Participation Fee nor the Reinstatement Fee will be required of any Participant upon rejoining MLS after suspension or expulsion due to an ethics violation.

b. **Recurring Participation Fee:** Each Participant of the MLS shall pay a semi-annual Recurring Participation Fee of \$246 to defray the operational costs. This fee shall be prorated on a monthly basis for new Members. For this fee, the Participant shall have the right to register one Member (Principal or Second Broker) in the MLS roster of subscribers. It shall be non-refundable except for death.

c. **Usage Fee:** Additionally, each Participant, whose firm is located in the MLS’s jurisdiction (see Section 1 Listing Procedures), shall pay a semi-annual Usage Fee based upon the number of salespersons and licensed or certified appraisers affiliated with the Participant, who are engaged in residential sales, at the rate of \$246 except if his or her office is located in Hardin, Hardeman and McNairy Counties, in which case the rate shall be established annually by the MAAR Board of Directors. This fee shall be prorated on a monthly basis for new users. A monthly prorated refund may be granted to a user as of date of retirement of license or death of subscriber.

**NOTE 1: Waiver of Usage Fee:** The Participant can be exempt from payments of the Usage Fee for a licensee of his or her firm who is engaged solely and exclusively in a specialty of the real estate business separate and apart from listing, selling, leasing or appraising the type(s) of properties that are required to be filed with the MLS as defined in Section 1. LISTING PROCEDURES. The Usage Fee is not prorated and is non-refundable. The Participant and the licensee must sign a “Declaration of Non-Engagement” stating he or she is engaged solely and exclusively in a specialty of the real estate business separate and apart from listing, selling, leasing or appraising the type(s) of properties that are required to be filed with the MLS. This shall not preclude the agent from listing, showing, selling, buying or advertising his or her personal residence located within the Association’s jurisdiction as

long as the MLS and related Lockbox/SentriCard system are not utilized in any way. Any change in status of these licensees must be reported to the MLS. Failure to report to the MLS a status change for the waived licensee shall be considered a violation of these Rules and Regulations and a sanction may be imposed according to Section 7.e.

**Section 6.1. BILLING:** The Participant and individual subscribers will normally be billed semi-annually for Participation, Usage and monthly for assessments.

**Section 6.2. REVISION OF SERVICE CHARGES:** Service charges for the MLS operation costs will be revised by the MLS Information Network Committee from time to time in order to insure its financial feasibility. Service charges will be charged in the manner prescribed to keep these costs to a minimum.

**Section 6.3. STAFF LOADED LISTING FEES:** A Participant with online access to the MLS shall pay \$20 for each listing loaded to the system by MLS staff which fee shall also include revisions reported to the MLS by the listing broker, and a Participant without online access shall pay \$10 for each listing.

**Section 6.4. DELINQUENCY IN FEES/CHARGES PAYMENT:** The due dates of the semiannual Recurring Participation Fee are February 15 and August 15 of each year. Subscribers who pay their fees after the new term (March 1 or September 1) has begun shall pay a \$50.00 late fee. For failure to pay any service charge or fee within one month of the date due, and provided that at least ten (10) days notice has been given, the Participant's service, which means all MLS services to the firm as defined in Section 6.5 shall be suspended until service charges or fees are paid in full except that Lockbox Card access and computer access of an individual subscriber whose fees are delinquent shall be suspended immediately upon expiration of paid term.

**Section 6.5. SUSPENSION OF SERVICE FOR NON-PAYMENT:** Suspension of service for non-payment means computer access will be disconnected from MLS data base; firm name will be deleted from MLS roster; existing listings will be deleted from the system; no listings will be accepted for filing in the MLS and Key Cards will be deactivated. Upon reinstatement deleted listings will be re-entered automatically for the remaining term of the existing listings at no additional charge.

