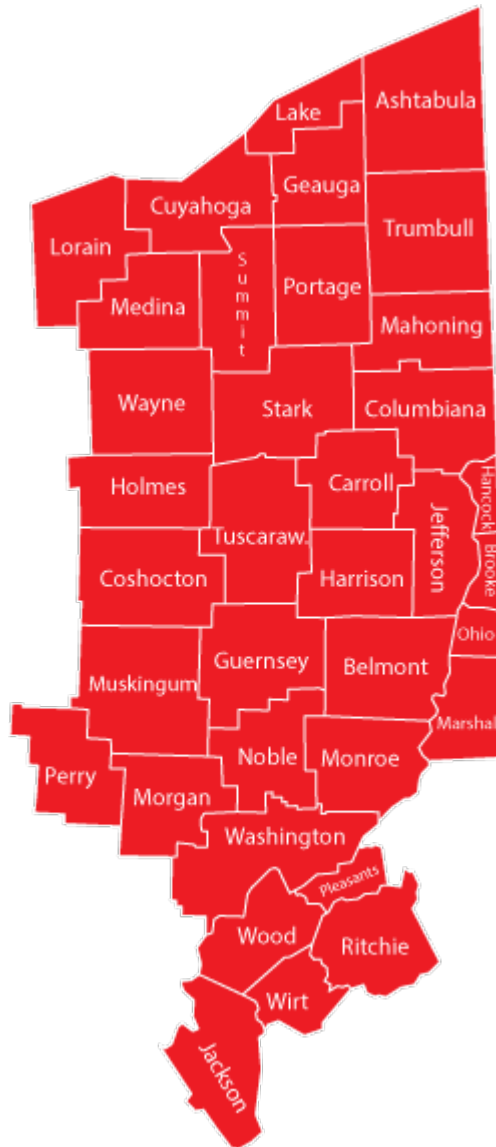


**RULES AND REGULATIONS OF  
MULTIPLE LISTING SERVICES  
PARTICIPATING IN:  
Yes-MLS**



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**Yes-MLS Inc.**  
**5605 Valley Belt, Independence, OH 44131**  
**Telephone Number: (216) 485-4100**  
**Facsimile Number: (216) 485-4102**

## TABLE OF CONTENTS

SECTION 1. DEFINITIONS .....	1
Service:.....	1
MLS Data: .....	1
Participation:.....	1
Licensure/Certification: .....	2
Information Usage: .....	2
Membership Application: .....	2
Exclusive Right to Sell Listing Agreement: .....	2
Exclusive Agency Listing Agreement: .....	3
Coming Soon Status: .....	3
Limited Service Listings:.....	3
Net Listing: .....	4
Open Listing: .....	4
Listing Input Sheet:.....	4
Exclusion (Prospect Reservations): .....	5
Offer: .....	5
Contingent Listings:.....	5
Pending Listings: .....	5
Multiple Listing Service Territorial Jurisdiction: .....	5
List Date: .....	5
Branding/Scraping .....	5
Internet Data Exchange Definition: .....	6
Disclaimer of Internet Data Exchange Participation .....	6
Fees for Internet Data Exchange Participation .....	6
Internet Data Exchange Database .....	6
Internet Data Exchange Participants (IDX).....	6
Internet Data Exchange.....	6
Internet Data Exchange Participant Listing Information .....	6
Internet Data Exchange Participation - Pre-requisite Requirement .....	6
Prohibited Third Party Scraping of Internet Data Exchange Listing Information .....	7
Virtual Office Website.....	7
Virtual Staging.....	7
SECTION 2. LISTING PROCEDURES.....	7
2.1 Listings Required.....	7
2.2 Optional Listings .....	8
2.3 Jurisdiction.....	8
2.4 Participant's Listings.....	8
2.5 Detail on Listings.....	9
2.6 Agreement Copies .....	10
2.7 Restrictive Listings .....	10
2.8 Changes to Listings.....	11
2.9 Off Market/Temporarily Off Market .....	13
2.10 Withdrawal of Listings – Withdrawal Without Release .....	13
2.11 Cancellation of Listings - Withdrawal with Release .....	14
2.12 Applicable Contingencies .....	14
2.13 List Price Specified.....	14
2.14 Listing Multiple Unit Properties .....	14
2.15 Sold Listings .....	15

2.16 Retention of Agreements: .....	15
2.17 No Control of or Fees Charged.....	15
2.18 Expirations.....	15
2.19 Listings of Suspended Participants .....	16
2.20 Listings of Expelled Participants .....	16
2.21 Listings of Resigned Participants .....	16
SECTION 3. COMPUTER .....	17
3.1 Computer Usage .....	17
3.2 Property Types / Details .....	17
3.21 New Construction/ Under Construction/ To Be Built.....	18
3.22 Online Bidding.....	18
3.3 Non-Computerized Offices.....	19
3.4 Password Use.....	19
3.5 Media / Virtual Tour.....	19
3.6 Primary Photo .....	19
SECTION 4. SELLING PROCEDURES.....	21
4.1 Showings and Negotiations .....	21
4.2 Property Showings and Information.....	21
4.3 Presentation of Offers .....	21
4.4 Submission of Written Offers .....	21
4.5 Right of Cooperating Brokers in Presenting of Offers .....	22
4.6 Right of Listing Brokers in Presenting Counter Offers .....	22
4.7 Reporting Sales to the Service.....	22
4.8 Reporting Resolutions of Contingencies .....	23
4.9 Advertising of Listings Filed with the Service .....	23
4.10 Reporting Cancellation of Pending Sales .....	23
SECTION 5. PROHIBITIONS .....	23
5.1 Information for Participants Only.....	23
5.2 "For Sale" and "Sold" Signs .....	23
5.3 Solicitation of Listings Filed with the Service.....	23
5.4 Use of "Remarks" .....	24
5.5 Confidentiality .....	24
5.6 Accuracy .....	25
5.7 Comparable/Statistical Information.....	25
SECTION 6. COMPENSATION.....	25
6.1 Compensation Rate.....	25
6.2 Compensation Specified .....	25
6.3 Dual or Variable Rate Commission Arrangements .....	26
6.4 Participant as Principal .....	27
6.5 Participant as Purchaser.....	27
SECTION 7. SERVICE CHARGES .....	27
7.1 Application .....	27
7.2 Dues and Fees.....	28
7.3 Assessments.....	29
SECTION 8. ENFORCEMENT OF RULES OR DISPUTES.....	29
8.1 Complaints .....	29
8.2 Sanctions.....	29
8.3 Unethical Conduct .....	30
SECTION 9. PENALTIES.....	30
9.1 Rules Compliance – Authority to Impose Discipline .....	30
9.2 Second Offenses .....	31
9.3 Appealing Penalties .....	31
9.4 Abuse of Notification of Reporting Entry Problems .....	31
SECTION 10. OWNERSHIP OF COMPILATIONS* AND COPYRIGHTS .....	32

10.1	Authorization .....	32
10.2	Copyright .....	33
SECTION 11.	USE OF COYRIGHTED MLS COMPILATIONS.....	33
11.1	Distribution.....	33
11.2	Display.....	33
11.3	Reproduction.....	33
SECTION 12.	LIMITATIONS ON USE OF THE SERVICE’S INFORMATION/IDX .....	35
12.1	Internet Data Exchange and Internet Data Exchange Site Definitions .....	35
12.2	Internet Data Exchange Authorization .....	35
12.3	Internet Data Exchange Database .....	35
12.4	Internet Data Exchange Database Participants .....	36
12.5	Display of Participant’s Information on Participant’s Site .....	36
12.6	Listings Reflected in the IDX Database .....	36
12.7	Standard NAR MLS Logo Used for IDX Database.....	37
12.8	Required Disclaimer for Listings in the IDX Database .....	37
12.9	Required Disclosures .....	37
12.10	IDX Listing Modifications.....	38
12.11	Information Corrections on Internet Data Exchange Participant’s Website.....	38
12.12	Branding/Scraping .....	39
12.13	Third Party Users .....	39
12.14	Non-MLS Listings on Subscriber Website .....	39
12.15	Abuse of Internet Data Exchange Data.....	39
12.16	Removal of Internet Data Exchange Participants Listings .....	40
12.17	Display of Sold Data on IDX Sites .....	40
12.18	Advertising/Co-branding .....	40
SECTION 13.	CHANGES TO RULES & REGULATIONS .....	40
SECTION 14.	ARBITRATION OF DISPUTES .....	40
SECTION 15.	STANDARDS OF CONDUCT FOR MLS PARTICIPANTS .....	41
15.1	Practices of the Participants.....	41
15.2	Property Signs.....	41
15.3	Extending Cooperation .....	41
15.4	Solicitation of Other Broker's Listings .....	41
15.5	Soliciting Buyer/Tenant Agreements.....	41
15.6	Prospect Referral .....	42
15.7	Expiration of Agreements.....	42
15.8	Retaining Clients .....	42
15.9	Contractual Relations.....	42
15.10	Contract with Clients with Existing Agreements.....	42
15.11	Cooperating Compensation.....	42
15.12	Advertising of Services to Prospective Clients.....	42
15.13	Determination of Existing Agreements .....	43
15.14	Declaration of Buyer Relationship .....	43
15.15	Disclosure of Buyer Relationships .....	43
15.16	Declaration of Agreements .....	43
15.17	Offer to Provide Additional Services.....	43
15.18	The Terms of an Offer .....	43
15.19	Contact with Clients vs. Clients' Agents.....	43
15.20	Terminating Relationship .....	44
15.21	Purpose of these Rules & Regulations.....	44
15.22	False or Misleading Statements .....	44
15.23	Participant’s Website Disclosures (Firm Name and State of Licensure).....	44
15.24	Participant’s Advertising and Representation to the Public .....	44
SECTION 16.	VIRTUAL OFFICE WEBSITE (VOW) .....	45
16.1	Definition.....	45

16.2 Participant.....	45
16.3 MLS Listing Information.....	45
16.4 Registrant.....	46
16.5 Registrant – Password.....	46
16.6 Registrant – Breach of Security.....	46
16.7 Registrant – Acceptance of Terms of Use.....	46
16.8 Participant’s VOW Contact Information.....	47
16.9 Participants VOW Monitoring Requirements.....	47
16.10 Terms of Use Agreement.....	47
16.11 Withholding Listings from VOW Display.....	47
16.12 Seller Opt-Out Options.....	48
16.13 Third Party Use of VOW.....	48
16.14 Accuracy of Data on VOW not supplied by the MLS.....	48
16.15 Refreshing VOW Listing Information.....	48
16.16 Third Party Users of VOW.....	48
16.17 Participant Privacy Policy Disclaimer.....	49
16.18 Exclusion of Listing Data from VOW Sites.....	49
16.19 VOW Displaying MLS Data Required to be Registered with MLS.....	49
16.20 Limitation of Number of VOW Sites Authorized.....	49
SECTION 17. ORIENTATION.....	49

## **SECTION 1. DEFINITIONS**

As used in these Rules and Regulations, the following terms shall have the indicated meanings:

### **Service:**

The purpose of the Service (YES-MLS) is to provide a means by which authorized Participants make blanket unilateral offers of compensation to other Participants belonging to the Service as well as other Participants of REALTOR® Multiple Listing Service companies which have established and entered into a similar reciprocal arrangement of its Participants to offer compensation and cooperation to MLS Participant(s) acting as either subagents, buyer agents, or in other agency or non-agency capacities defined by law; by which information is accumulated and disseminated; enable authorized Participants to prepare appraisal and other valuations of real property by which Participants engaging in real estate appraisal contribute to common databases; facilitate the orderly correlation and dissemination of listing information among the Participants so that they may better serve their clients and the public.

The service is also a source of statistical and historical record of property use for its membership.

### **MLS Data:**

Shall be defined as either Exclusive Right to Sell or Exclusive Agency Listings entered into the MLS by participating Brokers of the MLS.

### **Participation:**

There shall be two classes of Participants: REALTOR® Participants and Non-REALTOR® Participants. "Participant" as used in these Rules and Regulations shall refer to both classes of Participants unless otherwise stipulated.

#### **(i) REALTOR® Participant**

Any REALTOR® member of a member Board/Association or any other REALTOR® Board/Association, who is a principal, partner, corporate officer, or branch office manager acting on behalf of the principal, without further qualification, shall be eligible to participate in the Service upon agreeing in writing to conform to the Bylaws and the Rules and Regulations and to pay the costs incidental thereto. Only REALTOR® Participants and REALTORS® affiliated with REALTOR® Participants, who are members of one or more-member Boards/Associations may vote and hold office in the Service.