**Section 6.6. BAD CHECK POLICY:** If a check is returned for any reason, a fee of \$30 will be applied. Upon the second returned check on an account in a twelve (12) month period, payment must be made either by credit card, cash or cashier's check for the following twelve (12) months. Returned checks unresolved after the due date will be assessed any applicable late fees. All fees, late fees, and returned check fees must be paid in full prior to reinstatement of services

## COMPLIANCE WITH RULES

**Section 7. COMPLIANCE WITH RULES:** For failure to abide by these Rules and Regulations, the following sanctions may be taken for non-compliance:

- a. For filing a late listing or extension agreement, the Participant shall automatically be assessed \$30 for each violation, unless a written explanation acceptable to the MLS is provided.
- b. For not reporting a property as pending or closed, the Participant shall automatically be assessed \$30 for each violation, unless a written explanation acceptable to the MLS is provided.
- c. The MLS shall return incomplete listings or extension agreements to the Participant. If a licensee fails to correct, complete, submit, or resubmit a listing or extension agreement within seventy-two (72) hours after being requested to do so, the Participant shall automatically be assessed \$30 for each violation and the MLS shall delete the listing information from the system, unless a written explanation acceptable to the MLS is provided.
- d. Assessments made in accordance with (a) through (c) above may be appealed in writing to the MLS Chairman provided payment has been made. After consideration of the appeal, the MLS Information Network Committee may uphold or cancel the assessment. In either case the appellant shall be notified of the final decision in writing.
- e. For failure to report to the MLS a status change for a licensee who has been granted a waiver of the Usage Fee, the Participant and the Individual each shall be assessed a penalty in the amount of Usage Fee(s) for one year for each offense and billed a non-prorated Usage Fee for the current billing cycle.
- f. Termination or suspension from the MLS of a Participant does not automatically terminate or suspend membership in the Association; however, any Participant who is a REALTOR® of the Association or any other

Association of REALTORS® who is suspended or terminated from membership in his or her Association will automatically be suspended or terminated from the MLS if he/she does not hold REALTOR® membership elsewhere.

- g. The MLS shall have the right to terminate a firm's or subscriber's computer access for repeated offenses of the Rules and Regulations.
- h. Each Participant and subscriber shall be given a copy of these Rules and Regulations and shall sign a statement pledging faithfully to comply with them and any revision or additions thereto that may be made in the future.
- i. For failure to report to the MLS the correct Selling Office and Selling Agent, the listing agent shall be assessed \$30 for each violation, unless a written explanation acceptable to the MLS is provided.
- j. For signing the seller's name to listing agreements and extensions, without appropriate authority (i.e. power of attorney), or failure to submit a listing agreement signed by the owner, when requested by the MLS to do so, a referral shall be made to the Professional Standards Committee.
- k. For filing a price change on a listing without proper written authorization of the seller, the listing agent shall automatically be assessed \$100 for each violation.
- l. For filing an extension on a listing without proper written authorization of the seller, the listing agent shall automatically be assessed \$250 for each violation.
- m. For failure to advise the MLS in writing that an Office SentiCard has been issued, to whom, and the date and time of issuance within forty eight (48) hours or failure to advise the MLS in writing within forty eight (48) hours after the Office SentiCard has been returned to the Participant or branch office manager, the Office SentiCard access may be put on hold for up to 90 days.
- n. For loaning, sharing, disclosing or allowing a Login ID and Password to come into the possession of any other person including an assistant, employee, or consultant, sanction shall be imposed in accordance with the professional standards procedures established in the Code of Ethics and Arbitration Manual.
- o. For failure to notify the MLS within twenty-four (24) hours upon termination/resignation of the assistant, employee, or consultant who has been issued a Login ID and Password, the Participant, or Subscriber (if applicable), shall automatically be assessed \$100 for each violation, unless a written explanation acceptable to the MLS is provided.
- p. For any violation of Section 13.1 MLS Download and IDX Server Restrictions, sanction shall be imposed in accordance with the professional standards procedures established in the Code of Ethics and Arbitration Manual.
- q. For entering personal agent contact information in any field of information other than the REALTOR® REMARKS section of a listing, the Participant shall automatically be assessed \$30 for each violation, unless a written explanation acceptable to the MLS is provided.
- r. For failing to submit one primary image for a listing, the listing agent shall be issued a warning. If within 72 hours of the warning, a primary image is not submitted, the listing agent automatically will be assessed \$30 for the current and subsequent 72 hour period(s) that the listing agent fails to submit a primary image.

#### Section 7.1 Compliance with Rules – Authority to Impose Discipline

By becoming and remaining a Participant or Subscriber in this MLS, each Participant and Subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. probation for a stated period of time not less than thirty (30) days or more than one (1) year
- f. suspension of MLS rights, privileges, and services for not less than thirty (30) days or more than one (1) year
- g. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

**Section 7.2. APPLICABILITY OR 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 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 Regulations 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.

### **REALTOR LOCKBOX SYSTEM LOCKBOXES AND SENTRICARDS**

**Section 8.1. REALTOR LOCKBOX AND SENTRICARD AGREEMENT:** The "REALTOR Lockbox System Agreement" must be signed by the Participant and the user ("Holder") before a SentiCard may be sold and shall govern the use of SentiCards in matters of dispute between the MLS and the Holder.

**Section 8.2. PERSONAL IDENTIFICATION NUMBER (PIN):** Holder will not allow his/her PIN to be attached to the SentiCard and will not disclose his/her PIN to a third party.

**Section 8.3. NO LOAN OF SENTRICARD:** Holder shall not loan the SentiCard to any person for any period of time. The foregoing includes, but is not limited to loans to appraisers, mortgage and utility agents, builders, other brokers and salespersons, prospective purchasers or sellers. The only exception shall be that a Participant or branch office manager may purchase an Office SentiCard to be issued on a temporary basis to a SentiCard holder in the same office in the event his or her SentiCard becomes non-functional outside normal business hours or under circumstances where a replacement SentiCard is not reasonably available from the MLS. It shall be the responsibility of the Participant or branch office manager to advise the MLS in writing that the Office SentiCard has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the Participant or branch office manager to advise the MLS in writing within forty-eight (48) hours after the Office SentiCard has been returned to the Participant or branch office manager.

**Section 8.4. LOSS OF SENTRICARD:** In the event a SentiCard is lost, stolen, or otherwise unaccounted for, Holder shall notify the MLS immediately by telephone and promptly thereafter execute a statement co-signed by the Participant and Holder as to all the facts surrounding the loss with such report placed in the files of the MLS.

**Section 8.5. NUMBER OF SENTRICARDS:** No more than one (1) SentiCard shall be sold to an individual without prior approval of the MLS Information Network Committee. Such request to be in writing. However, a Participant or branch office manager may purchase an Office SentiCard to be issued on a temporary basis to other cardholders in the same office subject to the provisions of Section 8.3.

**Section 8.6. PARTICIPANT RESPONSIBLE:** The Participant is responsible for the proper use of SentiCards and Lockboxes under his/her jurisdiction.

**Section 8.7. LOCKBOXES:** Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property. The MLS is prohibited from only accepting listings from Participants who have agreed to use the MAAR Lockboxes on these properties. Lockboxes are NOT an invitation to show a house. One of these two classifications can be specified on the profile sheet:

- a. Open Lockbox - House can be shown without getting in touch with listing broker, but recommend register be signed at the house or call listing broker to inform of showing.
- b. Closed Lockbox - Do not show house under any circumstances unless an appointment is confirmed.

**Section 8.8. MLS SUBSCRIBERS ONLY:** SentiCards and Lockboxes are to be used ONLY by members of the MLS.

**Section 8.9. CARD AUDIT/INSPECTION:** Holder shall submit the SentiCard for inspection at a reasonable time at the MLS office after receipt of written notice which may be issued periodically by the Association. The SentiCard shall be deemed unaccounted for if Holder does not demonstrate the SentiCard is within his/her physical control.

**Section 8.10. AUTHORIZATION:** Prior to installing or using the Lockbox on any property, Participant and Holder shall secure written authorization from the owners of such property. Extreme care shall be taken to ensure that all doors to the property and the Lockbox are locked. Participant and Holder shall include in the listing agreement, or some other agreement signed by the owner(s) of such property prior to installation or use of the REALTOR Lockbox System (System), a provision whereby the owner(s) acknowledge(s) the risk of using the System and release(s) the Association, the MLS, and their officers, directors, employees, independent contractors, and agents from any and all liability in connection with the System.

**Section 8.11. FAILURE TO COMPLY:** Failure to comply with the above regulations will make the SentiCard Holder responsible.

## **ENFORCEMENT OF RULES OR DISPUTES**

**Section 9. CONSIDERATION OF ALLEGED VIOLATIONS:** The MLS Information Network Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations other than complaints of Section 1.10 c. (Expirations, Extensions of Listings), Section 8 (Lockboxes and SentiCards), Sections 10.3, 10.4, and 10.5 (Login ID and Password), Section 13.1 (MLS Download and IDX Server Restrictions), or other complaints that involve alleged unethical conduct or request of arbitration.