#### **(ii) Non-REALTOR® Participant**

A Non-REALTOR® Participant who is a principal, partner, corporate officer, or branch office manager acting on behalf of the principal, shall be eligible to participate in the Service upon agreeing in writing to conform to the Bylaws and the Rules and Regulations thereof and to pay the costs incidental thereto, which costs need not be the same as costs charged to REALTOR® Participants. Non-REALTOR® Participants must supply evidence satisfactory to the MLS that they have no record of official, unsatisfied sanctions involving unprofessional conduct as a previous member of a REALTOR® Board/Association. Non-REALTOR® Participants and those affiliated with Non-REALTOR® Participants shall not be eligible to vote or hold office in the Service.

(iii) **Reciprocal REALTOR® Participation**

Any Broker who is located outside of the YES-MLS jurisdiction and is a REALTOR® member of a Board/Association in the state of Ohio or West Virginia and a member of an MLS is eligible for Reciprocal Membership with YES-MLS.

(iv) **Non-REALTOR® Reciprocal Participation**

A Non-REALTOR® Participant is not eligible for Reciprocal membership with YES-MLS.

(v) **Appraiser Reciprocal Participation**

Appraisers that are located outside of the YES-MLS jurisdiction and are a REALTOR® Board/Association member in the state of Ohio or West Virginia, paying dues to their primary MLS, (Primary MLS is determined by your physical business location) are not eligible for reciprocal membership through YES-MLS.

The MLS limits participatory rights to individual principal brokers, or to their firms, and to licensed or certified appraisers, who maintain an office or Internet presence from which they are available to represent real estate sellers, buyers, lessors or lessees or from which they provide appraisal services. For purposes of this paragraph, representation of real estate buyers and sellers does not include making referrals of prospective sellers and buyers to real estate brokers.

**Licensure/Certification:**

Under no circumstances is any individual or firm, regardless of membership class (see Section 1(a) and (b)), entitled to Service "Membership" or "Participation" unless they hold a current, valid real estate broker's license, 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.

**Information Usage:**

Use of information developed by or published by the Service is strictly limited to the activities authorized in 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 the information developed or published by the Service where access to such information is prohibited by law.

**Membership Application:**

Application for participation shall be made in such manner and form as may be prescribed by the MLS Governing Leadership and made available to any individual qualified for participation under Section 1(b), (i) or (ii). The application form shall contain a signed statement by the applicant agreeing to abide by the Bylaws and other rules, regulations, and policies of the Service that are adopted or amended from time to time.

Participants may discontinue participation in the Service by providing 30 days written notice in advance and may reapply to the Service at any time by making formal application in the manner prescribed for new applicants for participation, provided all past dues and fees are paid in full.

**Exclusive Right to Sell Listing Agreement:**

Exclusive Right to sell or lease listing agreement means an agency agreement between a seller and broker that meets the requirements set forth in continuing law for written agency agreements that also does both of the following:

- (i) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property; and
- (ii) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

**Exclusive Agency Listing Agreement:**

Exclusive Agency agreement means an agency agreement between a seller and broker that meets the requirements specified in continuing law for written agency agreements that also does both of the following:

- (i) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property; and
- (ii) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

**Coming Soon Status:**

Coming Soon status indicates that the broker and the seller are preparing the property for sale and for marketing as Active status. This status is not intended to give the listing broker an advantage in finding a buyer for the property to the detriment of cooperating brokers or to circumvent the selling of the property on an open market. The intended use of this status is to provide a vehicle for participants and subscribers to notify other participants and subscribers of properties that will be made fully available for showing and marketing after preparations have been completed. While the property is in Coming Soon status, the seller and the listing broker may not promote or advertise the property in any manner other than as 'coming soon'. Properties in this status may not be shown. This status is for short term use preparatory to Active status, 14 days or less, and must have a listing agreement and seller(s) written authorization using the YES-MLS Coming Soon Listing Seller Authorization Form, or such other authorization form as the listing broker may choose that contains similar disclosures. *(Adopted: May 2016) (Amended May 2017)*

**Limited Service Listings:**

Listings shall be categorized as limited service in instances where listing brokers, pursuant to their listing agreements, will not provide one or more of the following services:

- a) Arrange appointments for cooperating brokers to show listed properties to potential purchaser(s) but instead give cooperating brokers authority to make such appointments directly with seller(s);
- b) Accept and present to seller(s) offers to purchase procured by cooperating brokers but instead give cooperating brokers authority to present offers directly to seller(s);
- a) Advise seller(s) as to the merits of offers to purchase;



- b) Assist seller(s) in developing, communicating, or presenting counter-offers;
- c) Participate on seller's(s') behalf in negotiations leading to the sale of the listed property.

**Limited Service Listing (Y/N) is a required field of entry.** The entry of a listing as Limited Service = "Yes" represents that the seller/client agrees to waive certain duties of the listing broker:

- a) This may only be accomplished by the client signing a required "Waiver of Duties Statement" (Ohio law - HB150), which is a confidential document between client and listing broker and should not to be distributed to any other party without the consent of the client.
- b) A cooperative broker may only set an appointment, present an offer, negotiate, or provide other services directly to the listing broker's client if the listing broker has given written authorization permitting such action to be conducted directly with his client. This can be accomplished through the MLS agent remarks, ads, e-mail, etc.
- c) Upon entry of a limited service listing into the MLS, the listing broker shall disclose in the "broker remarks only" an explanation of the actions or limitations placed upon the cooperative broker in regard to interacting with the listing brokers client;
- d) If the client has waived the listing broker's duties as described herein, it is recommended that the phrase, "may negotiate," be included in the agent remarks;
- e) Ohio law prohibits a broker who is representing a seller under an Exclusive Right to Sell Agreement from advertising the property as a "For Sale by Owner" or otherwise mislead the public to believe that the seller is not represented by the broker. An Exclusive Agency agreement is exempted from this action.

**Net Listing:**

A Net Listing is a contractual agreement under which a seller(s) or lessor(s) agrees to receive a certain dollar amount for the sale of their property regardless of the sale price. **Net listings will not be accepted in the YES-MLS system.**

**Open Listing:**

An Open Listing is a contractual agreement under which the listing broker becomes the agent of the seller(s) or lessor(s) and the seller(s) or lessor(s) agrees to pay a commission to the listing broker only if the property is sold through the efforts of the listing broker. **Open listings will not be accepted in the YES-MLS system.**

**Listing Input Sheet:**

A Listing Input Sheet is the property data form prescribed by the Service to be completed in full by the listing broker giving all pertinent information on the subject property and used to enter the information into the Service's computer system.

**Exclusion (Prospect Reservations):**

An Exclusion or reserved prospect is an individual or a group of individuals specifically named in the listing agreement in which the seller(s) or lessor(s) reserves the right to sell without payment of a commission if the listing is sold to an excluded or reserved prospect. An Exclusive Right to Sell with Reserved Prospect is a contractual agreement under which the listing broker becomes the agent of the seller(s) or lessor(s), and the seller(s) or lessor(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s) or lessor(s), or anyone else, except that the seller(s) or lessor(s) may name one or more individuals or entities as exemptions in the listing agreement. If such a property is sold to any exempted individual or entity, the seller(s) or lessor(s) is not obligated to pay a commission to the listing broker.

**Offer:**

The written offer to purchase signed by the prospective buyer, which, if executed by the seller(s) or lessor(s), will constitute a contract of sale.

**Contingent Listings:**

Any listing that has an agreement for sale/purchase signed by all parties that contains a "contingency" clause whereby the finalized sale is dependent upon certain criteria being met, and the Seller is going to continue to market the property, allow showings to other prospective buyers, and solicit/or accept back up offers or bids, the Broker shall change the property status to contingent in the MLS.

Listings in the Contingent status **will be included** in IDX feeds, or feeds to other Third Party Web sites from the MLS. *(Amended 10/15)*

**Pending Listings:**

Any listing in the Service which an agreement for sale/purchase has been signed by all parties and the Seller is no longer allowing showings or accepting offers, the property shall be changed in the MLS to reflect its pending status.

**Multiple Listing Service Territorial Jurisdiction:**

The areas contained in the YES-MLS system shall be coextensive with the territorial jurisdictions as determined by the MLSs which have entered into an agreement to have their listings comprise the YES-MLS database.

**List Date:**

The List Date is the effective date or starting date of the term of the Exclusive Right to Sell or Exclusive Agency agreement or the last seller's signature date on the agreement, whichever is last.

**Branding/Scraping**

Branded Websites refers to the use of marks, logos, icons, content and any other marking on the IDXP website, listing, or any web page, including splash pages of search engines in such a way as to display with utmost certainty the true ownership of the website and listing by IDXP. Websites and/or web pages on which listings shall be displayed and/or any search relating to listings is conducted shall be branded by IDXP in such a way so that the website clearly identifies IDXP as the owner of the listing. The website on which listings are displayed shall not be owned,

operated, or used (i) for the benefit of anyone other than the IDXP and (ii) in any way that is inconsistent with the MLSs IDX rules and regulations.

**Internet Data Exchange Definition:**

IDX affords MLS participants the ability to authorize limited electronic display of their listings by other participants. *(Amended 5/12)*

**Disclaimer of Internet Data Exchange Participation**

Any participating Participant's website must have some form of disclaimer on its home page and any subsequent page displaying the IDXP's listing information indicating that these properties marketed through a required icon, link, etc., are properties of IDXP, and are provided by the MLS Internet Data Exchange database.

**Fees for Internet Data Exchange Participation**

Fees to implement "IDX" (Internet Data Exchange) standard methods for disseminating the data will be at the discretion of the Participating MLS(s) of the YES-MLS system. The Governing Leadership of the participating MLS(s) reserves the right to change the fee structure at such a time they deem it necessary.

**Internet Data Exchange Database**

Internet Data Exchange database is the current aggregate compilation of all active and contingent exclusive right to sell and/or exclusive agency listings of all "Internet Data Exchange Participants" (IDXP) except those listings where the property seller has opted out of the Service's publication by so indicating on the listing contract.

**Internet Data Exchange Participants (IDXP)**

This is a system that will allow Participating Brokers to get exposure of their own listings more effectively through cooperating with other participating brokers through the use of the Internet. This permission is limited to the IDXP's own branded company website and shall not be shared with any third party.

NOTE: All of YES-MLS Participants will participate in the Internet Data Exchange (IDX) program unless the Participant completes an Opt Out Elective Form and it is placed on file with YES-MLS.

**Internet Data Exchange**

Internet Data Exchange is a means of sharing participating IDXP's listing information by displaying other IDXP's listings on their own websites. Participating IDXPs may participate in Internet Data Exchange without actually having their own website.

**Internet Data Exchange Participant Listing Information**

Under no circumstances will the IDXP modify, manipulate or deface any, all, or part thereof, of the actual listing information of an IDXP's data hosted on an IDXP's website.

**Internet Data Exchange Participation - Pre-requisite Requirement**

Any broker may participate in Internet Data Exchange as long as he/she has an active real estate brokerage license and is actively engaged in providing services to buyers or sellers in residential real estate transactions.

### **Prohibited Third Party Scraping of Internet Data Exchange Listing Information**

Any Participant displaying the shared database or any portion thereof shall make reasonable efforts to avoid “scraping” of the data by third parties or displaying of that data on any other website.

NOTE: These definitions are provided to facilitate categorization of listings in the Service's compilations. In any area of conflict or inconsistency, state law or regulation takes precedence. These definitions are premised on the existence of agency relationships between seller(s) and lessor(s) and listing brokers. However, if state law permits brokers to list property, on either an exclusive or open basis, without establishing an agency relationship, those listings may not be excluded from the Service's compilations on the basis that the listing broker is not the seller's agent. Submission of such listings must be accompanied by the listing broker's disclosure that the listing broker is not the agent of the seller(s) or lessor(s) and such status shall be communicated to the other Participants as part of the property data information.

### **Virtual Office Website**

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.

### **Virtual Staging**

Virtual Staging is defined as using a photo editing software to create a photo or conceptual rendering of what the interior room(s) and/or interior of the property could look like, if it was staged or lived in. Virtual Staging shall only be used for the interior of an existing structure. Virtual Staging shall not be used for To-Be-Built or Under Construction properties. (See Section for To-Be-Built and Under Construction properties.) *(Adopted 3/16)*

## **SECTION 2. LISTING PROCEDURES**

NOTE: An “Exclusive Right to Sell” listing is the conventional form for listings submitted to the Service in that the seller(s) or lessor(s) authorizes the listing broker to cooperate with and to compensate other brokers.

The Exclusive Agency listing also authorizes the listing broker, as an exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller(s) or lessor(s) the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named "reserved" prospects should be clearly distinguished by a simple designation such as a code or symbol from exclusive agency listings and exclusive right to sell listings with no named "reserved" prospects, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named "reserved" prospects.