**Section 9.1. Violations of Rules and Regulations:** If the alleged offense is a violation of these Rules and Regulations other than Section 8 (Lockboxes and SentiCards) or Sections 10.3, 10.4, and 10.5 (Login ID and Password), or Section 13.1 (MLS Download and IDX Server Restrictions) and does not involve a charge of alleged unethical conduct or request of arbitration, it may be administratively considered and determined by the MLS Information Network Committee and if a violation is determined, the MLS Information Network Committee may direct the imposition of sanctions; however, 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 twenty (20) days following receipt of the MLS Information Network Committee's decision.

**Section 9.2. Complaints of Section 8, Sections 10.3, 10.4, and 10.5, Section 13.1 and Complaints of Unethical Conduct:** All complaints of Section 8 (Lockboxes and SentiCards), Sections 10.3, 10.4, and 10.5 (Login ID or Password), Section 13.1 (MLS Download and IDX Server Restrictions), or of unethical conduct shall be referred to the Executive Vice President of the Association for appropriate action in accordance with the professional standards procedures established in the Code of Ethics and Arbitration Manual. Suspension or termination of MLS rights and privileges may be imposed on Participants, subscribers and users who are not members of the Association and if such individuals are found in violation of the Code of Ethics, they may be assessed an administrative processing fee not to exceed \$250, which may be in addition to any other discipline, including a fine not to exceed \$15,000, that may be imposed.

**NOTE 1: IMMUNITY FROM CODE OF ETHICS:** Nothing in these Rules and Regulations shall be construed to grant immunity from the REALTORS<sup>(R)</sup>' Code of Ethics as set forth in the Bylaws covering cooperation or any other activity of the MLS.

## **CONFIDENTIALITY OF MLS INFORMATION**

**Section 10. CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the MLS to the Participants shall be considered official information of the MLS. 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 MLS is communicated verbatim, without change by the MLS, as filed with the MLS by the Participant. The MLS does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the MLS harmless against any liability arising from an inaccuracy or inadequacy of the information such Participant provides.

**Section 10.2. ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:** Association Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to purchase all MLS information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Association Members and individuals affiliated with Association Members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office or firm except as otherwise provided in these Rules and Regulations.

**Section 10.3. SECURITY OF SYSTEM LOGIN ID AND PASSWORD:** System Login ID and Password shall not be loaned, shared, disclosed, or allowed to come into the possession of any other person including assistants, employees, and consultants.

**Section 10.4. SYSTEM ACCESS BY ASSISTANT:** An unlicensed assistant or licensed assistant who is waived from payment of the MLS Usage Fee who agrees to abide by the MLS Rules and Regulations may be issued a Login ID and Password upon submission of the appropriate form signed by the assistant and the Participant or MLS subscriber that manages said assistant. Said access to the MLS shall be solely for the purpose of assisting the Participant or managing MLS Subscriber who shall notify the MLS within twenty-four (24) hours upon termination/resignation of the assistant.

**Section 10.5. SYSTEM ACCESS BY CONSULTANT:** A consultant who is a party to an executed MAAR Confidentiality Agreement, by which he has agreed not to use the Login ID and Password for any use other than to download the MLS Database solely for internal office purposes or retrieve IDX listings from the IDX Server for display of listings on a web site of a Participant or Subscriber under the control and consent of the Participant and within the limits defined in Section 13.1. MLS Download and IDX Server Restrictions, may be issued a Login ID and Password. Issuance of Login ID and Password shall be solely for the purpose of assisting the Participant or Subscriber who shall notify the MLS within twenty-four (24) hours upon termination/resignation of the consultant.

#### **OWNERSHIP OF MLS COMPILATION AND COPYRIGHTS**

**Section 11.** By the act of submission of any property listing content to the MLS the Participant represents he or she has been authorized to grant and also thereby does grant authority for the MLS 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.

The term "MLS Compilation" as used 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 data base, card file, or any other format.

**Section 11.1.** All right title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Association, and in the copyrights therein, shall at all times remain vested in the Association.

**Section 11.2.** Each Participant shall be entitled to lease from the 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 compilation in accordance with these rules.

#### **USE OF COPYRIGHTED MLS COMPILATIONS**

**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.

**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 Participant 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 an estimate of value on a particular property for a particular client. However, only such information that the MLS has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

Upon request of the MLS Information Network Committee a "Statement of Compliance" must be signed by each subscriber acknowledging obligation to comply as well as reaffirming agreement to comply at all times with the MLS regulations of MLS confidentiality and copyright, or MLS service to firm will be discontinued.

\*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 in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore 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 listings 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 data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

**NOTE 1: Photographs and Virtual Tours ("Media") on the MLS.** By submitting "Media" to the MLS which were taken by the participant and/or subscriber, the submitting participant and/or subscriber grants the MLS and the other participants and subscribers the right to reproduce and display the "Media" in accordance with these rules and regulations. "Media" submitted by the participant or subscriber may only be used for the specified purpose of displaying the subject property. MAAR reserves the right to reject or remove any "Media" submitted that includes any text, personal advertising or promotion as well as people or persons. If a listing broker desires to use the photographs, drawings or similar "Media" from a former listing made by another participant or subscriber (the "Original Listing Broker") in connection with the new listing broker's Active listing MLS Compilation for a particular property, the new listing broker shall first obtain the written permission of the "Original Listing Broker" to do so. As stated in Section 1.2, the branding of photographs and virtual tours with any information or additional images is prohibited.

## USE OF MLS INFORMATION

**Section 13. LIMITATIONS ON USE OF MLS INFORMATION:** Use of information from the MLS Compilation of current listing information, from the Association's "Statistical Report", or from any "sold" or "comparable" report of the Association or MLS for public mass media advertising by a Participant or in other public representations may not be prohibited.

However, any print or non-print forms of advertising 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 Memphis Area Association of REALTORS<sup>(R)</sup> (alternatively, from the Memphis Area Association of REALTORS<sup>®</sup> MLS) for the period (date) through (date)."*

**Section 13.1. MLS DOWNLOAD and IDX SERVER RESTRICTIONS:** A Participant may download information from the MLS Database for internal office purposes only and directly access and/or allow Subscribers affiliated with his firm to directly access the IDX Server for retrieving IDX listings and displaying on the Participant's or Subscriber's web site in accordance with the following:

1. The entire MLS Database may be downloaded for use in a Participant's personal database for internal use of the office and the Subscribers within the office but not for external distribution or publication of any kind.
2. Listings of other Participants may be downloaded for publication in any media, including the Internet, provided permission of the listing brokers whose listings are displayed has been obtained by the Participant.
3. If the Participant has not opted out of IDX, he may directly access (and/or give consent to his Subscribers to directly access) the IDX Server for retrieving IDX listings and displaying on the Participant's (or Subscriber's) web site pursuant to Section 14 IDX, upon submission of a MAAR Confidentiality Agreement.
4. If a Participant uses the services of a third-party consultant to assist in downloading the MLS Database or the Participant or Subscriber uses the service of a consultant to directly access the IDX Server for retrieving IDX listings and displaying on the Participant's or Subscriber's Web site as described in 1, 2, or 3 above, the MLS will provide the consultant a Login ID and Password solely for these purposes upon submission to MLS by the Participant of an executed MAAR Confidentiality Agreement. In said Agreement the Participant, Subscribers, and consultant agree that the consultant's access to the MLS is provided solely for the purposes defined therein. Furthermore, the Participant and Subscriber agree that they shall notify the MLS within twenty-four (24) hours of termination/resignation of consultant.

Note: MLS does not endorse any third-party consultant. Use of a third-party product or service is at the option of the MLS Participant or Subscriber, and all business arrangements are between the third party and MLS Participant or Subscriber. MLS does not set, recommend or mandate business policies or pricing of a third party consultant.

## IDX

**Section 14. IDX DEFINED:** IDX affords MLS Participants the option of authorizing display of their listings on other Participants' Internet web sites.

**Section 14.1. AUTHORIZATION:** Participants' consent for display of their ~~active~~ 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 or frame 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 as instructed by the seller.

**Section 14.2. PARTICIPATION:** Participation in IDX is available to all MLS Participants who consent to display of their listings by other Participants

**Section 14.2.1.** Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

**Section 14.2.2.** MLS participants may not use IDX-provided listings for any purpose other than display on their websites. This does not require participants to prevent indexing of IDX listings by recognized search engines.