### **2.1 Listings Required**

Listings of real property noted in Section 2.1 (a), (b), (c), and (d) which are listed subject to a real estate brokers license, located within the territorial jurisdiction of the Service taken by

Participants on an exclusive right to sell agreement or an exclusive agency agreement shall be submitted to the Service and/or entered into the Service's computer system within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) after all necessary signatures of the seller(s) or lessor(s) have been obtained. The list date shall be the starting date of the term of the agreement or the last seller's signature date on the agreement, whichever is last.

- a) Single-family homes and Condominium Unit(s) for sale or exchange
- b) Vacant lots and acreage zoned residential for sale or exchange
- c) Two-family, three-family, and four-family residential buildings (Multi-Family units) for sale or exchange
- d) All Farm/Agricultural property for sale or exchange

NOTE: When a Participant receives a listing by mail and, it cannot be entered within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the List Date, the Participant must submit the envelope or a copy of the same in which it was received, showing the postmark date. The envelope or a copy of the same must be attached to the exclusive agreement copy when submitted to the Service. When such verification is lacking, a penalty shall automatically be assessed for late submission. It is recommended that seller(s) or lessor(s) be requested to date their signatures.

## **2.2 Optional Listings**

Listings of mobile homes not permanently attached, commercial properties, residential properties for rent, multifamily over four units, vacant land consisting of five or more lots and those properties located outside the Service's territorial jurisdiction which are taken by Participants on an Exclusive Listing Agreement, an Exclusive Agency Agreement, or a Rental Contract will be filed with the Service at the option of the Participant.

If optional listings are submitted and entered into the Service's database, those listings will be subject to MLS Rules and Regulations upon entry.

## **2.3 Jurisdiction**

Only those listings designated in Section 2.1 (a), (b), (c), and (d) located within the jurisdiction of the Service are required to be submitted to the Service. Listings of real or personal property located outside the Service's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

If listings outside the Service's jurisdiction are submitted and entered into the Service's database, those listings will be subject to the MLS Rules and Regulations upon entry.

## **2.4 Participant's Listings**

**A.** Listings filed with the Service shall include the name of the Participant submitting the listing and the name of the Participant's affiliated licensee (listing agent).

NOTE: Properties co-listed by a Participant with someone who is not a Participant of the Service must be submitted on the Participant's listing agreement and the computer information shall indicate showings are to be arranged through an agent of the Participant's office or directly with the seller(s) or lessor(s).

Co-brokerage properties listed by two Participants of the Service can both enter the property into the Service as long as they reference the other brokerage firm information in the Brokers Remark section. Upon the sale of the listed real property, the selling brokerage firm must mark their listing “closed” while the co-broking brokerage firm must mark their listing “withdrawn” in the system.

**B.** Listings entered into the system must reflect the correct list type as authorized by the seller. The MLS accepts Exclusive Right to Sell, Exclusive Agency, and Exclusive Right to Sell with Reserved Prospect. The MLS will accept listings taken by MLS Participants that do not fall into one of the categories as indicated, but they must be reflected in the system as list type “Other.” (Remember net and open listings are not permitted in the MLS.)

NOTE: Any Participant reflecting in the system the incorrect List Type of Exclusive Right to Sell when the List Type is really an Exclusive Agency will be assessed an automatic penalty as determined by the MLS(per occurrence) and the MLS staff will withdraw the listing immediately. In addition, any penalties assessed for this violation will not be waivable by attending a Rules and Regulations class as conducted by the MLS in lieu of paying fines.

Continued entry of incorrect List Type in the system by a Participant will result in the Governing Leadership of the MLS in exercising its rights to refer the unethical conduct to the proper member Board/Association for appropriate action in accordance with the Professional Standards Manual established in the Board/Association’s Bylaws.

**C.** Auction listings can be entered into the system by a Participant and must be disclosed as an Auction listing in the service. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

## **2.5 Detail on Listings**

All exclusive listings filed with the Service shall contain:

- (a) The statement "This listing may be entered into the MLS by (name of listing broker), subject to the Rules & Regulations of the Service"
- (b) A list date, a definite and final termination or expiration date, and the full gross list price must be stated in the listing contract, unless the property is subject to an auction sale
- (c) The tax amount shown on listings must be the amount of full year taxes shown on the latest available tax duplicate. Any homestead exemption and/or assessments must be reflected in the listing information.
- (d) Every detail that is required as specified on the Listing Input Sheet
- (e) YES-MLS Participants are encouraged, but not required, to include the following statement in their “Listing Agreement”: “This listing may be transmitted in part or in full to REALTOR.com, other electronic networks or Internet (World Wide Web) as deemed appropriate by the MLS Participant and the property owner (seller)”

(f) All listing contracts must include language to the effect that Broker is authorized to enter property in any (1) or more MLS to market the property in publications and websites of Broker's choice.

## 2.6 Agreement Copies

Copies of any Exclusive Right to Sell Agreement and Exclusive Agency Agreement for properties filed with the Service must be submitted to the Service upon the request of the MLS staff, MLS committees, and/or the Governing Leadership of the MLS. Failure to submit the requested documents for properties filed with the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the request will result in an automatic penalty for late submission.

## 2.7 Restrictive Listings

### A) Exempted Listings (Office Exclusives)

If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing as an "office exclusive". Office Exclusive listings must be submitted to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) and accompanied by the Seller Opt-Out of Multiple Listing Service Authorization form which has been signed by the seller's acknowledging they understand that their property will not be entered into the MLS nor will they be included in any IDX or MLS listing syndication feeds during the period of the listing. *(This is NAR MLS Policy and is mandatory. Our rules also exercise the local option to require certification that the listing is being withheld from the MLS at the direction of the seller.)*

### B) Coming Soon Listings

- 1) Mandatory – If you have a valid listing contract, and the listing is not yet available for showing, with the seller's written authorization you are required to enter the listing into the MLS in the Coming Soon status.
- 2) Listing must be entered into the Multiple Listing Service in the Coming Soon status within 48 hours or 2 days (except Saturdays, Sundays, and postal holidays) of the listing date. If the Coming Soon listings are not entered into the MLS within the required timeframe, a penalty of \$100.00 will be assessed for non-compliance of the 48 hour rule.
- 3) Property Types allowed in the Coming Soon status;
  - a) Single Family
  - b) Condominium
  - c) Multi-Family
  - d) Commercial
  - e) Rent/Lease
  - f) Land
- 4) Listings can be in the Coming Soon status for a maximum of 14 days and Coming Soon Status may not be extended.
- 5) Listings must have an On Market Date (OMD) entered into the system, less than or equal to 14 days.

- 6) While the listing is in the Coming Soon status, it will be viewable by the general public via IDX, RETS and API's (Application Programming Interface) as Coming Soon.
- 7) Listings entered into the MLS with Coming Soon status shall automatically transition to Active status on the On Market Date (OMD). Note: At that time, if the listing is not ready to be shown, the listing will be required to be moved into the TOMK status with the available date reflected in the Broker Remarks.
- 8) Listing's Days on Market (DOM) will start when the listing transitions to the Active status.
- 9) Once the listing transitions from the Coming Soon status to the Active status, it cannot revert to Coming Soon status.
- 10) Listing may not be transferred from any other status to Coming Soon.
- 11) All MLS Rules and Policies apply where appropriate.
- 12) Listings that are being entered into the system as Coming Soon are required to submit a copy of the Listing Agreement, along with the Coming Soon Authorization Form to the Service which has been executed by the seller(s), within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the listing date. If the Coming Soon listings are not reported to the MLS within the required timeframe, a penalty of \$100.00 will be assessed for non-compliance of the 48 hour rule.
- 13) Listings placed in Coming Soon status shall not be shown by anyone including the listing office during the Coming Soon time period and will be included in any IDX or MLS listing syndication feeds during the Coming Soon time period. Listings in Coming Soon status are permitted to set Open House and showings provided the Open House and showings are scheduled for a time that the listing is in Active status. *(Amended 11/2018)*

***The Code of Ethics and Standards of Practice of the National Association of Realtors, Standard of Practice 3-8 states as follows: Realtors shall not misrepresent the availability of access to show or inspect a listed property. (Amended 11/87)***

Any Participant and/or Subscriber that shows or permits showings of properties that are in the Coming Soon status will be assessed a fine of \$1,000 and may be in violation of the NAR Standard of Practice stated above. A second offense will result in a \$2,000 fine and the filing of an Ethics complaint. Repeat offenders of this rule will be reviewed by the MLS leadership and may result in service suspensions or additional fines being assessed. *(Adopted May 2016)*  
*(Amended May 2017)*

## **2.8 Changes to Listings**

Any changes in list price, and/or dates in the original listing agreement (must be initialed and dated by all sellers), shall be made only when authorized in writing by the seller(s) or lessor(s). The change shall be made in the Service's computer system within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the effective date of the change. Copies of authorizations for such changes must be sent to the Service within 48 hours, or 2 days (except



Saturdays, Sundays, and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLSs. *(Amended 11/2018)*

All status changes including contingent, pending, rented, withdrawn, off market, etc., must be reflected within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the change in condition in the Service's system. Copies of the authorization for such changes must be sent to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLS.

All active listings that are required to be in a pending or contingent status must be changed within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the acceptance date. Failure to change the status within the required 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) will result in an automatic penalty for late entry of status change.

All status changes for closed (sold) listings must be reflected within 14 days of title transfer in the service. For the purposed of closing sales and reporting comparable sales in the MLS the title transfer date shall be the recording date. Failure to change the status within the required 14 days will result in an automatic penalty for late entry of status change. Copies of authorization for such changes must be sent to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLS.

The \$100 penalty for MLS staff to convert a contingent listing that expired to closed status has been eliminated. Instead, if a listing expires in a contingent status and then closes, upon request from the listing broker, within 14 days of title transfer, MLS staff will convert the listing to a closed status at no charge. After 14 days of title transfer there will be a \$50 entry fee/processing fee charged to the listing Broker for the status change. *(Amended 12/2018 and 2/2019)*

NOTE I: When a member gets VERBAL approval for a price change or extension on a listing agreement from the seller(s) or lessor(s), they can make the appropriate change in the Service's computer system. The member must obtain seller's written authorization within 10 days of the verbal approval and maintain a copy in their files. If the member fails to submit seller's written authorization to the Service within 48 hours, or 2 days (except Saturdays, Sundays and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLS the listing will automatically be withdrawn, and a fine of \$100.00 will be assessed with no warning issued.

NOTE II: The MLS defines the acceptance date as the last date signed or initialed (upon acceptance of the price) on the Sales Contract regardless of the terms of the contract.

NOTE III: E-mail Authorization is authorized as written authorization for making changes to the original terms of the agreement (excluding withdrawal and/or release) only if the following applies:

- a) the e-mail notification is sent directly from the seller(s) or lessor(s) email address;  
and
- b) the details of the change(s) are outlined in the body of the e-mail

Written offers that have been tentatively accepted on a listed property in the MLS by receiving an email notification of acceptance must be placed in a contingent status until all paperwork has

been received. Listings cannot remain in an active status. Upon receipt of signed paperwork, and removal of any contingency, listings should then be converted to a pending status.

E-mail notification is not an authorized written authorization for accepting new listing agreements, and/or releasing a listing. When taking any new listing, authorization must be done by obtaining written authorization by the seller(s) or lessor(s).

Email notification for release and/or withdrawal of a listing from the system will be accepted only when the email notification has been signed by the Participant (Broker) indicating approval of the request. If the MLS Participant chooses to designate other personnel within the brokerage firm as an authorized designee(s) the Participant should notify the MLS in writing the designee(s) name(s) to be placed on file with the service.

## **2.9 Off Market/Temporarily Off Market**

*The Code of Ethics and Standards of Practice of the National Association of Realtors, Standard of Practice 3-8 states as follows: Realtors shall not misrepresent the availability of access to show or inspect a listed property. (Amended 11/87)*

A Temporarily Off Market listing is one that becomes unavailable for showing during the listing term of the contract. In order to place a listing in the Temporarily Off Market status seller's authorization is required and must be submitted to the MLS within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) upon request. The listing's Broker Remarks section must disclose the date on which the property will become available for showing again, or why it will not be returning to an Active status.

During the Temporarily Off Market time period, no showings of the property are permitted by any licensed agent including the Listing Agent, Listing Broker and/or any Agent affiliated with the Listing Brokerage firm. Temporarily Off Market listings will not be included in any IDX or MLS listing syndication feeds during the off market time period.

When the Temporarily Off Market time period has expired and the listing becomes available for showings again, the listing must be transferred to an Active status on the date that it can first be shown. Once the Property is included in the Multiple Listing Service database as an active listing, the property will be available for showing by licensed agents and will be included in IDX and MLS listing syndication feeds.

Any Participant and/or Subscriber that shows or permits showings of properties that are in the Temporarily Off Market status will be assessed a fine of \$500.00 and may be in violation of the NAR Standard of Practice stated above. Repeat offenders of this rule will be reviewed by the MLS leadership and may result in service suspensions or additional fines being assessed.

## **2.10 Withdrawal of Listings – Withdrawal Without Release**

Listings of property may be withdrawn from the Service by the listing Broker before the expiration date of the “listing agreement” either “**With Release**” (see section 2.11) or “**Without Release**”. When a listing is withdrawn “**Without Release**”, the listing Broker has not released the seller from the listing agreement and the property and the seller are still subject to the terms of the listing agreement, but the property is no longer being shown. Listings “**Withdrawn without Release**” will expire on the expiration date contained in the listing agreement. *(Amended 3/16)*

### **2.11 Cancellation of Listings - Withdrawal with Release**

Listings of real or personal property may be cancelled and/or withdrawn with release from the Service by the listing broker before the expiration date of the listing agreement provided notice of such authorization signed by the broker and the seller(s) or lessor(s) is placed on file with the listing broker's office. A copy of the authorization must be submitted to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLS. *(Amended 3/16)*

When a listing is withdrawn “**With Release**”, it is cancelled with the MLS. A copy of the agreement or notice between the seller and the listing broker which authorizes or notifies the parties of the withdrawal shall be retained by the listing broker. A “**Withdrawn with Release**” listing is regarded as a null and void listing agreement and cannot be reactivated in the Service. *(Adopted 3/16)*

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 exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. *(Adopted 11/96)*

### **2.12 Applicable Contingencies**

Any contingency or special condition in the listing shall be noted in the listing information and disseminated to the Participants. When updating the status to contingent, participants are required to enter the contingent date as well as select the contingent type from the choices provided in the system. If none of the contingent type choices provided apply, select ‘Other – See Remarks’ and explain why the listing is contingent in the Broker Remarks. If the seller and the buyer have signed a confidentiality agreement regarding the type or nature of the contingency, the listing broker may select “Other-See Remarks” and indicate in the Broker Remarks that it is “Confidential”. Copies of such confidentiality agreements must be sent to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) upon the request of MLS staff, MLS committees, and/or Governing Leadership of the MLSs

All contingent listings will expire on their original expiration date. Contingent listings may be extended prior to expiration with the written consent of the seller(s) and/or lessor.

Listings in the Contingent status **will be included** in IDX feeds, or feeds to other Third Party Web sites from the MLS. *(Amended 10/15)*

### **2.13 List Price Specified**

The full gross list price stated in the listing agreement will be included in the information published in the Service's compilation of current listings unless the property is subject to auction.

### **2.14 Listing Multiple Unit Properties**

All properties which are to be sold or which may be sold separately must be indicated individually on the listing agreement and on the listing input sheet and entered into the service as indicated on the listing agreement. When part of a listed property has been sold, proper notification of the sale must be given to the Service and the remainder of the listed property must be re-filed.

## **2.15 Sold Listings**

All properties which are to be sold or which may be sold separately must be filed individually. If a purchase contract is obtained before the listing contract expires, and the property sells through that purchase contract, but the original listing is expired in the system, then the listing may be converted to a Sold status. If the listing is in an expired status and should be converted to closed (sold), the selling information must be submitted to the MLS so the listing can be updated accordingly.

Lease – Option: When the option period of a lease-option contract is less than six months, the listing shall be transferred to Sale Pending status with the expiration date extended, if necessary, to cover the period. Should the duration of the option be more than six months, the listing shall be withdrawn and when the option is exercised, the office shall re-enter the property in the computer system.

Sold Before Processing Listings – Listings that were taken on an Exclusive Right to Sell Agreement or Exclusive Agency Agreement that secured a buyer before processing the listing through the service may enter these listings into the system as long as the Listing Agreement is not signed *after* the purchase agreement. If the listing agreement is signed after the purchase agreement these listings *cannot* be entered into the system.

Entry of Sold Before Processing Listings must be entered into the system within 48 hours (excluding Saturday, Sundays and postal holidays) of the list date. (*Adopted: 3/10*)

## **2.16 Retention of Agreements:**

Copies of all agreements for properties filed with the Service shall be kept by the participating Broker and made available to the MLS staff upon request.

## **2.17 No Control of or Fees Charged**

The Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services rendered by Participants. Further, the Service shall not fix, control, recommend, suggest, or maintain the division of commission or fees between cooperating Participants or between Participants and non-Participants.

## **2.18 Expirations**

Any listing filed with the Service automatically expires on the date specified in the exclusive agreement unless renewed or extended by the listing broker prior to expiration. If renewal is obtained before the expiration date of the original listing, but not entered into the system before it expires then the Participant may return the listing to an Active status within two (2) days of expiring in the Service's system and then extend the listing.

Listings that have been expired in the system for longer than two (2) days but seller's authorization to extend the listing has been obtained are not authorized to be returned to an Active status and extended and a new listing agreement will need to be secured.

If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing agreement must be secured for the property to be filed with the Service. It should

then be submitted as a new listing. Any extension or renewal of a listing must be signed by the seller(s) or lessor(s) and be filed with the Participant.

### **2.19 Listings of Suspended Participants**

When a Participant is suspended from the Service for failure to abide by a membership duty, (i.e. violation of the Code of Ethics, Board/Association Bylaws, MLS Bylaws, MLS Rules & Regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the Service by the suspended Participant shall, at the suspended Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the Service beyond the termination date of the listing agreement when the suspension became effective.

If a Participant has been suspended from their Board/Association, (except where Service participation without Board/Association membership is permitted by law), the Service, or both for failure to pay appropriate dues fees, or charges, the Service is not obligated to provide services, including continued inclusion of the suspended Participant's listings in the Service's compilation of current listing information. Prior to any removal of suspended Participant's listings from the Service, the suspended Participant will be advised in writing of the intended removal so that the suspended Participant may advise his clients.

### **2.20 Listings of Expelled Participants**

When a Participant is expelled from the Service for failure to abide by a membership duty (i.e. violation of the Code of Ethics, Board/Association Bylaws, MLS Bylaws, MLS Rules & Regulations, or other membership obligations except failure to pay appropriate dues fees, or charges) all listings currently filed with the Service shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the Service beyond the termination date of the listing agreement when the expulsion became effective.

If a Participant has been expelled from the Board/Association, (except where Service participation without Board/Association membership is permitted by law), the Service, or both for failure to pay appropriate dues, fees, or charges, the Service is not obligated to provide services, including continued inclusion of the expelled Participant's listings in the Service's compilation of current listing information. Prior to any removal of expelled Participant's listings from the Service, the expelled Participant will be advised in writing of the intended removal so that the expelled Participant may advise his clients.

### **2.21 Listings of Resigned Participants**

When a Participant resigns from the Service, the Service is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the Service's compilation of current listing information. Prior to any removal of resigned Participant's listings from the Service, the resigned Participant will be advised in writing of the intended removal so that the resigned Participant may advise his clients.

## **SECTION 3. COMPUTER**

The MLS shall have a computer service available for the Participant's use in listing, selling and other MLS activities. It is the responsibility of the Participant of the Service to provide the necessary equipment to access the Service.

### **3.1 Computer Usage**

The use of the Service's computer for the input and retrieval of information shall be in accordance with the Rules & Regulations, operating policies and procedures, and the computer instructions published on the listing input sheet and in the Service's computer system user's manual.

(a) The Mail function is for messages to and from MLS Participant's, which concern Service matters or communication on specific transactions. New listings, status changes, extensions, and price changes that already appear on the Hot Sheet are not proper material for Mail Messages and will result in a penalty.

(b) The Open House function shall be used for announcements regarding open houses and tours (broker, public, and company) only

(c) Membership, roundtable, and REALTOR® Board/Association notices shall appear on MLS website under the section entitled Board Function and should not be disseminated to the membership through the mail function of the Service.

Participant shall be required to maintain on file with the MLS a current, accurate and active email address at which they may be contacted.

### **3.2 Property Types / Details**

All listings must be entered in the appropriate property type classification, sub property type, and geographic area designated for that purpose within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of the List Date.

**Address Omitted:** If the seller requests their listing address not be made available to the public on IDX/Realtor.com websites, then the entire listing must be omitted from the IDX/Realtor.com and third party website feeds. This must be done using the Internet No option when inputting the listing in the MLS. Notwithstanding this provision, listing brokers may display on their IDX sites or their other website(s) the listing or property address of consenting seller(s). *(Amended 11/2018)*

**Directions:** The Direction field must contain nearest cross street or directions that any reasonable, prudent person can use to locate the property. If directions are to a model home or sales office, the Participant must specify this information in the directions field.

**Mapping:** All listings entered into the Service will automatically be geo-coded for proper mapping of the property location. Verification of property location on map is required. Intentionally moving the mapping of the property to an improper location regardless of purpose is prohibited. *(Amended 3/16)*

Profile Sheet: Listings as entered into the Service must be complete in every detail which is ascertainable as specified on the Profile Sheet and made available to MLS staff upon request.

Proper Authorization for Changes: Changes to original “Listing Agreement” shall be made only when authorized in writing, or email authorization, if applicable, and shall be entered into the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of receiving the authorization from seller(s) to make the change.

Two Property Types: If a property has been listed in two different property types is sold, one listing must be marked closed and the other listing withdrawn within 14 days of title transferring.

### 3.21 New Construction/ Under Construction/ To Be Built

Under **Year Built Exceptions** in Matrix the following terms and definitions will apply:

**Actual Year Built - Actual YBT** is used for completed construction where the year built is verified using County records or Realist data.

**New Construction** - Select **New Construction** if the home is complete and has **never been occupied**, and enter the year completed in the year-built field.

**Under Construction** - Select **Under Construction** if the home is **still being built** then enter the expected year construction will be completed in the year-built field (not year began, but year expected to be completed).

**Not Verifiable** – Select **Not Verifiable** if the year built is unknown and then enter 0000 in the year-built field. This should not be used for To Be Built or Under Construction.

**To Be Built**– Select **To Be Built** if **no building permit** has been issued but the property described and displayed could be built with an accepted purchase offer/agreement and enter 9999 in the year built field.

Listings in MLS that have the **Year Built Exception To Be Built** imply they are either a Residential Single Family or Condo *without a building permit* but the property described and displayed could be built with an accepted purchase offer. A **“To Be Built”** property would be a residential lot **WITHOUT A BUILDING PERMIT** that is *“owned or controlled”* by a builder with a projected model to be built on the lot. Further, the model as listed on the MLS must be able to be built as specified for the List Price.

Note: All To Be Built, New Construction and Under Construction properties must have the disclosure on the primary photo, either To Be Built, New Construction or Under Construction. Either the language is to be typed across the rendition or the provided placard in YES-MLS may be used. (Adopted 5/2016)

### 3.22 Online Bidding

Properties for Sale by Online Bidding: Online bidding listings entered into MLS are subject to the same rules as other listings with the following exceptions:

- a) Any listing entered into MLS with reference to an online, non-MLS Participant site shall NOT be marked as Online Auction. There will be a separate selection for Online Bidding, with a default setting of “No”.
- b) Any listing entered into MLS with reference or requirement that an agent, broker or consumer must go to another site to enter an offer/bid shall be classified as a “Limited Service Listing” with yes selected;
- c) Per state law; any listing entered into MLS that is not listed with a true “face-to-face” licensed MLS Auctioneer, but instead is listed with reference to a non-MLS Participant offer / bidding site or where a seller chooses to mimic an offer / bidding process, shall NOT mention or state the word “auction” anywhere in the listing.
- d) Any reference to the online bidding web site shall only be entered under broker remarks and may not appear in the public remarks. *(Adopted 5/2016)*

### **3.3 Non-Computerized Offices**

Any Participant choosing not to subscribe to the Service's computer system must still comply with MLS Rules & Regulations. Within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) of listing or making other changes to a listing, the information must be mailed or telephoned by the listing office to the Service. Upon receipt, it will be entered into the Service's computer system by MLS staff or the appropriate staff member of the Board/Association.

Submission of each listing for entry by Non-Computerized Offices shall result in a charge sufficient to pay for such additional service as determined by the MLS and/or the Board/Association.

### **3.4 Password Use**

Participants and Subscribers shall not permit any person to use his or her login name and password. In the event the password of a Participant or Subscriber is used in violation of this section, such Participant or Subscriber shall be liable to MLS for all loss or damage caused by such use and shall be subject to a fine as established by the MLS Governing Leadership for each such entry and other sanctions as provided in the Rules and Regulations. The fact that the Participant or Subscriber did not grant consent to the use of the password shall not be a defense.