**Section 14.2.3** Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites.

**Section 14.2.4** Participants may select the listings they choose to display on their IDX sites 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 on any IDX site must be independently made by each Participant.

**Section 14.2.5.** Participants must refresh all MLS downloads and refresh all MLS data at least once every three (3) days.

**Section 14.2.6.** Except as provided in these rules, an IDX site or a Participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

**Section 14.2.7.** When displaying listing content, a Participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

**Section 14.2.8.** Any IDX site 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,

shall disable or discontinue either or both of those features as to 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 participants' websites. Except for the foregoing and subject to Section 14.2.9, a participant's IDX site may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX site from notifying its customers that a particular feature has been disabled at the request of the seller.

**Section 14.2.9.** 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 displayed on the IDX site. 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 14.3. DISPLAY:** Display of listing information pursuant to IDX is subject to the following rules:

**Section 14.3.1.** 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 Participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.

**Section 14.3.1.1.** The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed on IDX sites.

**Section 14.3.2.** Participants shall not modify or manipulate information relating to other Participants' 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 14.3.3.** 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.

**Section 14.3.5.** 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 14.3.7.** All listings displayed pursuant to IDX shall show the MLS as the source of the information.

**Section 14.3.8.** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS.

The following disclaimer must be posted on each page where listing data is displayed: *"Some or all of the listings displayed may not belong to the firm whose website is being visited".* The following must either be viewable via a link on each page where listing data is displayed or displayed in full on each page: *Copyright© (insert current year) Memphis Area Association of REALTORS®. The information provided is for the consumer's personal, non-commercial use and may not be used for any purpose other than to identify prospective properties that the consumer may be interested in purchasing. Information deemed reliable, but is not guaranteed accurate. Some or all of the listings displayed may not belong to the firm whose web site is being visited."*

**Section 14.3.9.** 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 one hundred (100) listings or five percent (5%) of the listings available for IDX display, whichever is fewer.

**Section 14.3.10.** The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MLS.

**Section 14.3.11.** Display of expired, withdrawn, pending, and sold listings is prohibited.

**Section 14.3.12.** Participants are required to employ appropriate security protection such as firewalls, provided that any security measures required may not be greater than those employed by the MLS.

### **Virtual Office Websites**

**Section 15.1 (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 15 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 15 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by by Participants to the MLS and aggregated and distributed by the MLS to Participants.

**Section 15.2 (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 15.3 (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.

(e) 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.

(f) 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 15.4:** A Participant’s VOW must prominently display an e-mail 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 inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

**Section 15.5:** 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 15.6 (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 goes off the market, whichever is greater.

**Section 15.7:** **(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 elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 15.8, 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 15.8:** A Participant's VOW shall maintain a means (e.g., e-mail 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 15.9:** A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

**Section 15.10:** 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 15.11:** 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 15.12:** 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 15.13:** 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 15.14:** 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.

**Section 15.15:** A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS Listing Information with additional information not otherwise prohibited by these Rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

**Section 15.16:** A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS Listing Information displayed on the VOW is deemed reliable but is not guaranteed accurate by the MLS. A Participant’s VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

**Section 15.17:** A Participant shall require that Registrants’ passwords be reconfirmed or changed every 90 days.

**Section 15.18:** A Participant may display advertising and the identification of other entities (“co-branding”) on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this Section, co-branding will be presumed not to be deceptive or misleading if the Participant’s logo and contact information (or that of at least one Participant, in the case of a VOW established and operated on behalf of more than one Participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all Participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

**Section 15.19:** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

## CHANGES IN RULES AND REGULATIONS

**Section 16. CHANGES IN RULES AND REGULATIONS:** Changes in these Rules and Regulations may be made by a two-thirds vote of the members of the MLS Information Network Committee, present and voting, subject to final approval of the Board of Directors of the Association.

## ORIENTATION

**Section 17. ORIENTATION:** Any applicant for MLS participation and any licensee affiliated with a Participant, and any Assistant, as defined in “Definition of Terms,” who desires access to and use of MLS generated information shall complete an orientation program of no more than four (4) classroom hours devoted to the MLS Rules and Regulations and the operation of the MLS within thirty (30) days after access has been provided.