### **3.5 Media / Virtual Tour**

Participants and Subscribers providing photos and/or virtual tours on their listings entered into the MLS may only provide interior and/or exterior photos of the property only. No photos of for sale signs, agent portfolio information or contact information can be used or displayed in the media / virtual tour function of the Services' system. Improper use of this function may result in a penalty and the unauthorized photo and/or virtual tour will be removed from the system.

The use of people or persons and/or words on any property photograph submitted to the Service is strictly prohibited.

### **3.6 Primary Photo**

In order to maintain consistency in the Service, primary photo as established is the front view of the property. Any photo set as the primary photo for the property that is not the front view of the property will be removed. In the event of a home having two front views (i.e. water front home) the listing agent may choose which of the two views to use as primary. If the alternate view is



used as the primary, the photo of the front view of the property must be set in the second position.  
(Amended 3/16)

Photos are required to be uploaded within 48 hours (excluding Saturday, Sunday and postal holidays) of entering a listing with the property type of Residential, Condominium or Multi-Family into the system. If a photo is not uploaded within the required timeframe a penalty will be assessed. If the seller chooses not to have a photo displayed in the MLS, the brokerage firm will upload the standard “sellers opt-out” placard within the required timeframe.

If a seller opts out of having a photo uploaded in the MLS, he/she will be required to complete the Seller Opt-Out of Photo portion of the Seller Opt-Out of MLS form and must be submitted to the MLS within 48 hours of the listing date. A fine of \$100 will be assessed if the photo is not uploaded within 48 hours of entering the listing into the system.

Effective August 1, 2013 photos will be REQUIRED for COMP ONLY listings. This applies to Single Family, Condominium and Multifamily listings.

### **3.7 Virtual Staging:**

Virtual Staging is defined as using a photo editing software to create a photo or conceptual rendering of what the interior room(s) and/or interior of the property could look like, if it was staged or lived in. Virtual Staging shall only be used for the interior of an existing structure. Virtual Staging shall not be used for To-Be-Built or Under Construction properties.

**Disclosure of virtually-staged photo(s)/rendering(s) is required in the specified field, namely the photo description entry field.**

#### **Permitted Uses of Virtual Staging in the Service:**

- a) Modifying photo(s)/rendering(s) to include personal property items not conveyed with the real property is permitted. Permitted personal property modifications include but are not limited to: applying digital photos of furniture, mirrors, artwork, plants, etc. into a photo of a room.
- b) Removing existing furniture from a photo and replacing it with digital images of furniture, mirrors, artwork, plants, etc.

#### **Prohibited Uses of Virtual Staging in the Service:**

- a) No photos of the exterior of the property shall be virtually staged.
- b) No permanent fixtures of the interior shall be removed, altered or added.
- c) Modifying photo(s)/rendering(s) to include visual elements not within a property owner’s control is strictly prohibited. (example: editing in a view of Lake Erie, and/or popular landmarks that are not physically possible from the specified location in the real world.)
- d) Modifying photo(s)/rendering(s) to exclude negative visual elements is strictly prohibited. (example: holes in the wall, exposed wiring, damaged flooring, etc.)
- e) No branding is permitted. The use of people or persons and/or words on any property photograph submitted to the Service is strictly prohibited.

**Failure to comply with Virtual Staging Rules and Regulations shall result in the Virtual Staged photos being removed from the service and shall be subject to fines assessed for repeat offenders. (Adopted 3/16)**

## **SECTION 4. SELLING PROCEDURES**

### **4.1 Showings and Negotiations**

Appointments for showings and negotiations with the seller(s) or lessor(s) for purchase of a listed property filed with the Service shall be conducted through the listing broker unless the listing broker gives the cooperating broker specific authority to show and/or negotiate directly.

If after reasonable effort, the cooperating broker cannot contact the listing broker or his/her representative, the cooperating broker may notify the seller(s) or lessor(s) that he/she has an offer and cannot reach the listing broker. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating brokers.

### **4.2 Property Showings and Information**

The listing company must make necessary showing appointments and give requested information to other members.

Listings placed in Coming Soon status shall not be shown by anyone including the listing office during the Coming Soon time period and will be included in any IDX or MLS listing syndication feeds during the Coming Soon time period. Listings in Coming Soon status are permitted to set Open House and showings provided the Open House and showings are scheduled for a time that the listing is active. *(Amended 11/2018)*

**\*\*\* Note: Lock box access to unlicensed and/or unsupervised parties.**

**Members are prohibited, by Ohio law, from releasing lock box codes without the consent of the seller and/or the seller's authorized agent. It is strongly recommended to get such consent in writing. *(Amended 11/2018)***

### **4.3 Presentation of Offers**

The listing broker must make arrangements to present all offers to the seller(s) or lessor(s) as soon as possible or give the cooperating brokers (subagent or buyer's agent) a satisfactory reason for not doing so.

### **4.4 Submission of Written Offers**

The listing broker shall submit to the seller(s) or lessor(s) all written offers until closing (title transfer) unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller(s) or lessor(s) and the listing broker. Unless the subsequent offer is contingent upon the termination of the existing contract, the listing broker shall recommend that the seller(s) or lessor(s) 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.

#### **4.5 Right of Cooperating Brokers in Presenting of Offers**

The cooperating broker or his/her representative has the right to participate in the presentation to the seller(s) or lessor(s) of any offer he/she secures to purchase or lease. He/she does not have the right to be present at any discussion or evaluation of that offer by the seller(s)' or lessor(s) and the listing broker. However, if the seller(s) or lessor(s) gives written instruction 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) or lessor(s)'s written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

#### **4.6 Right of Listing Brokers in Presenting Counter Offers**

The listing broker or his representative has the right to participate in the presentation of any counter offer made by the seller(s) or lessor(s). He does not have the right to be present at any discussion or evaluation of a counter offer by the purchaser or lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instruction.

#### **4.7 Reporting Sales to the Service**

Status changes, including final closing of sales, shall be reported to the multiple listing service by the listing broker within 14 days of the title transfer. For the purposed of closing of sales and reporting comparable sales in the MLS the title transfer date shall be the recording date. If negotiations were carried on under Section 4.1 hereof, the cooperating broker shall report accepted offers to the listing broker within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) after occurrence and the listing broker shall report them to the MLS within 48 hours after receiving notice from the cooperating broker. *(Amended 2/2019)*

Land Contract / Lease Option: When reporting land contract sales or lease purchase agreements as comparable sales, the date of occupancy or possession shall be used as the transfer date and the remarks must indicate when title is to be transferred.

Comparable Only: Any listing entered for comparable purpose in the Service can be filed with the MLS and input within 14 days of the transfer date of a "For Sale By Owner" and Non-Member comparables or 14 days after the sale date for "New Construction" comparables. The Broker's Remark must also identify the listing source as either a comparable entered as a For Sale By Owner, Non-Member or a Builder/Developer, whichever is applicable. In addition, within Broker Remarks, it must also state that this listing is being entered in the Service for comparable purposes only.

Members wishing to include comparable only listings that are outside the authorized 14-day entry timeframe can enter them into the system by paying a fee of \$50. This fee should accompany the required documentation which must be sent to the MLS staff for inclusion of the listing in the MLS. *(Adopted 9/10)*

Sold Before Processing Listings can be entered into the system as long as the purchase agreement is not signed and dated before the listing agreement is signed and dated. However, both the purchase and listing agreements can be signed and dated on the same day. Entry of these listings must be within 48 hours (excluding Saturday, Sunday and postal holidays) of the list date.

Note: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon 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. (Amended 11/01)

#### **4.8 Reporting Resolutions of Contingencies**

The listing broker shall report to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) that a contingency on file with the Service has been fulfilled, renewed, or the agreement has been canceled.

#### **4.9 Advertising of Listings Filed with the Service**

A listing shall not be advertised by any Participant, other than the listing broker, without prior consent of the listing broker.

#### **4.10 Reporting Cancellation of Pending Sales**

The listing broker shall report to the Service within 48 hours, or 2 days (except Saturdays, Sundays, and postal holidays) the cancellation of any pending sale and the listing shall be reinstated immediately. If releases have not been obtained by both parties, the listing must be placed in a contingent status until the contract is out of terms or the proper releases have been obtained.

Listings that appear in Contingent or Pending status in the system may be moved back to an Active status when purchase agreement becomes null and void, but prior to an executed release, only after receipt by the MLS of written notification that the participant will not hold the MLS responsible for any liability claims that could result from changing the status of the listing in the system without obtaining releases from both the seller and potential buyer. This written notification must be provided by the Participant or the Participant's legal counsel, not the office manager or subscriber to the Service.

## **SECTION 5. PROHIBITIONS**

### **5.1 Information for Participants Only**

Any listing filed with the Service shall not be made available to any broker or firm not a member of the Service without prior consent of the listing broker.

### **5.2 "For Sale" and "Sold" Signs**

Only the "For Sale" sign of the listing broker may be placed on a property. 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.

### **5.3 Solicitation of Listings Filed with the Service**

Participants shall not solicit a listing on a property filed with the Service unless such solicitation is consistent with Section 15, Standards of Conduct for MLS Participants, REALTOR® Code of Ethics, its Standard of Practice and its Case Interpretations.

#### **5.4 Use of "Remarks"**

Public Remarks: The Public Remarks section of a listing may be used to provide descriptive information about the property. All information relating to the property for sale shall be "unbranded" (i.e. brokers, agents, mortgage, title) and shall not be used for contact information, bonus and/or commission information, or information regarding the access to the property.

*(Adopted: 08/09)*

The use of logos, slogans, private access codes, or private showing information is not allowed in the public remarks section. Under no circumstance can the listing remarks (Public or Broker's) reflect any reference to title work. *(Adopted 08/09)*

Reminder: all public remarks are subject to state and federal advertising laws and regulations. *(Adopted 08/09)*

Broker Remarks: The Broker Remarks Section of a listing may be used for the following entries: Contact Information (i.e. names and/or telephone numbers) may be reflected; any conditions regarding access to the property; Date the listing is available for showings and will be returned to the Active status; and any contingency or special condition in the listing; and lender name and terms are permitted to be reflected in the broker remarks section.

**\*\*\* Note: Lock box access to unlicensed and/or unsupervised parties.**

**Members are prohibited, by Ohio law, from releasing lock box codes without the consent of the seller and/or the seller's agent. It is strongly recommended to get such consent in writing. *(Amended 11/2018)***

Listing Participants may offer bonuses through the MLS and upon doing so that becomes part of the "unilateral offer of compensation" that Participants make through the MLS. A failure of the listing Participant to pay any amount offered as a bonus through the MLS could become the basis for an arbitration request on the part of the cooperating broker.

**Short Sale Listing Language:** 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. *(NAR Amended 05/09)*

Where Participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced prior to closing. *(Adopted: 11/14)*

#### **5.5 Confidentiality**

Any information provided by the Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants or those

individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

### **5.6 Accuracy**

The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy or fair housing violations resulting from the information such Participant provide.

### **5.7 Comparable/Statistical Information**

Board/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 Service, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the Service including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board/Association members and individuals affiliated with Board/Association members who are also engaged in the real estate business. Comparable and statistical information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise provided in these MLS Rules & Regulations.

## **SECTION 6. COMPENSATION**

### **6.1 Compensation Rate**

The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest or maintain the division of commissions or fees between cooperating participants or between participants and non-participates.

### **6.2 Compensation Specified**

The listing broker shall specify on each listing filed with the Service the compensation offered to cooperating Participants for their services as subagents or buyer agents in the sale of such listings. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of sale or lease. The listing broker's obligation to compensate any cooperating broker as the procuring cause of 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 the Service 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 which 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.

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 as follows:

- (a) In the appropriate compensation field, the compensation to subagents shall be shown as a percentage of the gross selling price or as a definite dollar amount.
- (b) In the appropriate compensation field, the compensation to buyer agents shall be shown as a percentage of the gross selling price offered or as a definite dollar amount.
- (c) In the appropriate compensation field, the letter "G" shall be used to indicate the existence of a graduated compensation arrangement. In the appropriate compensation field, the letter "D" shall be used to indicate that a dual compensation arrangement exists. In the appropriate compensation field, the letter "B" shall be used to indicate that a Bonus to the Selling Broker exists. The letters "GDB" shall be used if the exclusive listing agreement provides for both graduated and dual compensation rates, as well as the offer of a bonus.
- (d) The total compensation negotiated between the seller(s) or lessor(s) and the listing broker shall not be disclosed in any way through the Service. If the total compensation is disclosed (50/50 split language, etc.) the information will be removed from the Service by the MLS staff.
- (e) Should the listing broker desire to offer any Participant compensation other than the compensation indicated on his/her listing disseminated by the Service, he/she must inform the cooperating broker in writing in advance of submitting an offer to purchase. In such cases, the compensation shall be shown as a percentage of the gross sale price or as a definite dollar amount.
- (f) Bonus Compensation. Any bonus offered to a cooperating broker must be clearly described in the Participant's listing contract, and any conditions which exist which would prevent the payment of the bonus must be fully disclosed. The bonus must be offered by the Participant (not the owner) as part of the compensation, thus making the Participant responsible for payment of bonuses, upon closing, not the owner. Any conditions or contingencies of the bonus must be clearly disclosed in the "Broker Remarks" section so that all Participants have a clear understanding of what it will take to earn the bonus compensation.

Bonuses may only be offered to "selling agency" or "selling broker" (not selling agent), in accordance with Ohio and/or West Virginia law, which prohibits payment of commission or compensation to salespeople, except, by their employing broker.

Note: In filing a property with the MLS of a Board of REALTORS®, the Participant of the Service is making blanket unilateral offers of compensation to the other MLS Participants, and shall therefore specify on each listing field with the Service, the compensation being offered to the other MLS Participant. Specifying the compensation of each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.

### **6.3 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 a key, code, or symbol as 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, an 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 before the client makes an offer to purchase or lease.

#### **6.4 Participant as Principal**

If a Participant or any licensee including licensed or certified appraisers affiliated with such a Participant has any interest in a property, which is to be disseminated through the Service, that person shall disclose that interest when the listing is filed with the Service and such information shall be disseminated to all Service Participants.

#### **6.5 Participant as Purchaser**

If a Participant or any licensee including licensed or certified appraisers affiliated with a Participant wishes to acquire an interest in a 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 7. SERVICE CHARGES**

The following service charges for operation of the Service are in effect to defray the costs of the MLS that operates the Service and are subject to change from time to time in the manner prescribed herein.

### **7.1 Application**

The initial fee for participation in the Service shall be established by the Governing Leadership of the MLS that participate in the Service and need not be the same for REALTOR® Participants and Non-REALTOR® Participants. The participation fee (dues) shall be tendered to the MLS with the application for participation. The application of a former Participant who has been expelled, withdrawn, or whose participation has been terminated for any reason whatsoever shall not be accepted unless accompanied by payment in full of all accounts due from the date of termination.

Any member who is called to serve in active military duty has the ability to cancel membership in the Service at the time he/she is called upon and can document this service request. Should this person reapply within one (1) year after his/her military service has expired, he/she will be allowed to reapply without additional cost (application fee) and any amount of prepaid past dues, unearned as a result of his/her cancellation, will be applied to his/her account upon proper reinstatement to the MLS. A copy of discharge documentation will also be required in addition.



Any person who has held membership in the National Association of REALTORS®, REALTOR®-Associate, or a combination of both, for a cumulative period of 40 years in one or more Association of REALTORS® is eligible for Honorary status in the MLS. *(Note: You must first be in Emeritus Status with both your local REALTOR® board and the National Association of REALTORS® (NAR) before obtaining Honorary status with the MLS. To obtain an Emeritus application contact your local REALTOR® Board. Once completed, you may submit your application back to your local board and they will seek approval from NAR. NAR approves applications twice a year, at the May mid-year meetings and the November Annual convention. Your local board will notify you once you have been approved by NAR for Emeritus status.)*

## **7.2 Dues and Fees**

The Governing Leadership of the MLS that participates in the Service shall establish dues/fees to be paid periodically by its Participants, and dues/fees need not be the same for REALTOR® Participants and Non-REALTOR® Participants. Such dues and fees may not, however, exceed the reasonable needs of the Service. Billing for dues and certain fees shall be paid semi-annually in advance and are non-refundable. The amount may be altered from time to time as deemed necessary. There will be a non-sufficient funds charge assessed on any checks returned. This fee may be altered from time to time as deemed necessary.

In order to maintain REALTOR® membership with the MLS, Participants must maintain REALTOR® membership with their Board/Association. If REALTOR® membership is not met with their Board/Association; the Participant may be notified by their MLS of their pending suspension in the Service due to non-member status with their Board/Association.

REALTOR® Participants and Non-REALTOR® Participants whose membership has been terminated or suspended for any reason, except for termination for non-payment of service fees and/or charges, shall be reinstated without an application fee if reinstatement is made within one (1) year of the date of termination or suspension. After one (1) year, the full application fee and application for membership are required in the same manner as prescribed for new members.

### **(a) Dues**

Each real estate licensee and state-certified real estate appraiser, both general and residential, state-licensed residential real estate appraiser affiliated with that Participant shall be charged dues. The Participant is ultimately responsible for the payment of all dues and fees associated with his/her participating office(s).

NOTE: Appraiser Assistant will be billed as an Unlicensed Personal Assistant and shall be billed for semi-annually in advance and are non-refundable.

### **(b) Dues Waiver**

A waiver of dues will be permitted if the real estate licensee or appraiser is affiliated with an MLS or Board/Association that is outside the territorial jurisdiction of the Service. However, in the event a waived licensee obtains a listing within the Service's territorial jurisdiction, that listing must be submitted to the Service and/or entered into the Service's computer system per Section 2.1 of these rules and that licensee's waiver is null and void. Furthermore, that licensee will receive a bill from the MLS for a pro-rated portion of the semi-annual dues period in which this situation occurs.

Participants have the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. In order to qualify for the waiver, waiver recipients and their broker Participant(s) shall sign a certification for nonuse of its MLS services by their licensees and shall submit the certification for nonuse to the MLS. *(Adopted 11/2018)*

### **(c) Pro-ration Policy**

The Pro-ration Policy is as follows:

Dues will be assessed semi-annually, in advance, on March 1 and September 1. Dues will be pro-rated on a monthly basis, in advance, on June 1 and December 1 for Participants and their affiliated licensee(s) not already appearing on Participant's roster at the beginning of the semi-annual billing period. Charges will be owed for the entire semi-annual period in which services are discontinued.

All remaining fees will begin with the initiation into the Service.

### **7.3 Assessments**

Special assessments against Participants may be levied in addition to any regular dues. If a special assessment is proposed to be levied equally against all REALTOR® and Non-REALTOR® Participants, it shall require the affirmative vote of a majority of the REALTOR® Participants. If a special assessment is proposed to be levied in any manner other than equally against all Participants, then for purpose of voting on such an assessment, REALTOR® Participants shall be entitled to cast a number of votes, which is equal to the portion of the special assessment proposed to be levied against the Participant. For example, if the assessment were proposed to be levied on an office basis, then each REALTOR® Participant would have the number of votes equal to his number of offices. Such an assessment shall require an affirmative response of a majority of the votes eligible to be cast on the question.

## **SECTION 8. ENFORCEMENT OF RULES OR DISPUTES**

### **8.1 Complaints**

The Governing Leadership of the MLS shall give consideration to all written complaints from Participants concerning a violation of the MLS Rules & Regulations.

### **8.2 Sanctions**

Except as provided in Section 9 herein, if the alleged offense is a violation of MLS Rules & Regulations and does not involve a charge of alleged violation of one or more of the provisions of Sections 14 and 15 of the MLS Rules & Regulations or a request for arbitration, it may be considered by the Governing Leadership of the MLS. If a violation is determined, the Governing Leadership of the MLS may direct the imposition of sanction, provided the recipient of such sanction may appeal it to the Professional Standards Committee of the member Board/Association to which the REALTOR® Participant is a member.

If a Participant is not a member of a member Board/Association, then during their membership to the Service, the Participant will designate a member Board/Association to be used for resolving disputes and in which the Participant has appeal rights. Any dispute involving the aforementioned Participant shall be referred to the Grievance Committee of the designated

member Board/Association. All processing must take place in accordance with the Professional Standards procedures of said member Board/Association. (Sanctions under this section may include fines not to exceed \$1,000.00 and suspensions not to exceed 30 days.)

A pattern of repeated violations of the Rules & Regulations may constitute unethical practice and the Participant may be subject to investigation by the Grievance Committee of the Participant's member Board/Association or the member Board/Association through which the Participant is participating in the Service upon the request of the MLS Governing Leadership.

### **8.3 Unethical Conduct**

Manipulation of Listing Data- Subscriber shall not modify or manipulate the data relating to their listing(s) that alters the accuracy of the listing data information as shown on tax records, property history, data profile sheet, mapping, cumulative days on market, or any other entry field that is otherwise automatically or manually inputted into the service. Any subscriber caught purposefully modifying and/or manipulating the data will be subject to sanctions which may include fines of \$500 for first offense; \$1000 for a second offense. **This is not a waivable offense.** Repeat offenders may be subject to be reviewed by MLS Leadership for possible suspension of MLS services up to (1) year. *(Adopted 3/16)*

All other complaints of unethical conduct shall be referred by the Governing Leadership of the MLS the Participant has membership in, to the proper member Board/Association of REALTORS® for appropriate action in accordance with the Professional Standards Manual established in the Board/Association's Bylaws. A representative of the Service will present the complaint(s) to the proper member Board/Association.

## **SECTION 9. PENALTIES**

### **9.1 Rules Compliance – 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 violation 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 nor more than one (1) year
- f) suspension of MLS rights, privileges, and services for not less than thirty (30) days nor 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

The following action may be taken for non-compliance with the rules:

- a) for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full
- b) for failure to comply with any other rule, the provisions of Section 9 shall apply

Members submitting letters of appeal to be reviewed by the Governing Leadership forfeit their right to attend a Rules class in lieu of paying the penalty should the Governing Leadership determine to uphold the penalty as assessed. (*Adopted: 08/08*)

### **9.2 Second Offenses**

Failure to make required changes upon receipt of a penalty shall be considered a second offense and a second penalty for the infraction shall be assessed. On the third notification of a violation, computer service for the violating office shall be suspended until the violation is corrected and the penalty is paid.

### **9.3 Appealing Penalties**

Participants shall have the right to appeal any penalty pursuant to Section 9 to their Governing Leadership, provided such appeal must be received in writing within 20 days of receipt of the penalty notice. The MLS staff will review all appeals initially and their decision(s) will be recommended to the Governing Leadership of the MLS for final evaluation.

The decision of the Governing Leadership of the MLS shall be final, except that the Participant shall have the right to request a hearing before the Professional Standards Committee of the Participant's designated member Board/Association. However, such a request must be based solely on the grounds that the MLS Governing Leadership has abused its discretion in affirming the penalty. A representative officer from the MLS will represent the MLS at such hearing(s).

Additionally, Participants shall have the right to attend a class (if the MLS offers) on the Service's Rules and Regulations in lieu of paying the assessed penalty. The Participant must sign up for the class within 30 days of the date of the penalty notice.

Participants wishing to take the Rules and Regulations class in lieu of paying fines may do so. However, Participants and/or subscribers can only waive one penalty, per calendar year, per Participant and/or subscriber through their attendance at a rules class. Members wishing to attend the Rules class in lieu of paying fines must sign up and take the class within 30 days of the date of the penalty notice.

Penalties incurred that are assessed under Section 9.4 cannot be waived by attending a class offering of the MLS.

### **9.4 Abuse of Notification of Reporting Entry Problems**

If the MLS staff is able to assess that a Participant is leaving incorrect information or improper entries in the system by abusing the system structure for notifying Participants of improper entries

in the system, the MLS staff reserves the right to waive the requirement of forwarding one, or two mail messages, (whichever is applicable) to that Participant's office.

In lieu of the mail messages being sent through the system, one courtesy telephone call will be placed and correction must be made by 5:00 p.m. the same day the courtesy telephone call is placed. If the Participant does not make the correction by the specified time, a penalty in the amount as established by the MLS, will automatically be assessed and the MLS staff will remove the incorrect or improper information as reflected in the listing information being disseminated to the membership.

If the Participant continues to abuse the system structure, a telephone call will be placed to that office's responsible party and /or an automatic penalty in the amount as established by the MLS will be assessed for deliberate abuse of the notification function of reporting entry problems as established by the MLS.

## **SECTION 10. OWNERSHIP OF COMPILATIONS\* AND COPYRIGHTS**

### **10.1 Authorization**

A. By the act of submission of any property listing content to the MLS, the Participant represents that he/she has been authorized to grant and also does grant authority to the MLS for the Service to include the property listing content in its copyrighted 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.

**Note:** The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or "safe harbors" from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of "online service provider" broadly, which would likely include MLSs as well as Participants and Subscribers hosting an IDX display.

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

To qualify for this safe harbor, the OSP must:

- (1) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, Participant, Subscriber or other individual or entity.
- (2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- (3) Comply with the DMCA take down procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The

alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.

- (4) Have no actual knowledge of any complained-of infringing activity.
- (5) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
- (6) Not receive a financial benefit attributable to complained of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP's copyright infringement liability. For more information, see 17 U.S.C. §512. *(Adopted 3/16)*

B. Any use beyond the existing rule as authorized in Section 10, Sub-section 1, regarding property listing data submitted to the Service requires the permission of the listing Broker.

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

## **10.2 Copyright**

All right, title, and interest in each copy of every Service compilation created and copyrighted by the Service, and in the copyrights therein, shall at all times remain vested in the Service.

\*The term compilation, as used in Sections 10 and 11 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer database, card file, or any other format whatsoever.

## **SECTION 11. USE OF COYRIGHTED MLS COMPILATIONS**

### **11.1 Distribution**

Participants shall at all times maintain control over and responsibility for each copy of any compilation leased to them by the Service, and shall not distribute any such copies to persons other than persons who are affiliated with such Participants as licensees. Use of information developed by or published by the Service is strictly limited to the activities authorized under a Participant's licensure 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 or published by the Service where access to such information is prohibited by law.

### **11.2 Display**

Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the 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 compilations.

### **11.3 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 valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be reproduced and attached to the report used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. *(Amended 11/14)*

\*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 should 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 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.

## **SECTION 12. LIMITATIONS ON USE OF THE SERVICE'S INFORMATION/IDX**

Use of information from the Service compilation of current listing information from participating Board/Association's "Statistical Report," from any "sold", "comparable" report of a participating Board/Association or the Service for public mass media advertising by the Service, 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 Board/Association or the Service 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 Board/Association of REALTORS® (alternatively, from the Service) for the period (date) through (date)."

### **12.1 Internet Data Exchange and Internet Data Exchange Site Definitions**

Internet Data Exchange (IDX) affords MLS Participants the ability to authorize limited electronic display of their listings by other participants. *(Amended 5/12)*

An IDX site is a search feature on the public web site of a Participant, which allows a consumer to view listing data on that web site as, provided for in these Rules and other applicable MLS Rules. *(Amended 3/16)*

### **12.2 Internet Data Exchange Authorization**

Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all internet display. *(Amended 5/12)*

Participants retain all rights of ownership and display with regards to their own listings. *(Amended 3/16)*

### **12.3 Internet Data Exchange Database**

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) or cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell, exclusive agency) or the level of service being provided by the listing firm. Selection of listings to be displayed on any IDX site must be independently made by each Participant. *(Amended 11/06)*



#### **12.4 Internet Data Exchange Database Participants**

Participation in IDX is available to all MLS Participants engaged in real estate brokerage who consent to display of their listings by other participants. *(Amended 11/09)*

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 5/12)*

Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. *(Amended 5/12)*

For agents to have the ability to display the IDX database on their personal website(s), they must have received and provided to the MLS a copy of the Broker's written authorization giving the agent permission to display the IDX data. Additionally, for the IDX data to be provided to the agent, the IDX application must be signed by the Broker and agent and be submitted to the MLS. The agent shall follow all the IDX rules in section 12. *(Amended 4/2017)*

The right to republish all or a portion of the reciprocity database on Participant's website and the right to use IDX database shall immediately terminate in case of breach of Section 12 of these Rules and Regulations by IDXP or Vendor or breach of any provisions contained in IDX Agreement by vendor.

#### **12.5 Display of Participant's Information on Participant's Site**

Any form of display, brief or thumbnail of the Participant's listing information, cannot disclose any contractual information or branding of the IDXP who owns the website or any of its agents.

A thumbnail display may only include the text data about the listing property, a photo of the property, the required standard NAR MLS logo icon and any buttons providing links for other information.

#### **12.6 Listings Reflected in the IDX Database**

All listings of real or personal property which are listed subject to a real estate broker's license, published in the MLS database, taken by IDX Participant's on an exclusive right to sell agreement or an exclusive agency agreement shall be included in the IDX database.

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker, in writing, to withhold their listing from all display on the Internet (including, but not limited to, publicly-accessible websites of VOWs). *(Amended 11/18)*

The following property types will comprise the IDX database:

Single-family homes for sale or exchange

Condominium units for sale or exchange

Vacant lots and acreage zoned residential for sale or exchange

Two-family, three-family, and four-family residential buildings (Multi-Family units) for sale or exchange

### **12.7 Standard NAR MLS Logo Used for IDX Database**

The standard NAR MLS logo will be the approved icon used to signify that the information is being provided by the MLS IDX database.

### **12.8 Required Disclaimer for Listings in the IDX Database**

Any IDXP's website must display some form of disclaimer on its home page and any subsequent page displaying IDXP's listing information indicating that the information is being provided through the MLS IDX database.

Under no circumstances are the IDXP's listings allowed to be displayed on an IDXP's website without clearly displaying the disclaimer that "Information Deemed Reliable But Not Guaranteed."

Any search result identifying another IDXP's listing in a brief or thumbnail format shall bear the required standard NAR MLS logo icon. This logo must be displayed immediately adjacent to the property information and meet the required specifications of size. By displaying this required icon immediately adjacent to the property, this informs the user this information is being provided through the MLS IDX database.

### **12.9 Required Disclosures**

Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS Rules. *(Amended 5/12)*

These disclosures are required:

#### **1. Explanation of Data Source:**

Under YES-MLS Rules and Regulations an IDXP's website must display a disclosure indicating the source of Internet Data Exchange database data on that site. The following disclosure, appearing alongside the standard NAR MLS logo for Internet Data Exchange will satisfy this requirement:

"The data relating to real estate for sale on this website comes in part from the Internet Data Exchange program of YES-MLS. Real estate listings held by brokerage firms other than (insert your firm's name here) are marked with the Internet Data Exchange logo and detailed information about them includes the name of the listing broker(s)."

#### **2. Accuracy disclaimer on other IDX Listings:**

Under YES-MLS Rules and Regulations, an IDXP's website must display a disclosure indicating that data from other IDXP's is "deemed reliable but not guaranteed." Any similar language indicating both that the listing broker believes the data provided to be accurate but that it does not guarantee the data will be acceptable as an alternative.

Additional recommended disclosures:

Any IDXP choosing to display less than the entire IDX database, should place a disclosure on their website stating that the IDXP is using only a part or portion of the available IDX database data. A recommended disclosure is listed below:

“(IDXP firm name) participates in YES-MLS IDX program, allowing us to display other IDXP’s listings on our website. However, (the IDXP firm name) displays only (listings in Cuyahoga County) (only condominium listings), (with list prices above \$500,000.)”

“(IDXP firm name) does not display the entire YES-MLS IDX database on this website. The listings of some real estate brokerage firms have been excluded.”

All IDX data must be refreshed not less frequently than every 12 hours. *(Amended 11/14)*

3. Copyright statement:

The following copyright statement must appear at the bottom of each such listing – “Copyright 20xx - Multiple Listing Service, Inc. – All Rights Reserved”

4. Virtual Staging disclosure:

An IDXP’s web site must display a disclosure indicating – “The photos may be altered, edited, enhanced or virtually staged.” *(Adopted 3/16)*

### **12.10 IDX Listing Modifications**

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

*(Adopted 3/16)*

An IDXP can do anything they want (consistent with the Code of Ethics and applicable state law) with data relating to their own listings.

Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads not less frequently than every 12 hours. *(Amended 11/14)*

### **12.11 Information Corrections on Internet Data Exchange Participant’s Website**

An IDXP must make correction(s) to their website within 12 hours (except Saturdays, Sundays, and postal holidays) if the MLS determines that their site is in violation of the MLS Rules and Regulations. The MLS reserves the right to discontinue the data feed they receive without further notice if they do not comply with this requirement. (An IDXP may be subject to fines from the MLS for non-compliance.) *(Amended 11/14)*

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Amended 5/12)*

### **12.12 Branding/Scraping**

MLS Participants may not use IDX provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. *(Amended 5/12)*

No IDXP will be allowed to mark or use language referring to the website owning IDXP in the thumbnail display of another IDXP's listing.

If an IDXP suspects "scraping" of the data has occurred, the suspicion and any evidence must be reported to the MLS immediately for investigation and action.

### **12.13 Third Party Users**

Any IDXP using the IDX database data for any unauthorized use is a serious violation of copyright law and appropriate legal action will be taken by the MLS for each such violation and is punishable by a fine of \$1,000 for each such violation as well.

Any IDXP using a third party to develop or design their website will have a written agreement with that third party vendor that any unauthorized use of the information is a serious violation of copyright law and appropriate legal action will be taken by the MLS for each such violation.

Any IDX display controlled by a participant or subscriber that:

- a) allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or;
- b) displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants'. Except for the foregoing and subject to Section 12.13, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Amended 5/12)*

### **12.14 Non-MLS Listings on Subscriber Website**

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

### **12.15 Abuse of Internet Data Exchange Data**

The MLS will monitor IDXP's websites using the Internet Data Exchange data. The MLS will also monitor other real estate websites. If the MLS finds that an IDXP is misusing data, that

IDXP will be notified of the wrongdoing and required to correct the problem. If the IDXP fails to correct the problem, he or she will be fined and possibly suspended from the MLS.

Participant agrees to promptly notify the MLS in writing of any infringement or suspected infringement involving the IDX database or listings by vendors. Participant agrees to cooperate fully with the MLS in case of any action taken by the MLS against the vendor (i) to protect the misuse of IDX database or listings by vendor, or (ii) in case of breach of IDX Agreement or breach of the Rules and Regulations by the vendor.

#### **12.16 Removal of Internet Data Exchange Participants Listings**

Any IDXP who is not an active Participant of the MLS will no longer be eligible to receive data feed under the IDX agreement. Additionally, all IDX data contained on the IDXP's website must be removed within 48 hours, or 2 days, (except Saturday, Sundays, and postal holidays). Failure to comply is a serious violation of copyright law (refer to Section 10.2) and appropriate legal action will be taken by the MLS for each such violation.

#### **12.17 Display of Sold Data on IDX Sites**

The MLS will supply a minimum of three (3) years of comparable data (sold) and non-confidential pending sale listing data to the IDX Participants and authorized website(s) to be displayed at their discretion. The listing data content to be included in the listing feed will be comprised and limited to public information and data fields approved by the MLS leadership; and may change from time to time as deemed necessary. *(Amended 5/17)*

#### **12.18 Advertising/Co-branding**

Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. *(Adopted 11/09)*

### **SECTION 13. CHANGES TO RULES & REGULATIONS**

Changes in Rules & Regulations of the Service may be made by a majority vote of the members of the Governing Leadership of the MLS.

### **SECTION 14. ARBITRATION OF DISPUTES**

By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS' Participants in different firms arising out of their relationships as MLS Participants subject to the following qualifications:

(a) If all disputants are members of the same member Board/Association or have designated the same member Board/Association as the member Board/Association through which they are participating in the Service, or if they have their principal place of business within the same member Board/Association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that member Board/Association.

(b) If the disputants are members of different Boards/Associations of REALTORS®, or have designated different member Boards/Associations as the member Board/Association through which they are participating in the Service, then they shall submit to arbitration which shall be conducted in accordance with the existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the National Association of REALTORS®. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS®.

## **SECTION 15. STANDARDS OF CONDUCT FOR MLS PARTICIPANTS**

### **15.1 Practices of the Participants**

Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other Participants have with clients.

### **15.2 Property Signs**

Signs giving notice of a property for sale, rent, lease, or exchange shall not be placed on a property without consent of the seller(s) or lessor(s).

### **15.3 Extending Cooperation**

Participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and / or compensation to other brokers without the consent of the listing broker.

### **15.4 Solicitation of Other Broker's Listings**

Participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the Participant, refuses to disclose the expiration date and nature of such listing (i.e. an exclusive right to sell, an exclusive agency, or other form of contractual agreement between the listing broker and the client) the Participant may contact the owner to secure such information and may discuss the terms upon which the participant might take a future listing or, alternatively, may take a listing which becomes effective upon expiration of any existing exclusive listing.

### **15.5 Soliciting Buyer/Tenant Agreements**

Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the Participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

### **15.6 Prospect Referral**

Participants shall not use information obtained by them from the listing broker, through offers to cooperate received through the Service or other sources authorized by the listing broker, for the purpose of creating a referral prospect to a third broker, or for creating a buyer/tenant prospect unless such use is authorized by the listing broker.

### **15.7 Expiration of Agreements**

The fact that an agreement has been entered into with a Participant shall not preclude or inhibit any other Participant from entering into a similar agreement after the expiration of the prior agreement.

### **15.8 Retaining Clients**

The fact that a prospect has retained a Participant as a exclusive representative or exclusive broker in one or more past transactions does not preclude other Participants from seeking such prospect's future business.

### **15.9 Contractual Relations**

Participants are free to enter into contractual relationships or to negotiate with sellers/lessor(s), buyers/tenants, or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.

### **15.10 Contract with Clients with Existing Agreements**

When Participants are contacted by the client of another Participant regarding the creation of exclusive relationship to provide the same type of service, and Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

### **15.11 Cooperating Compensation**

In cooperative transactions, Participants shall compensate cooperating Participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other Participants without the prior express knowledge and consent of the cooperating broker.

### **15.12 Advertising of Services to Prospective Clients**

Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another Participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this rule.

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, or another information service as having exclusively listed their property with another Participant; and

Mail or other forms of written solicitations of prospects whose properties are exclusively listed with another Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information intended to foster cooperation with Participants.

#### **15.13 Determination of Existing Agreements**

Participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service.

#### **15.14 Declaration of Buyer Relationship**

Participants, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease.

#### **15.15 Disclosure of Buyer Relationships**

On unlisted properties, Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller(s)/lessor(s) at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/lessor no later than at the execution of any purchase or lease agreement.

Participants shall make any request for anticipated compensation from the seller/lessor at first contact.

#### **15.16 Declaration of Agreements**

Participants, acting as representatives or brokers of seller(s)/lessor(s) or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practical, and shall provide written confirmation of such disclosure to buyers/tenants no later than at the execution of any purchase or lease agreement.

#### **15.17 Offer to Provide Additional Services**

Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g. property management as opposed to brokerage). However, information received through the Service or any other offer of cooperation may not be used to target clients of other Participants to whom such offers to provide services may be made.

#### **15.18 The Terms of an Offer**

Participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers, nor make the submission of an executed offer to purchase/lease contingent on the listing brokers agreement to modify the offer of compensation.

#### **15.19 Contact with Clients vs. Clients' Agents**



All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's agent or broker and not with the client, except with the consent of the client's agent or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA), Participants shall ask prospects whether they are a party to any exclusive representation agreement. Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects.

#### **15.20 Terminating Relationship**

Participants, users, and subscribers, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assign ability of exclusive agreements.

#### **15.21 Purpose of these Rules & Regulations**

These rules are not intended to prohibit ethical, aggressive or innovative business practices, and do not prohibit disagreements with other Participants involving commission, fees, compensation, or other forms of payment or expenses.

#### **15.22 False or Misleading Statements**

Participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

#### **15.23 Participant's Website Disclosures (Firm Name and State of Licensure)**

MLS Participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner. *(Adopted by NAR 11/07)*

#### **15.24 Participant's Advertising and Representation to the Public**

Participants shall present a true picture in their advertising and representations to the public, including the URLs and domain names they use, and participants may not:

- 1) engage in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulate (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
- 3) deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic, or
- 4) to otherwise mislead consumers.

## SECTION 16. VIRTUAL OFFICE WEBSITE (VOW)

### 16.1 Definition

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.

### 16.2 Participant

As used in Section 16 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-principle broker or sales licensee, or by an Affiliated VOW Partner (“AVP”) on behalf of a Participant.

- A. **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 operations a VOW).
- B. **Non-Principle broker or Sales licensee** - that is affiliated with a Participant, may, with the Participant’s consent, operate a VOW or have a VOW operated on its behalf by an AVP. Such a VOW is subject to the Participant’s supervision and accountability and the terms of this policy.

### 16.3 MLS Listing Information

As used in Section 16 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by the Participant’s to the MLS and aggregated and distributed by the MLS to Participants.

- 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) A Participant’s VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or services in addition to VOWs (including the Internet Data Exchange (“IDX”) function).

- c) A Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant's VOW
- d) Except as permitted, MLSs may not adopt rules or regulations that conflict with this policy or that otherwise restrict the operation of VOWs by Participants

#### **16.4 Registrant**

A Participant may provide brokerage services via a VOW that include making MLS active listing data available, but only to consumers with whom the Participant has first established a lawful consumer-broker relationship, 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 "agreement(s)".

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 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
- ii. 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.

#### **16.5 Registrant – Password**

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.

#### **16.6 Registrant – Breach of Security**

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.

#### **16.7 Registrant – Acceptance of Terms of Use**

The Participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a, "Term of Use" provision that provides at least the following:

- i) The Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
- ii) All information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use;
- iii) 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) 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 party;
- v) The Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.

### **16.8 Participant's VOW Contact Information**

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.

### **16.9 Participants VOW Monitoring Requirements**

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.

### **16.10 Terms of Use Agreement**

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.

The Term 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.

### **16.11 Withholding Listings from VOW Display**

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.

#### **16.12 Seller Opt-Out Options**

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 indicates the Seller Opt-Out option that is applicable.

The Participant shall retain such form(s) 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.

#### **16.13 Third Party Use of VOW**

A Participant's VOW may allow third-parties to:

- (i) 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.

Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described above 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 Participant's websites. Subject to the foregoing and to Section 16.14, 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."

#### **16.14 Accuracy of Data on VOW not supplied by the MLS**

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 12 hours following receipt of a communication from the listing broker explaining why the data or information is false. *(Amended 11/14)*

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.

#### **16.15 Refreshing VOW Listing Information**

Participants operating a VOW shall cause the MLS Listing Information available on its VOW to be refreshed at least once every 12 hours. *(Amended 11/14)*

#### **16.16 Third Party Users of VOW**

Except as provided in the National Association of REALTORS® VOW Policy, or any other applicable MLS Rules and Regulations, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

### **16.17 Participant Privacy Policy Disclaimer**

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.

### **16.18 Exclusion of Listing Data from VOW Sites**

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®.

### **16.19 VOW Displaying MLS Data Required to be Registered with MLS**

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 National Association of REALTORS® VOW Policy, and any other application MLS Rules and Regulations that may apply.

### **16.20 Limitation of Number of VOW Sites Authorized**

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 17. ORIENTATION**

Any applicant for Participation and any licensee affiliated with a Participant who has access to and use of MLS- generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to MLS Rules & Regulations and computer training related to MLS information entry and retrieval and the operation of the Service within thirty (30) days of access being provided.

Any new MLS Participants or Subscribers failing to complete the orientation within ninety (90) days after access has been provided as required by Section 17 will result in being fined and suspension of service to said Participant or Subscriber's MLS access until payment of fine and completion of Orientation. After 30 days, if orientation is not completed, another fine will be administered. The member will have 10 days to complete orientation and if orientation is not completed at that time, the member will be terminated.

## INDEX

Abuse of Internet Data Exchange Data .....	37	Distribution.....	31
Accuracy.....	23	Dual Compensation .....	24
Accuracy of Data on VOW not supplied by the MLS .....	46	Dues .....	2, 15, 26
Advertising of Listings Filed with the Service.....	22	Dues Waiver .....	27
Advertising of Services to Prospective Clients .....	40	Exclusion (Prospect Reservations) .....	4, 7
Agreement Copies .....	9	Exclusion of Listing Data from VOW Sites .....	46
Appealing Penalties .....	29	Exclusive Agency Listing.....	7
Applicable Contingencies.....	13	Exclusive Agency Listing Agreement .....	3
Application .....	2, 26	Exclusive Right to Sell Listing Agreement	2
Assessments.....	9, 27	Exempted Listings (Office Exclusives .....	10
Authorization.....	11, 30	Expiration of Agreements.....	40
Bonus Compensation.....	25	Expirations.....	15
Brading/Scraping.....	5	Extending Cooperation .....	39
Branding/Scraping.....	37	Extensions.....	12
Cancellation of Listings.....	13	False or Misleading Statements .....	42
Changes to Listings .....	11	Fees.....	26, 42
Coming Soon Listings .....	10	Fees for Internet Data Exchange Participation .....	6
Coming Soon Status .....	3	For Sale” and “Sold” Signs.....	22
Commercial Properties .....	8	Geographic Area.....	16
Commission Rates or Fees .....	15	Graduated Compensation.....	24
Comparable/Statistical Information.....	23	Information for Participants Only.....	22
Comparables .....	30, 32	Information Usage .....	2
Compensation.....	2, 39, 41	Internet Data Exchange .....	6
Compensation Specified.....	24	Internet Data Exchange Authorization .....	33
Complaints.....	27	Internet Data Exchange Database.....	6, 33
Computer .....	4	Internet Data Exchange Database Participants .....	34
Confidentiality.....	23	Internet Data Exchange Participant Listing Information.....	6
Contact with Clients vs. Clients’ Agents...41		Internet Data Exchange Participants) .....	6
Contingent Listings .....	5	Internet Data Exchange Participation - Pre- requisite Requirement .....	6
Contract with Clients -Existing Agreements .....	40	Jurisdiction.....	8
Contractual Relations .....	40	Licensure .....	2
Cooperating Compensation .....	40	Limitation of Number of VOW Sites Authorized.....	47
Copyright.....	31	Limitations on Use of the Service's Information /IDX.....	33
Corrections on Internet Data Exchange Participants Website.....	36	List Date .....	5
Declaration of Agreements.....	41	List Price Requirement .....	14
Declaration of Buyer Relationship .....	41	Listing Input Sheet.....	4
Definition.....	42	Listing Multiple Unit Properties.....	14
Detail on Listings .....	9	Listing Procedures .....	7
Determination of Existing Agreements .....	41	Listings of Expelled Participants .....	15
Disclaimer of Internet Data Exchange Participation .....	6	Listings of Resigned Participants .....	16
Disclosure of Buyer Relationships .....	41	Listings of Suspended Participants.....	15
Display.....	31		
Display of Participant’s Information .....	34		

---

Listings Reflected in the Reciprocity Database .....	34	Refreshing VOW Listing Information.....	46
Listings Required .....	7	Registrant.....	43
Mail Function .....	16	Registrant – Acceptance of Terms of Use	44
Media / Virtual Tour.....	18	Registrant – Breach of Security.....	44
MLS Data .....	1	Registrant – Password .....	44
MLS Listing Information .....	43	Removal of Internet Data Exchange	
Net Listings .....	4	Participants Listings .....	38
New Construction/ Under Construction/ To Be Built .....	17	Reporting Cancellations - Pending Sales..	22
Non-Computerized Offices .....	18	Reporting Resolutions of Contingencies ..	21
Non-MLS Listings on Subscriber Website	37	Reporting Sales.....	21
NORMLS logo for Reciprocity Database	.35	Reproduction .....	32
Offer .....	5	Required Disclaimer for Reciprocity	
Offer to Provide Additional Services .....	41	Database .....	35
Office Roster .....	27	Required Disclosures .....	35
Online Bidding .....	18	Restrictive Listings .....	10
Open House Function.....	16	Retaining Clients .....	40
Open Listings .....	4	Retention of Agreements .....	14
Optional Listings .....	8	Right of Cooperatin Brokers - Presenting	20
Orientation.....	47	Right of Listing Brokers - Counter Offers	20
Participant. 1, 2, 6, 7, 8, 9, 12, 15, 16, 17, 18, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 34, 36, 38, 39, 40, 43, 44, 45, 46, 47		Sanctions.....	28
Participant as Principal.....	25	Second Offenses .....	29
Participant as Purchaser.....	25	Seller Opt-Out Options.....	45
Participant Privacy Policy Disclaimer.....	46	Service .....	1
Participant’s VOW Contact Information...45		Sold Listings.....	14
Participant's Listings.....	8	Solicitation of Listings Filed with the	
Participants VOW Monitoring Requirements .....	45	Service.....	22
Participation.....	1	Solicitation of Other Broker’s Listings....	39
Password Use .....	18	Soliciting Buyer/Tenant Agreements .....	39
Pending Listings.....	5	Status Changes.....	11
Practices of the Participant’s .....	39	Submission of Written Offers.....	20
Presentation of Offers.....	20	Terminating Relationship .....	42
Prohibited Third Party Scraping.....	6	Terms of Use Agreement.....	45
Property Showings and Information.....	20	Territorial Jurisdiction .....	5
Property Signs .....	39	The Terms of an Offer .....	41
Property Types .....	16	Third Party Use of VOW .....	46
Proration Policy.....	27	Third Party Users of VOW .....	46
Prospect Referral .....	39	Use of “Remarks” .....	22
Reciprocity Listing Modifications.....	36	Variable Rate Compensation .....	25
		Verbals.....	12
		VOW Displaying MLS Data Required to be	
		Registered with MLS .....	47
		Withdrawal of Listings .....	13
		Withholding Listings from VOW Display	45

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